

RIVISTA DI STUDI SULLA PERSONA E LA FAMIGLIA

ANTHROPOTES

Rivista ufficiale del Pontificio Istituto Giovanni Paolo II
per Studi su Matrimonio e Famiglia
Pontificia Università Lateranense

Direttore responsabile: CARLO CAFFARRA
Anno VII, n. 2 - Dicembre 1991

SOMMARIO

129 Editoriale □ **131** Sommari □ **137** *Benedict M. Ashley, O.P.*, Moral Theology and Mariology □ **155** *William E. May*, Christian Faith and its «Fulfillment» of the Natural Moral Law □ **171** *Stephen Theron*, Precepts of Natural Law in Relation to Natural Inclinations: a Vital Area for Moral Education □ **189** *Philippe Caspar*, La Création de l'âme humaine et l'animation immédiate de l'embryon chez Lactance □ **199** *Anthony Fisher, O.P.*, Individuogenesis and a Recent Book by Fr. Norman Ford

245 NOTA CRITICA □ *R. García de Haro*, La renovación de la moral pedida por el Vaticano II

273 IN RILIEVO □ *Carl A. Anderson*, Marriage and Family in Western Society

287 VITA DELL'ISTITUTO □ A. Situazione dei titoli di studio - B. Attività scientifiche

Istituto Giovanni Paolo II, 1991

Direzione e Amministrazione: Istituto Giovanni Paolo II - Piazza S. Giovanni in Laterano, 4 - 00120 Roma - tel. (06) 6986401/ 6986113 - fax: 6986103

Abbonamento 1992 (2 numeri): Italia L. 37.000 - Estero US \$ 27

Forma di pagamento: assegno bancario (o vaglia postale) intestato a: Carlo Caffarra, Istituto Giovanni Paolo II - P.za S. Giovanni in Laterano, 4 - 00120 Roma

Un numero L. 20.000 (US \$ 15)

EDITORIALE

«Il più grande dei mali è il fare ingiustizia»
(PLATONE, *Gorgia* 469 B)

Nella lettera che il Santo Padre Giovanni Paolo II ha inviato a tutti i Vescovi il 19 maggio u.s., a conclusione del Concistoro Straordinario celebratosi nell'aprile scorso, si sottolinea la necessità di «riflessioni scientifiche... che vanno contro-corrente nei confronti della mentalità di morte». Già negli anni passati «Anthropotes» aveva pubblicato articoli che più o meno direttamente affrontavano il tema del valore della vita umana, della procreazione umana, dell'aborto. Ed intendiamo proseguire. Ancora in questo numero ci è sembrato opportuno pubblicare due contributi di alto valore scientifico. Il primo (quello del Prof. Caspar) studia il pensiero di un autorevole testimone dell'antichità cristiana, Lattanzio, sul problema della «animazione». Nella già citata lettera, il Santo Padre sottolinea come il Magistero della Chiesa, a proposito dell'intangibilità della vita umana innocente, sia fondato sulla Sacra Scrittura e sulla tradizione: lo studio di Caspar è un primo contributo a questa fondazione. Di particolare interesse è lo studio del Prof. Fischer. Egli, prendendo spunto da una recente pubblicazione, passa in rassegna tutte le obiezioni che oggi si presume desumere dalla ricerca scientifica sulla individuogenesi, contro la posizione della Chiesa sull'aborto, dimostrandone la infondatezza.

Ma ciò che merita attenzione del tutto particolare da parte del filosofo e del teologo non è solamente la pratica dell'aborto. C'è qualcosa di più profondo nella cultura contemporanea. In essa non solo l'aborto è praticato, ma è giustificato. Donde la domanda: entro quale visione della realtà l'aborto diventa coerentemente giustificabile? Nella direzione di trovare una risposta a questa domanda, si muovono tre contributi, il primo e più diretto contributo, quello del Prof. Anderson, mostra l'evacuazione operata dall'illuminismo della visione cristiana del matrimonio nella sua dimensione istituzionale. Più indirettamente, ma non meno, possono aiutarci anche gli studi del Prof. May e del Prof. Theron, nei quali si affrontano temi di etica fondamentale.

Tuttavia, al di sotto di tutta questa tragedia contemporanea, sta il fatto che l'uomo ha perduto la possibilità stessa di rendere grazie per ogni vita che sboccia nell'universo: ed è questa possibilità che deve rigenerarsi nel cuore di ogni persona. Si è voluto meditare sulla dimensione mariana della vita cristiana nello studio del Prof. Ashley. Ed infatti, solo se la Chiesa saprà essere sempre più nel luogo (mariano) del suo nascere, saprà testimoniare l'evidenza e la gioia della propria speranza anche ai non-credenti di oggi.

C.C.

SOMMARI

(italiano-inglese-francese)

B. ASHLEY, *Moral Theology and Mariology*

L'articolo intende dimostrare come la Madre di Dio possa mostrare un modello di virtù femminili, che completa il modello maschile della *imitatio Christi*: nella *imitatio Christi* si iscrive la *imitatio Mariae*, raggiungendo così la pienezza del «modello cristiano» di etica. La complementarità armonica fra questi due aspetti della virtù morale riflette la relazione di Adamo ad Eva in rapporto alla relazione del Nuovo Adamo, Gesù, alla Nuova Eva, Maria.

Pertanto, l'Autore, dopo aver spiegato in che senso si può parlare di differenza tra «tipologia maschile» e «tipologia femminile» della virtù, propone uno schizzo della Nuova Eva nel suo carattere morale.

Questa riflessione vuole essere anche un apporto nel dibattito sul femminismo, sempre assai vivace negli Stati Uniti.

Dans cet article, l'auteur veut démontrer comment la Mère de Dieu puisse montrer un modèle de vertus féminines qui complète le modèle masculin de la *imitatio Christi*: dans la *imitatio Christi* est inscrite la *imitatio Mariae* et on rejoint ainsi la plénitude du «modèle chrétien» de l'éthique. La complémentarité harmonieuse entre ces deux aspects de la vertu morale reflète la relation d'Adam et Eve par rapport à la relation du nouveau Adam, Jésus, à la Nouvelle Eve, Marie.

Après avoir expliqué dans quel sens on peut parler de différence entre «typologie masculine» et «typologie féminine» de la vertu, l'auteur, donc, propose une ébauche de la Nouvelle Eve du point de vue moral.

Cette réflexion veut aussi être un apport au débat sur le féminisme, toujours très animé aux Etats Unis.

W.E. MAY, *Christian Faith and Its «Fulfillment» of the Natural Moral Law*

Questo articolo mostra in che modo la nuova «legge dell'amore» (Gn 13, 34-35) «adempie» e «completa» la legge morale naturale. Paragonandola al nuovo comandamento di Dio in rapporto (a) alla persona e lo scopo di queste leggi e (b) al loro contenuto, William May mostra in che modo la legge morale naturale è adempiuta in cinque modi. La sua riflessione è incentrata sul mistero della Redenzione, nel quale, attraverso il Battesimo, il cristiano è rigenerato dalla grazia dello Spirito Santo. Il primo modo: il credente è morto nel peccato e risorto a nuova vita in Cristo. L'«uomo vecchio» è trasformato e ricreato in una «nuova» creatura, figlio di Dio e parte della famiglia divina. Il secondo modo: il cristiano, in unione con Cristo, è illuminato per riconoscere più facilmente quanto richiesto dalla legge morale naturale e vivere secondo essa. Nel terzo modo, ricreato ad immagine di Cristo, il cristiano è chiamato ad essere testimone dell'amore con cui è stato

amato, cioè con un amore redentivo e di riconciliazione, come quello dimostrato da Cristo Crocifisso. Questo amore è specificatamente cristiano. Il quarto modo: soltanto vivendo secondo le Beatitudini, il cristiano può vedere il mondo nella prospettiva di Cristo. Una tale visione è radicata nel nuovo comandamento sull'amore. Come tali, le Beatitudini rappresentano una nuova risposta e specificano ciò che è richiesto dalla nuova legge dell'amore. Infine, il quinto modo: il modo di vivere del cristiano è presentato in vista della sua vocazione a partecipare all'opera redentiva di Cristo.

Così, la nuova legge dell'amore specifica ulteriormente i comandamenti della legge naturale.

Cet article démontre comment la nouvelle «loi de l'amour» (*Gn* 13, 34-35) «accomplit» et «complète» la loi morale naturelle. Faisant une comparaison entre elle et le nouveau commandement de Dieu par rapport à (a) la personne et le but de ces lois et (b) leur contenu, William May démontre comment la loi morale naturelle est accomplie par cinq manières. Sa réflexion est axée sur le mystère de la Rédemption dans lequel, à travers le Baptême, le chrétien est régénéré par la grâce de l'Esprit Saint. La première manière: le croyant est mort dans le péché et ressuscité à une nouvelle vie dans le Christ. L'«homme vieux» est transformé et récréé en une «nouvelle» créature, fils de Dieu et partie de la famille divine. La deuxième: le chrétien, en union avec le Christ, est illuminé pour reconnaître plus facilement ce que la loi morale naturelle demande et pour vivre selon elle. Dans la troisième manière, récréé à l'image de Dieu, le croyant est appelé à être témoin de l'amour avec lequel il a été aimé, c'est-à-dire un amour de rédemption et de réconciliation, comme l'amour démontré par le Christ Crucifié. Cet amour est spécifiquement chrétien. La quatrième manière: seulement en vivant selon les Béatitudes, le chrétien peut voir le monde selon la perspective de Christ. Cette vision est fondée sur le nouveau commandement sur l'amour. En tant que telles, les Béatitudes représentent une nouvelle réponse et précisent ce qui est demandé par la nouvelle loi de l'amour. Enfin, cinquième manière: la façon de vivre du chrétien est présentée en vue de sa vocation à participer à l'oeuvre rédemptrice du Christ.

Ainsi, la nouvelle loi de l'amour précise ultérieurement les commandements de la loi naturelle.

S. THERON, *Precepts of Natural Law in Relation to Natural Inclinations: a Vital Area for Moral Education*

Questo articolo, suddiviso in tre parti, tratta il problema se la distinzione fra inclinazione e impulso sia reale o soltanto razionale.

1. Il rapporto fra i precetti della legge naturale e le inclinazioni della natura umana viene esaminato come è presentato nelle opere di san Tommaso d'Aquino: in che modo la legge naturale partecipa della legge eterna e in che modo può essere identificata in noi con la luce della ragione? Vengono analizzate le difficoltà che nascono nel definire precisamente cosa è questa luce della ragione.

2. Per sapere come è possibile conoscere questi precetti che troviamo in noi come inclinazioni, l'Autore segue la distinzione aristotelica fra teoria e prassi. Illustrando in che modo i principi teoretici possono essere espressi come principi pratici, il Prof. Theron dimostra come questi principi sono spiegati dalla legge naturale come leggi del nostro essere. Spiegando in che modo è possibile concepire questo processo, così come è analizzato da san Tommaso, vengono discussi i gradi ascendenti del realismo. Questa sezione dell'articolo si conclude concentrando l'attenzione sui consigli di perfezione e contemplazione, che è il fine.

3. Riconoscendo l'importanza dell'identificazione virtuale di precetto e inclinazione, l'Autore espone la falsità del consequenzialismo. Dato che il nostro fine naturale è ordinato dalla ragione, il precetto primario è semplicemente che noi perseguiamo questo fine. Il male è ciò che devia da o nega il fine. La realtà stessa rifiuta il consequenzialismo che postula principi inviolabili ed assoluti. L'Autore analizza in che modo questi principi possono essere assoluti senza essere leggi e in che modo queste leggi sono rese note a ciascuno e a tutti.

Cet article, divisé en trois parties, analyse la question si la distinction entre inclination et impulsion est réelle ou seulement rationnelle.

1. Le rapport entre les preceptes de la loi naturelle et les inclinations de la nature humaine est étudié comme il est présenté dans l'oeuvre de St. Thomas: comment la loi naturelle participe-t-elle de la loi éternelle et comment peut-elle être identifiée dans nous avec la lumière de la raison? L'auteur analyse les difficultés pour définir précisément qu'est-ce que c'est cette lumière de la raison.

2. Afin de savoir comment est-il possible de connaître ces préceptes que nous trouvons en nous comme inclinations, l'Auteur suit la distinction aristotélicienne entre théorie et praxis. En expliquant comment les principes théoriques peuvent être exprimés comme des principes pratiques, le Prof. Theron démontre que ces principes sont expliqués par la loi naturelle en tant que lois de notre être. En expliquant comment est-il possible de concevoir ce processus, ainsi comme il est présenté par St. Thomas, on discute les degrés ascendantes du réalisme. Cette section de l'article se termine en analysant les conseils de perfection et contemplation, qui est le but.

3. Soulignant l'importance de l'identification virtuelle de précepte et inclination, le Prof. Theron expose la fausseté du conséquentialisme. Etant donné que not but naturel est ordonné par la raison, le précepte primaire est simplement que nous suivons ce but. Le mal est ce qui détourne ou nie ce but. La réalité elle-même refuse le conséquentialisme qui affirme des principes inviolables et absolus. L'Auteur analyse comment ces principes peuvent être absolus sans être des lois et comment ces lois sont connues par tous.

PH. CASPAR, *La création de l'âme humaine et l'animation immédiate de l'embryon chez Lactance*

Lo statuto antropologico dello zigote è una questione di grande attualità. L'animazione mediata e l'animazione immediata hanno avuto dei grandi sostenitori.

Rifiutando il traducianesimo e optando totalmente per l'animazione immediata, Lattanzio (250-317) afferma che Dio crea l'anima al momento del concepimento. La sua teoria si fonda sulla sua solida conoscenza della scienza del suo tempo e sulla lettura della Genesi. Egli ne deduce una stretta collaborazione fra l'uomo e il Creatore nel concepimento e nella formazione dell'embrione. Lattanzio afferma chiaramente che l'embrione è animato da un'anima individuale creata da Dio e che la saggezza creatrice partecipa a tutto lo sviluppo biologico del concepito. Egli è uno dei primi Padri a pronunciarsi così chiaramente sull'origine dell'anima, distinguendosi in questo dai numerosi filosofi e teologi del suo tempo.

The anthropological statute of the zygote is a widely debated question today. The mediate and immediate animation had great upholders.

Refusing traducianism and choosing completely immediate animation, Lactance (250-317) affirms that God creates the soul at conception. His theory is founded on his deep

knowledge of the science of his time" and on the Genesis. He derives a close cooperation between man and the Creator for embryo's conception and early development. Lactance clearly states that embryo is animated by an individual soul created by God and that the creative wisdom participates in all the biological developments of the conceived. He is one of the first Fathers to clearly pronounce on the origin of soul, differing from the various philosophers and theologians of his time.

A. FISHER, *Individuogenesis and a Recent Book by Fr. Norman Ford*

L'individuogenesi – la domanda su quando ha inizio l'individuo umano – ha importanti implicazioni etiche, sociali, legali e politiche. In un libro di recente pubblicazione, *When did I begin?*, fr. Norman Ford sostiene che l'embrione umano non è un *individuo* ontologico fino a due-tre settimane dopo il concepimento. Questo articolo oppone una ferma critica a questa argomentazione.

Dopo un breve esame del metodo di Fr. Ford (la sua visione della natura della scienza e della filosofia, la loro interrelazione e la sua metafisica tomistica), l'Autore riassume la sua teoria. *Prima facie*, si tratta di una persuasiva sfida alla teoria, comunemente accettata, che l'essere umano inizia col concepimento. L'Autore, quindi, passa ad analizzare la scienza e la metafisica, che formano la base delle argomentazioni di Ford, e, infine, cerca di isolare e esaminare i criteri usati da Ford per definire l'individualità.

Molti dati, che Ford giudica «fatti» oggettivi e indiscutibili e sopra i quali egli costruisce la sua teoria, si rivelano interpretazioni discutibili. L'autore dell'articolo mette in questione la caratterizzazione che Ford fa del concepimento, alcuni tessuti embrionici, attivazione genomica, gemellazione monozigotica e contatti intercellulari, e individua anche alcune affermazioni non sostenute da prova e alcune conclusioni ambigue. L'applicazione di Ford della teoria ilomorfica ai dati biologici attuali non soddisfa le domande del dibattito filosofico contemporaneo e neanche la metafisica aristotelico-tomista stessa. L'uso che egli fa della «induzione filosofica» e del «senso comune» provoca ulteriori difficoltà.

Nell'opera di Ford vengono individuati sette criteri di individualità: umanità genetica, unicità spaziale, continuità spazio-temporale, differenziazione delle parti, organizzazione e direzione, impossibilità di gemelli e di chimera. Nell'articolo si dimostra che nessuno di questi criteri esclude l'embrione dall'appartenere alla classe degli individui umani.

L'Autore conclude che la teoria di Ford contro l'individualità dell'embrione umano nelle sue prime fasi, non è valida sia dal punto di vista scientifico che da quello filosofico.

L'individuogénèse – la question sur quand commence l'individu humain – a des importants implications éthiques, sociales, légales et politiques. Dans un livre paru récemment, *When I did begin*, fr. Norman Ford affirme que l'embryon humain n'est pas un *individu* ontologique jusqu'à deux-trois semaines après sa conception. Cet article oppose une ferme critique à cet argument. Après une courte analyse de la méthode de fr. Ford (sa vision de la nature de la science et de la philosophie, leur interrelation et sa métaphysique tomiste), l'Auteur résume sa théorie. *Prima facie*, il s'agit d'un défi persuasif à la théorie, acceptée communément, selon laquelle l'être humain commence par la conception. L'Auteur, donc, analyse la science et la métaphysique qui sont à la base des arguments de Ford, et, enfin, il cherche à isoler et examiner les critères utilisés par Ford pour définir l'individualité.

Beaucoup de données, que Ford juge comme «faits» objectifs and indiscutables et sur les-

quels il fonde sa théorie, se révèlent des interprétations discutables. L'auteur de l'article met en question la caractérisation que Ford fait de la conception, quelques tissus embryonnaires, activation génomique, gémellité monozygotique et contacts intercellulaires, et il détermine aussi certaines affirmations qui ne sont pas soutenues par des épreuves et certaines conclusions ambiguës.

L'application de Ford de la théorie ilomorphique aux données biologiques contemporaines ne répond pas aux questions du débat philosophique contemporain et à la métaphysique aristotélique-thomiste non plus. Son emploi de l'«induction philosophique» et du «sens commun» provoque des difficultés ultérieures.

Dans le livre de Ford on détermine sept critères d'individualité: umanité génétique, unicité spatiale, continuité espace-temps, différenciation des parties, organisation et direction, impossibilité des jumeaux et de chimère. Dans cet article, on démontre que aucun de ces critères n'exclut que l'embryon appartient à la classe des individus humains. L'Auteur conclut que la théorie de Ford contre l'individualité de l'embryon humain dans ses premières phases, n'est pas valable aussi bien du point de vue métaphysique que du point de vue philosophique.

NOTA CRITICA

R. GARCIA DE HARO, *La renovación de la moral perdida por el Vaticano II*

L'Autore presenta l'opera di William May, *An Introduction to Moral Theology*, come una delle esposizioni della morale cristiana più fedeli allo spirito del Concilio Vaticano II; quest'opera sa utilizzare anche le polemiche che hanno seguito il Concilio, per penetrare maggiormente nella comprensione del suo spirito.

Il libro non segue lo schema classico dei trattati di morale, ma affronta alcuni temi-chiave per condurre, attraverso di essi, con maggiore immediatezza, ad una risposta chiara, documentata e profonda alle questioni poste dal dibattito attuale, incentrato sugli assoluti morali. Si compone di sei capitoli. Il primo, *Human Dignity, Free Human Action and Conscience*, tratta dell'uomo, della sua situazione caduta e redenta, e del suo modo di agire per raggiungere la pienezza della sua vocazione di figlio di Dio, chiave per capire tutto il resto della dottrina morale cattolica. Il secondo, *Natural Law and Moral Life*, descrive la legge inscritta da Dio nella natura umana, come guida verso la sua pienezza. Il terzo, *Moral Absolutes*, affronta, mediante i presupposti dei due precedenti capitoli, il nodo cruciale del dibattito etico contemporaneo sull'esistenza e la validità di norme morali concrete ed assolute. Il quarto capitolo, *Sin and the Moral Life*, espone i contenuti della chiamata dei cristiani alla santità, che è la parte più importante della morale, di cui gli assoluti sono la controparte minima. Il sesto, *The Church as Moral Teacher*, affronta il valore del Magistero ordinario e la problematica del dissenso, il cui centro è stato proprio la discussione sugli assoluti morali.

L'Autore espone dettagliatamente il contenuto del libro, avvalendosi di citazioni dei passi più significativi e mostrando talvolta il suo apprezzamento critico, sempre rispettoso e costruttivo.

The author presents the book by William May, *An Introduction to Moral Theology*, an exposition of moral ethics, one of the most faithful to the Second Vatican Council; Prof. May knows how to use even the disputes which followed the Council, in order to deeply understand its spirit.

This book does not follow the classic plan of moral treatises, but it discusses some basic themes in order to reach, through them, with greater immediacy, a clear, proved and deep answer to contemporary debate, focused on moral absolutes.

The book is divided in six chapters. The first, *Human Dignity, Free Human Action and Conscience*, is about man, his fall, his redemption, and his way of acting for reaching his vocation of son of God, basic themes for understanding all Catholic moral doctrine. The second chapter, *Natural Law and Moral Life*, describes the law that God has inscribed in human nature, as guide towards its fullness. Through the presuppositions of these first two chapters, Prof. May discusses, in the third chapter, the existence and the validity of actual and absolutes moral norms, which is the crucial question of the contemporary ethical debate. The fourth chapter, *Sin and the Moral Life*, is about the self destruction of man by sin. In the fifth, Prof. May explains the contents of the call to sanctity of Christians, which is the most important section of ethics, whose slightest opposite parties are the absolutes. The sixth chapter, *The Church as Moral Teacher*, is about the value of ordinary Magisterium and the question of dissent whose heart is precisely the discussion about moral absolutes.

The author explains the content of May's book, quoting the most relevant passages and expressing sometimes his critical appreciation, always in a respectful and constructive way.

IN RILIEVO

C. ANDERSON, *Marriage and Family in Western Society*

In questo articolo viene delineato il contesto storico nel quale è possibile valutare le questioni legali riguardanti l'istituzione del matrimonio. L'Autore inizia con una breve descrizione della cultura familiare classica e la differente visione della famiglia presso i primi Cristiani; continua poi analizzando la sintesi cristiana delle visioni romana ed europea del matrimonio durante il Medioevo. Viene poi presentato il rifiuto di questa tradizione da parte dell'Illuminismo, la cui differente antropologia richiede un riordino radicale della istituzione legale del matrimonio. L'Autore considera quindi la tendenza della tradizione illuminista a sacrificare l'istituzione del matrimonio per il «bene» di una società più ampia (come nello Stato moralmente assoluto) o dell'autodeterminazione individuale (come nello Stato moralmente neutrale).

L'Autore conclude sottolineando la necessità di far ritorno ad una cultura familiare basata sull'autentico rispetto per gli sposi e per il bene dei figli.

Dans cet article, l'Auteur expose le contexte historique dans lequel on est possible d'évaluer les questions légales qui concernent l'institution du mariage. Il commence en décrivant brièvement la culture familiale classique et la vision différente de la famille des premiers Chrétiens; il analyse, en suite, la synthèse chrétienne des visions romaine et européenne du mariage pendant le Moyen Age. Il presente, donc, le refus de cette tradition par l'Illuminisme, dont la différente anthropologie demande une réforme complète de l'institution légale du mariage. L'Auteur analyse aussi la tendance de la tradition illuministe à sacrifier l'institution du mariage pour le «bien» d'une société plus large (comme dans l'Etat moralement absolu) ou de l'autodétermination individuelle (comme dans l'Etat moralement neutre).

L'Auteur conclut en soulignant la nécessité de revenir à une culture de la famille fondée sur le respect authentique pour les époux et pour le bien des enfants.

MORAL THEOLOGY AND MARIOLOGY

BENEDICT M. ASHLEY, O.P.*

I. METHODOLOGY

The Imitation of Mary

That a good moral theology should be based on an anthropology and that on a Christology, on the *imitatio Christi*, all seem to agree¹. An ethics not grounded in our experience of good human beings and their actual lives would be a mere system of ideals. But what human being has a rightful claim to goodness except Christ? Hence, the «imitation» of Christ cannot be taken literally but only analogically. The saints are good because they live *in Christo*, as St. Paul keeps saying (*Rm* 9,1, 12,5; 16,7; *1 Cor* 4,17; 15,18; 15,22, etc.) they are members of Christ's Body, instruments of his holy grace. Yet in them are expressed aspects of human goodness which could not find full expression in Jesus' humanity, limited by time and space, and in his human individuality. St. Paul could rightly speak of his own sufferings as «filling up the sufferings of Christ» (*Col* 1,24) which could not be experienced in Jesus' own flesh and lifetime. So it is only in the Mystical Body of Christ throughout history that the fullness of what it is to be human *in Christo* will finally be made explicit.

One limitation of Jesus was and is that he is only a male, and therefore, no matter how «androgynous» we may imagine him, could not have exhibited the gifts proper to the female half of the human race. If he could not have even exhibited all the gifts of human males — since he chose to be a carpenter and not a warrior, a politician, an artist, or a scientist — he certainly could not take on the role of mother, or nun, or any of the other countless roles to which women today bring a special feminine contribution. It is to holy women that we must look to see these feminine aspects of total humanity if we are to develop a moral theology in its full amplitude.

Of course one might object that morality is morality, virtue is virtue, whether found in man or woman. The virtues, however, are skills in dealing with life-problems, and while both sexes have many life-problems in common,

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¹ For a recent discussion of the different views on the specificity of Christian ethics see DAVID HOLLENBACH, S. J., «Fundamental Theology and the Christian Moral Life», in LEO J. O'DONOVAN and E. HOWLAND SANKS, *Faith Witness: Foundations of Theology for Today's Church*, Crossroad, New York 1989, pp. 167-184.

they also have to meet different problems arising from sexual differences and the different experiences that result from them². For example, no man has to meet the problems of motherhood or of sexism in the way a woman must, just as no woman struggles with the Oedipus complex. Consequently, there are important distinctions in the virtues and moral life of men and women which moral theology, generally androcentric in view, while never denying, has largely neglected.

Feminine and Masculine Virtue

What in general could be the difference between the male and female types of virtue?³ The most basic way to discover and formulate this difference is to begin with the fact that femaleness is ordered to motherhood, maleness to fatherhood. To be a human mother or father is not merely a biological but also an educational and spiritual task, since begetting a child entails the moral responsibility to help that child develop into a mature adult, and for the Christian parent to help that child attain to union with God. Hence we can speak both of biological and spiritual parenthood. Males, no matter what tasks they undertake in life, whether as artisans, artists, statesmen, teachers, priests, or soldiers, precisely as male, ought to bring to these tasks some of the quality of spiritual fatherhood; and women as women likewise bring to all non-domestic works they engage in today some of the quality of spiritual motherhood.

What morally characterizes good and bad mothering and fathering? These roles cannot be adequately grasped in any simple formula, but if we try to list the tasks a successful mother must perform at both the physical and the spiritual level, we must include the following: a woman must accept and cooperate with the sexual advances of her partner, live with serenity and patience the nine months of pregnancy, undergo the hard work of delivery, nurse and fondle the child, watch over and tend it in infancy, encourage and support its growing independent activity, be ever available to comfort and reassure it in its misadventures, maintain the domestic environment and keep her husband

² Even the feminist literature when it attempts to describe the *de facto* psychological differences gives much the same picture as I have given; see MARY ROTH WALSH, *The Psychology of Women: Ongoing Debates*, Yale University Press, New Haven 1987.

Feminists, however, generally maintain that this *de facto* difference is not rooted in nature but is a reformable product of a patriarchal culture. For this see NANCY CHODOROW, «Feminism and Difference: Gender, Relation, and Difference in Psychoanalytic Perspective», and the critique by ALICE S. ROSSI, *ibid.*, pp. 246-273.

³ CHODOROW, *op. cit.*, pp. 259f., in spite of her contention that the psychological differences of the sexes are cultural in origin, presents a theory of how the basic relations of the boy or girl to its mother and father (which certainly have a natural biological and transcultural basis!) result in a different pattern of psychosocial development. For Freud's very different theory of the development of sexual identity see CHRISTOPHER LASCH, *Haven in a Heartless World: The Family Besieged*, Basic Books, New York 1977.

contentedly near at home, share with him their common experiences by which they grow as human persons, encourage and console the husband in his own difficulties, instruct the children by word and example in the basic tasks of living and basic moral attitudes, transmit religion as a daily way of life, advance herself intellectually and in prayer and spiritual union with God, unselfishly permit the children to grow up and leave the home, extend what she has learned as mother to her own gifts and competencies and thus enter into the service of the larger community in the work-a-day world, bringing to these tasks the spiritual motherhood she has learned, while remaining always available to her children and friends for counsel and comfort and to her husband as a companion in later life and old age as they prepare for eternal companionship in heaven.

Looking over this list we can understand why it is usually said that what is specifically feminine is the ability to *nurture*, i. e., to enable other persons to grow by providing for them the environment, physical and psychological and spiritual, which they need to grow. To speak of this as «passivity», or «receptivity», or «matter» or «potency» is not wrong if these terms are not understood merely negatively, but rather as connoting the wonderful capacity of a woman to allow another person to act in that person's own right, supporting, encouraging, stimulating that growth and action without trying to impose what is alien to it. The complaint of some feminists that this capacity implies a lack of self-identity is mistaken; rather it implies a healthy autonomy unthreatened by confronting others. No wonder that the feminine is so often symbolized the world around by *water* which gives life, yet remains a liquid, transparent, cleansing ambience in which other things may move and grow freely.

When this capacity for mothering fails or is perverted we find a mother who is negligent, hard, lacking in empathy, critical, or (even more frequently) possessive, smothering, destructive. Such mothers leave their children starved for love or imprisoned and unable ever to be born as independent individuals.

Fathering, on the other hand⁴, requires a man to seek a mate, fight off rival males, win over the woman by his attention and love, actively embrace, penetrate, and impregnate his wife yet do so tenderly and with vulnerable self-surrender on his own part, provide her and the children with food and protection during her pregnancy and their infancy, give his family a sense of security by constant presence and reliability, provide shelter, share with his wife his experiences of the extra-domestic world so that she can grow with him intellectually and spiritually, convince her of his enduring fidelity when he must be absent, share increasingly in the guidance and education of the children, giving to them an objective realism of thought and discipline they need to meet the outer world, act as priest of the family by representing to them the presence of God as an objective fact, help his wife to widen her relations with the wider society, and be evermore her companion in sickness and old age as they prepare for heaven.

⁴ See JOHN W. MILLER, *Biblical Faith and Fathering*, Paulist, New York 1989.

In trying to characterize this fathering task we note while the woman nurtures, the man tends to *construct*, i.e. to impose an order on things, whether it is the simple physical fact of initiating pregnancy, providing the home as shelter and protection, or the more spiritual tasks of disciplining the children physically and mentally, or undertaking the work of the wider social order. Where the woman *allows* the child to grow, the father *causes* the child to grow.

When fathering fails or is perverted, the wife and child are neglected, left in insecurity, or treated as objects without dignity, or (and this is perhaps more common) they are dominated and used for the father's egoistic purposes. The masculine principle when perverted tends usually to *violence*, to destruction rather than construction, as the perverted feminine principle to *possessiveness*, to smothering rather than nurturing. Woe to the child whose mother smothers and whose father tyrannizes!

What I have described are merely types, and if taken too literally and mechanically become stereotypes; but they indicate the kind of gifts and contributions possible to men and women precisely as such to the moral fabric of the world.

Jesus as God is the Son of the Father, and as man, he was a male. According to the Fourth Gospel when Jesus washed the apostles' feet to show them they must not act as domineering masters but as servants, he said, «You call me teacher and master, and rightly, for so I am» (Jn 13,14).

Thus the Gospels always show Jesus acting with authority, as a leader, in a thoroughly masculine manner, and demanding the loyalty and obedience of his disciples. He was their «Lord».

Yes he was also a «servant» and demanded that his apostles too be «servants» in the sense that as leaders having authority and dominion, they were to use that power not for their own aggrandizement, but purely for the good of those they served.

Therefore, while we must turn to the *imitatio Christi* to find the fundamental norm of all Christian virtue for women as for men, as well also for the norm of distinctly masculine virtue, we still need an *imitatio Mariae* to establish the norm of distinctly feminine virtue. The complementary harmony between these two aspects of human virtue reflects Adam's need for Eve, and the need of Jesus, the New Adam, for Mary, the New Eve⁵.

Historical Data for Mariology

Yet it can well be asked whether such a mariological aspect of moral theology can be responsibly developed, considering how little historical data there is out of which to construct a picture of Mary's life and personality. The earliest stratum of New Testament witness, the authentic epistles of St. Paul say

⁵ See *La Nouvelle Eve*, Bulletin de la Société Française d'Études Mariales, 1954-1957, four numbers, Lethielleux, Paris 1958.

nothing about her, and only in the Third and Fourth Gospels are we given any information on her and that meager at best.

Furthermore, modern historical-critical exegesis tends to reduce even this meager data to a tissue of «theological constructs» built on only three or four historically trustworthy facts: Mary was a woman of Nazareth, mother of Jesus, wife of Joseph the carpenter, who was probably present at the crucifixion and at the events of Pentecost. Most exegetes also admit that the tradition of the virgin conception of Jesus goes back to a period prior to the Gospels of Matthew and Luke which they seem to witness independently of each other⁶.

The theologian can answer this difficulty to a degree by recalling that theological certitude does not rest directly on historical evidence, but on the witness of the Tradition and especially on the normative expression of that Tradition in the canonical Scriptures. The doctrine of biblical inspiration guarantees us that what the canonical writers assert to be relevant to our salvation and also historically real did in fact really happen⁷. Thus, although there is no possibility of establishing the virginal conception of Jesus by historical evidence, we can be theologically certain of it as an historical fact on the inspired word of the evangelists⁸.

The same evaluation applies also to some of the other Mariological information given to us by these writers, although we must be careful to discriminate what they intend to assert as historical truth and what they supplied as dramatization, interpretation, etc. For example, according to some exegetes the *Magnificat* which Luke places in Mary's mouth cannot be certainly attributed to her composition, but can perhaps be taken simply as Luke's dramatization in the manner of classical historians, expressing what Mary *might appropriately* have said⁹.

⁶ For the current views of Catholic exegetes on the historicity of the Marian biblical data see RAYMOND E. BROWN, S.S., *The Birth of the Messiah*, Doubleday, Garden City, 1977; supplemented by his «Gospel Infancy Research from 1976-1986», *Catholic Biblical Quarterly*, 48 (3 and 4, 1986), 468-483. 660-680, with up-to-date bibliography; and JOSEPH A. FITZMEYER, S.J., *The Gospel According to Luke I-IX*, Doubleday, Garden City, NY 1981. These two exegetes hold the virginal conception of Jesus to be historically probable and a doctrine of faith, but they judge Matthew and Luke's narratives to be in the main theological constructs modeled on Old Testament stories and contend that their theological content was retrojected from the Paschal faith. On the contrary, ANDRÉ FEUILLET, *Jesus and His Mother*, St. Bede's Publications, Still River, MA 1974; and RENÉ LAURENTIN, *The Truth of Christmas: Beyond the Myths*, with a Preface by JOSEPH CARDINAL RATZINGER, St. Bede's Publications, Petersham, MA 1982, hold that both accounts (and especially Luke's) are based on a Jerusalem tradition that must in part go back to Mary herself.

⁷ VATICAN II, *Dei Verbum*, 3.11.

⁸ See FEUILLET, *op. cit.*, pp. 130-188; LAURENTIN, *op. cit.*, pp. 432-465; the survey of recent discussion by JAMES T. O'CONNOR, «Mary, Mother of God and Contemporary Challenges», *Marian Studies*, 29 (1978), 26-43; and RAYMOND E. BROWN, «Gospel Infancy Research».

⁹ BROWN, *Birth of the Messiah*, pp. 346-365 thinks it probably was composed in a Jewish Christian *anawim* circle and borrowed by Luke for his narrative, FITZMEYER, *op. cit.*, p. 59, says: «Since there is no evidence that the *Magnificat* ever existed in a Semitic (Hebrew or Aramaic) form, there is no reason to think of Mary as the one who composed it. It has not been preserved by a family tradition». LAURENTIN, *op. cit.*, pp. 379-383, defends its Marian authenticity.

Yet even granted that we can garner a certain number of facts about Mary with theological certitude, the number is small; and what are we to say of her immaculate conception, her perpetual virginity, her assumption, or the interior sentiments throughout the ministry of her Son which traditional piety attributes to her and which seem guaranteed only by the official dogmatization of the Church on the basis of a Tradition for which historical evidence is lacking for many years after the events?

Can it be that this expansion of mariological data is the work of a kind of myth-making by popular piety and of theological justification through a sort of transcendental deduction?

Beginning from the historical fact that Mary of Nazareth was the mother of Jesus, whom we Christians believe to be God Incarnate, the Church seems to have drawn many conclusions about her on the principle that God gives to those he has chosen for a special role in his plan of salvation the qualities and graces they need to fulfill that role¹⁰.

To this principle, however, it can be objected, that such reasoning seems to ignore the *contingency* of history. Is it not true that although the successor of St. Peter plays a very important role in God's plan for our salvation, and is undoubtedly endowed by God with many graces of office, yet there have been some very negligent and even wicked popes? How, then can we argue that Mary, as historical personage, *necessarily* fulfilled all that was appropriate to the mother of the Savior?

There seems here to be a gap between historical contingency and a type of reasoning based on metaphysical necessity.

The reply to this very serious objection is, I believe, that given the plan of God for our salvation revealed to us in the Scriptures, we can apply the principle of appropriateness to the degree that a certain event is absolutely necessary to that plan. Thus, the dogmatic infallibility of the pope is necessary to God's plan of salvation, and we can conclude that it is historically impossible that any pope has erred in making a solemn definition (if it could be established with certitude that someone has so erred, we would in honesty have to renounce the Catholic faith). But the moral rectitude or competence of this or that occupant of the Holy See is not essential to God's plan of salvation, so there is no difficulty in admitting the sins and failures of certain popes. Similarly, our certitude that Mary was not only the mother of Jesus, but the entirely *worthy* mother of the Incarnate Word, arises from the fact that Mary's role in God's plan of salvation was absolutely necessary to the fulfillment of that plan.

Thus the insight of Catholic piety that Mary must have been wholly without sin, and therefore immaculately conceived and assumed body and soul

¹⁰ Are not those exegetes who hold that Luke's narrative is primarily a theological construct based solely on the resurrection faith in Jesus' divine Sonship in effect attributing to the evangelist this same kind of deductive reasoning? For a discussion on the methodological shift in Mariology from an excessively deductive to a more historical and analytic approach see CYRIL VOLLERT, S.J., *A Theology of Mary*, Herder and Herder, New York 1965, pp. 19-41; and on the development of Marian dogma, *ibid.*, pp. 223-250.

at her passing, and that her heart was always conformed to the heart of her Son depends not on historically tracing the Tradition of the Church to its source, nor to explicit statements in the Scripture, but to a profound appreciation by the faithful of the plan of God revealed in the Gospel which the Magisterium guided by the Holy Spirit, is able to confidently confirm. Thus it has been possible to develop within the Church a methodologically sound Mariology of considerable amplitude, quite sufficient to serve the purposes of moral theology¹¹.

The Mariological Theme in the Whole Bible

In light of such a Mariology and the rehabilitation of patristic typological exegesis¹², it also becomes evident that the Scriptures have much more to tell us about Mary than the few passages in Luke and John. The Eve-Mary typology is as old as Irenaeus and the series of barren women who miraculously bear a child to be the savior of his people which runs from Sarah (*Gn* 17,15-22), through the mother of Samson (*Jdg* 13), Hannah, mother of Samuel (*1 Sm* 1 - 2, 11), to Elizabeth mother of John the Baptist (*Lk* 1,5-25), and finally Mary (*Lk* 1,26-56), forms the background of Luke narrative¹³. Along with these women are such heroines who saved their people as Esther and Judith, and women prophetes such as Deborah (*Jdg* 4-5) and Huldah (*2 Kg* 22,14-20). In this way the whole of salvation history as narrated in the historical books of the Bible is patterned in relation to the Virgin Mother of the Messiah.

In the prophetic books, beginning with Hosea, the great metaphor of the Chosen People as the Bride of Yahweh is developed (*Hos* 1,2 - 3,5; *Is* 1,21; 50,1; 54,6-7; 62,4-5; *Jr* 2,2; 3,1.6-12; *Ez* 16 and 23) and culminates in Mary as the personification of her people, the Virgin Daughter of Zion¹⁴. Finally, in the Wisdom literature of the Bible, the wisdom of the Creator as it is reflected in creation and in the Law (*Ps* 19; *Bar* 3,9 - 4,4) is also personified as a feminine

¹¹ The most authoritative affirmation of this theological achievement is to be found in the fact that so much of it has been taken up in the teachings of the Magisterium, notably in VATICAN II, *Lumen Gentium* (21 November 1964), Chapter VIII, nn. 52-69; PAUL VI's Apostolic Exhortation *Marialis Cultus* (2 February 1974): AAS 66 (1974), 113-68; and especially JOHN PAUL II's Encyclical *Redemptoris Mater*, AAS 79 (1987), 361-433, English edition, *Mary: God's Yes to Man*, with the introduction of JOSEPH CARDINAL RATZINGER and commentary by HANS URS VON BALTHASAR, Ignatius Press, San Francisco 1988.

¹² See HENRI DE LUBAC, *The Sources of Revelation*, Herder and Herder, New York 1968, with an interesting exchange of letters with Hughes Vincent of the École Biblique of Jerusalem on the views of M.-J. Lagrange on this question. For a critique of de Lubac which, however, approves typological exegesis, see G. W.H. LAMPE and K.J. WOOLCOMBE, *Essays on Typology*, Studies in Biblical Theology, vol. 22, SCM Press, London 1957.

¹³ FEUILLET, *op. cit.*, p. 104; LAURENTIN, pp. 399-431.

¹⁴ See FEUILLET, *Jesus and His Mother*, pp. 11-16; LAURENTIN, pp. 52-53. For critique see R. E. BROWN, *The Birth of the Messiah*, pp. 320-328.

figure, which Catholic liturgy has rightly identified with Mary, who is type of the Church itself¹⁵.

Thus, the whole of the Old Testament is capable not only of a Christological but a Mariological interpretation and this is confirmed in the New Testament by the infancy narrative of the Lucal Gospel and by the symbolic way in which the Johannine Gospel treats Mary as «the Woman»¹⁶. In *Revelation* all these symbols are collected in the sign of the Woman Clothed with the Sun who is the New Jerusalem, Bride of the Lamb¹⁷. Even Paul's silence about Mary yields to the fact that Luke, who was probably Paul's companion¹⁸, says so much of her, and indeed makes her virginal conception of the Savior a metaphor which seems an equivalent for Paul's doctrine of «salvation by faith»¹⁹.

The Formation of Christian Character

Therefore, without in any way neglecting the results of modern historical-critical scholarship, we can proceed on solid theological grounds to construct a rich Mariology that can serve for a study of the *imitatio Mariae* to complete a full moral theology with a feminist contribution of moral insight.

Moral theology does not merely concern how to make particular difficult moral decisions, as it is sometimes presented today but with mapping out what the Bible calls «the way of life» in contrast to the «way of death» (*Dt* 30,15). To this way of life it applies the great metaphor of the Exodus. Life is a journey, a dynamic struggle to attain a goal. Hence it is also a process of building a kingdom, the Community of God in which He will eternally reign as in his temple. And it is finally a process of creating the persons who will be citizens of that kingdom, of forming their *characters* in the strength necessary to travel to the end of that way and in the holiness needed to live in that kingdom in everlasting peace (*Eph* 2,19-22; 4,15-16; *Heb* 12,1-2).

¹⁵ See CHARLES DE KONINCK, *Ego Sapientia... La sagesse qui est Marie*, Editions de l'Université Laval, Quebec 1943, and LOUIS BOYER, «The Scriptural Themes of Mariology: The Divine Wisdom», in his *The Seat of Wisdom*, Regnery, Chicago 1965, pp. 20-28.

¹⁶ FEUILLET, *Jesus and His Mother*, pp. 118-129.

¹⁷ FEUILLET, *ibid.*, pp. 17-33, and «La Femme vêtue de soleil (Ap 12) et la glorification de l'Épouse du Cantique des Cantiques (6, 10)», *Nova et Vetera*, 59 (1984), 36-67. 103-128.

¹⁸ Against the widely received opinion of P. VIELHAUER, available in English in L. E. KECK and J. L. MARTYN (eds.), *Studies in Luke-Acts: Essays Presented in Honor of Paul Schubert*, Abingdon, Nashville 1966, that the author of Luke-Acts could not have been a companion of Paul, JOSEPH A. FITZMYER, S.J., *op. cit.*, p. 51, has recently written: «Most of the arguments brought forth in modern times to substantiate the distance of Luke from Paul do not militate against the traditional identification of the author if the Third Gospel and Acts with Luke, the Syrian from Antioch, who had been a sometime collaborator of the Apostle Paul». On the historical reliability of Luke see also, W.G. KUEMMEL «Luc en accusation dans la théologie contemporaine» in F. NEIRYNCK (ed.), *L'Évangile de Luc / The Gospel of Luke*, rev. and enlarged ed., Leuven University Press, Leuven 1989, pp. 3-19.

¹⁹ See LAURENTIN, pp. 38-43. 222-246.

As we act so we become, and as we are so we act. Hence, a moral theology is a narrative of the victorious life of a Christian through whose carrying of the Cross unto death comes the transformation of the risen life. That narrative of passage, however, to be intelligible must be understood in terms of the kind of person who is being created through the process. The three great gifts by which a person becomes truly a disciple of Christ, truly a Christian, are, as St. Paul reiterates, faith, hope, and love (1 Cor 13,13)²⁰.

To these «theological» virtues (so named because their direct object is God himself) can be assimilated what the Greeks called the great moral virtues, named in the *Book of Wisdom* 8,7, prudence, justice, fortitude, and temperance. Prudence is much the same as what the Bible usually calls «wisdom» and this wisdom is the practical aspect of faith, the light by which one walks the way and which grows brighter through the experience of the way. Justice is the biblical «righteousness» and is linked to Christian love, since genuine love first of all respects the dignity and rights of others and the order given the world by its Creator. Temperance (or moderation) detaches us from the pursuit of the pleasures of the world, and fortitude (or courage) makes us steadfastly enduring in the trouble and persecution of the world. The necessity of these two latter virtues, so manifest in Christian chastity and martyrdom, explains why asceticism, the bearing of one's Cross, is so essential to traveling the Way, and they are therefore intimately connected with Christian hope which makes us confident that the Promised Land is worth the effort and can really be attained by the power of God. Thus the complete Christian is one who has been forged in the fire of suffering through faith, hope, and love.

II THE NEW EVE

Mary's Faith and Prudence

Let us now trace the story of how God formed Mary as the feminine counterpart of the New Adam. Luke presents Mary for the first time at the moment of the annunciation and the commencement of her Virgin Motherhood. Where Eve, mother of all the living, yielded to the temptation of Satan to seek autonomy from God, Mary to be the mother of all who live by grace, consented to total cooperation in God's plan for the salvation of the world from sin²¹. This free

²⁰ See also 1 Th 1,3; 5,8; 13,7; Rm 5,1-5; 12,6-12; Gal 5,5-6; Eph 1,15-18; 4,2-5; Col 1,4-5; 1 Tm 6,11; Tit 2,2. Heb 6,10-12; 10,22-24; 1Pt 1,3-9 21-22. *The New Jerusalem Bible*, p. 1907, footnote e, suggests that this trilogy of virtues probably antedates Paul.

²¹ ST. JUSTIN MARTYR, *Dialogue with Trypho*, 100, PG 6,710; ST. IRENAEUS OF LYONS, *Adversus Haereses*, 3, 22, PG 7, 958-959; TERTULLIAN, *De Carne Christi*, 17, PL 2, 782. See also FEUILLET, *Jesus and His Mother*, pp. 6-10.

consent which involved her whole being and her whole life vocation was not merely a private act. In the faith of the Old Testament she knew that she spoke for her whole people, God's chosen people, and through them for all humanity. What she consented to, moreover, was to be the mother of the Messiah, and, hence, the mother of all Israel, and through them of all humanity, the New Eve, mother of all the living through grace²². Her faith, therefore, was not just the imperfect faith we have as Christians, but a *consummate* faith, that total faith which alone was adequate to receive the supreme gift of the Incarnation of God's Son.

Such a consummate and total faith was possible only to a woman. Motherhood requires of a woman that she places complete faith in the husband who causes her to become pregnant and in whom she must trust for care during her pregnancy and nursing period. To be able to trust in this way requires a special way of thinking, of which few men are capable. Today feminist scholars are explaining just how women think differently than men, and indeed in someways better than men²³. In what does this feminine mode of thought consist?

From such empirical studies as are available, the common saying that women are more «intuitive» than men is probably correct²⁴. Human intelligence, as St. Thomas Aquinas pointed out²⁵, has two phases. The first phase is *intellectus*, *ratio superior*, «insight», or «intuition» by which we grasp certain seminal truths directly from our sense experience with a certainty based immediately on that experience. The second phase is *ratio*, *ratio inferior*, «reason» by which we explicate and develop these seminal truths by a logical calculus. Persons differ as to the effectiveness with which they use these two phases of their intelligence.

It is not strange, however, that women on the average rely more on insight, men on reason. While this can be attributed to the support given by our culture to these different modes of thought, yet they are perhaps more deeply and genetically rooted in the fact that women in order to succeed in their biological role as mothers have needed a more penetrating intuition than do men in order to deal effectively with personal relations so needed in the family.

Logic is not of much use in understanding other human beings because of their great complexity and interiority. Personal understanding comes rather through empathy, the power to place oneself in another person's shoes, to notice the small clues that reveal the other's inner attitudes and feelings. In her long

²² See ABBÉ PINTARD, «*Mater viventium*», in *La Nouvelle Eve*, 1957, pp. 61-86.

²³ See CAROL GILLIGAN, *In a Different Voice: Psychological Theory and Women's Development*, Harvard University Press, Cambridge, MA 1982; also her «In a Different Voice: Women's Conceptions of Self and of Morality», with the review by ANN COLBY and WILLIAM DAMON, in MARY ROTH WALSH, *The Psychology of Women: Ongoing Debates*, Yale University Press, New Haven 1987, pp. 274-322 with bibliographies.

²⁴ See MARY F. BELENSKY ET AL., *Women's Ways of Knowing: The development of Self, Voice, and Mind*, Basic Books, New York 1988.

²⁵ *S. Th. I*, q. 79, a.9; *2 Sent.*, d. 24, q. 2, a. 2; *De Veritate*, q. 15, a. 2.

evolutionary development the human female has become adapted to this sensitivity in a way males have not. Such empathetic sensitivity has little place in logical thinking which depends on universalizing and objectivizing our experience in an abstract manner, but it gives a great advantage to intuitive thinking which rests on immediate experience and subjective cues.

Mary's great act of faith was made at the Annunciation, but we can understand her readiness only if we consider how she was prepared for that act from the very beginning of her existence as a person. The doctrine of the Immaculate Conception states that «by a singular privilege and grace of almighty God in view of the merits of Christ Jesus, Savior of humanity, was from the first moment of her conception preserved immune from all taint of original sin» (DS 2804). This was not an isolated event, but the culmination of the entire history of the world in which after the fall into sin of Adam and Eve God had been preparing a worthy human mother for his Divine Son who He was to send as savior of fallen humanity. Thus, the whole development of moral insight which the Old Testament recounts from Adam to Noah, from Noah to Abraham, from Abraham to Moses, in the history of the Old Law through what we now believe were the many stages of its writing and rewriting, in the teachings of the prophets and the sages, gradually prepared the Jewish people to receive the Messiah.

Although this people, like all peoples, in many ways fell short of its calling, it produced a Remnant ever more faithful, ever more conformed by grace to God's will. In Mary this grace was complete, so that she is the true Israel, the masterpiece of all God's preparatory work, in whom nothing of the ruin produced by the sin of the ages remained.

This was necessary that she might, in the name of all Israel, and through Israel of all humanity, speak the word of perfect faith, the only condition for the reception of the Incarnate Son of God, the Anointed. If her faith had not been perfect, her «May it be done to me according to your word» (Lk 1,38), could not have been proportionate to the gift of God, and if there had been left in her even the least trace of the work of sin her faith would not have been perfect.

Moreover, Mary's perpetual virginity is intimately linked with her need for perfect faith. Luke, in true Pauline manner, wanted to show that the Incarnation was entirely an act of grace. The Messiah did not come to the Jews because of any merits on their part, not simply because they are «children of Abraham» but purely because of the faith of the patriarchs and of the Remnant. Hence Jesus has no earthly father, but is simply and absolutely the Son of God the Father, and his mother must be a virgin mother, one utterly dedicated to God alone in faith.

Mary's virginity is thus in a real sense her faith, but her faith understood as a total dedication of soul and body to God alone, as Israel can have no other God than God.

It has often been remarked that women find it easier than men to enter into contemplative life and, hence, to attain mystical union with God, as we see in Catherine of Siena and Teresa of Avila. This women's faith is more open,

receptive, transparent. They do not feel, as men tend to do, that they must impose their formulations and systems on God's revealing word, but simply allow that Word to be heard in their innermost being, to be impregnated by it. Luke shows this contemplative gift of women when he repeats that «Mary pondered all these things in her heart» (Lk 2,19. 51), constantly seeking the meaning of the mystery of Jesus as he grew up in her home, even when she did not understand him perfectly. Like Mary, the sister of Martha (Lk 10, 38-42), Mary the mother of Jesus, was ready simply to listen to him.

Thus, Mary's faith is a supremely *fertile* faith, a faith that makes it possible for God to work through her to transform the world, and bring about a new creation. No wonder then, that the liturgy applies the name of «Wisdom» to her, that wonderful «prudence» by which we respond to the message of faith by living the faith. This prudence of Mary is manifested by Luke in the way she carefully tries to understand the meaning of the angel's message before answering it (Lk 1,29. 34), and by John in the way Mary gets Jesus to assist the young married couple at Cana who have run out of wine, in spite of the fact that his «time has not yet come» (Jn 2,1-11).

Why then do Aristotle and Aquinas seem to deny «prudence» to women?²⁶ Perhaps what they intended was that kind of prudence that ordinarily makes a man head of the household or military or political ruler and which depends both on a wider experience of the world and a more objective attitude than is typical of most women's experience and way of thinking. Aquinas certainly believes that women have personal prudence, since without it no other virtues are possible. Thus, the prudence of women has more the character of «tact» and «sensitivity» in dealing with persons, than of decision in dealing with things and affairs, more typical perhaps of men. When masculine prudence becomes vicious it becomes a carnal prudence of fraud, treachery, and the lust for power, as vicious feminine prudence becomes manipulation, seduction, and deception.

Mary's Hope, Moderation and Courage

From Mary's perfect faith sprang her wonderful hope. Mary could not have been ready for the Incarnation if she had not embodied in herself the great messianic hope of Israel for the fulfillment by the power of God of all the promises He had made to his Chosen People through the prophets. The *Magnificat* (Lk 1,46-55) expresses this confidence that in spite of all appearances, God will raise the lowly from the dung-hill and cast down the tyrants. This hope grew in Mary through the prophecy of Simeon and the words of the aged Anna, through the strange visit of the Magi, and the unfathomable words of the boy Jesus, «I must be about my Father's work?» (Lk 2,49).

Like a mother, she must have retained confidence through the long years when Jesus seemed to pursue nothing more than a carpenter's trade that

²⁶ ST. THOMAS AQUINAS, *In VIII Libros Politicorum Aristotelis*, I, lect. 10.

someday he «would amount to something.» Who can doubt that during all this time, as so many mothers have done, she shared with him his growing dreams of mission, since at the wedding of Cana she actually prompted him to perform his first great miracle (*Jn* 2,1-12)? When he began to succeed in his public ministry and the crowds began to gather around him, her hope must have swelled, and at the same time been beset by the anxieties that prompted her to come with his other relatives to see how he was doing and to warn him of the dangers that beset him (*Mk* 3,31-34; *Mt* 12,46-50; *Lk* 8,19-21). The other relatives even wondered if he was «losing his head» with all this popularity. She knew him too well to think that, yet she needed to see him again. He did not permit her to come in, lest his hearers lose confidence in his complete dedication to them.

Thus Mary's hope, like that of many mothers, had to be tempered by disappointment. She had to wait in a hope based on her complete faith.

For the Christian hope for the coming Kingdom always produces the tension between this life and the next, and demands therefore the asceticism which moderates our desires for present satisfaction and strengthens our courage to persevere and endure in the journey. Mary did not need the purification from sin that this asceticism is necessary to effect, but she shared with her son that suffering for others by which love comes to its ultimate intensity. For Christians the grace of virginity typifies the perfection of moderation (temperance), as well as the humility which keeps virginity a state of openness to God rather than a kind of narcissism, and martyrdom typifies the perfection of fortitude. Mary's virginity was joined to perfect humility, a willingness to be the least and the most powerless of God's creatures, which in fact exalted her to her sublime mission as Mother of God. Her courage in martyrdom was joined to perfect patience at the foot of the Cross, when her own heart was pierced through in compassion for her Son.

What is especially feminine about such humility and compassion is that they arise from a good mother's ability to totally identify with her child without possessiveness or demanding of them to be other than their true selves. The purity of love and the profound strength which this requires is quite beyond measure. It should not be confused with its caricature found in the self-pitying woman who loudly declares herself a martyr to her children or the depersonalized woman who «sacrifices» her own dignity as a human being to be a slave to her children. A doormat cannot be a mother. The true mother brings her children to birth and maturity in their own independent existence. She gives them life out of her own strong and abundant life. When Jesus sees Mary at the foot of the Cross and before he entrusts her to John's care, he first says, «Woman, behold your son» (*Jn* 19,26). She is not annihilated by grief, but stands ready to take up a new mission, a new motherhood. Thus, Mary is not only a humble handmaid, she is also «the Woman» with a capital letter, «great-souled», «magnanimous», ready for great tasks, and for the «magnificence» which Aquinas associates with courage²⁷, because like the widow who put her mite into

²⁷ *S. Th.* II-II, q. 134, a. 4.

the temple treasury, she «from her poverty, has contributed [to God] all she had, her whole livelihood» (Mk 12,44).

Mary's Love and Righteousness

Mary's faith and hope were the foundation of her charity, her love in which was summed up the whole of the Old and New Covenant, and with it that perfect righteousness or justice which consists in fulfilling the holy will of God to its greatest and least demand. The piety of the Old Testament and of Judaism today is the unremitting study of the will of God expressed in the Torah and the carrying out of its requirements to the letter. The Pharisees were imbued with this zeal, but they themselves knew that the prophets had taught that faithfulness to the letter of the law was not enough. Jesus rebuked them not for this literalism as such, since he too held that the Law must be observed, to «the least letter» (Mt 5,18), but because they were not «perfect as the heavenly Father is perfect» (Mt 5,48) with that perfection which is more than the letter. The observance of the Law must be done in the right spirit, since only in that spirit can the weighty things of the Law be distinguished from the lesser things, and all observed in proper measure. That spirit is the Great Commandment of Love which sums up all the rest (Mt 22,38-40).

The love to which this Commandment refers is not *eros* but *agape*, not love for what one needs for oneself, but love that seeks to share with another what one already possesses for oneself²⁸. *Eros* is not evil; it is necessary that we love what we need; we even love God with *eros*. But *agape* is a participation in God's love for us, a love that arises not because God needs us for his happiness, but because he wants to share his perfect happiness with us, who do need it.

It was at Mary's breast and in Mary's home that Jesus in his humanness was formed in *agape*, in the love of generosity, which does justice and more than justice to all the needy. He was formed both in the letter and the spirit of the law. Men have a tendency to be concerned with the letter, women with the spirit because for women what matters first of all is the personal relationship to God and to God's children. This personal relationship of love is that inner empathy which gives life to the external letter.

Another way to put this is to remember the teaching of Aquinas that true love has two aspects: (a) it is *beneficence*, a seeking of what is good for the beloved; but (b) it is also desire for *union*²⁹. It seems to me that the masculine side of *agape* is beneficence, because male virtue tends to do things for people; but the feminine side is union, because female virtue tends to identify with the one loved, it is empathetic, not merely constructive. Mary's love, therefore, produces in the Christian community that sense of inner unity, of unanimity, of

²⁸ See CESLAS SPICG, *Agape in the New Testament*, 3 vols., B. Herder Book Co., St Louis 1963.

²⁹ *S. Tb.* II-II, q. 27, a. 2c; cf. I-II, q. 28, a.1; II-II, q. 23, a.1.

«peace» in the deepest sense of the word. It is this interiority which make the Law something that gives life, rather than imposes external restraints. It sets us free while maintaining perfect harmony.

What this means in moral theology is that the divorce which has come about between morality and spirituality can be overcome only if we understand that moral laws have to be vivified by the inner spirit of love and union, of community. Christian morality is a morality of community, of mutual respect and mutual help and mutual understanding. Competition and pluralism are stimulating and necessary for the Church but only within that atmosphere of love which is the special gift of women.

That need of the vivifying and unifying power of love is shown us by Luke when in a single sentence he tells us that when the apostles were awaiting the coming of Holy Spirit at Pentecost, Mary and women were present praying with them (*Acts* 2,14). This is the last historical word we hear about her in the Bible, although in the Book of Revelations she appears again in allegory as the Woman clothed in the sun (*Rv* 12,1-18) and as the Bride of the Lamb (*Rv* 21,1-4; 22,17)³⁰. We must remember that the early Church was soon divided by the struggle over the question whether Gentile converts had to observe the Law. No doubt it was Mary's prayers that held the Church of those days together in the Spirit.

Aquinas links with justice or righteousness many other virtues which cannot adequately pay a debt, or do not owe a strict debt³¹. Of these the first the greatest is religion, a willingness to give God his due through reverence and worship, and along with it piety to our parents and country, and obedience to all legitimate superiors in society. In every Catholic family, I believe, it is commonly the mother who is most mindful of religious obligations, of getting everyone to Mass on Sunday, of keeping fasts and feasts. Certainly Luke shows us the Holy Family fulfilling its duties in the Temple (*Lk* 2,22-50). It must have been Mary who taught Jesus' his prayers. It is she who says to him when he was found in the Temple, «your father and I sought you in sorrow» (*Lk* 2,48). Everything we hear about Jesus shows that he had grown up in a home of regular worship, of reverence for parents (« He was subject to them» *Lk* 2,51) of a spirit of sincere obedience. It is precisely a woman's sensitivity for human relations that makes the peaceful good order of a family and a community possible.

Also related to justice are the virtues, mildness in correction, gratitude for every gift and truthfulness. That Mary restrains the just punishments of God by invoking his infinite mercy is a fundamental feature of her traditional image. Her gratitude to God appears in the first lines of her *Magnificat* (*Lk* 1,46-49). She is the Mother of Truth itself. Truth is sacred because all society rests on trustworthiness, but truth can be harsh and brutal; it can kill as well as quicken. A truthful woman, however, because she thinks first of all of the person to whom she speaks can make truth a healing and a nourishing message.

³⁰ See references in note 16 above.

³¹ *S. Tb.* II-II, q. 80.

Jesus' preaching sometimes is a «hard saying» (Jn 6,60), yet what most characterizes it is that it is «Good News» (Mk 1,15) and in that Good News we hear Mary's tenderness, manifest in the tact she shows at the wedding feast of Cana, when Jesus resists her suggestion of a miracle and she says to the waiters very simply, «Do what he tells you» (Jn 2,5)³².

Finally with justice are associated liberality or mercy, affability, and equity or fair dealing. Who is more merciful, more friendly, more concerned that everyone has their share than a good mother, than Mary? Thus Mary exemplifies justice, righteousness in its entire range of dutifulness, in every letter even the least letter of the moral Law and gave to the righteousness of her Son that wonderful feminine quality we sum up in the word «mercy». «Take my yoke upon you and learn from me, for I am meek and humble of heart» (Mt 11,29). When the Reformation drew Christians attention away from Mary, moral teaching tended to become harsh, puritanic, gloomy, and ugly, and when her spirituality no longer infuses our Catholic moral theology it becomes once again the legalism of the Pharisees. The culmination of moral theology, therefore, is not in the casuistic discussions that occupy moralists so much today especially in the field of bioethics, nor in the reformist theories of liberation, but in the study of the way the Gifts of the Holy Spirit facilitate the full flowering of faith, hope, and charity. Not that this means that, therefore, moral theology is not concerned with social justice. Christian love is so intimately connected with justice that Our Lord says we will be finally judged on whether or not we have loved him in the poor and the oppressed (Mt 25,31-45). But this justice cannot really transform the social order unless it really does flow from an inner spirituality. The letter of justice will kill in politics just as it does in private life. We cannot transform society, or liberate anyone except in the spirit of love.

In her *Magnificat* Mary speaks plainly of how God will put down the rich oppressors and raise the poor, hungry, and oppressed, thus foreshadowing the theme of the Beatitudes, «Blessed are you who are poor, for the kingdom of God is yours» (Lk 6, 20)³³. This is at the heart of the spirituality of the New Testament, nowhere more explicit than in the Lucan Gospel, namely the expectation of the imminence of the Reign of God, a feast from which no one will be excluded unless they exclude themselves (Lk 14, 15-24). Its principle is what is now called «the preferential option for the poor», which means that the Christian Community under the headship of the Good Shepherd first of all seeks out those in the world who are the outcast, the neglected, the homeless of every other community. It does so because the Kingdom of God, just because it is God's, is directed to righting every injustice in a spirit of love that goes beyond justice.

Mary, because she had experienced poverty, as we see when she and Joseph offer two pigeons to redeem the infant Jesus at the Temple, the sacrifice

³² FEUILLET, *Jesus and His Mother*, pp. 8-10 120-124 137-138 257-258.

³³ See JOHN PAUL II, *Redemptoris Mater*, n. 37; LAURENTIN, *op. cit.*, pp. 156-157 167-168 379-393.

of the poor (*Lk* 2,22-24; *Lv* 12,8), and because she represents the Jewish people, a people whose history is one of exile and persecution, stands with the poor.

Indeed it has been the humble people of the Church who recognized her as the Immaculate when the greatest theologians hesitated and who find in her motherliness a confidence which even their image of Jesus does not always inspire in them.

Undoubtedly, it was from her that Jesus first came to understand his own mission as one whose great certification is that «the poor have the Good News preached to them» (*Mt* 11,5)³⁴.

³⁴ I want to acknowledge two excellent studies relating to this same topic to which my attention has been called since writing this article. FREDERICK M. JELLY, O.P., «Towards a Theology of the Body Through Mariology: Reflections on a Workshop», *Marian Studies*, 34 (1983), 66-84, with observations by PATRICK BEARSLEY, S.M., pp. 85-90; and GERMAIN GRISEZ, «Mary and Christian Moral Principles», *ibid.*, 36 (1985), 40-59.

CHRISTIAN FAITH AND ITS «FULFILLMENT» OF THE NATURAL MORAL LAW

WILLIAM E. MAY *

INTRODUCTION

In his Sermon on the Mount our Lord said: «Do not think that I have come to abolish the law and the prophets. I have come, not to abolish them, but to fulfill them». Indeed, he continued: «Of this much I assure you: until heaven and earth pass away, not the smallest letter of the law, not the smallest part of a letter, shall be done away with until it all comes true. That is why whoever breaks the least significant of these commands and teaches other to do so shall be called least in the kingdom of God. Whoever fulfills and teaches these commands shall be great in the kingdom of God» (Mt 5,17-19).

The law to which Jesus here referred is the law given by Moses, whose moral precepts were engraved on tablets of stone. The Catholic theological tradition holds that the moral precepts of the Mosaic law are precepts of the natural moral law¹, which is engraved, not on tablets of stone, but on tablets of flesh, i.e., in the human heart.

The question I propose to investigate is how the new «law of love» proclaimed in the gospels «fulfills» and «perfects» the natural moral law, for Jesus likewise said: «I give you a new commandment: Love one another. Such as my love has been for you, so must your love be for each other. This is how all will know you for my disciples: your love for one another» (Jn 13,34-35). I will try to achieve my purpose by comparing the new law of love or of grace to the natural moral law with respect to the following: 1. the persons to whom these laws are given and the purpose of these laws and 2. the «content» of these laws.

1. *The Persons to Whom the Natural Moral Law and the Law of Love Are Given and the Purpose of These Laws*

A. The Natural Moral Law

The natural moral law is given, on creation, to every human being, i.e., to those bodily beings who have been made «in the image and likeness of God» (Gn 1,27), for it is a law rooted in the nature of human beings (cfr *Dignitatis*

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¹ See, for instance, ST. THOMAS AQUINAS, *S.Th.* I-II, q. 100, aa. 1.11.

humanae, n. 14). The natural law is, in fact, the uniquely human way in which human beings «participate in » «the highest norm of human life», i.e., «the divine law – eternal, objective, and universal – whereby God orders, directs and governs the entire universe and all the ways of the human community according to a plan conceived in wisdom and in love» (*Dignitatis humanae*, n. 3), for man «has been made by God to participate in this law, with the result that, under the gentle disposition of divine providence, he can come to perceive ever increasingly the unchanging truth» (*ibid.*)².

All creatures are subject to God's divine and eternal law insofar as they are ruled and measured by it – all, as it were, «participate in» it passively³. But God wills that intelligent and self-determining creatures – and this is what human beings are – participate more nobly in his divine and eternal law as befits their nature. They participate in it not only passively, by being ruled and measured by it, but also *actively* by coming to know ever more deeply its unchanging truth (cfr *Dignitatis humanae*, n. 3) and in this way enabling themselves to rule and measure their own free choices and actions in accord with its truth⁴. For the purpose of this law is to provide human beings with the truth necessary to guide their choices and actions⁵. A brief explanation is needed here.

Human persons make themselves *to be* the persons they are in and through the actions they freely choose to do. Human actions are not mere physical events that come and go, for at the heart of human actions is a free, self-determining choice that abides in the human person as a disposition to further choices and actions of the same kind⁶. A human being's «character», in truth, is the integral existential identity of the person as determined by his or her own free choices⁷. It is thus crucially important for human beings to make good

² The conciliar text does not explicitly use the expression «natural law» to designate humankind's participation in God's eternal divine law. However, that this was the mind of the Council is made clear by the fact that an official footnote is appended to this paragraph, explicitly drawing attention to some key texts of St. Thomas, namely, *S. Th.* I-II, q. 91, a. 1; q. 93, a. 2. In q. 93, a. 2 Thomas says: «Every rational creature knows it [the eternal law] according to some irradiation of it, greater or less. For all knowledge of the truth is a certain irradiation and participation in the eternal law, which is unchangeable truth... but all men somehow know its truth, at least with respect to the common principles of the natural law». In *S. Th.* I-II, q. 91, a. 2 Thomas says that the natural law is the participation of the eternal law in the rational creature.

³ *S. Th.* I-II, q. 91, a. 2, ad 3.

⁴ *Ibid.* q. 91, a. 2 and q. 93, a. 6. On this point it is useful to consult D. O' Donoghue, «The Thomist Concept of Natural Law», *Irish Theological Quarterly*, 22 (1955), 89-109, especially 93-94.

⁵ *S. Th.* I-II, q. 91, a. 2.

⁶ Thus St. Thomas writes that «action is a doing that abides in the agent himself» (*S. Th.* I-II, q. 57, a. 4). This truth is at the heart of the distinction between *doing* and *making*. Making is a transitive act that passes from the agent to some product external to the agent, whereas doing is a deed that abides in, either to perfect or degrade, the agent. This truth is central to the thought of VATICAN COUNCIL II, *Gaudium et spes*, n. 27, where the Council Fathers make the point that crimes against human life, while harming their victims, more seriously degrade their perpetrators.

⁷ On this see GERMAIN GRIEZ, *The Way of the Lord Jesus*, Vol. 1, *Christian Moral Principles*, Franciscan Herald Press, Chicago 1983, p. 59.

moral choices. In order for them to do so they must know, prior to choosing, how to distinguish between choices that are morally good and choices that are morally bad. The criteria enabling them so to distinguish are moral truths, and these truths (as we shall see below, in considering the «content» of the natural moral law) are the truths they come to know through the natural moral law, their uniquely human way of participating in God's divine and eternal law.

The natural moral law, in short, is given to all human beings to enable them to judge truly about what they are to do and in the light of this truth to make good moral choices. Yet the natural moral law does not enable human beings to do the good they come to know, for they can, as experience bears witness, choose to act against the truth – they can freely choose to do what they know is morally wicked.

In addition, the human beings to whom the natural moral law is given are persons wounded by sin, for all are subject to original sin and to its effects. Through sin concupiscence has entered into their hearts.

Concupiscence, which comes from sin and leads to sin⁸, makes it difficult for human beings to come to a knowledge of the truth, i.e., of the «imperatives» of the divine and eternal law⁹. Indeed, as St. Paul bears witness, he finds within himself a twofold law – the «law of his mind» (= the natural moral law) and the «law of his members» (= the law of concupiscence, the *lex fomitis*¹⁰ [Rm 7,23]), with the result that he does not do the good that he wants but rather the evil that he hates (Rm 7,15). Because of sin and concupiscence human hearts have been «hardened» (cfr. Mt 19,8). Indeed, while (as we shall see) the first and common principles of natural law can never be obliterated from the human heart, a knowledge of its more specific moral precepts is indeed imperiled as a result of sin and concupiscence. It is precisely for this reason, the Catholic theological tradition informs us, that God has graciously made known to us through revelation the most basic specific moral norms needed to guide human choices and actions, for it is these norms that he gave to humankind in the law given to Moses, the law engraved on the tablets of stone¹¹.

In sum, the natural moral law is given to all human beings so that they can come to a knowledge of moral truth and in this way choose to do what they are to do if they are to be more fully the beings God wills them to be. Yet knowledge of this truth is made difficult because the human «hearts» on which it has been inscribed have been «hardened» by sin and concupiscence.

⁸ See ST. AUGUSTINE, *De Nuptiis et Concupiscentia* I, 25 (PL 44, 429-430). The Council of Trent made St. Augustine's teaching on concupiscence its own; see HENRICUS DENZINGER and ADOLPHUS SCHÖNMETZER (eds), *Enchiridion Symbolorum* (34th ed., Herder, Romae 1973), n. 1515.

⁹ Thus in *Dignitatis humanae*, n. 3, the Council Fathers speak of man perceiving and acknowledging the «imperatives of the divine law», while in *Gaudium et spes*, n. 16, they note the baleful effects that sin can have on human conscience.

¹⁰ On this see *S. Th.* I-II, q. 91, a. 6.

¹¹ See *ibid.*, I-II, q. 91, a. 4; q. 94, a. 2.

Moreover, again by reason of sin and concupiscence, human beings are prone to evil. They find themselves in the power of sin so that, frequently, they fail to do the good they come to know and instead do the evil that they hate.

B. The New Law of Love or Grace

The persons to whom the new law of love or grace is given are Christ's faithful, i.e., those who have been «regenerated» in the waters of baptism. Such persons have, through baptism, entered into the paschal mystery of Christ: they have, in, with, and through Christ, died to sin and, again, in, with, and through Christ, have risen to a new kind of life. They have «put on Christ», become incorporated into his body, the Church, and made children of God, members of the divine family. The purpose of the new law of love, inscribed in the hearts of these human persons, is to enable them to live in Christ, to live worthily as children of God and members of the divine family. This brief account of the persons to whom the new law of love is given and the purpose of this law needs to be more fully developed if we are to understand its significance. Once its significance is grasped we can see, I believe, two important ways in which the law of love, given to Christ's faithful, «fulfills» the natural moral law.

The *first* way in which the new law of love fulfills the natural law is by «re-creating» the persons to whom the natural law is given. The new law of love «regenerates» those to whom it is given, making them *to be* literally «children of God» and members of the divine family. For, as St. Thomas Aquinas rightly notes, what is «most powerful in the law of the new covenant, and in which its whole power consists, is the grace of the Holy Spirit, which is given through faith». Indeed, as he continues, «the new law is first and foremost the very grace of the Holy Spirit, which is given to Christ's faithful»¹². Through the love of God that is poured into their hearts when, in baptism, they accept in living faith the revelation given by God in Jesus, Christ's faithful are inwardly transformed and become «new» creatures precisely because they are now truly one with Christ. To grasp this point rightly we must first look to Jesus, who «fully reveals man to himself» (*Gaudium et spes*, n. 22).

Jesus is true God and true man. He is true God, for «in him all the fulness of God was pleased to dwell» (*Col* 1,19). He is God's eternal, unbegotten «Word» (*Jn* 1,1). And Jesus is true man, for he is God's eternal Word made flesh, i.e., man (*Jn* 1,14). «Born of a woman» (*Gal* 4,4), he is «like his brothers in every respect» (*Heb* 2,17), «tempted as we are, yet without sinning» (*Heb* 4,15). Insofar as he is man, Jesus achieves human fulfillment by living a perfect human life, one manifesting God's goodness in a unique and special way: «I glorified you on earth, having accomplished the work you gave me to do» (*Jn* 17, 4). And his Father crowns his work by raising him— and all persons who are one with him— from the dead. As St. Paul teaches, «Christ has in fact been raised from the dead, the first-fruits of all who have fallen asleep. Death came through one

¹² *Ibid.*, q. 106, a. 1.

man and in the same way the resurrection of the dead has come through one man. Just as all men die in Adam, so all men will be brought to life in Christ» (1 Cor 15, 10-22). Again, as man, Jesus is the «first-born of all creation» (Col 1,15), and is completed by creation united under him: God «has let us know the mystery of his purpose, the hidden plan he, so kindly made in Christ from the beginning to act upon when the times had run their course to the end; that he would bring everything together under Christ as head, everything in the heavens and everything on earth» (Eph 1,9-10; cfr Eph 1,22-23).

As God, Jesus unites those who are his own to the Father: «The glory which you have given me I have given to them, that they may be one as we are one, I in them, and you in me, that they may become perfectly one» (Jn 17,22-23). Insofar as he is God, Jesus mediates to us a share in his divinity, for «from his fullness we have all received» (Jn 1,16). Indeed, in Jesus we have become «partakers of the divine nature» (2 Pt 1,4). Because his human life, death, and resurrection was the life, death, and resurrection of God's only-begotten Son, those who are united in him are in truth «begotten» anew. They now become literally «children of God», members of the divine family: «See what love the Father has given us, that we should be called children of God; and so we are... Everyone who believes that Jesus is the Christ is a child of God» (1 Jn 3,1; 5,1).

It is through baptism that Christ's faithful are truly united to him, dead to sin – i. e., no longer under its way and impotent before it – and risen to a new kind of life, the life proper to God's own children. St. Thomas put matters this way:

Through baptism a person is reborn to a spiritual life, one proper to Christ's faithful, as the Apostle says (Gal 2,20), «the life I now live in the flesh I live by faith in the Son of God [who loved me and gave himself for me]». But this life belongs only to the members who are united with the head, from whom they receive sense and movement. And therefore it is necessary that through baptism a person is incorporated into Christ as his member. For just as sense and movement flow from the natural head to its [bodily] members, so from the spiritual head, who is Christ, flow to his members both a spiritual sense, which consists in the knowledge of the truth, and a spiritual movement, which operates through the inspiration of grace. Hence John says (1,14.16), «we have seen him full of grace and truth, and of his fullness we have all received». And therefore it follows that the baptized are enlightened by Christ regarding the knowledge of the truth, and they are impregnated by him with an abundance of good works through the infusion of faith¹³.

Just as Jesus fully shares their humanity and their human life, so those who have been engrafted on the «vine» which is Christ (cfr Jn 15,1-11) really share his divinity. In him they are literally divinized. Although their life in union with Jesus and, in, with, and through him, with the Father and the Holy Spirit will reach its completion only in the resurrection, it is absolutely essential to realize that this divine life is already, here and now, present within them. They are, *now*, God's children; the divine nature has been communicated to them. While

¹³ *Ibid.*, III, q. 69, a. 5.

always remaining human, they really share Christ's divinity. They are literally «other Christs», truly his brothers and sisters not only in humanity but also in divinity. «Adopted» into the divine family by being «begotten» anew in baptism, they can now, with Jesus, call God their Father, their «Abba», in a new and more profound way.

The persons to whom the new law of love is given, namely, Christ's faithful, are then human persons who have been «re-created», made new. While remaining human they are now divinized, «regenerated» through the Spirit, called to and empowered to live not merely as beings made in the image and likeness of God but also as his very own children. Their «hearts», on which the natural moral law is engraved, have been made new precisely because the new law of love and grace has been engraved on them, making them to be «other Christs».

The *first* way, therefore, in which the new law of love «fulfills» the natural moral law is by making the persons to whom this law is given *new persons*. They remain human beings, made in the image and likeness of God. But they are now truly divinized and «children of God» in a more intimate sense, since they now share in the divinity of Christ and, by so sharing, are in truth members of the divine family.

A *second* way in which the new law of love «fulfills» the natural moral law is by enabling those to whom the new law of love is given both to know and to do what the natural law requires. The natural law, as we have seen, is given to human persons precisely so that they can come to a knowledge of moral truths (the way in which human persons come to know the truths of the natural law will occupy us in the next part of this essay). But it does not empower human persons to choose in accord with the truths they come to know. Moreover, as we have also seen already, our struggle to come to know the truths belonging to natural law has been made difficult because of sin and concupiscence. The purpose of the new law of love is to enable us to be fully God's children, to be fully the beings he wills us to be. In short, it not only capacitates us to *know* what we are to do if we are to be fully the beings God wills us to be, it also capacitates us to *do* everything necessary to live fully as God wills us to¹⁴. Although we are still capable of sinning even though we have been «regenerated» in the Spirit until we are confirmed in glory at the Lord's parousia, the new law given to us as Christ's faithful, «insofar as it is considered in itself, gives us sufficient help so that we can avoid sin»¹⁵. By virtue of the new law of love we are made connaturally eager both to know and to do the truth. Here I cannot enter more deeply into this topic. But Christ's faithful precisely because they are now his brothers, sisters, and friends, are intimately united to him and, in, with, and through him, to the Father and the Holy Spirit, whose gifts are showered upon them. They are thus connaturally empowered to know and do the truth¹⁶.

¹⁴ *Ibid.*, I-II, q. 106, a. 1, ad 2.

¹⁵ *Ibid.*

¹⁶ St. Thomas and others speak of connatural knowledge, such as the knowledge between friends, which differs from knowledge acquired in a more «objective» and scientific way. Precisely

2. The «Content» of the Natural Moral Law and of the New Law of Love

A. The Natural Moral Law

What is the «content» of the natural moral law? That is, what truths to guide human choices and actions pertain to it? In answering this question I will take as my guides St. Thomas Aquinas and some contemporary authors, Germain Grisez, John M. Finnis, and Joseph Boyle, Jr., who seek, in my judgment, to clarify certain aspects of St. Thomas's thought and to make explicit what is only implicit in his analysis of the content of natural law.

According to St. Thomas there is an ordered progression in our active participation in God's eternal law – or in our knowledge of the natural law that is rooted in our being. And St. Thomas's position here seems to me to be echoed by Vatican Council II¹⁷. In the thought of St. Thomas the natural law consists of an ordered series of «precepts» or true propositions of practical reason.

The first set in this ordered series consists of «those common and first principles»¹⁸, «of which there is no need for any "edition", save insofar as they are written in natural reason as self-evidently true, as it were»¹⁹. Among such first and common principles is the truth that «good is to be done and pursued and evil is to be avoided»²⁰, and all those precepts that are based on this ordination of reason²¹. Now, «since good has the meaning of an end, and evil the meaning of what is contrary, it thus follows that reason naturally apprehends as good and consequently to be pursued through action all things to which man has a natural inclination, and [reason naturally apprehends] their contraries as evils and hence to be avoided»²². Thus, among the first and common principles of natural law are to be included those principles that identify basic forms of human flourishing as goods to be pursued and done – goods such as human life itself, the transmission and education of human life, knowledge of the truth about God, life in fellowship with others, and the like²³.

But, and this is crucially important, Thomas likewise includes, among the first, common, and nondemonstrable principles of natural law such precepts as

because they love one another, friends know the secrets of their hearts. But through grace God has made human persons his friends, with whom he shares his secrets.

¹⁷ Thus *Dignitatis humanae*, n.3, says: «Man has been made by God to participate in this law [the divine and eternal law] with the result that, under the gentle disposition of divine providence, he can come to perceive ever increasingly the unchanging truth».

¹⁸ S. Th. I-II, q. 100, a. 1.

¹⁹ *Ibid.*, q. 100, a. 8; cfr q. 100, a. 11.

²⁰ *Ibid.*, q. 92, a. 4.

²¹ *Ibid.*

²² *Ibid.*

²³ *Ibid.* St. Thomas here speaks of three levels of human goods: one, which human persons share with all substances, includes being or life itself; the other, which human persons share with animals, includes the good of handing on life and educating it; the third, which is specific to human persons, includes such goods as knowledge of truth about God, life in fellowship with others, etc. Thomas makes it clear that he is not attempting to provide a taxative list of human goods, but rather an illustrative list, for he says that there are like goods and goods of this kind.

«do injury to no one»²⁴, «do unto others as you would have them do unto you»²⁵, and «love the Lord your God with your whole heart and your neighbor as yourself»²⁶. Indeed, he regards the twofold law of love of God and of neighbor as *the* moral truth in whose light the precepts pertaining to the second «gradus» or set of natural law precepts can be known²⁷.

Consequently, if St. Thomas's thought on this matter is carefully analyzed, it becomes evident that the first «gradus» or set of first and common precepts of natural law can be subdivided into two subsets of true propositions. The *first* subset contains the basic practical principle that good is to be done and pursued and evil avoided and those principles identifying the basic forms of human flourishing as the goods to be pursued and done. These principles guide our choices and actions by orienting us to the goods perfective of human persons²⁸. These natural law principles make rational choices and actions possible; and indeed all human beings, the morally upright and the morally bad alike, appeal to principles of this kind to render their choices and actions intelligible²⁹. But these natural law principles – which can be called principles of practical reasoning – are not of themselves *moral* principles. That is, they do not enable us to distinguish between morally good and morally bad alternatives of choice.

But the *second* subset of first and common principles pertaining to the first «gradus» or rank of natural law principles identified by St. Thomas are principles of this kind – such principles as «do injury to no one», «do unto others as you would have them do unto you», «love the Lord your God and your neighbor as yourself». That is, they are moral principles that enable us to distinguish between morally good and morally bad alternatives of choice.

And among these the most basic, St. Thomas says – and here he is simply following the teaching of our Lord (cfr *Mt* 22,37-39) – is the principle that we are to love God and neighbor³⁰. This is the fundamental moral principle of natural law, and the other principles included by St. Thomas in this subset of

²⁴ *Ibid.* q. 95, a. 2.

²⁵ *Ibid.*, q. 94, a. 4, ad 1.

²⁶ *Ibid.*, q. 100, a. 3, ad 1.

²⁷ *Ibid.*, q. 100, a. 3, and ad 1; cfr q. 100, a. 11.

²⁸ GRISEZ, *Christian Moral Principles*, pp. 178-183, seeks to provide an exhaustive or taxative list of human goods. He argues that there are four «existential» or «reflexive» human goods whose intelligibility depends on choice, for harmony is their common theme: harmony within the self (personal integrity); harmony among one's judgments, choices, and actions (personal authenticity); harmony with other human persons (peace, justice, friendship); and harmony with God (religion). He likewise argues that there are three «substantive» human goods: life itself (including health, bodily integrity, and the handing on and education of life); knowledge of the truth and appreciation of beauty; play and skillful performances.

²⁹ Thus a murderer frequently appeals to the good of life (his own) as a justification of his choice to murder someone who he knows is out to kill him. Sin is not irrational. It is unreasonable, but it is not unintelligent. Sinners act for some good, and ultimately for some basic human good.

³⁰ *S. Th.* I-II, q. 100, a. 3, ad 1.

first and common natural law precepts – the Golden Rule («do unto other as you would have them do unto you»), and the principle that we are to do «injury to no one» – can be regarded as principles showing us how we are to love our neighbor and avoid doing evil to him.

Grisez, Finnis, and Boyle, seeking to develop and clarify St. Thomas's thought on this matter, explicitly distinguish these two sorts of principles of natural law. Moreover, they believe that the meaning of the fundamental moral principle of natural law, *expressed religiously by St. Thomas as the twofold law of love of God and neighbor*, can be clarified if formulated in more philosophical language as follows: «in voluntarily acting for human goods and avoiding what is opposed to them, one ought to choose and otherwise will those and only those possibilities whose willing is compatible with a will toward integral human fulfillment»³¹. By this they mean that in choosing among alternatives we ought to choose only those alternatives whose willing is compatible with a heart that is open to all the goods of human existence and to the persons in whom these goods are meant to flourish. These authors likewise seek to develop St. Thomas's thought by clarifying the function of such other moral principles of natural law as the Golden Rule and the principles that we are to do injury to no one. They believe that principles of this kind, which they call modes of responsibility, specify ways of choosing in accord with the basic normative principle of natural law³². Briefly put, their thought can be expressed as follows.

A person about to choose in a morally upright way fully respects all the goods of human existence and listens to the appeal they make to him through all the principles of practical reasoning. The morally upright person is therefore unwilling to ignore, slight, neglect, damage, destroy, or impede any real good of human persons. His heart, rather, is open to all of them. Moreover, he is fair and just and realizes that the goods perfective of human persons are not his alone, or his family's or race's or nation's, but goods intended for all human persons. A person about to choose in a morally wrong way does not respect all the goods of human existence and all the persons in whom these goods are meant to flourish. The alternative such a person is about to adopt by choice involves detriment to some human good which, we must remember, exists in, or is meant to exist in, some real human person. One is tempted to will this detriment for the sake of realizing some other good that one arbitrarily prefers.

Such are the principles pertaining to the first «gradus» or set of natural law precepts, its «first-level» content.

According to St. Thomas the second «gradus» or set of natural law precepts includes those «that the natural reason of everyone immediately and of

³¹ GRISEZ, *Christian Moral Principles*, p. 184. JOHN FINNIS, JOSEPH BOYLE, and GERMAIN GRISEZ, *Nuclear Deterrence, Morality and Reality*, Oxford University Press, New York and Oxford 1987, p. 283.

³² See *Christian Moral Principles*, pp. 189-192 205-228. See also JOHN FINNIS, *Natural Law and Natural Rights*, Oxford University Press, Oxford 1981, chapter 5.

itself judges are to be done or not done»³³. Such precepts are proximate conclusion from the first nondemonstrable principles of natural law³⁴.

They can be understood to be true, Aquinas thinks, «immediately, with but little consideration»³⁵. They are «more determinate» than the primary precepts of natural law, but they can, he says, be easily grasped by the intelligence of even the most ordinary individual³⁶. Such precepts belong absolutely to natural law³⁷. These precepts, it is true, can become perverted in some instances because of sin and bad habits, and because they are so necessary for our salvation they therefore have need of a further «edition», namely through the divine [positive] law³⁸, for these are the precepts we find in the Decalogue. They are specific moral norms that are absolute, admitting of no exceptions³⁹.

I will not here seek to show Grisez, Finnis, and Boyle endeavor to clarify and develop St. Thomas's thought on this matter. Briefly put, they think that one needs to show more clearly how such specific moral norms as we find in the Decalogue follow from the first principles of natural law, and they think that to show this it is necessary to show more fully the «modes of responsibility» entailed by the first moral principle and how these modes of responsibility are related to more specific human choices⁴⁰.

According to St. Thomas the *third* «gradus» or set of natural law precepts includes those truths about human choices and actions that are known only «by a more subtle consideration of reason»⁴¹. They are like conclusions drawn from the second set to natural law precepts⁴² and are known only by the «wise». For Aquinas the «wise» refers, not necessarily to people with high intelligence quotients, but to those in whom the virtue of prudence has been perfected – in his mind, the saints. To know these truths «much consideration of diverse circumstances» is required, and properly to consider these is something that belongs to the wise, by whom those not perfect in virtue should be instructed⁴³.

B. The New Law of Love or Grace

As we have seen already, the «content» of the new law of love is in essence the «very grace of the Holy Spirit, given to Christ's faithful»⁴⁴. But is there any

³³ *S. Th.* I-II, q. 100, a. 1.

³⁴ *Ibid.*, q. 100, a. 3.

³⁵ *Ibid.*, q. 100, a. 1.

³⁶ *Ibid.*, q. 100, a. 11.

³⁷ *Ibid.*, q. 100, a. 1.

³⁸ *Ibid.*, q. 100, a. 11.

³⁹ *Ibid.*, q. 100, a. 8. On this point, see the splendid essay by PATRICK LEE, «The Permanence of the Ten Commandments: St. Thomas and Some Modern Commentators», *Theological Studies*, 42 (1981), 422-433.

⁴⁰ GRISEZ, *Christian Moral Principles*, pp. 251-274.

⁴¹ *S. Th.* I-II, q. 100, a. 1.

⁴² *Ibid.*, q. 100, a. 3.

⁴³ *Ibid.*, q. 100, a. 1.

⁴⁴ *Ibid.*, q. 106, a. 1.

other content of the new law, and if so, how does this content fulfill and perfect the natural moral law?

Several theologians today claim that there is no specific content to the new law, that there is no specific Christian ethic, i.e., no normative principles specific to Christian faith. Rather, all the normative principles of human action, even action by Christians, are supplied by the normative principles of natural law. Theologians who hold this position frequently appeal to the authority of St. Thomas to support their view. A passage from Louis Janssens is illustrative and representative of this position. He writes:

According to Aquinas the New Law adds nothing to the Old, though it is more perfect in that its insistence is upon the virtuous dispositions which must animate moral acts [*S.Th.* I-II, q. 107, a. 2, ad 3; q. 108, a. 1]. The moral norms of both Old and New Testaments express the demands of virtue, which constitute the material content of the natural law [*ibid.*, q. 108, a. 2]⁴⁵.

Although what Janssens says is true, one can ask whether this adequately represents the mind of St. Thomas, who did not formally address the precise kind of question currently debated by Catholic theologians. For while he did say what Janssens reports, he also insisted that there are specifically Christian moral virtues, divinely infused into the being of those united to Jesus Christ through charity, and that these virtues are the intrinsic principles from which specifically Christian ways of acting proceed⁴⁶. He likewise insisted that Christians are specifically required to do such things as fast and give alms⁴⁷.

I suggest that we approach this question by seeing whether there are principles and norms specific to the Christian way of life analogous to the principles and norms of natural law that we have already examined, and, if there are, how these principles and norms «fulfill» the natural moral law.

First, what about the first and common principles of natural law? Does the new law of love provide any added content here? With respect to the principles of natural law orienting us to do good and avoid evil and identifying the basic forms of human flourishing as goods to be pursued and done, there are no new principles of the new law. There are none because Christians, while being divinized, remain human, so that the goods perfective of them as human persons remain the same: life itself, knowledge of the truth and appreciation of beauty, harmony and fellowship with others, personal integrity and authenticity, harmony and friendship with God himself. But when we come to examine the

⁴⁵ LOUIS JANSSENS, «Considerations on *Humanae vitae*», *Louvain Studies* 2 (1969), 237-238. See also the essays by FUCHS, SCHULLER, MCCORMICK, CURRAN and OTHERS, in *Readings in Moral Theology. No. 2: The Distinctiveness of Christian Ethics*, edited by CHARLES E. CURRAN and RICHARD A. MCCORMICK S.J., Paulist Press, New York 1980.

⁴⁶ *S.Th.* I-II, q. 51, a. 4; q. 63, a. 3. On this matter see JOHN F. HARVEY, OSFS, «The Nature of the Infused Moral Virtues», in *Proceedings of the Catholic Theological Society of America*, 8 (1955).

⁴⁷ *S.Th.* II-II, q. 32, on almsgiving; II-II, q. 147 on fasting.

basic moral principle of natural law— love of God and of neighbor as oneself – and its modes of responsibility— we find that the new law of love does indeed have something new to say to us and that it deepens and inwardly fulfills the natural moral law by perfecting the basic moral requirement of the natural law and its modes of responsibility. The law of love of God and of neighbor as oneself is not specific to the New Testament. It was at the heart of the Old Testament as well (cfr *Dt* 6,5, on love of God above all things, and *Lv* 19,18, on love of neighbor as oneself). But Jesus gives to his disciples a new commandment: «A new commandment I give to you, that you love one another; even as I have loved you, that you also love one another. By this all men will know that you are my disciples, if you have love for one another» (*Jn* 13, 3). Like Jesus, Christians must be ready to lay down their lives for their brothers and sisters (cfr *Jn* 15,12-14; *1 Jn* 3,16). As Grisez notes, «these characteristics of Jesus' love result from a more fundamental principle: His human love for us is rooted in his divine love, which he receives in being begotten by the Father and which he shares with us. Thus he says, "As the Father has loved me, so have I loved you; abide in my love" (*Jn* 15,9)⁴⁸.

The requirement to love even as we have been and are loved by God in Jesus is what is *new* in the new law communicated to us by the grace of the Holy Spirit. As God's sons and daughters, Christians are to love as God's only-begotten Son-made-man loves, i.e., with a healing, redemptive, reconciling love.

The new law of love thus fulfills and brings to completion the natural moral law not by negating it but by deepening and inwardly transforming it. The basic norm of morality, religiously formulated as love of God and neighbor, and more philosophically formulated as a will toward integral human fulfillment, is inwardly transformed. If the new law of love is expressed in a way that relates it to integral human fulfillment, then, as Grisez notes: «Christian love transforms the first principle of morality into a more definite norm: One ought to will those and only those possibilities which contribute to the integral human fulfillment being realized in the fulfillment of all things in Jesus»⁴⁹.

Precisely because they have been united to Christ in baptism, Christians are summoned and committed to share in his redemptive work. Their task is to complete, in their own flesh, «what is lacking in Christ's afflictions for the sake of his body, the church» (*Col* 1,24). Jesus wills that his brothers and sisters complete the redemptive work he has begun so that «we all attain to the unity of faith and of the knowledge of the Son of God, to mature manhood, to the measure of the stature of the fullness of Christ» (*Eph* 4,13), until Jesus «will change our lowly body to be like his glorious body, by the power which enables him even to subject all things to himself» (*Phil* 3,21).

⁴⁸ GRISEZ, *Christian Moral Principles*, p. 604.

⁴⁹ *Ibid.*, p. 605.

3. *The new law of love thus fulfills and competes the first basic moral principles of the natural law*

It likewise inwardly transforms the «modes of responsibility» that is, principles such as the Golden Rule and the requirement that we are to do injury to no one. Here it is necessary to note first of all that Catholic tradition has long recognized the paramount significance for the Christian moral life of our Lord's Sermon on the Mount (Mt 5 f). As St. Augustine said, «if a person will devoutly and calmly consider the sermon which our Lord Jesus Christ spoke on the mount, I think he will find in it, as measured by the highest norms of morality, the *perfect pattern of the Christian life*»⁵⁰. And according to St. Thomas the Lord's Sermon on the Mount «contains completely the information needed for the Christian life. In it the inner movements of the person are perfectly ordered»⁵¹. More recently, Pope Paul VI has stressed that the Beatitudes given in the Sermon on the Mount specify the way we are to live as Christians – they enable us to realize more fully what it means to love even as we have been and are loved by God in Christ⁵².

The Beatitudes, or blessings, given by our Lord to his faithful disciples in the Sermon on the Mount, are rooted in the new command that Jesus gave to love as he loves. It is thus reasonable, I think, to hold with Grisez⁵³, that the beatitudes constitute Christian modes of response specifying the requirements of the new law of love. These modes of Christian response specify ways of acting that mark a person whose will, enlivened by the love of God poured into his heart, is inwardly disposed to act with the confidence, born of his Christian hope, that integral human fulfillment is indeed realizable in union with Jesus. These are the modes characterizing the life of person who, by reason of their living faith, are called «blessed» by the Lord. They are internal dispositions, inclining the Christian to do what is pleasing to the Father and what contributes to the redemptive work of Jesus. The new law of love thus deepens and fulfills the basic moral requirements of natural law, the moral principles pertaining to the first «gradus» or set of natural law precepts.

With respect to the second and third «gradus» or sets of natural law precepts, the new law reaffirms the moral precepts of the Decalogue. I think that it also adds to and completes the precepts pertaining to the third set of natural law precepts identified by St. Thomas, namely, those known only to the wise. The new law does so because it summons Christians, in whom the virtue of supernatural prudence has been infused along with charity, to fulfill their vocation as Jesus' brothers and sisters. Christians have a common vocation or

⁵⁰ ST. AUGUSTINE, *The Lord's Sermon on the Mount*, I.1; translated by JOHN JEPSON, S.S., in *Ancient Christian Writers*, No. 5, The Newman Press, Westminster, MD 1948, p. 11. See also SERVAIS PINCKAERS, O.P., *Les sources de la morale chrétienne*, Éditions Universitaires and Éditions du Cerf, Fribourg and Paris 1987, pp. 150-173.

⁵¹ S.Th. I-II, q. 108, a. 3.

⁵² Pope PAUL VI, *The Credo of the People of God*, n. 21.

⁵³ GRISEZ, *Christian Moral Principles*, pp. 627-650.

call to sanctity: «as he who called you is holy, be holy yourselves in all your conduct, since it is written, “You shall be holy, for I am holy”» (1 Pt 1,14-16). But in addition to their common vocation, each Christian has a unique and irreplaceable vocation within the family of God. Not only are different Christians called to different ways of life in the world – the married life, the priestly life, the religious life, the life of a single person within the world – but within each state of life each Christian has his or her unique role to play in filling up what is lacking in Christ’s afflictions and in bringing his work of redemption to completion. Vatican Council II insists that each one of us has a personal vocation to carry out as a member of Jesus’ people. Indeed, «by our faith we are bound all the more to fulfill these responsibilities [our earthly ones as Christians] according to the vocation of each one» (*Gaudium et spes*, n. 43). In like fashion Pope John Paul II has emphasized that each one of us has a *personal* vocation to follow Jesus, each in his or her unique way⁵⁴.

Personal vocation is each individual Christian’s unique way of following Jesus, of walking in his path. Jesus needs the special contribution each one of us can make to complete his work of redemption. Thus each Christian has the specific obligation, rooted in his or her baptismal commitment, to discover his or her personal vocation and to fulfill it. So in this way, too, the new law completes and fulfills the natural moral law, by inwardly both requiring and disposing those who are one with Christ in charity (the «wise ot St. Thomas’s third level of natural law precepts), to discover their own unique vocation, their own unique way of «following Jesus» and of contributing to his redemptive work.

Conclusion

The new law of love, which is essentially the grace of the Holy Spirit given to Christ’s faithful, «fulfills» the natural moral law in the following ways:

1. First, it «regenerates» the persons to whom the natural moral law is given, making them to be not only beings made in the image and likeness of God, but truly God’s children, members of the divine family, for it unites them to Jesus who shares with them his divinity just as he shares their humanity.
2. Second, it inwardly enables Christ’s faithful, now regenerated in Christ, both to know more easily the requirements of the natural law and to do the good they come to know.
3. Third, the new law of love inwardly transforms the natural law’s basic moral norm, religiously expressed as love of God and of neighbor as oneself, by further specifying it: those to whom the new law of love is given are to love even as they have been and are loved by God in Christ, with a healing, redemptive kind of love.

⁵⁴ Pope JOHN PAUL II, *Redemptor hominis*, n. 71.

4. Fourth, the new law of love inwardly transforms the natural law's «modes of responsibility» by specifying more precisely the modes of response characteristic of Christians: they are to shape their lives and actions in accord with the Beatitudes so that they will receive the blessings promised to his followers by our Lord in the Sermon on the Mount.

5. Fifth, the new law of love further specifies the natural law's requirements by summoning Jesus' disciples to participate in his redemptive work by discerning their own personal vocation and fulfilling it, something they are inwardly enabled to do because of the more-than-human prudence infused into their being along with God's own love or charity.

PRECEPTS OF NATURAL LAW IN RELATION TO NATURAL INCLINATIONS: A VITAL AREA FOR MORAL EDUCATION

STEPHEN THERON *

I

Immanuel Kant argued for a total opposition between inclination and precept, or *Pflicht*. But what we are interested in here is only remotely connected with that and may even appear totally opposed to this total opposition set up by Kant or even, one might say, lifted uncritically out by him the crude paradigms of daily living.

Our interest here, rather, is to see what distinction remains after inclination and precept have been identified as closely as possible. We start out indeed with a strong inclination to reduce precept to inclination.

This inclination, one hastens to say, is no mere animal urge, still less an expression of prejudice against precepts. In fact it is not properly a *reduction* that is proposed. The term is merely borrowed from critics of this approach. For the project is not limited to explaining precepts in terms of inclinations, but aspires to explaining, even revealing, inclinations to be manifested precepts, and here we have more of an enhancement than a reduction. There will remain indeed a real distinction but between two elements as inseparable in reality as are form and matter. To have reduced one to the other would have left no more than a distinction of reason, not a real distinction.

So the question might be phrased: is the distinction between inclination and precept real or of reason alone? Such a nuanced enquiry can of course only get started if we have put out of our minds the vulgar notion that the two are entirely separate realities which have nothing to do with one another. But how, it might be asked, has one come to see them as so closely related in the first place? Well, one is thinking of the precepts of natural law in relation to the inclinations of human nature. So nature is the common denominator. Our discussion here must assume a little familiarity with the doctrine of natural law as presented in a multiplicity of its aspects throughout the writings of St. Thomas Aquinas.

Now St. Thomas states in several places that natural law consists of precepts, and the idea of a precept immediately suggests a verbal formula. But natural law is supposed to be prior to written or spoken law. One thinks immediately of St. Paul's words, often used in this connexion, about a law written on the heart. Is this poetic metaphor, one wonders, or are we presented here with a Lockean doctrine of *a priori* innate ideas?

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It is of course metaphor. What St. Thomas says is that natural law is «nothing other than a participation of the eternal law in the rational creature». There seems indeed no point in discussing any non-theistic doctrine of natural law, for why should nature oblige? Without God man would be «what he makes himself and nothing else», one may agree with Sartre. However, if one denies the consequent as being nonsensical (what is not actually something can't make itself to be anything) then one proves God's existence from Sartre's premise by *modus tollens*. A theologically neutral approach can indeed show that a man can only preserve his act of being (*esse*) by living as a human being (i.e. according to his *essentia*), as Henry Veatch has done so well in *Human Rights, Fact or Fancy?* (Baton Rouge and London, 1985), but not that he is unconditionally obliged to that. The highest resonances of the notion of law are heard only in eternity.

In some formulations other of St. Thomas this participation of the eternal law is simply identified as the *light of reason in us*. That reason *is* a light, illuminating what is really there just as and in so far as it is there, is indeed only thinkable on the hypothesis of such a participation. For even if someone believes it has great survival value, which is questionable, it would not follow that that reason, so-called, thrown up by blind evolution in virtue of this survival value, would indeed be the light of which we are speaking which can illuminate things as they are and hence found the possibility of philosophy.

Let us consider this light of reason. For in the end the whole enquiry is, what *is* this light of reason, from which proceed concepts and language? In general things act in virtue of their own forms, or of what they are. But in beings which have cognition the sources of conscious action are not their own forms but cognition and appetite (involving action, or actualizing activity, on the part of their objects). Just for this reason, argues St. Thomas, there should be, in such beings, conceptions and inclinations which are invariant, *natural*, and thus not subject to will and opinion, just as are the ordinary forms of things from which these things' proper operations proceed (S.Th. Suppl. q. 65, a 1).

Several problems arise here. Inclinations are appetitive; but precepts are of the reason or intellect, according to St. Thomas's account of law, where, as principles of practical reason, they are parallel to those of the speculative reason. As such they are either *a priori* or not. If not, then there is a period before they are formed, where the nature which is to form them then possesses the capacity to form them.

The whole of this field is treated in the clearest fashion in St. Thomas's answer to his own question, «*Utrum aliquis habitus sit a natura*» (S. Th. I-II, q. 51, a. 1). Many people, we may first observe, are content to describe reason as a capacity (*potentia*) and to leave it at that, probably in reaction to the facile doctrine of innate ideas. An account of the origin and status of first principles, e.g. of logic, is often then conspicuously lacking from their treatment, and it is surprising that investigation reveals a tacit reliance on Kantian «transcendental» assumptions. It is indeed felt that anything necessary must somehow be *a priori*, a lingering eighteenth century prejudice.

Our original contrast between inclination and precept, leaving aside for now the apparent jump from will to reason, might be seen as a contrast between what is wholly from nature («*cum aliquid sanatur per seipsim*») and what is partly from nature, partly *a posteriori* from experience («*aliquis sanatur auxilio medicinae*») or from an exterior principle.

St. Thomas draws a contrast here with the angels, in whom alone, he says, there happen to be habits totally from nature, and not partly from an exterior principle. An angel naturally has *species intelligibiles* «*naturaliter inditas*», i.e. infused by God, of all the things that it knows. For if there is no process of abstraction, our own painful way of getting knowledge from the sensible world, then, argues St. Thomas, this is the only alternative to making angelic intellects divine:

«non potest pertinere ad ipsam potentiam intellectivam quod sit per se cognoscitiva omnium, quia oporteret quod esset actus omnium, quod solius Dei est» (*ibid.*, ad 2).

In men although there *are* habits naturally added over and above the natural power or capacity, these habits are themselves kinds of incomplete dispositions only reaching their full actuality in interplay with the exterior world, «*aliter quidem in apprehensivis potentiis, et aliter in appetitivis*».

In the case of mind he speaks of a natural habit «*secundum inchoationem*». Here there is a key text about the understanding of principles, where, significantly, St. Thomas refers us to Aristotle saying, in the *Posterior Analytics*, that «*cognitio principiorum provenit nobis ex sensu*», something it seems Peter Geach wished to deny when he wrote:

«The logical concepts must then, I think, be recognized as distinct mental abilities; and if so they do not admit of any abstractionist explanation» (*Mental Acts*, p.27),

unless that is he be prepared to bring out more clearly the element of *inchoatio*.

St. Thomas agrees that once we know what a whole is and what a part is we *at once*, i.e. *naturaliter*, know that the former is greater. But as to what wholes and parts are, «*cognoscere non potest nisi per species intelligibiles a phantasmatibus acceptis*.» The same would apply to the principle of non-contradiction, taken from an experience of things, the mind only contributing a natural and hence invariable readiness to be conditioned by these things (cfr the author's «*Meaning in a Realist Perspective*», part VI, appearing in *The Thomist*).

St. Thomas even applies the idea of an *inchoatio naturalis* to individual capacities, where he is careful to attribute it to a particular disposition of the organs and not to anything innate in the intellect. In this article St. Thomas does not treat the habit of first practical principles of reason, as he does elsewhere, and we are left wondering just what this inchoate synderesis might be before experience lead us to formulate the first principles of natural law, which we *do* habitually have (i.e. in synderesis). We might say perhaps that as soon as we know good and know pursuit (*ex sensibus*) we judge at once, *statim*, that good is

to be pursued, and this propensity would thus be the inchoate natural habit corresponding, we may say, to the *light* of reason, the reflected divine nature in the soul.

The analysts fail to see this in so far as they write the necessity of pursual into the *notion* of good, of «greater than the part» into the *notion* of whole. But then it becomes entirely obscure how one knows anything in knowing, as we do, that the whole is greater than the part (this not being a proposition about mere words).

Coming to *appetiva*, St. Thomas says that the will's inclination to its proper object is just what makes it a power; so it cannot be called a super added inchoate habit. So he will only apply this notion «*ad principia quaedam ipsius*» (i.e. of the soul: not to the very substance of habit) *sicut principia juris communis dicuntur esse seminalia virtutum*».

Here he seems to refer to the *rational* habit of synderesis, but in saying it is *seminalis virtutum* he seems to want to place its *effect* at the root of willing. This indeed brings us closer to the heart of our problem.

García Lopez writes:

«Las inclinaciones naturales dan lugar al derecho natural, pero no lo constituyen formalmente... deben ser asumidas intelectual o racionalmente. Esta asunción es precisamente la ley, y la ley es la forma del derecho. Las tendencias naturales... sólo son derecho materialmente» (*Los derechos humanos*, p.63).

Here we have the distinction between form (precepts) and matter «inclinations» of the natural law I alluded to at the beginning. In fact Lopez appears to distinguish further between these tendencies, which «no conocidas intelectual o racionalmente no son derecho propiamente hablando», and «el derecho propiamente dicho» which is «inseparable de la ley» and so, by implication, is distinct from it, as *jus* is from *lex*. *Jus* would correspond *in speculativis* to truth in things as compared with truth in the mind. *Lex naturalis* is a mental reality, the truth known or *qua* known as to what is to be done. But what *is* to be done, that is the *jus*, the just thing or *justum*.

There are then three elements: «los fines, las inclinaciones y los conocimientos prácticos». «Rimando con estos fines están las inclinaciones naturales». «Por último, esas inclinaciones naturales son asumidas conscientemente por el hombre en virtud de otras tantos conocimientos prácticos y preceptos, que constituyen la ley natural y las conclusiones inmediatamente contenidas en ella» (*ibid.*, pp. 64-65).

«Pues bien, tanto los fines esenciales como las inclinaciones naturales proporcionan la base del derecho natural, es decir, son como la materia de ese derecho. En cuanto a la forma del mismo está constituida por los preceptos de la ley natural».

So here derecho (*jus*) is made more fundamental than *lex*, which is just its formal part. *Jus naturale* here ranges over knower and known together (cfr pp. 51-52). The reason Lopez gives for this situation is that «la voluntad, donde

radica la justicia, es facultad ciega, aunque radicalmente racional...» «esa presentación intelectual de lo justo es en lo que consiste la ley» (cfr *S. Th.* II-II, q. 57, a. 1, ad 2: "*lex non est ipsum jus, propriè loquendo, sed aliqualis ratio juris*"). But just for this reason

«todo derecho objetivo debe estar necesariamente informado por la ley como la materia por su forma... Por esa, no se da ley ni derecho propia y formalmente más que en los seres dotados de inteligencia» (S. RAMÍREZ, *El derecho de gentes*, Madrid 1955).

The notion of *assumption* twice mentioned here, leaves imprecise just how the passage from inclination to precept is effected, though the matter-form analogy might lead one to say that the intellect simply makes *actual* the latent truth in our nature, i.e. it *adds nothing*. This is important in relation to the various accounts of *value* as something imposed on things.

For St. Thomas it is the same reason which becomes practical by extension, as Aristotle says. The source of practical and of metaphysical principles is after all the same, viz. the human intellect. It would be a mistake to think of this extension like a telephone extension to a side-office. For, first of all, the sphere of praxis, of action, is certainly not tangential to human existence. At the same time the phrase suggests a movement away from the centre. The intellect *extends* itself to a circumference, to a concentric grey area which is very large.

Again, if the intellect is practical «by extension», then its normal nature is to be non-practical, viz. theoretical, it would seem. Hence Aristotle can call this *theoria* the highest praxis. We are at once reminded of the Augustinian stress on contemplation alone being *propter se*, all else, hence all praxis and practical reasoning, being for the sake of that. We act in order to be at rest, we use in order to enjoy.

It is essential to this insight that the practical or say rather «existential» character of *theoria* be not lost sight of. Thus St. Anselm says: «*Qui putat quod est, putat quod debet, et ideo recta est cogitatio*», *rectitudo* supplying the link with *iustitia (quod debet)*, defined as *rectitudo voluntatis*.

So any form of conceptualism quite destroys the possibility of appreciating this synthesis. If theoretic activity is a simple organization of concepts as so many argumentative patterns, then the vital anchoring of intellect in human nature has been lost, and everything of moment for human destiny is shifted over to «the will», now given a literal independence corresponding to the substantival form of its name, *the will*, but quite at variance with the subtle anthropology of St. Thomas or of Aristotle, as is shown by their often not making use of such a faculty type name. Thus in the article on habits which we considered, St. Thomas prefers to say «*in apprehensivis*» and «*in appetitivis*» rather than *in intellectu* or *in voluntate*, since the nominal terms so easily suggest separate entities rather than powers.

That the will is blind means that it needs reason of its own nature. That is why it is called rational. In this partnership it belongs to reason to *imperare*. We

can distinguish this, the *ius naturale*, from the more formal situation of *lex naturalis* as «*aliqualis ratio juris*» (S. Th. II-II, q.57, a.1, ad 2) with the stress on *ratio*, typically expressed not as an imperative (*fac hoc*) but as a gerundive (*hoc est faciendum*), presenting us with reflective *statements* of the moral law. The solution though to the voluntarist ethics of Kant and Hare is not to cut the life-line of practical reason to the will by means of stressing gerundives against imperatives.

For the ethical life is not the life of the professor of ethics. Rather we need to stress the rational character of human willing as such, instead of making reason the slave of will by a fancied universal prescriptivism or as in Kant's equivocal statement that the will is nothing but practical reason. Reason actualizes and approves the material supplied by the inclinations.

There remains a mystery about these inclinations which as it were naturally ask to be actualized by reason and are thus in a sense other than reason, even its basis. They are by no means purely animal but include intellectual intuition, e.g. of the non-contradictoriness of things (prior to our formulating any principle) or, in the practical arena, of spiritual goods to be sought. It seems we are dealing with the naked soul as necessary subject of these inclinations, though it be also the soul which, in collaboration with physical phantasms, later produces rational activity. [In knowing these inclinations are there, necessarily postulated, even as concepts cannot be equated with the linguistic capacities they entail (since this would render language unintelligible), we come as close as we perhaps can come, this side of mystical illumination, to touching our souls.]

II

We can approach the matter in another way, namely by investigating how we come to know these precepts we find in us as inclinations. If we consider the Aristotelian distinction, again, between *theoria* and *praxis* we find that contemplation is distinguished from action as a preliminary to being put forward as the highest form of action. We quoted St. Anselm as saying: «*Qui putat quod est, putat quod debet*», entailing thinking has a moral aspect, it is an action, and like anything else we do it is proper subject matter for an examination of conscience. Thinking is something we do, a form of living.

Therefore an account of the *practical* principles can be seen as an account of the rules of our life, all of our life, including our thinking life. This appears in the fact that the theoretical principles can quite well be expressed as practical principles (e.g. the same thing is *not to be* affirmed and denied) whereas the reverse process clearly leaves something out, leaving us with a pseudo-set of *quasi*-theoretical principles actually unrelated to normal theoretical knowledge.

In fact this is how such principles are seen in an account of them as natural law, as the laws not of other beings observed from outside and their behaviour described by empirical generalizations which attempt to grasp the fundamental laws, on the merely statistical basis which is all that is available, of the object, but as the laws of our own being, truly grasped as laws in our self-knowledge.

But even though that were to be conceded, there might yet be differences in how we conceive the process, and these might be seen as ascending degrees of realism, such as, first, the realism of *a priori* moral principles, secondly, the realism of an empirical inspection of them in human tradition, thirdly, the realism of a prudential *grasp* of them *in* virtuous living. The first two degrees one could regard as definitely falling short of the truth, though they might themselves be regarded as moments in a grasping of the third eventuality, in the light of which knowledge becomes assimilated to «*doing* the truth» by way, even, of becoming and being that doing as unity of knower and know. «*Et ideo recta est cogitatio*». The discipline of realism may thus be seen as a matter of the progressive elimination of the idea *qua* idea in favour of a reflexively aware intentionality.

When St. Thomas says that the order of our natural inclinations is according to (*secundum*) the order of the precepts of natural law we might miss, without the help of other texts, his seeming to make an identification. For if to each inclination there corresponds a law, this correspondence seems more simply to be thought of as internal to the inclination, rather than as erecting a two-tier structure of inclinations *dictating* precepts, something having all the marks of an imposed explanatory scheme getting between ourselves and the realities (but neatly avoided if one discerns the form-matter structure here as outlined earlier).

For then we would have to ask, *why* do the inclinations dictate the precepts? And so we bring in the divine nature of which the human is the image, this being the way human inclinations, those proper to the essence of humanity, get their obligatory force.

This is the first degree of realism. But indeed the argument *to* God, rather than the argument *from* God to obligation, can remain without this two-tier structure, as we shall see. Our principle is the answer to the question as to what is to be done is, at root, that the human thing is to be done, i.e. the type of action that accords with the human essence. This supposes, firstly, that there is a human essence, secondly, that human beings are at least in a measure free with respect to the actualization of their specific essence, the latter being known to them as a set of specific tendencies. Bound up with this freedom, the, is an *internal* knowledge of these tendencies, which are the implications of our specific nature, from the inside, i.e. a *practical* knowledge. In describing to ourselves what these tendencies are we prescribe them for our own conduct, because they are tendencies.

Here though, and in opposition to existentialist notions of freedom, we should note that *if* there is a human essence then there is no the way for us to *be*, apart from our consenting to be human. Freedom then is a mode of this latter, and this does not so much limit freedom as show the greatness of being human.

Now someone who sticks at the first degree of realism would stick at saying that these principles (he would probably distinguish principles and "values" from tendencies and objects of tendency) are «self-evident», dictated

by practical reason, in all probability inborn or *a priori*. This, the sphere of the *sittlich*, would not be metaphysically reducible or explicabile in terms of a more general scheme. The majesty of law and the requisite respect for it, as unconditional, would forbid this. Nonetheless he is a realist in that he affirms the reality, the *truth*, of moral and practical principles, though he removes them from the sphere of other truths. He might say, for example, that «is to be» is the *copula* of practical reason, thus emphasising a total distinctness of epistemic structure for moral judgments.

But as we saw, there is no separate faculty for practical reasoning and so the principles of the *ratio practica* are not absolutely first as are the first logical principles but first with respect to praxis. Reason is strictly one and it is extension to *operabilia* which creates the difference (*pro parte objecti*), not some division within itself. That way we would no longer have a *science* of ethics, as we do. As said above, the intellect is normally theoretical, and if such *theoria* be the highest praxis, this is simply because, as St. Thomas affirms, the intellect is man's noblest faculty. From this viewpoint practical life is but the diffuse extension of an original contemplation which always retains its primacy. The condition for this is the reality of intellectual knowledge as prime contact with reality.

Thus, for St. Thomas, the *verbum cordis* or *interius*, viz. the concept, is not *id quod* is understood, any more than is the *species impressa*, but, as the latter is that by which (*id quo*) the *res*, the real thing, is known, so the concept of it is *id in quo* it is known (*Comm. in Joann., Prol.*). The intellect, then, is naturally contemplative. And that means, man is naturally contemplative at least in so far as he is treated as a consciousness or thinker. The mind is not a tool one possesses or an organ one uses, as the vulgar speak of their brains, and as «having a good brain» is seen as a passport to financial success.

After all, *we think before we act*, and not merely in the ratiocinative sense of thinking as a process of finding our way to what we really think or, if we have avoided error, know or *behold*. Indeed nothing *internal* to our thinking or knowing seems then to move us to action, unless contingently. What does move us to action is in general some sort of *practical* need. We get hungry or cold, or otherwise uncomfortable. We need someone to talk to, in the first place so as to test or compare or share our thinking, secondly to share the other goods enjoyed by friends and lovers. Such needs as that to found a family derive from our human constitution, whether communal or individual, and not from our intellect as such, which remains essentially one and the same. Thus it is required to *extend* itself to these things.

We need to steer a middle course between making the human essence consist in the satisfaction of ultimately negative physical needs, a purely preliminary actualization of potentialities, and making our embodied state accidental to it. The body is essential to man, but the body is for the soul and not vice versa. Our intellect needs the body in order to apprehend the natures of material things (*pro parte objecti* as St. Thomas says also in this connection), and this apprehension extends into all kinds of union and well-being, which remain nonetheless varieties of *apprehension*, the intellect's business.

In this present life there is no doubt the body is primarily a focus of wants and sufferings which compel the intellect again and again to extend itself from its centre. Almost the whole of the moral tradition bears upon this situation though no doubt justice is applied to other fields too, such as sharing ideas, acknowledging sources etc.

But of course if action is to be considered merely in the light of an extension, it should not be made central to our account of freedom, as we indicated above. Instead, the *ratio* of freedom is to be sought in the heart of intellectuality, any intellectuality, itself, in the specifically unconditioned nature of rational judgment, that which *makes* it deliberative and judicative rather than just a higher type of mechanical response. To say that in heaven, or in contemplation, there is less scope for freedom is elliptical for less scope for free *action*. Again, when mystics say the will is «bound», this really means the will, that is, the person, rests in and enjoys what is truly to bestand the true, which has come to him because in the human constitution there is no structural machinery of programmed determinism to impede it, and in that particular person no perversity and blindness of sin, or, in the case of a particular good being contemplated, a symphony say, no relevant obstacle. «The truth shall make you free».

We are in the area here of the first and greatest precept of the law.

As if to underline this St. Thomas states that the society of friends, like the resurrected body itself, is not essential to the happiness of heaven, but only belongs to the *bene esse* of it (*S. Th.* I-II, q. 4, aa. 5.8). This of course has nothing to do with a belittling of caring for the salvation of others. It may indeed be that heavenly happiness is not fully realized until all who are to be saved have been saved. It may also be a typical fruit of contemplation that there be all the more earnest moral striving as duty may demand. As far as duty be concerned, however, on any non-voluntarist scheme duty can only be justified as a requirement of truth, i.e. of the object of contemplation. «The lot marked out for me is my delight». And there will be no duty independent of this sovereign pursuit. Or satisfaction either, as the saints make clear to us. «My only consolation», said St. Thérèse, «is to have none». That is, in foregoing all «consolation» I believe myself on the path to fulfilment. To set requirements of duty in opposition to this single-minded human drive to fulfilment, so-called altruism, is really malicious when it is not a misunderstanding and is certainly a denial of all religious philosophy. It is also in itself an impossible project, duty without motive; an irrationalism in the heart of the so-called rational (considerations of natural and supernatural, belonging to the Scholastic era when *everyone* understood man's destiny as supernatural, do not belong here in a consideration of the real situation, province of philosophy since Plato; for nothing said denies the absolute need of grace at all points).

A related point is that our duties are various, so that to stress duty and remove it from context is to break up the unity of mankind. The striving for happiness, *finis ultimus* on the other hand, is common to philosopher and washer-woman, and indeed the difference between the two will disappear when

both are presented with that object which alone can satiate their minds. What one ought to do is merely what one needs to do in order not to miss one's goal (or lose that participation in it one may already be beginning to have), or, differently expressed, what is asked of me by that being who alone deserves a love greater than that which I have for myself, since that being is the exemplar, oneself the *imago*. He is thus in a sense; as St. Augustine said, closer to me than I am to myself. Under no other conditions can the authority of reason over us, for what is true or what is right, which few of us are in practice ready to deny, be theoretically justified.

Happiness, *beatitudo*, is the goal of life, nothing else, and the hope of it should give zest to human relations. Here of course one enunciates a principle, a *first* principle, giving primal content to the injunction *bonum est persequendum*, and claiming to derive it not in a *priori* fashion, not merely from a tradition, but from the conditions of life, in the third degree of realism according to our scheme above.

Someone might say we confuse happiness in *universali* with happiness taken particularly. But one may well suspect that this whole distinction, as often interpreted, results from the conceptualism criticized here. St. Thomas for his part, in the *Summa*, proceeds from the universal notion of happiness to the particular identification of its reality with God without leaving the area of philosophical reasoning for that of authoritative revelation (see the author's "Happiness and Transcendent Happiness", *Religious Studies* 1985, pp.349-367).

It ought to be clear, too, that the teleology envisaged here has nothing to do with lawless consequentialism. All law reflects the eternal law and takes its being therefrom. But all laws are given for some purpose, a truth having no tendency to make them variable.

In theology, or rather, in the Catholic religion, called by de Lubac «religion itself», there is word of the «counsels of perfection», which are always understood not moralistically but in the sense of perfecting one's striving and tending towards the *finis ultimus*. These counsels, embodied in the vows of poverty, chastity and obedience, are the spiritual writers make quite plain, to be respected and loved by everyone and followed in so far as compatible with one's state in life. It would be a horrible sin, says St. Francis de Sales, to despise these counsels as do the heretics in preferring marriage above virginity. Nevertheless they are not commanded and thus one may, say, marry in the line of duty, e. g. if one is a prince, or because, as he so pleasantly puts it, one «loves some woman», but not because one has chosen in the abstract and against the Founder's express teaching, to prefer marriage to a virginity of which perhaps one is not capable (*Treatise on the Love of God*, VIII, 8).

Now if one thinks about these counsels, particularly perhaps as analysed by St. Thomas in many places in his work, one finds confirmed what has been argued here, viz. that the movement towards happiness corresponds to a certain withdrawal from the practical sphere of action to which our nature compels us intellectually to extend ourselves. To poverty corresponds the effort to have nothing but God, that is the *end*, happiness, an effort of withdrawal from the

external preoccupations to which one had extended oneself. The same applies to virginal chastity: seeking and maintaining a wife (or husband) can only be practical. While by obedience is underlined our statement that freedom does not consist essentially in electing this or that action. For to the man under obedience *all* lawful actions are intended to be made of themselves indifferent, and only the monochrome aspect is retained whereby they are all made acts of union with the *finis ultimus*; the general situation of performing an action thus becomes only minimally distinguishable from the rest and fruition of *theoria*, the highest *praxis*.

Anyone on the philosophical plane taking these arguments seriously is bound to ask, but how does one come by this happiness, what guarantees its possibility. Reference to the counsels affords powerful illustration from the Christian religion. But as a basis for ethics in human life as such do we not need something less particular, more universal? One may indeed be prepared to argue that it is generally natural to man to be anchored in some religious tradition or other and that this must take the form of mediating a putatively privileged doctrine in the sense that the infinite transcendence of God *requires* that only He can declare to us the way to Him and to happiness. If he lay passive to our finding it out ourselves then he would not be *actus purus*.

One can thus direct everyone *philosophically* to purify themselves as deeply as possible in accordance with the traditional wisdom of their culture, a process not necessarily excusing intellectual correction of it. Such «revisionism» is of course often excluded by the nature of the belief, as being inconsistent with it, and hence a persistently felt need for it may lead a person to abandon his native tradition for a better, and even for the authentic and right one.

In any case the doctrine of the counsels can quite well be extricated from their Christian setting and commended to anyone on their own merits, as religious history shows. From a Christian point of view the practice of them would seem the best preparation for the gift of divine faith (which would in turn illumine a yet deeper meaning in the counsels). All the same within education a way might be found to convey more effectively the option they represent to young people, as was done until recently in Tibet. But in most areas it is the Church's version of such a life, with all its specific eschatological implications, which is the most worthy to be considered.

Contemplation then is here put forth as the highest practical or moral value, the *telos*. It is argued for in the manner of our third degree of realism, as a truth grasped in experience. If that is so, why may not all other moral values, as means to it, hypothetically enjoined, be grasped in this way. To be sure, we so grasp, them because they are already «written on our hearts», but that is to say that they are not merely written on our hearts. In virtue of being human a man knows that adultery is wrong, but he knows it because he *sees* it and if his sight becomes clouded he is likely to relearn it through miserable experiences. Again, he does not see it merely because our traditions declare it, though he sees that too. Rather, they continue to declare it because the collective wisdom continues to see it.

If contemplation is the end of man it would be natural to see it as the main problem of ethics. Leisure, and not justice or devotion to duty, seems to take the stage, and scruples are raised. Yet on this account duty, inclusive of justice, is but the translation of what we might call this holy leisure into the active sphere. Since we are for the most part bound to this active sphere for a sizeable portion of our waking life the translation must be frequently made. The point though is that it *is* a translation, that duty has no genuine role unless in function of the hope of happiness, here revealed as contemplative. For to have this hope, to aspire to this leisure, is the highest duty, as Israel's first commandment was to love God with one's whole heart. To say the second is «like unto it» seems not very different from our assertion of there being a translation. Hence St. John implies that it is actually impossible to love God without loving our brother as well and hence, *a fortiori*, without fulfilling the precepts of justice. But this love of God, we have seen, embodies our central inclination, an inclination by no means at variance with the most total self-abandonment, since we are commanded to love God, in contradistinction to our neighbour, *more* than ourselves, i. e. this is the inclination. Hence St. Teresa teaches the way to love our neighbour is to desire that he shall love God.

III

Let us draw some threads together, as well as drawing some consequences from our virtual identification, in reality if not in thought, of inclination and precept, by way of stressing that *praxis* is more profoundly an extension of *theoria* than a dualistically separate realm with its parallel set of first principles.

We are, for instance, worlds away from consequentialism, the *impiety* of which consists in its hidden assertion that no ethical principle, apart from itself, is sacred or untouchable. Of course the principle that the rightness of actions depends on their consequences is not precisely taken as a divine law by most consequentialists, but, like a law, it is treated as a principle admitting of no exceptions (there is certain ambivalence here between theory and practice). Some theologians, however, *do* take the principle as equivalent to the divine commandment of love.

All the same, there are many lines along which the falsity of this doctrine can be exposed. For one thing, it is clear that consequentialism as principle is of just that deontological character it claims to oppose. It makes a duty out of teleology. This, of course, is all right as far as it goes, but the reason for abolishing other duties was supposed to be that the principle of duty was unintelligible. So if, after all, we have a duty, say, to work for the greatest happiness (as of course we do) then why could we not have a duty to pay our debts or be temperate, if it were claimed that the common good, and hence the greatest happiness in the long term, was always lessened by faults in these areas. And indeed if there were *no* actions of themselves opposed to maximal happiness save those action *defined* and totally described as not ordered to it,

but not because of any characteristic which they happen to have, as in the enunciated principle of consequentialism, then there is no possibility of the existence of such actions. So consequentialism as an alternative to absolute prohibitions is just flatly self-contradictory.

If, furthermore, the principle of consequentialism were not itself seen as deontological but as somehow teleological (how? seek to maximize happiness not as a duty but in order to maximize happiness? It just becomes then a sort of brute injunction, lacking even the little of a duty and hence all authority) then there is, once again, no possibility of reducing our maxims of action (our duties?) to this one sole criterion, as consequentialism demands. For if there are no activities intrinsically opposed to happiness (itself a kind of activity), then happiness has no stable form and hence cannot exist. But this would dispose of the principle of consequentialism.

In fact we object to the deontological account of actions in so far as, in some debased forms of it, it prescind from the *ends* of actions (and, because of a prejudice towards phenomenalism, would prescind even from their intrinsic objects if it were able). But the *ends* of actions are just that, our primary ends or goals, specifying the actions. It is in the first place these ends which we are inclined to pursue and the pursuit of which is precepted, since just as ends they are *bona*. Action is *propter finem*; indeed it is the existence of an end which elicits the first possibility and notion of any action whatever.

Now just there have to be some goods, or at least one, which are not good in virtue of some more basic good, but just good in themselves, so there must be ultimate deprivations of these goods evil in themselves, and there are always types of actions intrinsically ordered to such deprivations. One simply makes such a negative end the defining object of such an action. This is not a mere matter of putting an otherwise innocent action «under a description» by which we can condemn it. There *are* such evil action-types and this is the heuristic method for finding them. For example, what is that action which, whatever the intentions of its agents, has as its unavoidable object the destruction of marital fidelity, or the death of an innocent?

In other words, a stable set of natural inclinations is needed to ever be able to appraise, or make sense of the idea of, the goodness of consequences. And these inclinations are indeed, looking back to our Part One, *inchoationes virtutum* (*De ver.* q.11 a.1), and by no means indifferent or «pre-moral», since they supply the ends which specify and elicit our actions and, as we found Lopez explaining, are the matter to which the precept in our reasoned consideration of such matter supplies the form, i.e. of our *actus humanus*. Although reason regulates the pursuit of our natural ends we should not forget that its primary precept is simply *that we shall pursue* those ends; *bonum est persequendum*, i.e. *fines sunt persequenda* (not in St. Thomas), *malum* after all simply naming that which diverts from or denies the end. It may be true, as Martin Rhonheimer says (*Natur als Grundlage der Moral*, Innsbruck 1987, p. 72), that St. Thomas never calls nature the *regula* of human action, but he does say that the rule is *ipsa virtus naturae* in beings which act according to their

nature (*S. Th.* I-II, q.21, a.1) which seems to cover the case just as well (besides the fact that the regulatory work of reason itself results as much from a natural inclination as does anything else):

«Quando ergo actus procedit a virtute naturali secundum naturalem inclinationem in finem tunc servatur rectitudo in actu».

So actions of themselves essentially frustrating the attainment of these basic goods to which, as ends, we are naturally inclined, such as chastity, due obedience, marital fidelity, or justice, or sexual acts intrinsically ordered to reproduction, or respect for another's conscience, or ultimate beatitude itself, must all the same always be wrong. And this does entail inviolable moral principles. There is, for example, just no possibility of committing adultery without violating marital fidelity. So if marital fidelity is morally an inviolable good then adultery is morally prohibited, *semper et ubique*, and there is no call to deliberate further about it.

We may safely state then that in place of consequentialism reality supplies us with an ethics of absolute principles (one of which should be, of course, that where no *other* such principle is involved one has to aim at good consequences in what one does, or at least not at bad ones).

But then we have to ask, how can these principles be absolute for us unless they are *laws*, and truly so. They are after all rules of action, not of thinking. It may be an absolute principle that twice two is four, in the sense of an inviolable truth, something we know we will always see, so to say. The will has no called to be involved. But in what has to be *done* the will *is* involved; it is not a matter of logical contradiction. Hence to present something merely as an absolute principle of action is to leave to the free agent the possibility of demonstrating it is not an absolute principle by acting against it. This again is a different *on the part of the object* (a *faciendum*) with which practical reason is as such concerned.

This does not happen if I decide to assert that twice two is five. Not only others but I myself will know it is four. One has not overthrown the absoluteness of truth.

Someone may say it is the same if we act contrary to moral principles. They remain in force. But how? In what sense? A man resolves to base his life on adultery, or on injustice towards the weak, and does so. We say, perhaps, he have lived unreasonably. He may accept that, accept even that he has not instanced our idea, or even his own idea, of a man. He may not think much of his humanity, may prefer a type of self-destruction in the name, most probably, of freedom, though it need to be.

It would not seem then that there are no absolute practical principles, as consequentialism claims, *unless* these principles are in fact laws, and laws imposed, like all laws *we* know, *ab extra*. For exceptions to principles only *invalidate* them, whereas disobeying a law by no means invalidates it. But one can't disobey a principle. Hence practical principles have in reality to be laws (though we may in considering their formal rational character at times wish to

prescind from this, treating them as hypothetical imperatives of reason; but nothing hypothetical is an absolute).

In fact there could only be an absolute practical principle which was not a law if such a principle shared with «twice two is four» the property of being strictly inviolable, strictly undeniable, though practical, i.e. it is impossible to violate it. Now one may claim, I maintain, that there is one such principle, which could be absolute while not being a law in the restricted sense of a law imposed *ab extra*, although as a matter of fact the principle in question *is* such a law.

It is in fact this principle which gives raise to the consequentialist, or utilitarian account. Consider first the principle, «every agent acts for an end». Properly understood this is a *theoretical* principle as undeniable as twice two is four. It does however entail that any agent will, in acting, have an end in view, and since nothing can prevent us proposing this as a *practical* principle, viz. that ends are not to be aimed at, or, imperatively, in so far as you act, have purposes, it follows that there *is* such a principle and, if the theoretical equivalent is true, it can only be absolute. It translates *bonum est persequendum* (et *malum evitandum*). This in turn supplies the directive that happiness (a name in proportion with all good consequences) is to be sought, and its achievement or loss to be the criterion for judging the means taken (i.e. as foreseeable, not, in a contingent world, as always actually resulting).

However, if it is demonstrated that such a principle, now seen as a law and as the primary precept of natural law, cannot do its work, cannot be understood, that is to say, without *other* inviolable goods with their claims declared in corresponding inviolable principles, and if it is also demonstrated that such principles can only be claimed inviolable if they are imposed as laws *ab extra*, then the case is proved that there is a law of conduct imposed upon us, in closest harmony with our natural inclinations.

Furthermore, since this principle, *bonum est persequendum*, seems to have exactly the same *form* as all the others there seems no good reason to distinguish *this* one as not being a law, and many reasons not to so distinguish it, not to invent a sphere of the «meta-ethical» distorting the whole relation of theory to practice (which we are at pains to elucidate here) and muddling up consistency with integrity.

But that means there is no question of *choosing* to be moral, of opting for virtue. We are under the moral law from the start, here and now, and in seeking our happiness we obey it. This is not just a form of words, but implicitly declares something about the nature of disobedience to law. It is never a frontal or total disobedience. What disobedience there is is only disobedience in function of the more primal character of the bad action as being unsuited to happiness or the attainment of that end we are obediently seeking, since we *cannot* disobey the primal law, an invariant natural inclination such as we saw St. Thomas arguing for at the outset. In that respect we are like the non-rational creatures, which shows that the two uses of «law» are by no means equivocal. Even a deliberate disobedience for its own sake is ultimately evil for the same

reason, viz. that it *will be better* to obey, in Lewis Carroll's words, and not simply because of the disobedience.

Passing on, we ask, how are these laws made known to us as, it seems to be required, they are, to each and everyone of us?

One answer is that in seeing the *general* undesirability of these traditionally forbidden things we *have* the prohibitions promulgated to us, i.e. as laws (PETER GEACH, «The Moral Law and the Law of God», in *God and the Soul*, London 1969). Clearly this could not be so universally, though, as if in seeing the general undesirability of corporal punishment (or strong drink) a *law* against such punishment was *ipso facto* promulgated. But this may merely mean the answer (like our «prudential grasp in virtuous living» mentioned above) has to be filled out a bit.

Another answer, not necessarily entirely different, is that tradition or custom makes known the law as promulgated, whether or not it promulgates it itself, this being the second degree of the previous section. For clearly if we have concluded that the inclinations are formally law we have to consider its being promulgated.

A *third* answer is that it is promulgated in conscience (filling out the first answer), which is thus seen either as literally the voice of God or at least as image or reflection of the divine nature, one with «eternal law».

Since we have already argued that unaided reason in the sense of reason not in some clear relation with an *external* law-giver (in a sense of «external» able to include God) cannot be the *authority* which it should by now be clear the explanation needs, these three answers, which can perhaps be treated as one, seem to sum up the possibilities.

A difficulty with the first answer is that it does not seem to provide a means of distinguishing the situation described from one where one sees the general undesirability of a certain practice and it is in truth only generally undesirable but not absolutely excluded, e.g. war.

Again, tradition makes known to us many things, and there is such a thing as «damned custom» (*Hamlet*). Conscience, likewise, is easily mistaken, and in such case, though we still be obliged to follow it, what it declares is not the voice of God or His law.

In talking of conscience we are talking of an act or habit of our reasoning power. Now we ought to consider that it is a mistake to make an either/or out of tradition and reason, the Cartesian Enlightenment's mistake in fact. Hume's argument of no ought from an is, where it makes any claim on us at all, points in the same direction. For if moral laws, signaled by the word «ought» (sometimes), can only be argued for from other moral laws, then all moral argument will presuppose other unargued moral premises, in order for the process to start, and these must either be taken out of the air or supplied by tradition.

Reason must of course then be supplied as to why tradition is not arbitrary. But either way it follows from this position that if tradition is at least the material upon which practical reason goes to work, and at most the formal

determinant of such reasoning, then tradition is *the sole source* of moral judgment as to what moral laws exist (as we have seen some must) and where they apply. Of course where one has constant human inclinations one will in time have a tradition.

Yet there can scarcely be more than an analogy between this «natural» tradition or handing-down of moral law and the stone tablets of the divine commandments. They are verbal formulae, as to the letter. But do our traditions consist in the verbal formulae in which we express them? Well yes, they do. The qualification, though, is this: if there is a natural law then every particular set of traditions is a better or worse approximation of it. The natural law subsists in these traditions. They incarnate it. There is nowhere else it is *written down*, as its formality might require. So if we ask what it is in most likely human reason itself, primarily in its practical capacity. That it is law, according to our previous argument, indicates that we are speaking of reason in a relation to an authoritative lawgiver extrinsic to it.

Now one external law-giver is society or the state. But these bodies are not finally authoritative for moral law. Morality transcends the custom and even the preferences of society. Morality is a matter of truth, not of majority vote, and tradition lies firmly or at times less firmly in the hands of the *sapientes*. It seems clear that such an authority can only be God, since even a superior angel would require legitimation of his authority. For it has to be a being whose decree *constitutes* truth, i. e. an infinite being, a being who *is* truth. If that is impossible then morality is impossible, and we would be back with existentialism if that were not itself flatly impossible too, since one cannot be without being human (*ens equals esse plus essentia*).

What is this relation in which reason stands to God, empowering it to decree morality? It must be one of privileged access to truth. It is a reflection of the divine light, no pure product of nature conceived as autonomous. It gets its dignity, though, from being this reflection. If it declares itself autonomous this arbitrary humanism engenders nihilism.

LA CRÉATION DE L'ÂME HUMAINE ET L'ANIMATION IMMÉDIATE DE L'EMBRYON CHEZ LACTANCE

PHILIPPE CASPAR *

La bioéthique contemporaine a de nouveau soulevé la question du statut anthropologique du zygote¹. La thèse de l'animation médiate de Thomas d'Aquin fut, jusqu'il y a peu, le lieu de référence exclusif de ce problème. Un examen plus approfondi de la littérature révèle que le Père Stéphane avait attiré l'attention dès 1927 sur l'existence d'une théorie de l'animation immédiate chez Grégoire de Nysse et Maxime le Confesseur². La dimension christologique de cette argumentation a été récemment rappelée par M.H. Congourdeau dans une série d'articles remarquables³.

Nous avons, pour notre part, situé la problématique traducianiste de Tertullien et d'Augustin dans une histoire générale de la controverse de l'animation de l'embryon⁴. Rappelons que ces deux auteurs sont partisans d'une animation immédiate de l'embryon. L. Rizzerio, de son côté, a montré l'existence d'une théorie de l'animation immédiate chez Clément d'Alexandrie⁵.

La problématique de l'animation de l'embryon chez les Pères se situe à l'intersection de plusieurs ordres de rationalité: médicale d'abord⁶, anthropologique (le corps peut-il exister sans âme, et, inversement, l'âme peut-elle exister sans corps?), morale (c'est toute la question de l'interdiction de l'avortement), et dogmatique (action créatrice de Dieu, transmission du péché originel, christologie).

Le témoignage du *De opificio Dei*⁷ de Lactance (environ 250 - 317) revêt un intérêt réel. Sans être un grand théologien, – il n'a jamais abordé toute la complexité de cette problématique – Lactance refuse en effet l'hypothèse tradu-

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¹ PH. CASPAR, *La saisie du zygote humain par l'esprit*, Lethielleux-Le Sycomore, Paris-Namur 1987.

² F. STEPANOU, «La coexistence initiale du corps et de l'âme d'après Saint Maxime l'Homologue», *Echos d'Orient*, XXI (1932), pp. 304-315.

³ M.H. CONGOURDEAU, «L'embrion est-il une personne?», *Communio*, IX (1984), pp. 103-116; «Maxime le Confesseur et l'humanité de l'embryon», in *La politique et la mystique*, Ed. Maxime Charles, Critérion, Paris 1984; «L'animation de l'embryon humain chez Maxime le Confesseur», *Nouvelle Revue Théologique*, 111 (1989), pp. 693-709.

⁴ PH. CASPAR, *op. cit.*, pp. 135-137 et 142-153; «L'animation de l'embryon: survol historique et enjeux dogmatiques», *Nouvelle Revue Théologique*, 113 (1990), pp. 3-24, 239-255 et 400-413.

⁵ L. RIZZERIO, «Le problème des parties de l'âme et de l'animation chez Clément d'Alexandrie», *Nouvelle Revue Théologique*, 111 (1989), pp. 389-416.

⁶ M. SPANNEUT, *Le stoïcisme des Pères de l'Église*, Seuil, Paris 1957, nouvelle édition revue et augmentée, 1969, pp. 177-203.

⁷ LACTANCE, *L'ouvrage du Dieu créateur*, Sources chrétiennes, n. 213 et 214, Cerf, Paris 1974.

cianiste de Tertullien et le curieux créationnisme formulé par Arnobe l'Ancien, qui fut son professeur. Selon le *De opificio*, Dieu est le seul créateur de l'âme humaine qu'il insuffle dans l'embryon immédiatement après la conception. Cette compréhension de l'animation immédiate implique la définition rigoureuse d'une étroite collaboration entre l'homme et le Créateur dans la conception et la formation de l'embryon⁸. Pour celui que d'aucuns surnommèrent le «Cicéron chrétien», l'acte créateur de Dieu saisit l'homme tout entier par l'insufflation de l'âme dès la conception biologique.

Le projet global de Lactance dans le *De opificio Dei* est relativement clair. Il vise à situer le *De natura Deorum* de Cicéron dans la perspective de l'action créatrice d'un Dieu unique. Selon Lactance, l'homme est créé par Dieu dans son corps et dans son esprit. Cette conception organise la thèse de l'animation immédiate de l'embryon. La présente communication dégagera d'abord les fondements médicaux de l'affirmation de Lactance. Elle exposera ensuite rapidement la conception que cet auteur se fait de l'origine et de la destinée de l'âme. L'exposé de la thèse de l'animation immédiate proprement dite fera enfin l'objet d'un paragraphe séparé.

1. LES FONDEMENTS MÉDICAUX

Le chapitre 12 du *De opificio Dei* est consacré à l'examen de différents aspects de la physiologie de la reproduction. Il est composé de différents emprunts dont l'origine n'est pas toujours bien certifiée, mais qui témoignent d'une bonne connaissance de la physiologie des Anciens⁹. Nous allons rapidement les passer en revue.

a) *Anatomie*: Deux traits doivent être retenus: la description des canaux déférents (appelés veines)¹⁰ et l'affirmation de la bipolarité sexuelle du corps humain¹¹. Selon Lactance, en effet, la veine droite contient la semence mâle, la veine gauche la semence femelle¹², puisque la moitié droite du corps est mâle, et

⁸ L'article «âme» du *Dictionnaire de Théologie Catholique*, sous la direction de A. VACANT et E. MANGENOT, Letouzey et Ané, tome I A, Paris 1903, col. 1000 fait de Lactance un partisan de l'animation immédiate de l'âme: «Sur le moment de l'infusion, Lactance est aussi très clair: c'est *post conceptum protinus, cum fetum in utero necessitas divina formavit*». En revanche, l'article «Lactance» du même Dictionnaire est moins affirmatif (*ibid.*, tome VIII.B, col. 2442: «Lactance ne dit pas en terme exprès à quel moment Dieu crée les âmes»).

⁹ J. NEEDHAM, *A history of embryology*, Cambridge University Press, Cambridge 1959.

¹⁰ M. JOHNSON and B. EVERITT, *Essential Reproduction*, Blackwell Scientific Publications, Second Edition, Oxford 1984, pp. 1-34. Les canaux déférents sont décrits pour la première fois par ARISTOTE, *Histoire des animaux*, 510 a 17-23.

¹¹ «En général dans tout le corps, la partie droite est masculine et la partie gauche est féminine», LACTANCE, *ibid.*, 12, 3. Cette assertion générale est propre à Lactance. On ne la retrouve en effet ni chez Empédocle, ni chez Aristote, ni chez Censorinus.

¹² La polarité des organes sexuels (et non de tout le corps) est attribuée par Censorinus (*Le jour de la naissance*, V) à Anaxagore et à Empédocle. L'idée se retrouve également chez HIPPOCRATE, *Aphorismes*, V, 48 («Les foetus mâles se développent de préférence à droite, et le foe-

la moitié gauche femelle. Il en va de même pour l'utérus ¹³.

b) *L'origine du sperme*: Lactance commence par évoquer la formation possible de la semence dans la moelle épinière, comme le pensait Platon, à la différence d'Aristote ¹⁴. Mais la question de l'origine du sperme recouvrait chez les Grecs une autre problématique: le sperme est-il formé à partir de toutes les parties du corps, ou non? Cette question permettait aux Anciens de discuter les deux grandes théories de l'ontogenèse, l'épigenèse et la préformation ¹⁵. Lactance ne tranche pas sur ce point.

c) *La participation du mâle et de la femelle dans la reproduction*: L'Antiquité avait légué deux théories. Selon la première, due à Aristote, le mâle fournit la forme, tandis que la femelle se contente d'apporter la matière ¹⁶. Selon la seconde, qui vit le jour dans l'Ecole hippocratique, les deux parents produisent chacun une semence ¹⁷. Lactance opte résolument pour la seconde hypothèse et se réfère à un texte dont l'origine reste problématique pour la critique moderne ¹⁸.

d) *L'ontogenèse proprement dite*: Lactance reprend à son compte l'assertion aristotélécienne, selon laquelle le cœur se forme en premier lieu ¹⁹. Mais il se hasarde également à formuler une théorie personnelle. Selon son expérience, les

tus femelles à gauche»). Aristote la discute dans le *De la génération des animaux*, 763 a 30-764 a 4. Parménide l'accepte dans la seconde partie de son poème. «A droite, les garçons, à gauche les filles», PARMÉNIDE, *Poème*, fragment XVII, traduction de JEAN-JACQUES RINIERI et présentation de JEAN BEAUFRET, Presses Universitaires de France, Paris 1955. L'interprétation de référence du passage se trouve chez G.E.R. LLOYD, *Polarity and Analogy*, Cambridge University Press, Cambridge 1966, pp. 17 et 50. La position de Lloyd est critiquée par O. KEMBER, «Right and Left in the sexual theories of Parmenides», *The Journal of Hellenistic Studies*, XCI (1971), pp. 70-79 (et réponse de LLOYD, «Parmenides's sexual theories. A reply to Mr Kember», *The Journal of Hellenistic Studies*, XCII [1972], pp. 178-179).

¹³ La découverte d'une division de la matrice en deux parties remonte à Empédocle chez lequel elle reçoit une portée cosmologique (PH. CASPAR, *La saisie du zygote humain par l'esprit*, cit., pp. 36-38; voir également F.A. WILFORD, «Embryological Analogies in Empedocle's Cosmogony», *Phronesis*, XIII [1968], pp. 108-118). Elle est également rapportée par ARISTOTE, *Histoire des animaux*, 510 b 10-11).

¹⁴ PLATON, *Timée*, 91 a-b; pour Alcmeon, la semence ne provient pas de la moelle (CENSORINUS, *Le jour de la naissance*, V, 2-3), mais, au contraire, du cerveau (AETIUS, *Opinions*, V, III, 3).

¹⁵ C. HOUILLON, *Embryologie*, Hermann, Paris 1967, pp. 121-178. L. BOUNOURE, *L'autonomie de l'être vivant*, Presses Universitaires de France, Paris 1949, pp. 30-58.

¹⁶ «Or, toujours, la femelle fournit la matière, et le mâle le principe créateur», ARISTOTE, *De la génération des animaux*, 738 b 20-21.

¹⁷ La théorie de la double semence, d'origine hippocratique (*Du Régime I*, VIII, 1) gouverne la physiologie de la reproduction chez Empédocle. Sur la transmission d'Hippocrate au monde chrétien, voir M. SPANNEUT, *Le stoïcisme des Pères de l'Eglise*, cit., et M.H. CONGOURDEAU, *Quelques aspects de l'embryologie d'Hippocrate dans la tradition byzantine*, dans *Hippocrate et son héritage*, Colloque Franco-Hellénique d'Histoire de la Médecine, Fondation François Mérieux-Lyon, 9-12 octobre 1985, pp. 67-72.

¹⁸ Rossetti voyait un emprunt à Pline ou à Aristote dans ce passage (L. ROSSETTI, «Il De opificio Dei di Lattanzio e le sue fonti», *Didaskaleion*, 6 [1928], pp. 115-200). Cette hypothèse est discutée par M. Perrin, qui finit par admettre un emprunt aux *Tubera* de Varron (LACTANCE, *De opificio Dei*, cit., 214, pp. 358-262).

¹⁹ ARISTOTE, *De la génération des animaux*, 739 a 33 - 740 a 24.

yeux se forment en premier lieu chez les oiseaux. Lactance en déduit que la tête est le premier organe à apparaître durant l'ontogenèse ²⁰.

e) *L'hérédité*: La transmission des traits individuels et spécifiques constitue également une énigme stimulante pour tous les auteurs anciens qui se sont occupés de biologie. Lactance nous rapporte deux interprétations de ce phénomène.

e 1) *Première théorie*: Selon une première théorie, la ressemblance aux parents dépend de la supériorité acquise par une des deux semences sur l'autre au cours de la conception. Si la semence mâle domine complètement la semence femelle, l'enfant ressemblera parfaitement à son père. Il ressemblera parfaitement à sa mère si, au contraire, la semence femelle domine complètement la semence mâle. On retrouve ici les principes de base de l'embryologie du dixième livre de *L'histoire des animaux* ²¹. Lactance y introduit cependant une nuance importante. Selon lui, c'est davantage la quantité de semence que la force de celle-ci qui détermine les caractères sexuels de l'embryon ²². Dans les cas où le mélange des deux semences provient des deux géniteurs d'une manière équivalente, l'enfant ressemble à chacun de ses parents.

²⁰ «Cependant, il n'est pas douteux que, chez les petits des oiseaux, les yeux sont formés les premiers, ce que l'on découvre souvent dans les oeufs. A mon avis, il est impossible de n'en pas déduire que la formation prend son commencement à partir de la tête», LACTANCE, *De opificio Dei*, cit., 12, 7. Lactance se rapproche ici d'Hippocrate (CENSORINUS, *Du jour de la naissance*, VI, 1) et rompt avec l'inspiration globalement aristotélécienne de ce passage. L'explication de ce paragraphe se trouve sans doute dans la théorie de la localisation de l'âme dans la tête (*De opificio Dei*, 16, 4), d'origine platonicienne (*Timée*, 90 a-b).

²¹ «D'où il résulte avec évidence que l'émission de sperme est commune aux deux sexes pour pouvoir être féconde», ARISTOTE, 637 b 30-32. Le dixième livre de *L'Histoire des animaux*, consacré aux problèmes de stérilité, reprend la théorie hippocratique de la double semence. On n'y trouve aucune allusion à la théorie génétique présente dans le traité *De la génération des animaux*. Cette particularité a jeté depuis longtemps la suspicion sur l'authenticité de ce texte. P. Louis a récemment rappelé l'ensemble des arguments qui militent contre l'appartenance de ce livre à la version primitive de *L'Histoire des animaux*, ARISTOTE, *Histoire des animaux*, Les Belles Lettres, tome 3, Paris 1969, pp. 148-155. Le seul argument théorique que la biologie pourrait apporter en faveur de l'authenticité de *Histoire des animaux*, X, proviendrait de la génétique aristotélécienne. L'examen approfondi du quatrième livre de *De la génération des animaux* (767 a 35 - 769 a 6) révèle en effet la présence de caractères héréditaires dans le sperme et dans la matière des menstrues (PH. CASPAR, *L'individuation des êtres: Aristote, Leibniz et l'immunologie contemporaine*, Lethielleux-Le Sycomore, Paris-Namur 1985; R. BERNIER et L. CHRÉTIEN, «Génération et individuation chez Aristote principalement à partir des textes biologiques», *Archives de Philosophie*, 52 [1989], pp. 13-48. Nous sommes revenus sur ces questions dans «L'individuation des êtres vivants selon l'immunologie moderne: aspects scientifiques et portée ontologiques», *Analyse*, Lisbonne 1992, sous presse). D.M. Balme, un des meilleurs connaisseurs actuels de *L'Histoire des animaux*, est pour sa part enclin à accepter l'authenticité de ce livre. Voir notamment Aristote *Historia Animalium*, dans *Aristoteles Werk und Wirkung, Erster Band: Aristoteles und seine Schule*, Walter de Gruyter, Berlin-New York, pp. 191-206.

²² La même idée se retrouve chez Démocrite («... mais, d'après lui, ... c'est la prédominance du sperme d'un des deux parents, ce sperme venant de la partie par laquelle se caractérisent la femelle et le mâle», ARISTOTE, *De la génération des animaux*, 764 a 10-11). Censorinus l'attribue également à Anaxagore: «Anaxagore estimait pourtant que les enfants ressemblaient à celui de leurs parents qui avait fourni la partie la plus importante de semence», CENSORINUS, *Du jour de la naissance*, VI, 8.

e) 2) *Seconde Théorie*: Selon une seconde théorie, la transmission des caractères sexuels dépend de l'endroit de la matrice qui reçoit la semence, comme on le voit dans le tableau 1. Si la semence mâle tombe dans la moitié droite, elle donne lieu à un mâle parfait. Si elle tombe dans la moitié gauche, le garçon possède des traits féminins. Il en va de même pour la semence femelle.

	Moitié droite	Moitié gauche
Semence mâle	mâle parfait	mâle avec un élément féminin
Semence femelle	femelle avec des éléments masculins	femelle parfaite

TABLEAU 1: *La transmission des caractères héréditaires selon la seconde théorie génétique de Lactance.*

f) *Signification de la différence sexuelle*: La texte de la *Genèse* (1,28) et la biologie ancienne sont tous deux d'accord pour considérer que la différence sexuelle est ordonnée à la perpétuation de l'espèce. L'étymologie, dont l'étude commence à se développer à cette époque, fournit à notre auteur les arguments suffisants pour rappeler la supériorité de l'homme sur la femme (contrainte de supporter le joug conjugal)²³.

g) *Conclusion*: On s'en rend compte, Lactance fait preuve d'une solide connaissance de la médecine et de la biologie de son temps. Son principal auteur de référence est Aristote, mais Lactance se montre capable d'indépendance intellectuelle à l'égard du Stagirite.

L'un des aspects les plus intrigants de Lactance dans ce chapitre touche à son silence sur la conception biologique proprement dite. Il n'y est jamais fait allusion. Cette situation nous contraint aux conjectures. On sait qu'Aristote définissait la conception comme l'établissement d'un contact entre le sperme et la matière des menstrues²⁴. Cette thèse implique, comme on le sait, une individuation tardive de l'embryon²⁵. La distance qui s'introduit dès lors entre la conception et l'individuation autorise Aristote à élaborer une génétique médicale originale que Lactance reprend en 12, 8.

Mais il y aurait également moyen de penser la conception comme un mélange immédiat de deux semences (d'après une idée totalement étrangère à la

²³ L'héritage grec se conjugue ici avec certaines tendances de la théologie paulinienne. Bonne mise au point de la question dans C. CAPELLE, *Thomas d'Aquin féministe?*, Vrin, Paris 1982. On lira toujours avec intérêt les remarques amusées que cette conception inspire à Erasme dans le dialogue *L'Accouchée*, *Deuxième livre des colloques*. Voir PH. CASPAR, *L'animation immédiate de l'embryon humain chez Erasme de Rotterdam*, *Ethique, La vie en question*, Paris 1992, sous presse.

²⁴ ARISTOTE, *De la génération des animaux*, 728 b 32-34; 738 b 6 - 739 b 33.

²⁵ PH. CASPAR, *La saisie du zygote humain par l'esprit*, cit., pp. 186-200.

tradition péripatéticienne). Selon cette approche, l'individuation de l'embryon pourrait être tardive (conformément aux lois de la génétique aristotélicienne) ou immédiate (ce que la théorie génétique proposée par Lactance en 12, 12-13 pourrait permettre).

Aucune donnée du chapitre 12 ne permet de déterminer la préférence de Lactance pour l'une ou l'autre de ces deux théories.

2. L'ORIGINE ET LA DESTINÉE DE L'ÂME HUMAINE SELON LACTANCE

Lactance est l'un des premiers Pères à avoir affirmé sans aucune ambiguïté la thèse de la création par Dieu des âmes humaines individuelles. Il prend donc radicalement parti contre le traducianisme. La portée de cette thèse s'éclaire si l'on se souvient que Lactance fut, durant sa jeunesse, l'élève d'Arnobé l'Ancien. Elle prend également toute sa signification quand elle est située dans le cadre des préoccupations philosophiques de son époque.

Ces deux contextes méritent d'être rapidement évoqués.

Etrange destin que celui d'Arnobé²⁶. Originaire de la ville de Sicca Vénéria (en Afrique du Nord), ce brillant professeur de rhétorique se convertit au Christianisme à la suite d'un songe. *L'Adversus nationes*, composé d'après Jérôme entre 304 et 310²⁷, se voulait une profession de foi et de sincérité. Sa doctrine de l'âme, qui occupe le second livre de ce traité, doit beaucoup aux premiers apologistes. Selon Arnobé l'Ancien, l'âme humaine ne vient pas de Dieu, mais d'un autre être appartenant à sa Cour. A l'encontre de Platon, mais en accord avec une tendance de l'eschatologie des Pères apostoliques prolongée par Justin et Théophile d'Antioche²⁸, il affirme que l'âme est mortelle. L'éternité de l'âme est une grâce octroyée par le Dieu des Chrétiens à ses fidèles. Il semble

²⁶ Sur Arnobé, *Dictionnaire de Théologie Catholique*, cit., tome 1 A, col. 999.

²⁷ «*Arnobius in Africa rhetor clarus habetur, qui cum in civitate Ciccæ ad declamandum juvenes eruditer, et adhuc ethnicus ad crudelitatem somniis compelleretur, neque ab episcopo impetraret fidem, quam semper impugnaverit: elucubravit adversis pristinem religionem luculentissimos libros, et tandem velut quibusdam obsidibus pietatis foeudus impetravit*, S. Hieronymi Chronicon, PL 27, 675-676.

²⁸ Le thème d'une Résurrection réservée aux seuls justes, morts dans le Christ, appartient à certaines tendances de l'eschatologie des Pères apostoliques. L'ouvrage de référence est ici celui de TON H.C. VAN EIJK, *La résurrection des morts chez les Pères apostoliques*, Beauchesnes, Paris 1974. On la retrouve dans la *Didachè*, 16, 6-8, chez IGNACE D'ANTIOCHE, *Lettres, aux Tralléens*, 9, 2; aux *Smyrniotes*, 7, 1; aux *Magnésiens*, 9, 2 (où il est question de la résurrection des Prophètes de l'Ancien Testament); aux *Romains*, 4, 3 (où Ignace parle de sa propre résurrection); chez Papias, fragment conservé par Irénée, *Contre les Hérésies*, 5, 33, 3-4 et chez Clément de Rome (*Deuxième Épître aux Corinthiens*, 9, 1, qui viserait la résurrection des seuls justes, contrairement aux apparences. Von Eijk, en réalité, hésite. Il restreint la résurrection aux justes (82-83) et l'étend à la totalité des hommes dans ses conclusions (192) et, enfin, chez Polycarpe de Smyrne (*Lettre aux Philippiens*, 5, 2). La restriction de la résurrection aux justes est absente dans *L'Épître de Barnabé*, 15, 5. Tous ces textes sont accessibles notamment dans la nouvelle traduction coordonnée par DOMINIQUE BERTRAND, *Les Pères apostoliques*, Cerf, Paris 1990. Ces idées se retrouvent dans certaines apologies ultérieures, notamment chez Justin. «*Neque etiam immortalis dicenda est; nam si immortalis, etiam profecto ingentam*», JUSTIN, *Dialogus cum Tryphone Judæo*, PG, 1, 486. L'argumentation

que cette doctrine de l'âme ait été la principale raison de la conversion du rhéteur au Christianisme.

Mais Lactance ne fait pas que se démarquer par rapport à Arnobe. La question de l'origine de l'âme humaine fait à cette époque l'objet de recherches intensives dans les différentes écoles. Le *corpus* d'Hermès Trismégiste, les médecins, les stoïciens, les néoplatoniciens, les platoniciens tardifs, les Pères à la suite de Tertullien, abordent ce problème²⁹. L'animation de l'embryon est par excellence le lieu topique pour aborder cette question controversée. C'est dire l'intérêt que revêt la publication, à quelques années de distance, du *De opificio Dei* de Lactance en 303/304³⁰ et de l'*Adresse à Gauros*, de Porphyre³¹. Là où le philosophe néoplatonicien se contente d'affirmer contre les Stoïciens l'animation de l'embryon de l'extérieur par une âme immatérielle³², Lactance discerne l'action créatrice de Dieu.

Le *De opificio Dei* de Lactance s'inscrit en effet dans la tradition de l'Eglise et constitue en fait une réponse à la première partie de la psychologie d'Arnobe. L'ouvrage entend montrer que l'homme est de part en part une créature de

développée par Justin tend à établir une comparaison entre la naissance du monde (telle que le *Timée* la décrit) avec celle de l'âme. Ni le cosmos ni l'âme ne sont de soi immortels (JUSTIN, *ibid.*, coll. 486-488). Les âmes ne sont pas de soi immortelles; elles sont cependant promues à un destin éternel octroyé par Dieu: «*Non tamen perire dico ullas animas; vere enim de lucro id esset improbis. Quid igitur? Piorum quidem animas in meliore loco manere, iniquorum autem et malorum in deteriore, iudicii tempus expectantes. Sic istae, cum Deo dignae judicatae fuerint, non jam periuntur; hae vero puniuntur, quamdiu eas esse et puniri Deus voluerit*», JUSTIN, *Ibid.* Voir aussi *Apologie* I, 18. Ces thèmes se retrouvent également chez Théophile d'Antioche. «Voilà: par nature, l'homme n'était pas plus mortel qu'immortel. S'il avait été créé dès le principe immortel, il eût été créé Dieu. D'autre part, s'il avait été créé mortel, il eût semblé que Dieu fût la cause de sa mort. Ce n'est donc ni mortel, ni immortel, mais (suivant ce que nous avons dit plus haut) capable des deux. Ainsi, penchait-il vers la voie d'immortalité en suivant le commandement de Dieu? Il en devait recevoir l'immortalité pour récompense et devenir dieu. Se tournait-il vers les oeuvres de mort en désobéissant à Dieu? Lui-même devenait cause de sa propre mort. En effet, Dieu avait créé l'homme libre et maître de lui», THÉOPHILE D'ANTIOCHE, *Trois livres à Autolyces*, Sources chrétiennes, n. 20, Cerf, Paris, II 27. Ces tendances disparaissent complètement dans les deux premières synthèses eschatologiques, le *De resurrectione animae* de Tertullien et le cinquième livre du *Contre les hérésies* d'IRÉNÉE (I, 10, 1; I, 22, 1; III, 16, 6; V, 35, 2). La thèse de la mortalité des âmes est en particulier explicitement réfutée par Irénée dans le *Adversus Haereses*, II, 34, 2-4. On comprend dès lors combien les thèses d'Arnobe ont dû paraître démodées.

²⁹ Le livre de référence est ici A.J. FESTUGIÈRE, *La révélation d'Hermès Trismégiste*, cit., tome 3, Vrin, Paris 1983 (nouvelle édition).

³⁰ LACTANCE, *De opificio Dei*, cit., introduction, 15.

³¹ PORPHYRE, *A Gauros. Comment l'embryon reçoit l'âme*, Ed. K. KALBFLEISCH, *Abhandl. Berl. Akad.*, 1895, pp. 33-62. Ce texte est resitué dans l'ensemble de l'oeuvre de Porphyre par P. HADOT, *Porphyre et Victorinus*, Études augustiniennes, Paris 1968, 2 tomes, tome 1, pp. 89-91. 180.188.193.194.199.229.238.333.361.374.398 et tome 2, p. 83.

³² «Admettons, oui, l'incertitude du moment précis du temps, que pourtant ce n'est ni le père qui livre l'âme ni la mère, cela sera décidé en conteste autant certes que tout autre point. Car, évidemment, si l'âme ne vient pas des parents, elle est entrée de l'extérieur. Est-ce lors de l'injection du sperme, où de la configuration de l'embryon, où au premier instant du mouvement local chez l'embryon, ou quand, à l'issue des douleurs l'enfant se présente? Que tout cela, si tu le veux, reste sujet à doute. Mais que l'âme, l'âme cognitive ne soit pas un fragment arraché aux parents, qu'elle n'en soit pas détachée à la façon des homéomères ni à la façon des anoméomères, ni par conséquent avec diminution en ceux qui fournissent cette partie ni sans diminution comme dans le cas

Dieu, «notre Créateur et Père»³³. L'enquête médicale, à laquelle l'auteur s'est livré, n'a d'autre finalité de montrer l'agencement des différents organes en un organisme issu non pas seulement de la terre mais aussi de la sagesse créatrice de Dieu. Ce dessein éclaire la portée des affirmations sur la création de l'âme humaine réunies dans le paragraphe 19.

En examinant la question de l'origine des âmes, Lactance commence par écarter toute forme de traducianisme. «On peut aussi se poser la question de savoir si l'âme est engendrée par le père, par la mère, ou par les deux. Mais personnellement, je fais valoir mon droit de refuser toute incertitude à ce sujet. En effet, aucune de ces trois hypothèses n'est exacte, car les âmes ne sont semées ni par les deux parents, ni par l'un des deux»³⁴. Le principe avancé pour prouver cette assertion est simple: «Car à partir d'êtres mortels, rien ne peut être engendré que de mortel»³⁵.

Or, l'âme est immortelle³⁶. Elle vient donc de Dieu, comme Lucrèce l'avait pressenti: «*denique caelesti sumus omnes semine oriundi, omnibus ille idem pater est*»³⁷.

C'est donc à Dieu seul que revient la capacité de semer les âmes dans les embryons. Cet enracinement ontologique rend compte de la vigueur avec laquelle Lactance condamne l'avortement³⁸.

D'un autre point de vue, le *De opificio Dei* annonce *Les institutions divines* dont le septième livre contient une eschatologie peu équilibrée. Ces pages contiennent en effet une des parties les plus archaïques de la théologie de Lactance, qui y reprend les accents apocalyptiques ainsi que le thème du millénarisme, caractéristique de certains textes de l'Eglise primitive. Tout comme Arnobe, Lactance croit que la résurrection ne concerne que les justes et a pour fonction d'acheminer les derniers vers le premier jugement³⁹. On s'en rend compte, il ne

des facultés, ce n'est pas tâche sans limites, que d'en persuader les incrédules par les raisons que voici». PORPHYRE, *A Gauros. Sur la manière dont l'embryon reçoit l'âme*, dans A.J. FESTUGIÈRE, *ibid.*, p. 299.

³³ LACTANCE, *De opificio Dei*, 2, 1. Le catalogue de F.E. ROBBINS, *The hexaemeral literature. A study of the greek and latin commentaries on Genesis*, Diss. de l'Université de Chicago, Chicago 1912, montre que le *De opificio Dei* est le premier commentaire latin du premier chapitre de la Genèse. Il se situe entre le *De natura Deorum* de CICÉRON, de facture stoïcienne, et l'*Hexaemeron* d'AMBROISE (PL 14).

³⁴ LACTANCE, *De opificio Dei*, cit., 19, 1. Comparer avec PORPHYRE, *A Gauros. Sur la manière dont l'embryon reçoit l'âme*, cit., 4, 269 («... et la difficulté ne leur sera pas moindre s'ils entreprennent de montrer que l'animation se fait de l'extérieur, et, non pas que, arraché au père, un fragment de l'âme paternelle, comme de sa nature, est injecté, en même temps que le sperme»), et XVII.

³⁵ LACTANCE, *De opificio Dei*, cit., 19, 3.

³⁶ «Ce qui ne nous empêche pas pour autant de comprendre que l'âme est immortelle, car ce qui a vie et mouvement par soi-même et pour toujours, sans qu'on puisse le voir ni le toucher, est nécessairement éternel», LACTANCE, cit., 17, 1.

³⁷ LUCRÈCE, *De la nature des choses*, 2, 991-992.

³⁸ «*Ad vitam enim Deus inspirat animas, non ad mortem*», LACTANCE, *De institutionibus divinis*, VI, XX, 18.

³⁹ «*Nec tamen universi tunc a Deo judicabuntur: sed ii tantum qui sunt in Dei religione versati. Nam qui Deum non agnoverunt, quoniam sententia de his in absolutionem ferri non potest, jam judi-*

parvient pas à intégrer les progrès remarquables qu'Irénée de Lyon et Tertullien avaient fait accomplir à l'eschatologie plus de cent ans plus tôt.

3. LA CRÉATION DE L'ÂME HUMAINE ET L'ANIMATION IMMÉDIATE DE L'EMBRYON

La grande originalité de Lactance réside dans la force avec laquelle il conçoit l'acte créateur de Dieu dès la conception biologique de l'homme. La référence biblique est ici implicite. Lactance ne désigne-t-il pas l'animation par l'expression «*inspirasse animam*»⁴⁰ qui renvoie directement à Genèse, 2, 7. Il en résulte une véritable coopération entre l'homme et Dieu dans l'oeuvre de génération. L'homme se contente «d'émettre ou de recevoir ... le liquide corporel dans lequel se trouve les matériaux de la naissance»⁴¹. Il s'arrête «en deça de cet ouvrage, et ne peut rien de plus»⁴². Au-delà de l'acte sexuel, commence le travail même du Créateur: «Dès lors, tout le reste revient à Dieu, c'est-à-dire la conception même, le modelage du corps, l'insufflation de l'âme, un heureux accouchement, et tout ce qui est important ensuite pour entretenir l'homme dans l'existence»⁴³. Lactance arrive ainsi à une présence de Dieu auprès de l'être humain, entièrement constitué par un acte créateur depuis sa conception biologique. Retenons la formule: «*Conceptus ipse*».

La mise en évidence d'une coopération entre l'homme et Dieu dans la génération est éclairé par un passage antérieur qui plaide pour l'adhésion de Lactance à la thèse de l'animation immédiate.

«*Non enim post partum insinuat in corpus, ut quibusdam philosophis videtur, sed post conceptum protinus, cum fetum in utero necessitas divina formavit*»⁴⁴. L'animation de l'embryon à la naissance correspond à la position stoïcienne, reprise par Porphyre à l'intérieur de sa propre thèse de l'immatérialité de l'âme⁴⁵. Lactance, de son côté, pense une animation «*protinus post conceptum*». Le terme «*protinus*» est explicite. La conception biologique (c'est-à-dire la rencontre des deux semences) coïncide avec l'animation.

L'affirmation d'une animation immédiate de l'embryon va classiquement de pair avec une individuation de ce dernier dès sa conception biologique. En toute rigueur de termes, cette affirmation théologique est en contradiction avec

cati damnatique sunt, sanctis litteris contestantinus, non resurrecturos esse impios in iudicium, LACTANCE, *De institutionibus divinis*, VII, XX.

⁴⁰ Le rapprochement entre cette formule et Genèse, 2, 7 se trouve chez A. WLOSOK, *Laktanz und die philosophische Gnosis. Untersuchungen zu Geschichte und Terminologie der Gnostischen Erlösungsvorstellung*, Heilderberg 1960, p. 184.

⁴¹ LACTANCE, *De opificio Dei*, 19, 4.

⁴² On retrouve une idée semblable dans le deuxième livre du *Pédagogue* de CLEMENT D'ALEXANDRIE. La matrice s'ouvre pour recevoir le sperme, puis se ferme afin de respecter l'action créatrice de Dieu (*Pédagogue*, II, 92, 3). Assez curieusement, L. Rizzerio ne fait aucune mention de ce texte (L. RIZZERIO, *op. cit.*).

⁴³ LACTANCE, *De opificio Dei*, 19, 5.

⁴⁴ LACTANCE, *De opificio Dei*, 17, 7.

⁴⁵ PH. CASPAR, *La saisie du zygote humain par l'esprit*, cit., pp. 114-123.

la définition aristotélicienne de la conception biologique qui sous-tend implicitement la première théorie génétique présentée par Lactance au chapitre 12.

Elle est en revanche compatible avec la seconde théorie de l'hérédité présentée dans ce même chapitre 12.

Faut-il dès lors considérer certaines particularités de composition dans l'exposé de la physiologie de la reproduction comme la conséquence du caractère contraignant d'une affirmation théologique que la lutte contre l'avortement et les progrès de la pensée chrétienne rendaient inévitables?

4. CONCLUSION

Elève d'Arnobé, Lactance élabore vers 303/304 le premier Commentaire latin du premier chapitre de la *Genèse*, dans le dessein de montrer comment l'organisation interne du composé humain est entièrement sous la dépendance de l'action créatrice de Dieu. Celui qui fut appelé le «Cicéron chrétien» partageait avec de nombreux Pères le souci de mettre les connaissances biomédicales de son temps en relation avec la Révélation de Dieu dans les Écritures et en Jésus-Christ⁴⁶. Cette mise en correspondance devait nécessairement conduire Lactance à discuter les théories de l'animation de l'embryon, couramment avancées à son époque. En particulier, il s'écarte totalement de la thèse stoïcienne d'une animation à la naissance pour affirmer une animation à la conception⁴⁷. Cette saisie immédiate du produit de conception par l'âme créée lui permet de thématiser une coopération entre l'homme et son Créateur dans l'œuvre de génération. L'affirmation d'une animation immédiate lui permet de préciser la part respective de l'homme et de Dieu dans cette œuvre. L'homme ne se contente-t-il pas en effet «d'émettre ou de recevoir ...la semence»⁴⁸? Mais dès la rencontre des matériaux biologiques, Dieu intervient par son action créatrice. «*Cetera iam Dei sunt omnia, scilicet conceptus ipse*»⁴⁹. La conception est déjà œuvre de Dieu. Elle coïncide en effet avec l'animation⁵⁰, c'est-à-dire avec la saisie par l'âme du matériau biologique mis à la disposition du Créateur par les parents.

⁴⁶ M. SPANNEUT, *Le stoïcisme des Pères de l'Eglise*, cit., pp. 177-203. L'auteur met en évidence une tendance profonde de la pensée patristique que l'on retrouve notamment chez Grégoire de Nysse (*La création de l'homme*, 240 c - 253 a) et chez Ambroise (*Hexameron*, PL 14, 264-274). La dépendance de l'ordre biologique à l'égard de la puissance créatrice de Dieu est le véritable enjeu du *De opificio Dei* de Lactance. Ces quelques indications fragmentaires permettent d'entrevoir l'enracinement patristique du projet dominicain d'une vision intégrée du réel concret au treizième siècle principalement par Albert le Grand et Thomas d'Aquin.

⁴⁷ LACTANCE, *De opificio Dei*, 17, 7.

⁴⁸ LACTANCE, *De opificio Dei*, 19, 4;

⁴⁹ LACTANCE, *De opificio Dei*, 19, 5.

⁵⁰ LACTANCE, *De opificio Dei*, 17, 7.

Note additionnelle: Nous avons situé la doctrine de Lactance dans l'évolution de la pensée patristique sur la question de l'animation de l'embryon dans *Penser l'embryon d'Hippocrate à nos jours*, Paris, Editions Universitaires, coll. La vie en question, n. 1, 1991.

INDIVIDUOGENESIS AND A RECENT BOOK BY FR. NORMAN FORD

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1. BACKGROUND, OBJECT AND SIGNIFICANCE OF FR. FORD'S BOOK

In 1988 Fr. Norman Ford («F.»), a philosopher and master of a Catholic theological college, published *When did I begin? Conception of the human individual in history, philosophy and science*¹. In this book he aimed to resolve «how far we can trace back our own personal identity as the same continuing individual living body, being or entity» [xv] and he concluded that there is no human individual or soul present until two to three weeks after fertilization.

The book is triply significant. First, it is representative of an opinion held by several moralists, but the most fully argued case for «delayed animation» to date². Secondly, it has major implications for several contemporary moral dilemmas³, to some of which F. himself averts [xi, 2-3]. Thirdly, it has become a favourite source (and its author a favourite authority) cited by proponents of human embryo experimentation, and is thus likely to have considerable political and legal significance⁴. As David Williamson (p. 815) has observed, the question of who can properly be called a person is important «because it is only persons who can be the subject of rights. If the conceptus is not a person it has no rights, and may be experimented on, stored for future use, or thrown away»⁵.

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¹ Ford 5. Cited by page numbers in square brackets throughout. An asterisk indicates that the emphasis has been added.

² F.'s precursors, some of whom he acknowledges, include Curran, Diamond, Donceel, Dunstan, Edwards, Häring, Hellegers, Hering, Mahoney, Mangan, McCormick, McLaren, New South Wales Law Reform Commission, O'Mahony, Pastrana, Rahner, Ramsey, Robertson, Ruff, Schoonenberg, and Shea. Since F.'s book have come: Austin, Bole, Byrne, Charlesworth, Genovesi, Glenister, and Kelly. Some of these writers would favour an even later date for individuation, e.g. the development of rudimentary organic structures pre-requisite for self-awareness. The range of positions is well summarized in Kelly 2.

³ e.g. in the use of many contraceptive pills and vaccines, the morning-after pill (such as DES), the intra-uterine device (IUD), early abortifacient drugs (RU486) and procedures (vaginal douches and dilatation & curettage), in vitro fertilization (IVF), the disposition of human embryos including freeze-thawing, experimentation and discard, sampling of embryonic cells for transplantation into other subjects.

⁴ See 4.3 below.

⁵ Likewise Paul Ramsey observed long ago, «to ask the question, When does human life begin? is, in these contexts to ask the question, When does equally protectable human life begin?»

At the time of publication F. predicted that the full implications of his work would not be felt «for about five years, when there are considered responses to it»⁶. This study seeks to provide one such considered response. After summarizing F.'s methodology and case, I will examine the science and the metaphysics which form the basis of his argument. From these an attempt is then made to isolate and examine the criteria upon which one might judge human individuality.

2. FR. FORD'S METHOD AND CASE

2.1. *The nature of science*

F. is very well-disposed to contemporary biological science. He holds that without modern embryological facts, philosophical speculation about the status of early human life can not proceed. He believes that «there is broad agreement among embryologists concerning these facts» [102] and thus seeks to report the «objective» embryological data [ch. 4]. The reference to «scientific facts», here and elsewhere, and the distinction between facts and interpretation [e.g. 15.102.108-109.130.145-146.159] places F. firmly in the mainstream of Baconian-empiricist views of scientific method.

On the other hand, though most embryologists and biologists think that the zygote is the same individual organism which develops through to adulthood [115], he aims to argue that this is not the case. From time to time F. also refers to capital-N «Nature» [e.g. 146.155.176], assuming a purposiveness or control in the cosmos which science seeks to uncover and articulate.

2.2. *The nature of philosophy*

F. rightly observes that the present debate must be inter-disciplinary, involving philosophy, embryology and history [xiii, 15-8, 20] – one might have added anthropology, law and theology. He describes his preferred philosophical method as «philosophical induction» [e.g. xiv, 12-18.121-122.173.181 etc.]: the inference of metaphysical principles from an attentive analysis of the physical data known to experience and observation. «It is only through the philosophical use of inductive reasoning that we can successfully arrive at sound conclusions concerning the beginning of human individuals» [12]. Of course, inductions never produce laws, and thus F. is normally careful to couch his conclusions in

(2, p. 182). Cfr Tauer. In fact, however, depending upon one's theory of rights, it is possible to recognize or confer rights upon non-persons such as future generations, or to grant quasi-personal status such as we do to corporations. Nor are our responsibilities in dealing with various entities exhausted by the questions of personhood or rights.

⁶ *The Catholic Herald*, 2.12.88.

terms of «seems», «suggests» and «appears». He provides a persuasive case for the need for metaphysics in such questions.

From the beginning F. assumes an Aristotelian-Thomistic metaphysic and a Boethian anthropology: the human person is a psychosomatic unity and «a distinct living ontological individual with a truly human nature [xv-xvi; cfr. 13.17.72-75.84-96]. Thus he praises the «welcome revival» of the Aristotelian theory of delayed animation [19]. «The principles of *actuality* and *potentiality*, *matter* and *form*, coupled with bodies' quantitative requirements, are perfectly adequate to explain everything and solve the problems that arise» [129]. Consistently with this, he presumes a realist epistemology and a doctrine of common natures:

We can readily identify a child and a dog. Our attitudes towards them differ because we recognize that the child is a personal being that is superior to the dog in nature and dignity... Children know... that both an arm and a leg are equally parts of the one developing individual being... People all over the world, young and old, are able to refer successfully to human individuals... Humans can easily be distinguished from horses, dogs and other animals... The average citizen, no less than the philosopher, can recognize and identify a live human individual, a human person... [3.19.66].

2.3. *The relationship between science and philosophy*

While F. does not directly address how he views the relationship between science and metaphysics⁷, there are a number of hints:

- * «Modern science is quite relevant to the resolution of this problem even though it *more properly* pertains to philosophical reasoning» [xiv; cfr. 7.11.181*];
- * Biological evidence *leads to* particular philosophical conclusions and philosophical conclusions should fit and explain, or be guided by, based on, or *drawn from*, scientific data [xiv, xvi, xviii, 12-15.122.130.145-146.156*]; and/or
- * Empirical evidence should be interpreted in the light of philosophical principles applied to them [XIII, 79.102.182*].

Another important methodological principle for F. is that of common sense and common usage. F. prefers the philosophy of Aristotle because «it represents one of the best examples of common-sense realism» and what even «children know» [19]. The standard of the ordinary person's common sense judgements is repeatedly pleaded [e.g. 65-66.72-73.76-77.82.122-123].

⁷ At the end of the book [181] F. notes: «it has not been easy to determine where to draw the line between the competence of science and metaphysics in this delicate exercise of philosophical induction».

2.4. *Fr. Ford's case*

F.'s book begins with an introduction to the moral, political, linguistic and methodological issues involved in the question of «when did I begin?». The historical chapter on the Aristotelian, post-Aristotelian and religious theories of reproduction and anthropogenesis is instructive – though it strangely stops at the nineteenth century and is not entirely accurate, e.g. where F. claims that Aristotelian views on embryogenesis were commonly held for two thousand years [xiv, 19.39]⁸, and that the Catholic Church has always simply followed the scientific or popular opinion of the day on the nature of the embryo [xv, 57-64]⁹. F. then examines the concept of and criteria for human individuality, before applying these to biological data concerning conception and early human development. «A human person begins as a living individual with the inherent active potential to develop towards human adulthood without ceasing to be the same ontological individual» [85]. The scientific data, especially concerning monozygotic (identical) twinning, suggest to F. that there is insufficient unity or coherence in the early embryo for the ascription of this ontological individuality to it. Always the pedagogue, F. repeats his argument and conclusion time and time again, in different ways, in an effort to make his case clear.

From the accumulation of only indicative biological data and fairly tentative arguments, F. comes to a strong conclusion: science and philosophy prove that the human individual could not begin at conception. Rather, for the first two to three weeks, the «embryo» is merely a cluster of many distinct, ontologically individual organisms in simple contact with each other, each of which lives only a matter of hours before dying in the process of cleavage. Only «at the primitive streak stage and not prior to it, but most certainly by the stage of gastrulation» do these few thousand organisms combine and «a human individual, our youngest neighbour and member of the human community, begins» [xviii, 139.170]. The term «embryo», as used before two or three

⁸ In fact scientific opinion fluctuated and several of the Fathers disallowed the «supposed distinction» between formed and unformed fetuses (e.g. Basil the Great; cfr Connery; *Daughters of St. Paul*; DeMarco; Noonan; SCDF 1). The relevant works of Aristotle were lost to West for a millennium and only gradually reintroduced among scholars in the middle ages.

⁹ In fact the Church often led the way in this area, or resisted the common opinion of the day, as in Harvey's time; it has consistently refused to allow these matters to be reduced to contemporary scientific opinion (cfr SCDF 1&2); and it has increasingly held as «probable» that human ensoulment (and thus «personhood») occurs at conception, despite growing popular opinion in the opposite direction. The source of this stance has been a complex of insights including biological and metaphysical ones, but not, in my view restricted to these. Other influences might include the Church's unbroken and unanimous opposition to abortion at any stage, and the developing doctrines on the incarnation, the immaculate conception of Mary, artificial contraception and artificial reproduction.

F.'s treatment of the scriptural evidence is necessarily short. A fuller treatment might have yielded more nuanced readings of important texts such as *Ex* 21,22-23 and *Lk* 1, and some treatment of other texts not mentioned by him, (such as the New Testament anathemas against «sorcerers» which might mean abortionists). See Fisher 2; Rogerson.

weeks, is thus for F. a collective noun, like «cluster», «assemblage» or «colony»; only after the post-implantation «transformation» does the term refer to a single entity (a substance, being or ontological individual). And only then is there a *human soul* present.

It must be recognized that F.'s thesis is not a novel one: it has been argued before, if rather less fully, by several writers. The modern revival of «delayed hominization» was led by the «Transcendental Thomist», Joseph Donceel, whose influence is clear throughout F.'s works. What F. contributes to this school is rather more sophisticated biological evidence, as well as some well-argued modifications, such as refuting the need for an actual functioning brain for personhood. He also presents the case in terms which are *prima facie* persuasive and thus a real challenge to «the commonly held view» that human individuals begin at fertilization [xvi].

3. THE SCIENCE

3.1. «Facts»

One of the clearest virtues of *When did I begin?* is the rich collection of relevant biological information about early human development. F. asserts that «there is broad agreement amongst embryologists concerning these facts» [102] and «there does not seem to be any controversy about the scientific facts involved in the process of fertilization» [108]. But the controversy among embryologists, as much as among philosophers, about F.'s «facts» casts doubt on this supposed consensus. More importantly, however, there is a fundamental epistemological question begged here¹⁰. F., as we have noted (2.2.), believes that empirical science provides «the facts» and metaphysics interprets them. At one stage he admits that «it will be difficult to draw the fine line between where the strictly scientific evidence ends and philosophical interpretation starts» [16; cfr. 181]. But in general he seems to presume a fairly naïve Baconian account of the nature of science.

Amongst important critics of the assumptions operative in the sciences have been Polanyi, Kuhn, Lakatos, Hanson and Feyerabend¹¹. They have ex-

¹⁰ One might also want to question how ignorant of the metaphysical issues involved are those scientists who declare that there is an ontological individual from fertilization. F. simply dismisses their views as non-philosophical [e.g. 117.127-131] unless, like McLaren, they agree with him [e.g. 174-175].

Likewise F.'s assertion that the (Australian) Senate Committee naïvely adopted a personhood-from-conception position «since no philosophical arguments were given to the Committee to make it think otherwise» is clearly false: several submissions (e.g. Singer, Jansen, Scott) did provide such arguments, and the senators were not themselves unaware of the philosophical issues involved. Cfr Senate Committee 1&2.

¹¹ Good introductions to contemporary philosophy of science include the works of Chalmers, Lakatos & Musgrave, Kockelmans, and O'Hear. Chalmers identifies well the assumptions of naïve inductivism and the problem of induction, as well as summarizing contemporary views of the theory-dependence of observation.

posed some of the assumptions behind naïve inductivism and the positivist distinctions between *fact* and *interpretation*, neutral *objective* science and committed *subjective* metaphysics and religion. They have demonstrated persuasively the «theory-dependence of observation» and that the presumed objectivity of the scientific observer actually reflects considerable personal involvement, commitment and, accordingly, interpretation. The simplistic dichotomy between fact and interpretation, objectivity and subjectivity, is illusory. Alasdair MacIntyre writes:

«Fact» is in modern culture a folk-concept with an aristocratic ancestry. When Lord Chancellor Bacon as part of the propaganda for his astonishing and idiosyncratic amalgam of past Platonism and future empiricism enjoined his followers to abjure speculation and collect facts, he was immediately understood by such as John Aubrey to have identified facts as collectors' items, to be gathered in with the same kind of enthusiasm that at other times has informed the collection of Spode china or the numbers of railway engines. The other early members of the Royal Society recognized very clearly that, whatever Aubrey was doing, it was not natural science as the rest of them understood it; but they did not recognize that on the whole it was he rather than they who was being faithful to the letter of Bacon's inductivism. Aubrey's error was of course not only to suppose that the natural scientist is a kind of magpie; it was also to suppose that the observer can confront a fact face-to-face without any theoretical interpretation interposing itself.

That this was an error, although a pertinacious and long-lived one, is now largely agreed upon by philosophers of science (p. 76).

Just as modern science is learning to make much humbler claims, F. attributes to it an objectivity and certainty characteristic of the heady days of Bacon and Aubrey.

F. generously attributes to two leading Australian proponents of human embryo experimentation, Trounson and Short, the «expert tuition, advice and constant encouragement» he needed for his work [xviii]¹². Yet the involvement of scientists in such experimentation should give a philosopher some cause to pause before adopting wholesale their account of «the facts» of early human development: not because those scientists' integrity is to be doubted, but for the very reason that it is to be presumed. An honest embryo experimenter is likely to have formed the «metaphysical» view that the embryo is not a human person, and his perceptions are likely to be accordingly «value-laden».

Thus when F. asserts that «*embryo* technically refers to the stage from the third to eighth week of development» and advocates the use of the term *pro-* or *pre-* embryo for the first two weeks [210-212], he is adopting the «linguistic en-

¹² Dr Alan Trounson and Professor Roger Short, both veterinary embryologists, have been leaders in the campaign to legalize human embryo experimentation: cfr Banks; Short 1 & 2; Trounson. F. also draws extensively from Anne McLaren, an English embryologist, pro-experimentation member of the Warnock Committee, and vocal proponent of the «pre-embryo» tag: e.g. McLaren 2.

gineering» of the pro-experimentation lobby¹³. His sources and defenders such as Short and Trounson have themselves testified that they regard these terms as quite arbitrary¹⁴. However arbitrary the definition of terms such as «embryo», «human being» and «person» may be, their sociological and political importance is undoubted: for whoever get these tags gain certain privileges and others are expected to behave differently towards them¹⁵.

On the other hand, if we are to turn to scientists for «the facts», then we must take rather more seriously than does F. their almost unanimous conclusion – despite being aware of his biological information and more – that «fertilizations in mammals normally represents the beginning of life for a new individual»¹⁶.

¹³ In a frank discussion about these terms John Maddox called the use of this term «a cosmetic trick» and IVF pioneer Robert Edwards also objected to its use (CIBA Foundation, p. 150). Maddox's predecessor as editor of *Nature* was D. Davies who, in a letter to the editor of that journal, also criticized the creation and manipulation of words such as «pre-embryo» by supporters of the new biotechnologies (*Nature*, 320 [1986], 208). The pro-experimentation Professor of Anatomy at University of London, Tony Glenister, has pointed out that this term «pre-embryo» «connotes to some extent an attempt to justify the experimental manipulation of early conceptuses by describing them in this way» (p. 1400). Histopathologist, Dr Michael Jarmulowicz, has likewise observed that the term was introduced «as an exercise of linguistic engineering to make human embryo research more palatable to the general public... a term which has no scientific justification. Many letters in standard medical journals have argued strongly against its use» (p. 181).

In a leading American case Judge Young, after hearing expert opinion for and against the use of the term «pre-embryo», concluded that the term is unacceptable and serves as a false distinction between the developmental stages of a human embryo. The Australian Senate Committee (1986) followed Dr Margaret Sommerville (McGill University Professor of Medical Jurisprudence) who submitted that language chosen in this area is often chosen because it is behaviour-governing rather than purely descriptive.

¹⁴ Short (1, p. 2159) holds that «really, any benchmarks that we care to put on this are purely arbitrary and of our own making» and Trounson, that «it is an arbitrary situation... I do not see that there is a magical change between day 13 and day 14. It just happens to be an arbitrary time... It is like a slippery slope. I am prepared to come back and argue... [for] 28 day embryos» (pp. 108-109). Likewise the discussion in R. Williamson, pp. 118-119 and Charlesworth, pp. 42-43.

¹⁵ Cfr Fisher 1, pp. 172-174, and sources therein.

¹⁶ This is the opening of a recent, «magisterial» summary of the current knowledge about mammalian fertilization by Yanagimach (p. 135). Other examples of this judgment - from all the leading embryology textbooks - are noted in Fisher 2, ch. 12, and in the works of Daly.

The recent debate over embryo experimentation, including F.'s book, has led to several scholarly comments on this issue, including:

* «[The embryo is] undoubtedly a human living being» (Glenister, p. 1398);

* «The practical difference between an early embryo and the late foetus is quantitative rather than qualitative» (Pratt 1, p. 240);

* «Before the primitive streak appears at the end of the first two weeks, the human embryo is alive and already developing along its own unique genetically determined line. This is not some amorphous pool of human life from which the individual emerges with the formation of the primitive streak. There is a unique human life developing from the start...» (Marshall, p. 379);

* «Underlying much of the debate over these matters is the assumption that the moral status of the embryo changes at the point of implantation. This is quite unsubstantiated... [as] Kass comments: The blastocyst deserves our respect not because it has rights or claims or sentience, but because of what it is, now and prospectively» (Jones, p. 124);

3.2. *Syngamy*

A few examples of the danger of a naïve distinction between fact and interpretation, and of how misleading it is to claim that «facts» about fertilization are uncontroversial, must here suffice. In his description of the «facts» about which embryologists broadly agree, F. asserts that «fertilization is not a momentary event but a process that may last up to 20-24 hours» [102-108.119]: indeed he includes this as part of the very definitions of fertilization and syngamy [211-212]. But this is an interpretation against which several commentators have argued¹⁷, and one which elsewhere F. actually argues for at length rather than asserting as an uninterpreted fact¹⁸.

3.3. *Extra-embryonic tissues or embryonic organs?*

Another «fact» which F. presents is that the zona pellucida and the placental tissues are «extra-embryonic» membranes, rather than parts (organs) of the

* «Human life beings at fertilization, despite numerous pseudo-medical claims to the contrary» (Norris, p. 22);

* «When does life begin? I have always felt this to be something of a non-question, because whatever else the early embryo is, it is undoubtedly alive. It is a living organism engaged in a process of growth and development... which has the potential to develop into a creature whom we would all describe as a human person... Its capacity to develop into two individuals could be seen as making it worthy of *additional* respect» (Higginson, pp. 65.69);

* «In a post-Mendel, post-Watson-and-Crick world the old arguments about ensoulment and animation look so very dated. Some theologians have lately tried to resuscitate them in an exercise of *ex parte* desperation, but science has made them obsolete. What is the product of chimpanzee conception but a chimpanzee? And with man is it different? Is *Homo sapiens* alone among mammalian species in not immediately and wholly reproducing *himself*?» (Cameron);

* «When does human life begin? ... As the late Dr. Andre Hellegers used to say: Put one hundred biologists in a room together and they will give the same answer: fertilisation. What is present after fertilisation is human life. It is *living*, not dead. It is *human*, it will never be canine» (McCormick); and

* «Considered in purely biological terms, the human being comes into existence at conception. All subsequent development is just the process by which the human organism which already exists gradually realizes its inherent potential... This much at least is beyond dispute, once the biological facts are known» (Foster, p. 35); and

* Young, after hearing all the expert testimony, concluded that human life begins at fertilization; that from that point the cells of a human embryo are differentiated, unique and specialized to the highest degree of distinction; and that the term «pre-embryo» is unacceptable, relying as it does on a false distinction.

¹⁷ For example, Fisher 1, p. 1 37. There I also list several leading embryologists who regard fertilisation as sperm penetration. Cfr St Vincent's Bioethics Centre; Santamaria 1 & 2; Tonti-Filippini 1, p. 462. F. himself recently «let slip» the comments that «normal fertilization occurs about two hours after insemination in IVF» and that «the zygote incorporates the genetic information of both gametes into its own distinct central organization and is the beginning of a new genetically human life» (Ford 6, pp. 303.324). Here he was following the standard account of IVF. Thus IVF pioneer, Robert Edwards, says «after fertilization, most eggs [sic] contain two pronuclei» (Edwards 2, pp. 39-62*).

¹⁸ Ford 6.

«embryo proper» [117-118.124.146.153.156-157.171]¹⁹. He defines the zona pellucida as «non-cellular» [213] and asserts that the «one could scarcely argue» that the chorion biopsies for genetic diseases (CVS) are part of the foetus [118] (one wonders what use the test would be were they not). F.'s arguments for these tissues not being part of the «embryo proper» are that:

- * they have no nerves and are insentient [118.157]: which is true of many of our organs;
- * they are used only for the period of gestation and then discarded [118]: but many of our body parts, such as milk teeth, hair and cells, are discarded at one time or another;
- * they can be shared by two foetuses [133.157]: which is true of almost all organs (except perhaps the brain), as evidenced by the various kinds of conjoined («Siamese») twins²⁰;
- * in chimæras they can be from a source genetically distinct from the rest of the embryo [143-145]²¹: which is true of many organs of a chimæra at every stage in its development and of any transplanted organ; and
- * they have always been regarded as extra-embryonic tissue [157]: which, even if true, only begs the question of whether they should have been, and should continue to be, so regarded.

Thus F. fails convincingly to distinguish these tissues from other human organs. The biological evidence is that they are formed by and with the embryo, usually with its genetic constitution, and for its use and sole benefit, and are indeed its organs: they are clearly not the mother's organs, nor a tumor, nor some alien third organism living symbiotically with mother and embryo. F. calls the placenta «an auxiliary organ», but an organ is always a part of an organism (cfr 5.4 - 5.5 below).

It has long been established that the zona pellucida functions to maintain the embryo's unity and unicity, preserving its normal cleavage pattern, protecting it during its «journey to the womb», and preventing fusions of zygotes (e.g. Mintz, Hilgers). Likewise biologists such as Moore (upon whom F. normally relies) are convinced that the placenta etc. are organs of the developing organism – and not out of some naïve unphilosophical prejudice, but because these tissues have all the characteristics of organs²². F., however, must deny that

¹⁹ This has been a favourite argument of Short, Austin and McLaren.

²⁰ At p. 173 he notes that «the fact that some conjoined twins share some limbs or even vital organs does not mean two individuals have not been formed».

²¹ At this point F. apparently reverts to a genetic definition of individuality: one that he usually deplores (cfr 5.1 below).

²² Austin 2, p. 890; Moore, p. 82; Renfree, p. 46; etc. Daly 1 & 2 notes several other examples, such as Arey and Liggins. F. himself recognized the existence of this view, but attributes it to an old article by Bernard Towers, as if it were an idiosyncratic (rather than the scientific mainstream) opinion. Austin, a recent defender of F., has offered the strange position that both foetus and placenta are organs of the embryo (1, pp. 17-18).

these are organs because that would suggest an organism, and as he himself observes: «it would be a sufficient, but probably not a necessary, condition for an individual human being to exist that it be a living body with the primordium of at least one organ formed for the benefit of the whole organism». F. then excludes any evidence of an organ-organism relationship between the parts and the whole of the embryo by tagging such evidence a «confusion» [170].

3.4. *Genome activation*

F. points to the «well-known fact» that maternally derived RNA in the cytoplasm of the ovum controls zygotic development at least up to the two-cell stage when the embryo's own genes are activated, expressed or «switched on»; in the meantime it is *not* the individual which is controlling its own development, but the maternal RNA [113.118]²³. But the second part of this report is surely an interpretation rather than a «neutral fact». It is true that maternal RNA is *one* very significant factor among the several *internal* to the zygote which are determinative before genome activation; but all the various elements within the embryo are derived either from the mother or the father and their point of origin does not preclude their now being part of the self-directing embryo. Activity, such as the mitotic division directed by maternal messenger RNA, is clearly the activity of *the zygote*.

Furthermore, as Michael Coughlan has observed, F. denies the «personalist» insistence on the *active* capacity for self-consciousness and Donceel's requirement of an *actual* brain, arguing that *the potentiality* is enough: the non-activation of the genome is no more significant (pp. 338-339).

3.5. *Monozygotic twinning*

Another example of «factual» information in F.'s book which is actually quite controversial is his material on monozygotic twinning. Hilgers noted at the time when the moral significance of twinning was first mooted that «it should first be emphasized that there is a great deal more that we do not know about the twinning process in the human than that which we do know (p. 149). Most recently Manchester embryologist, J.M. McLean has written: «The manner in which identical human twins develop *in vivo* is unknown» (pp. 449-450).

F. is rather less cautious. He makes several debatable points. First, while his earlier view had been that when identical twinning occurs, «either the first

²³ Genovesi (pp. 341-342) joins the delayed hominizationists on the basis of the extraordinary claim that a fertilized ovum *up until sometime after its implantation* is guided solely by the *maternal* RNA and that only some time after implantation is the genetic capacity of the new organism wholly activated, with the result that the conceptus begins to be directed by its own RNA. He provides no evidence for this claim.

human individual ceases when it divides and two human individuals begin, or the original human individual continues when a newly formed twin begins[xii], he now asserts that «logic and common sense» allow only the first view [xvi, 119-120.123]²⁴. F. does not say why this is his preferred view or how it is empirically verifiable. He does, however, complain that were the second view correct it would be impossible to distinguish the original «parent» zygote from the new «offspring» zygote, and he (wrongly²⁵) calls this a problem of «identical indiscernibles» [122]. In fact, of course, even if *we* can not tell which is which, it does not deny that the process has occurred. If we take the amoeba as a model of what happens in twinning, then either *interpretation* of the process is equally valid: so far at least, we have no empirical reason to choose one over the other²⁶.

Secondly, F. asserts that the trigger of monozygotic twinning is most probably environmental rather than genetic [119.135]. Presumably the importance of this for his case is so that no one can argue that in the case of genetically-triggered twins there are really two *individuals* present from conception. Evidence is now accumulating that twinning may well be genetically determined from fertilization for particular embryos²⁷.

Finally, F. claims that twinning «could be triggered any time after the first mitotic cleavage during the following 10-12 days» or no later than the formation of the primitive streak [136.172-173]. Some biologists, however, believe that «Siamese» twinning and «foetus-in-foetu» occur *after* the implantation and

²⁴ This view has been favoured as more probable by Grisez 1, p. 26, and Ramsey 1, p. 190. Others have preferred the «parent embryo & offspring embryo» interpretation of twinning: e.g. Daly, Tonti-Filippini and Hellegers.

²⁵ «Both would be identical indiscernibles, except for their separate concrete existence» [122]. Grisez 2, p. 15, n. 40, notes: «Sentences like this make it hard to interpret Ford's argument in a way that allows it coherence and plausibility. But I have done my best».

Identical twins are, of course, no more indiscernible if they occur by one-produces-another model than if they occur by the two-from-one model; and their differences at a micro-level, in spatio-temporal location, and in continuity with different adults (see ch. 6 below) clearly distinguish between them.

Leibniz' notion of «identical indiscernibles» is itself far from uncontroversial: cfr the articles by Ayer, Bahlul, Black, Hacking, Loux and O'Connor in Loux 3. Loux, for instance, argues that there can be numerically different yet qualitatively indiscernible material bodies or persons. He notes that «most metaphysicians (at least nowadays) would deny that the identity of indiscernibles is a matter of necessary truth» (2, pp. 117ff).

²⁶ Daly argues that whatever genuine theoretical plausibility the two-from-one view has, the one-produces-another model is favoured by Ockham's razor (2, § 1.6).

²⁷ Allen & Turner (pp. 538-542), Billings (pp. 13-14), Bulmer, McLean, O'Mahony (2, p. 16), O'Rahilly (p. 631), Philippe (pp. 97-105). F. himself points to the higher incidence of monozygotic twinning among *in vitro* embryos, perhaps due to the ill-effects of superovulatory drugs on the zona pellucida of the ovum; and to statistical evidence of an inherited tendency to monozygotic twinning. McLean recalls the process of armadillo reproduction noted below (3.7) and the unchanging incidence of identical twinning in all human populations surveyed, despite vastly different environments. F. himself recognizes that there is evidence of some propensity to monozygotic twinning inherited through the maternal line [135] and of genetic characteristics which facilitate rather than trigger twinning [119.135]. His reference to «*internal* or external chance factors» being the trigger [135*] does not clarify the issue.

primitive streak stage that F. regards as decisive, up to a month or so after fertilization²⁸. Others (e.g. McLean) suggest that it occurs much earlier than previously assumed, and that the veterinary evidence from embryogenesis in sheep and cattle, upon which Short and F. rely, is not applicable to human embryos. This latter view is supported by the incidence of monochorial non-identical twins²⁹, and suggests that the kind of twinning (monochorial and/or monoamniotic and/or conjoined) depends upon the time of the dissolution of the zona pellucida, not the (earlier) time of twinning.

3.6. *Contact between cells*

F. asserts, again as a matter of fact, that despite their «close contact» and «the appearance of a single organism or unity», the several cells of an early embryo are really ontologically distinct organisms [125.137.139]. The membranes of these cells «merely touch», and in the early stages are held «loosely together» in «simple contact» by desmosomes (glue-like junctions) and the «cage» of the protective zona pellucida. «This view seems to fit the facts better» [125.146]. Once more, little evidence is offered for this interpretation, which runs quite contrary to the understanding of most biologists, or of any ordinary viewer of photographs of a multi-cellular embryo with the cells firmly pressed against each other, restricting each other's shape and position³⁰. The only argument offered by F. here is that «each cell takes its own nutrients, thereby showing autonomy in a vitally significant way» [137; cfr 170]: yet until the organism has developed to the stage where it can have specialist organs for nutrition this is obviously necessary; and we are offered no explanation of the «vital significance» of this matter for cell autonomy.

3.7. *Some unproven assumptions*

F. makes several questionable assumptions – e.g. that the results of animal experiments are simply transferable to human embryology [139-146, 158-163]³¹

²⁸ See Austin (1, pp. 14.17.20.28; 2, p. 890), Dawson, (2 pp. 8-9), Filice (pp. 44-45), Sada et al., Wennberg (p. 70, citing R. Gardner), Willis, and Yasuda et al. F. gives a hint that he is aware of this difficulty for his thesis at [171].

²⁹ F. [133-134] takes the view that monochorial identical twinning occurs between three and eight days after fertilization. This follows the now rather dated method of distinguishing twinning stages according to the foetal membranes. The incidence of monochorial but only part-identical twins (both having identical maternal but not paternal genes) undermines this view altogether. Cfr McLean.

³⁰ When considering identical twinning, F. suggests that *weak* desmosomes might be a genetic factor predisposing some embryos to fission [135]: he thereby implies that in normal embryos these are *strong* binding factors.

³¹ Several commentators have challenged this assumption: see Billings (p. 13), Braude et al., McLean, and R. Williamson (pp. 109-110). Braude points to the inapplicability of the sheep models of Trounson et al. (p. 70).

and that the cells of the blastocyst are interchangeable [146-149]. Likewise his reduction of the biological to the nuclear-genetic [e.g. 62-63.117], so that the DNA becomes the only significant physical constituent in a living being, is not argued for³².

F. also seems to presume that individual creatures must reproduce *either* sexually *or* asexually: thus the twinnable embryo of the human species – a species which normally reproduces sexually – cannot be a coherent individual member, but must be an indeterminate grouping of cells. However biological science does not support this simplistic either-or. Several creatures reproduce both sexually and asexually. Many plants, for instance, replicate both by fertilization (seeds, fruits, etc.) and by cloning (e.g. bulbs from daffodils, cuttings from roses, laboratory cloning of orchids). Likewise among the animals: many of the protozoa and coelenterata, for example, reproduce in both ways. Among the hymenoptera and some parasites, up to 3,000 asexually produced twins may develop from a single sexually produced embryo. Sexually conceived armadillo embryos normally split asexually to form multiple identical twins³³.

A final simplistic assumption upon which F. relies is that a collection of cells must be *discernibly either* one multi-cellular individual *or* a social aggregate of individuals: because the embryo seems to lack the cohesion of a single multi-cellular individual it must be several distinct individuals. But the behaviour of many creatures seems to vary from being solitary to being colonial, from being free living to being communalistic, mutualistic or parasitic, depending on stage in the life-cycle, environmental factors or the perspective of the viewer. Examples would include the hydrozoa and sporozoa, sponges, corals, the slime mould, the social insects (termites, ants, some wasps and bees), the blattodea, dermaptera, embioptera, hemiptera, coleoptera and hymenoptera. In many cases it is far harder to identify «the organism» that F.'s presentation would suggest³⁴. The male anglerfish embeds permanently into his mate and becomes physically fused to her so that their vascular systems are continuous³⁵. Nature does not always respect simplistic philosophical distinctions; and our ability to discern individuals may be restricted.

³² Daly 2, § 2.3 suggests that this «helps us to understand another serious omission in his book, a neglect of the contribution to unity that comes from the cytoplasmic constituents of the cells». Sinsheimer points out that «the mitochondria – small, bacteria-size organelles found in the extranuclear cytoplasm of all cells of higher organisms – possess their own genetic material, distinct from that found in the nucleus. The mitochondrial genes give rise to what is known as cytoplasmic inheritance, which obeys different rules from those governing ordinary nuclear inheritance». (p. 1452).

³³ Hinton & Mackerras, p. 84; McLean.

³⁴ See CSIRO, pp. 134-137; Koestler, pp. 115-116; Simons, p. 331.

³⁵ Cfr Gould on the *ceratias holbolli*.

3.8. *An ambiguous conclusion*

F. concludes that

With (i) the appearance of the primitive streak after (ii) the completion of implantation and about 14 days after fertilization (iii) identical twinning can no longer occur. This is when the human body is first formed with (iv) a definite body plan and (v) definite axis of symmetry...[vi] most certainly by the stage of gastrulation when the embryo's primitive cardiovascular system is already functioning and blood is circulating [xviii; cfr 168-177].

As the present writer's parenthetical inclusion of numbers suggests, F. offers not one, but six different «marker events» here, which do not in fact coincide. Some argue that identical twinning, for instance, may occur after the appearance of the primitive streak and implantation; others, only well before (3.5. above). Indeed once cloning of adults becomes possible, it will occur at any stage up to death or beyond.

Overall it seems that F.'s scientific data do *not* support his denial of the organic individuality of the early embryo. We can now turn to the philosophical justification for his position.

4. THE PHILOSOPHY

4.1. *Aristotelian, Thomistic and contemporary metaphysics*

F. describes accurately the classical biology upon which Aristotle and Thomas based their metaphysical reflections [25-28]. Embryos, they thought, were spontaneously generated, following the action of the semen on the menstrual blood, both of which were residues of food and not alive; the semen acted like rennet coagulating the menstrual «milk» into a seed, and the mother's womb was the soil in which this new vegetable seed was planted. Thereafter followed a succession of souls as the embryo developed into a human being (at 40 days for males and 90 for females). This series of generations and corruptions was inferred from a series of false assumptions about human biology, and a faulty interpretation of miscarriages and putrefying corpses [cfr 28-29.33.37-38.40].

Radically new biological data, such as we now have, might be expected to yield (or be met by) a radically new ontology: as we have seen, F. himself repeatedly insists that philosophical conclusions should be *based on* or *drawn from* scientific data³⁶. Thus Ashley has argued cogently that had Thomas known that the sperm and ovum do bring about the epigenetic *primordium* of the personal body, he would have favoured immediate animation, as he allowed in

³⁶ Cfr Ford 7, p. 346: «Presumed ontological facts ought to be dropped once it is realised they are based on proven empirical errors, even if traditionally and universally held».

Christ's case (pp. 113-133)³⁷. Conti has suggested that in a contemporary context talk of successions of souls and delayed hominization is a «threadbare scholastic argument conjured up to give sense to a misread biology, and ought to be as firmly rejected» (p. 12)³⁸. Entities ought not to be multiplied without necessity (Ockham's razor) and thus where one soul suffices to explain the embryo, the concept of multiple succeeding souls is unnecessary.

After encountering in F.'s book such sophisticated (if selective) contemporary embryology, one might be a little surprised to find it joined to a metaphysic with such an antique pedigree. But F. suggests that «while modern science has corrected Aristotle's biological errors, his philosophical principles remain valid when applied to the relevant facts of modern embryology» [21] and Aristotelian principles «are perfectly adequate to explain everything and solve the problems that arise» [129]. After all, newer philosophies are not necessarily better than venerable ones upon which so much of Catholic theology has been built in the past.

The problem is that F. rarely, if ever, engages in the contemporary philosophical debates on identity theory and criteria³⁹, multiplicity and counting⁴⁰, parts and wholes⁴¹, natural kinds, substance kinds, essences and individuation criteria⁴², organismic biology⁴³, taxonomy⁴⁴ etc., even though these

³⁷ See Fisher 1, pp. 295-299; Grisez 2, pp. 11-12.

³⁸ Cfr Soane who argues that it is hard to hold to delayed hominization now that we know that the genetic constitution of a human being is laid down at fertilization and that what takes place thereafter is a process of continuous growth and maturation, without any radical leaps in development.

³⁹ The debate goes back to John Locke (ch. 27), Gottlob Frege and Rudolf Carnap. Examples of the contemporary debate include the works by Baxter, Kripke, Lowe, Madell, Parfit, Putnam, Shoemaker & Swinburne, Sprigge, Strawson, Stroll, and Wiggins.

F. does treat the views of the Anglo-Saxon empirical school which he strangely calls «the personalist understanding of the human individual»: Locke, Strawson, Singer, Tooley, Lockwood, Harris and Warnock [68-72]. Other «personalists» such as Martin Buber and Karol Wojtyła would, one imagines, be rather uncomfortable with this sampling of personalist opinion. But even F.'s presentation of the Anglo-Saxons is not entirely accurate. He asserts that these authors take for granted that membership of the species *homo sapiens* is essential to personhood [71-72]. In fact, as F. later shows [78], writers such as Singer and Tooley openly dispute not only the sufficiency of biological membership of that species, but even the necessity of it for personhood.

⁴⁰ E.g. Barker and sources therein.

⁴¹ Examples of this debate include works by Chisholm, Ruse, Simons and Sober. Dawkins has been at the centre of a debate over the unit of natural selection in evolution: the gene, the organism or the species?

⁴² There are hints of this debate in ch. 3 of F. According to Aquinas human beings are able to discern the essence of things themselves and to grasp these essences in universal concepts (common natures) obtained by abstraction, which in turn reliably reflect the eternal archetypes in the divine mind. They can do this reliably because their active intellects are permanently irradiated with divine light, cfr S. Th. I, q. 84, a. 5. Within a few generations, however, nominalist scholasticism with its denial of the existence, or at least the accessibility, of natures was in the ascendant, and it still has supporters today (Quine; Mill).

Examples of the current debate include the works of Ayers, Bernardete, Brody, Burger, Cassam, Degrood, Dunlop, Elder, Fales, Forbes, Granger, Grayling, Hull, Lemos, Lobkowicz,

have immediate bearing upon the matters he raises⁴⁵. One would have expected such a major work as this to evidence some acquaintance with these contemporary philosophical controversies and to offer some position regarding them⁴⁶. Instead F. pours the new wine of Trounson and Short's embryology into what looks suspiciously like the old wineskins of seminary Thomism (here called Aristotelianism)⁴⁷.

Aristotle's principles are by no means unproblematic today. The discussion of substance sortals and natural kinds (common natures or essences), for instance, reflects the inadequacy of simply referring to forms reliably abstracted from substances or an easy distinction between artificial and natural unity (as, for instance, F. at 74.87). F.'s passing mention of a crystal (which he presumes is a natural kind) is a good example of the difficulty [87]⁴⁸. Jorge Gracia identifies at least six key issues in medieval and contemporary thought regarding individuality:

- * its *intension* (connection with such notions as indivisibility, distinction and identity);
- * its *extension* (which entities are individuals, if any);
- * its *ontological status* (the metaphysics of individuality and nature);
- * the *principle of individuation* (the principle or cause of individuality and whether it is the same in all entities);
- * the epistemological issue of its *discernibility*; and
- * the linguistic issue of the *function* of proper names and indexicals.

Loux, Makin, Passell, Patterson, Quine, Rescher & Oppenheim, Ruse, Schwartz, Segal, Uzgalis, Wiggins, Wilkerson and M. Williams.

⁴⁵ The «father» of this school is Ludwig von Bertalanffy, whose work has led to a considerable literature, including the works by Agar, Lewontin, Saunders & Ho, and Simpson et al. There are hints that F. is aware of this discussion [in ch. 3], but the most recent work he cites is Russell (1944-45).

⁴⁶ Aristotle taught that science seeks to understand the essences of substances and thus to classify them according to sameness and difference (what today would be called a sortal and an indexical or deictic element: cfr Passell); a real as opposed to a nominal definition identifies the essential properties as opposed to the accidents. But this is far from uncontroversial today. Examples of this debate include the works of Caplan, Dupré, Ghiselin, Giray, Hull, Kitts & Kitts, Lehman, Mayr, Mishler & Brandon, Patterson, Pratt 2, Ruse, and M. Williams.

⁴⁷ A good introduction to these issues is Ruse 3, which also contains an excellent bibliography.

⁴⁸ It is interesting that Mary Warnock, in her foreword to the book, praises the «spirit of courage, honesty and moral integrity [which] shines through this book», but she does not praise the quality of reasoning. Could this be because Dame Mary, *qua* philosopher, is conscious that F. fails significantly to engage in, or even show an awareness of, the contemporary debates in philosophy over such fundamental issues (for these questions) as identity, multiplicity, natural kinds, taxonomy, organismic biology etc., as if little of significance for these questions has been written since St Thomas?

⁴⁷ Cfr Lk 5,37.

⁴⁸ Kripke and Putnam are examples of contemporary proponents of the notion of natures. They argue that names (such as «human being») have their meaning by rigidly designating a natural kind («human nature»); membership of the kind is determined by the presence of a presumed underlying common nature rather than some definition by a list of properties we happen to use as criteria for identifying things as members of that kind (*contra* the «bundle theorists»).

F's treatment makes no such distinctions. Instead he asserts that «we all know» that a crowd, herd or hive are a class and that their members are individuals of that group [e.g. 87]: hardly a satisfying position in the context of contemporary philosophy.

4.2. *Fr. Ford's use of hylomorphism*

Hylomorphism had its problems even for Aquinas: the conception of Christ, immortal and «separated» souls, and the condition of Lazarus' and Christ's bodies in the tomb, were not easy to account for⁴⁹. Today it has some trouble coming to grips with phenomena such as the slime-mould⁵⁰, transplants⁵¹ and conjoined twins: for it holds that each soul informs distinct matter («one twin is really distinct from the other: the matter of one is not that of the other» [74]). In the present writer's view the contemporary debates noted in 4.1. offer valuable insights that can be incorporated into (and revitalize without violence) a classical metaphysic such as F's⁵².

There are, however, several problems with F's use of Aristotelian-Thomistic ontology. First, he adopts an enlightenment view of the soul which restricts its meaning to the «mind» [78-79.130 etc.]⁵³, and at no stage addresses what it is that informs the embryo (or each distinct organism of the «cluster of cells») before hominization at two to three weeks. This is an extraordinary gap for one so attached to an Aristotelian-Thomistic ontology. The theory of delayed

⁴⁹ In the case of the conception of Christ, for instance, Thomas asserted that unlike other human beings Jesus was (miraculously) hominized from the beginning - so to admit that «he was conceived by the Holy Spirit» and «he was incarnate by the Holy Spirit of the Virgin Mary and was made man». But *what* then was hominized: a vegetative body? Or was a human body present from the beginning and gestated for a month or so longer than normal? As Foster has argued, the incarnation «must have resulted in a conceptus of the normal human type» even if without fertilization; and the Son «could hardly have taken human nature at a point prior to that at which, in the ordinary case, human life begins. And, in particular, it means that, in the ordinary case, conception must be the beginning of personal life. For the Son could hardly have taken human nature at a point when, in the ordinary case, the human organism would not yet qualify as, or embody, a person» (pp. 41-42).

⁵⁰ The slime-mould can be either an aggregate of organisms living loosely together or a single multicellular organism, depending upon environment and maturity. Cfr Koestler, pp. 115-116.

⁵¹ Some would compare transplants to digestion. But unlike the digestion process (where the matter of one organism is incorporated into that of the other and informed by the recipient's soul), transplanted organs seem to maintain considerable organizational integrity, whatever their «host» body, so that they can be moved from host to host. It is also difficult to make hylomorphic sense of radical transplantations such as a head or brain transplant (already achieved in some lower-order animals).

⁵² A good example of such an effort is Connell.

⁵³ Likewise in Ford 7, p. 344: «I think an immaterial soul is required to account for those aspects of rational self-conscious acts of knowledge and free choice that transcend the possibilities of material energies». On the difference between Aristotelian-Thomist «soul» and Cartesian «mind» see Rorty, pp. 38-61.

hominization presumes a succession of souls, as F. himself outlines [28-36]: the embryo is first formed with a nutritive (vegetable) soul, which is later replaced (from the inside) by a sensitive (animal) soul, and finally (from the outside) by a rational (human) soul. This theory *did* not allow for one human soul to unite and replace several vegetative or animal souls (each informing a distinct body), or no souls at all, as F.'s account assumes; rather, *one* higher soul replaced *one* lower soul⁵⁴.

This points to a further difficulty in F.'s application of hylomorphism in this situation. For Thomas the development of the embryo towards that stage at which it could fittingly receive a rational soul required that it have a *single* (non-rational) soul already present from fertilization directing its gradual development for that purpose. F. denies that there is any such principle of unity and thus of coordinate development. Instead «a determinate, actual human individual gradually emerges and develops from what is potentially human and indeterminate in relation to its ultimate fate» [162]. F. never gives a metaphysical (as opposed to a biological) account of why the cells gradually organize themselves in this way. For hylomorphism there can be no gradual emergence of unity (with things part-unity and part-multiplicity), nor of humanity (with things part-human, part-animal). Either a substance is a unity or not, a human being or not. And the soul is the *cause* of the organization of the being, not the after-effect as F. presumes [e.g. 130]⁵⁵. The reader is left with the impression that the «soul» for F. is a spiritual component peculiar to human beings and infused *subsequent* to the production of a coherent human body: a thoroughly Cartesian view⁵⁶.

A final problem with F.'s use of hylomorphism is that the early embryo clearly has specifically human qualities such as human genes (about which Aristotle and Thomas were uninformed): yet if it has no human soul it must (in Aristotelian-Thomistic-Fordian) terms be an animal or a vegetable. But as F. observes, by definition «no animal has a human nature nor is any endowed with a human being's specific natural capacities» [78].

Thus while the superficial appeal to Aristotle and Aquinas may win F.'s thesis respectability in certain quarters, it seems to the present writer that F.'s position is irreconcilable with that tradition and modern adaptations of or alternatives to it.

⁵⁴ Thus Bole, p. 652, n. 2, notes that «proponents of "delayed animation" ... want to say that the pre-embryo does not yet have the soul of a human person, only a vegetative or nutritive soul... [and later] a sensitive or animal soul». This may have been true of all previous proponents of this theory, but is not true of F.

⁵⁵ Cfr Ford 8, p. 46: «once the human individual is formed a human person is constituted by the creative power of God with a rational nature».

⁵⁶ Not that this view is self-evidently false just for being «Cartesian»: but F. himself object to any such dualism [130].

4.3. Problems with «philosophical induction»

Despite the accumulation of merely indicative biological data and the justly tentative nature of his argument, generally couched in terms of «seems» and «suggests» (2.2. above), F. comes to a strong conclusion: the human individual clearly begins after implantation and persuasive philosophical arguments, based on scientific evidence, show that there *could not be* an individual before that stage: indeed that to speak in this way would be «extremely difficult to maintain», «pointless», «quite unreal» and «impossible to say with any plausibility» [xvi-xviii, 3.52.122.128.130-135.156.159.161.168.171-173 etc.]. The problem with this is that a multiplication of *ifs* can never produce such a strong and confident *must*. The certainty with which F. presents his conclusion is not supported by his argument. This may be due to a fundamental logical misunderstanding: for F. wrongly asserts that inductive reasoning can produce conclusive results⁵⁷, and implies that the goal of science is to uncover and articulate the purposive «laws» of capital-N «Nature» (cfr 2.1. above)⁵⁸.

Notwithstanding F.'s stated opposition to disrespectful procedures involving the early embryo and support for Catholic teaching in this area [xii, 62.97-99], his «certain» conclusion invites the view that no-one could coherently hold to the Catholic Church's position that the presence of the human soul in the embryo is sufficiently probable for prudence to require that it be treated as a person⁵⁹: it cannot be probable and impossible at the same time! Thus it came as no surprise that the book was cited repeatedly by the embryo experimentation lobby in Britain and Australia in the parliamentary and public debates in early 1990 and since. F.'s work seems to be regarded as something of a windfall by would-be embryo experimenters and dissenters from Catholic teaching in the area, and to have replaced that of Anglican theologian Gordon Dunstan as their most quoted source. It may well be that in the long run this book will be of greater significance because of the political uses to which it is easily put, than because of its philosophical content⁶⁰.

⁵⁷ «Deductive reasoning is either valid or invalid. Inductive thinking admits of various degrees of support for a conclusion according to whether it is based on evidence that is weak, good or *conclusive*» [12*]. In fact it is of the nature of inductive or empirical reasoning that it can only produce weaker or stronger inferences, *never* conclusive ones.

⁵⁸ Space precludes a treatment of the concept of capital-N Nature. Suffice it here to say that whatever metaphorical and shorthand uses this personification might still have, this enlightenment mechanist and nineteenth-century romantic notion was as unknown to St Thomas as it is archane today.

⁵⁹ SCDF 1, § 13 and note 19; SCDF 2. By denying that the embryo could be an individual, F. reduces the moral issues in dealing with human embryos to respect for potential human life and frustrating the generative process. «There would be quite a difference in degree of moral malice between deliberately terminating the life of a human being at the embryonic stage and deliberately destroying cells that are not yet a human being but are destined to become one in a matter of hours or days» [3; cfr 97]. In shifting the issue from one of homicide to one of contraception, the effective case against these practices is radically weakened even among Catholics (many of whom see nothing wrong with contraception), let alone non-Catholics.

⁶⁰ In defence of his book F. says that «the Catholic Church has expressly not committed its teaching authority to the view that the zygote is already a person but admits [sic] there are reasona-

Despite his repeated appeal to «inductive» and «scientific» reasoning, without *a priori* [e.g. 149.173]⁶¹, we find F. presenting some rather deductive pleas, as when he complains that asexual reproduction by twinning, with the original organism ceasing to exist, is «paradoxical», «has little appeal» and seems unrealistic [120]. This only indicates F.'s own *a priori* preconceptions about life and death which may need to be revised. Likewise (as we will see in chapter 5) each time the embryo satisfies one of F.'s own criteria of individuality he asserts that the criterion is necessary but not sufficient. But no end of «philosophical induction» can resolve which criteria are necessary and which sufficient for individuality⁶². This is, in fact, one of the fundamental weaknesses of *When did I begin?*: the relationship between empirical science and metaphysics is never worked out and we are never told what positive evidence would be necessary to qualify positively for human individuality⁶³.

4.4. *The bridge of common sense?*

F., as we have noticed (2.3.), repeatedly has recourse to «what children know», «common-sense realism», «ordinary experience», «universal agreement» and what we «spontaneously recognize» to resolve philosophical problems. This part-empirical, part-intuitive source seems to form the bridge between science and metaphysics in his theory.

People all over the world, young and old, are able to refer successfully to human individuals... The average citizen, no less than the philosopher, can recognize and identify a live human individual, a human person. Any acceptable philosophical definition of a human person must accord with the common-sense understanding of ordinary people [66].

Perhaps this reflects the influence of Strawson and the British «ordinary language school» of philosophy which was the subject of F.'s doctoral work. Be

ble grounds to support a personal presence in the zygote and consequently teaches, *rightly in my view*, that the human zygote should be morally and legally protected as a person. In this situation, Parliament, at least for the sake of its own moral standing in the community, should give the benefit of the doubt to the human embryo and ban all destructive experimentation on human embryos» (7, p. 342*; 10, p. 353; 11, p. 584). But by then it was rather late for F. to be closing the stable door. Cfr Mahoney, p. 81, and D. Williamson, p. 816, who pursue the probability issue further.

⁶¹ Amongst important contemporary critiques of the inductive method (in science, but some of the criticisms would also apply to «philosophical induction») are those of Popper and Feyerabend.

⁶² Charlesworth observes: «while biological evidence may be more or less relevant, it cannot really tell us conclusively whether an organism is to be given a special status and treated in a special way. One cannot, as a matter of logic, base philosophical and moral conclusions about the human person directly on scientific evidence... In my view then it is vain to hope that we will be able to determine when a human person comes into existence simply by inspecting the biological and genetic evidence about the development of the embryo» (p. 39).

⁶³ Daly 2.

that as it may, one can only agree with the desire for philosophers to use language and reasoning which are common to others beyond their profession. But «common sense» and «common usage» are not always as helpful as might first appear. At the edges of our understanding (such as the beginning and the end of life) these authorities are at their most strained and ambiguous.

Thus it is simply not the case that every ordinary person can identify a human individual, as it were, from fifty paces⁶⁴: if we could we would not need books like *When did I begin?* or historically have had raging controversies over slavery, *untermenschen*, and how we should treat the embryo, the unborn, anencephalic babies, the severely handicapped, the persistently comatose, some animals (and, I expect in the future, sophisticated artificial intelligences). The «common-sense understanding of ordinary people» has yielded all sorts of regrettable conclusions in the past and is likely to do so in the present and the future. That is, in part, why we bother with philosophical clarification of concepts and terms.

Nor can we rely on common usage, which is notoriously ambiguous and variable, and which ultimately rests on the «what ordinary people think» standard just treated. Despite the legal, political and socio-educational significance of whether titles like «embryo», «human being» and «person» are to be ascribed to particular entities, we cannot presume linguistics will clarify the issues for us: we may need to revise our language⁶⁵.

The present writer happens to agree entirely with F. in his opposition to Dr Singer's position that the unborn, new-born, severely handicapped, and comatose are not persons. But I do not expect that pleading that Singerism does not accord with ordinary linguistic usage, or that «nobody» holds this position, or that «people the world over» support the alternative, is likely to convince its adherents. It is not, in the end, a philosophical argument at all: it is merely a sociological finding.

A few more examples of this characteristic «common sense» approach of F. must here suffice:

- * F. asks which organism after twinning is the original (parent) zygote and which the new (offspring) zygote; and answers with the assertion that «logic and common sense» favour saying two new human individuals begin and that there is no continuing «parent» organism [xvi]; were one twin the «offspr-

⁶⁴ In response to the «personalist» requirement of self-conscious rational acts for personhood, F. says that this «does not accord with the common understanding of person employed in ordinary linguistic usage» and that «we spontaneously recognize» that it is false [72.76-77]. «The sound judgment of people the world over recognizes that new-born babies are human persons», «we almost unanimously recognize an infant and a fetus several months prior to birth as human beings», «there is universal agreement that a human child is an actual human individual», «nobody questions the humanity of a Down's syndrome fetus or child» or one with spina bifida or anencephaly, and «nobody doubts the personal and moral status of the adult» [77.82.122-123].

⁶⁵ F. himself is aware of the danger (at least for his opponents) of being «mesmerized by the grammatical form of the language» [130].

ing» of the other «in this case these would be grandchildren of their unsuspecting mother and father!» [136]: but apart from the exclamation mark, presumably indicating how surprising this result is, no real argument is offered against the position⁶⁶;

- * F. then judges the two-from-one view of twinning as «paradoxical», «unappealing», «implausible» and «unrealistic» [120.136]; but his only argument – apart from the intuition recorded – would seem to be that there is no dying observable with regard to the original organism, and no corpse left behind;
- * F. supports his claim that a human individual cannot be divided (cloned) to form another one with the observation that «our constant experience shows that cutting a human individual in two simply kills that individual» [173];
- * F. asserts that the placenta «has always been regarded as extraembryonic tissue» and never offered respect, grief or funeral [157]⁶⁷; and
- * F. suggests that «the persons most concerned in human reproduction», pregnant women, offer valuable support for delayed ensoulment because they first miss a period about two weeks after fertilization [176-177]⁶⁸.

But one would expect of philosophy that rather than being tied to common usage and preconceptions, it would seek to resolve paradoxes and surprises, and clarify our concepts and interpretations of experience (such as parenthood and dying), so that they take account of such situations⁶⁹. Common sense and common usage fail to provide the much-needed bridge between F.'s biological data and his metaphysics⁷⁰.

⁶⁶ Grisez 2, p. 21, observes: «It does offend common sense to say that a couple's identical twins are really their grandchildren. But common sense simply cannot be trusted when the subject matter is unfamiliar. Moreover, the twins are not grandchildren in the familiar sense, but descendants mediated in an unfamiliar way».

⁶⁷ This argument, from respect, grief and funerals could as easily be levelled against the one-month-old embryo which F. regards as fully personal. Furthermore, it does not fairly apply to the placenta any more than any particular deciduous organ (such as a tooth): our lack of a funeral for a lost milk tooth does not mean we do not regard the child of which the tooth was an organ as a person.

⁶⁸ On this basis a woman with an irregular cycle might not have a hominized embryo for ten weeks.

⁶⁹ Another critic of F.'s «common-sense» and «common-usage» approach is Coughlan, p. 339.

⁷⁰ What, then, is the relationship between science and metaphysics? My own view is that treating the two as mutually exclusive realms of human thought and discourse results in an epistemological and psychological schizophrenia and renders impossible communication of the major ideas of the metaphysical system to non-adherents. A dialogue between the disciplines is healthy so that each challenges the other's presuppositions and «cross-fertilizes» the other, respecting the proper methodological autonomy of each, but allowing that philosophy must in certain situations express itself in new language, accommodate new findings, or even undergo a revolution. We cannot expect science to prove philosophical claims, or *vice versa*, but we can rightly expect our metaphysic to cohere with prevailing scientific conclusions or (where they clash) to invite radical reexamination of both.

What rôle F. sees religion playing vis-à-vis science and metaphysics is also far from clear. From time to time he introduces scripture, Christian tradition, and Catholic «magisterial» pronouncements, but he never explains how these sources might relate to his discussion of science and metaphysics. Are they «just another opinion» beside Aristotle, Strawson and Trounson? Or do they have some special authority in F.'s view?

5. INDIVIDUALITY CRITERIA

When did I begin? sets out «to establish the necessary and sufficient criteria for determining when a human person or human individual begins» [12]. It is, as we have noticed, really a study of how we know when/if there is one being, rather than several, present in a cluster of human embryonic cells. Almost every paragraph refers to «ontological individuality». It is surprising, therefore, that F. does not clearly specify in any one place the criteria upon which this ontological individuality is to be assessed: instead various yardsticks are used (implicitly or explicitly) in different parts of the book. Why these criteria are the ones which are necessary for individuality is never explained by F., except for an assertion that there is «universal agreement» about them [122]. One may instead have adopted criteria for an individual life such as the ability to reproduce itself⁷¹; but this is a capacity a twinning embryo has even more clearly than a newborn infant! In what follows, I attempt to isolate the various criteria which F. himself adopts, assuming that they are the best ones. These are treated at some length because I believe they are the crux of the argument.

5.1. *Biological humanity and genetic uniqueness*

A strength of F.'s book is his repeated insistence that biological criteria are not enough to establish the ontological status of a genetically human organism. He admits that he formerly taught that it was sufficient evidence of ontological individuality that the zygote's «genetic individuality and uniqueness remain unchanged during normal development» [xi]⁷². Now he argues that this is not the case: some genetically human organisms are not human beings (e.g. live human organs separated from their host bodies, gametes, tumours and hydatidiform moles); and some human beings are not genetically unique (monozygotic twins)⁷³.

Having established that biological humanity is too weak a requirement to establish that an entity is a human person, and that genetic uniqueness is too strong a requirement, one might be tempted to join Singer who holds that personhood has no necessary connection to membership of the species *homo sapiens*. But F. holds that personhood does require such genetic membership

⁷¹ This criterion is used by Connell, ch. 13; Lwoff, p. 9; Simpson et al.

⁷² In fact F. continued to publish the view that the human organism is a person from fertilization well after his «conversion» in November 1982 [xii]: e.g. 2, p. 17; 4, pp. 3-20.

⁷³ He might also have noted that genetic structure is not necessarily finally determined at fertilization, although he tends to join his individuality-from-conception opponents in presuming it is [xv, 126-128]. Some genetic changes may occur after fertilization: Dawson 1, p. 175, points to the differentiation of erythrocytes (red blood cells) and the cells of the lens of the eye, which shed their nuclei, leading to a low incidence of cells in the liver with double their genetic content during differentiation; and to a range of genetic mutations.

[122]⁷⁴. Furthermore, as we shall see below (5.5.), the genome of the embryo is a significant part of the internal organisation which ensures that it will normally develop towards a human adult, unless untoward events occur – a characteristic not found in the gametes which, left to themselves, inevitably die. Within the genome there is, as it were, «a frozen memory, a clearly defined design-project, with the essential and permanent “information” for the gradual and the autonomous realization of such a project»⁷⁵. This is not to deny that the other constituents of the embryo apart from the genome are also important for the direction of its development as a human being and as this particular human being; nor that sources external to the embryo are significant⁷⁶.

Notably F. himself resorts to a genetic definition of individuality when he argues that the possibility of animal embryos combining to form chimæras, with parts derived from more than one genetic source, disproves the individuality of the early embryo [144-145.159-163]. He says any attempt to argue otherwise «lacks a sense of realism and appears to be a desperate attempt to prop up the assumption that the zygote is already an on-going ontological individual of the species concerned». But chimæras are no more problematical than transplants and transfusions (where organs or blood derived from a genetically different source are incorporated into an organism) or nutrition (where the whole or part of even a living organism is taken into the substance and re-informed by «the soul» of the recipient).

5.2. *Spatial oneness*

One significant «common sense» criterion for individuality is spatial oneness (unicity and unity): that the thing be spatially distinct from other things and not itself split into several parts separated by other things or by space («undivided in itself and distinct from others», «one whole being... spread out in space», «discrete quantities of matter» [87-88.122.125.161]⁷⁷). This standard is

⁷⁴ The ancient insight that «the one who will be a man is already one» or «it would never be made human if it were not human already» is quoted in SCDF 1 and 2 yet receives surprisingly little attention in F.

⁷⁵ Sacred Heart Centre, pp. 2-3. Cfr Clarke & Linzey.

⁷⁶ Bedate & Cefalo have pointed out that «the development of a zygote depends at each moment on several factors: the progressive actualization of its own genetically coded information, the actualization of pieces of information that originate *de novo* during the embryonic process, and exogenous information independent of the control of the zygote». Bole takes this argument further, to conclude that the zygote is not a human individual. Citing in support F. and others, these authors assert that «whether the zygote becomes one human individual or several, or a hydatidiform mole, is determined by forces outside the zygote and its informational capacity» (Bole, p. 649). They provide little evidence for this claim. They also fail to explore the degree to which at all stages of the life-cycle we are dependent upon the environment if we are to realize our potential and exercise our capacities.

⁷⁷ The word «individual» derives from the Latin *individuus*, which implies something irreducible, indivisible, single or separate. Cfr Vincent.

in fact somewhat problematical: micro-investigations reveal large spaces between cells, molecules and atoms within organisms; and organisms can maintain their coherence despite including alien organic or inorganic matter which acts as a partial dividing wall within the organism. None the less a nuanced version of this criterion can be helpful as one of a cluster of individuality criteria ⁷⁸.

The embryo is in fact a (relatively) continuous unity at all stages of its development. The cells touch and adhere to each other; until «hatching» the zona pellucida surrounds and helps to hold the cells together. Apart from twinning they do not behave independently in the sense of wandering off, grouping and regrouping. Thus embryologists regard the embryo as a single multicellular organism, not a colony of unicellular organisms. F., however, judges this spatial unity as insufficient: human adults can live in close proximity without being regarded as one individual; and these embryos can in fact split into twins or perhaps join into chimæras. But if spatio-temporal contiguity is not a test, how can we distinguish two embryonic twins, as F. does? We can only count them because they are each spatially continuous in themselves and spatially discontinuous between themselves.

Hylomorphism explains this in terms of informing different matter. To quote F. himself: «one twin is really distinct from the other: the matter of one is not that of the other» [74]; «they would be separate existent individuals even if in all other respects they were identical» [90]. This also answers F.'s concern about the «identical indiscernibles» [122]: the two twins are composed of different matter and spatially distinct, and thus not truly identical in a philosophical sense (a thing is only identical with itself).

5.3. Spatio-temporal continuity

F. argues that «the evidence does not seem to support the required continuity of ontological identity from zygote to early embryo, and much less from zygote to fetus, infant, child and adult» [xvii] and that there can be no human individual until there is «an on-going distinct embryonic body» [xvii]. By «continuity» and «on-going» F. would seem to mean *spatio-temporal continuity with an adult*, since he regards as decisive two supposed spatio-temporal discontinuities: that many of the embryonic cells never form part of the «embryo proper», and that in twinning one body becomes two so that neither body can trace its existence back prior to twinning [e.g. 121-125] ⁷⁹.

⁷⁸ Simons, p. 326, suggests that there are *degrees* of integrity or wholeness: thus New Zealand is one even though discontinuous; the one chess game might be interrupted etc. Thus Aristotle said that a rigid body is more truly one than a jointed body (*Metaphysics*, D6).

⁷⁹ F.'s doctoral studies were on the English analytical philosopher P.F. Strawson (Ford 1). Strawson's most important work was *Individuals*, in which he presented a detailed exposition and defense of the view that space and time lie at the basis of all identification (1, esp. pp. 23-30). Thus however late was F.'s «conversion» on the issue of the individuality of the embryo, the question of the criteria of individuation may well have been exercising his mind for many years.

But the failure of the placenta, and thus those embryonic cells destined to be part of it, to be part of the infant once born does not deny their spatio-temporal continuity with the infant up to that point: like milk teeth, they are simply discarded when they are of no further use. In fact all our cells, and the molecules that make them up, may be replaced during our life-time without denying our spatio-temporal identity⁸⁰.

The supposed discontinuity in twinning provides no argument against the individuality of the greater majority of embryos which do not twin. Most people by far *can* trace their spatio-temporal chain of being back to conception: only before then are there two other individuals (the gametes)⁸¹. How then do we account for the rare few monozygotic twins? On the assumption that in twinning one «parent» embryo gives rise to a «child», half of these identical twins would still trace their spatio-temporal being back to fertilization; the other half could only trace it back to the «moment» of twinning⁸². On the assumption that in twinning one «parent» embryo gives rise to two «offspring» and itself ceases to exist, all these twins would trace their spatio-temporal identity back to the moment of twinning; the parent embryo, which ceased to exist in the process, would not be spatio-temporally continuous with a foetus or adult and might, following F's logic, be characterized as a gamete (like an ovum before parthenogenic activation as in the male honey bees noted above)⁸³. And as I have suggested (3.5), there seems to be no way of deciding which of these two models is to be preferred.

It might also be noted at this point that not only zygotes, but many foetuses, infants and children lack «the required continuity of ontological identity from zygote to foetus, infant, child and adult»: they die on the way. We do not conclude therefrom that they are not individuals. Why we should draw the line at twinning, requiring that a zygote «survive» this stage is far from clear.

F's rather novel introduction of a genetic «clock» mechanism [155-158. 175], which is «set from the time of fertilization» and controls the number of cell divisions, is further evidence of spatio-temporal continuity: for if the embryo is only «a cluster of a few thousand cells» [170] of various ages but none of which has survived cleavage, then there is nothing which has existed since fertilization for this «clock» to be in. As one bioethics institute notes:

⁸⁰ Cfr Passell and Strawson 1. F. himself allows for this in observing that one's identity remains unchanged despite weight loss or gain, loss of limbs, transplants etc. [93]

⁸¹ This argument would seem to me to favour sperm penetration rather than syngamy as the decisive moment in fertilization.

⁸² Were various forms of (presently only-hypothetical) cloning of human beings realized, some new individuals might trace their spatio-temporal continuity back to some «moment» such as the activation of an ovum initiating its embryonic development (whether by induced parthenogenesis, enucleation and renucleation, or whatever means).

⁸³ Because I would not regard spatio-temporal continuity beyond twinning as a necessary condition for individuality, I would characterize even this hypothetical short-lived «parent» embryo as a human individual.

From the formation of the zygote onwards, there is a succession of molecular and cellular activity, which is guided by the information contained in the genome and which is controlled by signals which come from interactions which continuously multiply at every level, in the embryo itself and between it and its environment. The rigorously coordinated expression of thousands of structural genes, which involves and which gives the organism developing in time and space its close unity, comes from this guide and from this control⁸⁴.

5.4. *Differentiation of parts*

F. includes among his criteria of human individuality that the organism be «multicellular... differentiated and determinate in relation to the organization and integrated articulation of its essential parts» [122]. The stipulation that an individual be multicellular excludes the zygote, but only by an *ad hoc* definition. In support of his contention that the later embryo is not an individual, F. argues that

the developing cells have not yet differentiated sufficiently to determine which cells will form the extraembryonic membranes (e.g. placenta) and those which will form the inner cell mass, from which will develop the embryo proper and foetus [xvii; cfr 123-124.148-149.156.161-163.172-174]⁸⁵.

Until it is determined definitively which cells will develop and grow into «the definitive embryo proper» and the foetus and adult, there can be no individual present. The problem with this argument, however, is that it is built on what we have seen to be a biologically false assumption: that the «extra embryonic» membranes are not organs of the organism (above 3.3). Further-more, it is well known that no fetal cells survive through to adulthood: if there can be no individual present until it is determined which cells will develop and grow into «the definitive adult proper», then there can be no individual until there is a «definitive adult».

In fact the regularities of the shapes, relationships between various constituents of the cells and between the cells, and stages of development, indicate that in the embryo we have from the beginning a high degree of differentiation and coordination of parts. The «totipotency» of early cells to each become embryos only indicates a weak potentiality, because it cannot be fulfilled unless something unusual happens to the cell. As Daly argues in 99.5% of cases the cells develop normally, each limited by and coordinated with the others, in the «very specialized and urgent task: to synthesize enough DNA and membrane material to cater for some thousands of cells, and to keep on being subdivided until the much smaller size of an ordinary somatic cell is reached» (2, § 4.1).

⁸⁴ Sacred Heart Centre, p. 3. Another theorist using a spatio-temporal criterion of identity and concluding that the zygote is thus a human individual is Iglesias.

⁸⁵ A similar argument was used by Wood and Trounson before the Senate Committee (1, p. 28).

And *well before* F's two to three week mark the cells have differentiated into inner and outer cell masses and lost their pluripotentiality.

F's usage of the concept of «differentiation» is itself not always clear: sometimes it seems to refer to *our ability to differentiate* (in our observations and interpretations) between which cells are destined for which parts of the embryo; at other times, to a lack of any such differentiation having actually occurred⁸⁶.

5.5. *Organization and direction*

Another criterion of individuality that we find in *When did I begin?* is that the candidate must be «determinate in relation to the organization and integrated articulation of its essential parts, all of whose activities and functions are directed from within for the benefit, well-being, self-development and self-maintenance of the whole individual being» [122-123; cfr 72.93-94.125]. The soul, according to F., is the non-empirical, non-observable, but nonetheless real principle of life which accounts for a human being's «unity in being», organization and direction [13.73.93]. He explains that he was «converted» from his previous position that the embryo from conception has sufficient organization and intrinsic unity by a leading embryo experimenter who said that in the IVF embryo «each cell behaves as if it is significantly independent of the other cells» [xi-xii; cfr 148-149]. At most the cells are only «loosely organized» [175]. The problem is, of course, how loose is «loose» and how independent is «significantly independent»?⁸⁷

This is a problem throughout F's book. At one point he defines an individual as follows:

An ontological individual is a distinct being that is not an aggregate of smaller things nor merely a part of a greater whole... There is only one human individual that really exists in the primary sense of actual existence, though there are many cells that share in the existence of that single living ontological individual [xv-xvi; cfr 72.212].

But everything in the material order is «an aggregate of smaller things» (organs, cells, molecules, sub-atomic particles) and «part of a greater whole» (family, nation, human race, cosmos). The issue is, therefore, how do we judge that there «is only *one* human individual that really exists in the primary sense of actual existence» despite its being in other senses both an aggregate of smaller parts and part of a greater whole? F. does offer a test: «while the parts of an in-

⁸⁶ Thus John Marshall of the Warnock Committee notes that «the appearance of the primitive streak is not the beginning of individuation but the first visible manifestation of it» (pp. 378-379). A similar problem arises with F.'s argument against the individuality of the twinning embryo on the basis of our inability to determine which is the «parent» and which the «offspring» embryo [122].

⁸⁷ Simons, pp. 326-331, also suggests that there can be varieties of organizational integrity or wholeness, so that a system can be more loosely structured in some respects than in others. He suggests that it is far from clear that there is an objectively sharp division between individuals and collections (cfr 3.7 above).

dividual are real in as much as they share in the existence of the whole individual, they do not have any separate actual existence unless they split from the whole» [88]. Once we can establish «the primordium of at least one organ formed for the benefit of the whole organism» we have a sufficient condition for the existence of a human individual [170]. But, as we have seen (3.3 above), the embryo does have organs, unless we use an unusual definition of organ which excludes it.

Some light can be cast on these questions by «organismic», «organization» or «systems» analysis of life⁸⁸. According to this approach, a living organism is not just an accidental aggregate of coöperating parts, but a functionally interdependent, self-constructing, self-directing, self-maintaining and self-reproducing entity with a real internal unity of organization; it is interdependently related to its environment in fulfilling these capacities⁸⁹. A zygote, however, qualifies according to this standard as well⁹⁰. F. frankly admits that the zygote «is not a simple cell at all, but an extremely complex structure with a hive of co-ordinated activities» [103], which directs its own activities in an orderly fashion for its self-maintenance and development [108]⁹¹. He is willing to concede that at this stage at least there is no mere artificial aggregate of distinct parts but a single living individual with many qualitatively heterogeneous, quantitative parts [108.123]⁹². He details well the elaborate self-directed activities of the embryo in weeks that follow⁹³. Here he seems to be in accord with the view of IVF spe-

⁸⁸ Examples include the works in note 43 above. Monod, ch. 1, identifies teleonomy, autonomous morphogenesis, and reproductive invariance as three characteristics of a living being.

⁸⁹ Thus when F. requires of an ontological human individual that it have «the natural active potential» or «active capacity» to develop towards adulthood, and that all its parts, structures, organization and activities be «purposive, goal-directed or teleological» and «subordinated to serve its common interests and goals of life, directed by its species-specific instructions encoded in its programme of life» [81-96.119-120.125-126], he could be said to be describing the tendency or teleology or inbuilt plan, programme or memory, of that particular «living system».

While I am attracted by this approach, it is not itself without difficulties: for instance, all organisms to varying degrees require «inputs» and relate interdependently with environments, so that their *self-direction* and *self-maintenance* needs qualification.

⁹⁰ Two good examples of the application of this system or organizational approach are Daly 2 and Sacred Heart Centre.

⁹¹ Undoubtedly the human zygote is a living ontological individual with its own characteristic arrangement of its specific, qualitatively heterogeneous, quantitative parts, endowed with activities to serve its self-maintenance and self-development» [123].

⁹² Observations such as that until genome activation maternal messenger RNA directs the zygote's development (3.4 above) only serve to emphasize the complexity of this organism and its inclusion within itself of multiple factors determinative of its «teleology», not just its own DNA (as is too often presumed).

⁹³ He admits that: «There are signs of finalism or purpose and directedness apparent in the way intercellular communications influence the specific morphogenesis of each species in the same typical way. Developmental activities are goal-directed...» [149]. «The constant and universal organic pattern of the blastocyst, its heterogeneous differentiation and developmental pathways are certainly purposive and goal-directed. It displays a certain teleological plan inbuilt in its organic dynamism...» [157].

cialist Prof. John Kerin who, on the basis of the same biological data as F., concludes that:

From the time of fertilisation onwards the embryo has the capacity for further development as an individual human being provided this is not interrupted... Therefore it would seem logical to infer that another human life begins at the time of fertilization ⁹⁴.

But contrary to Kerin, F. claims that each cell of the embryo as it were «goes it alone», developing for its own benefit (self-maintenance etc.), and not as part of an organized whole.

When Donceel – the author of this latter line of argument – first raised it, Paul Ramsey (himself an advocate of delayed hominization) suggested that totipotency of cells does not deny a unified life between them: the cells are, from the beginning, «doing their own thing», but *together* (1, p. 196). Each cell does not set about building its own amnion, chorion, placenta etc. Unless there is actual monozygotic twinning, the «group» acts throughout in the interests of the group not the individual cells, each cell interacting and «communicating» in various ways with the others ⁹⁵. The whole embryo dynamically adjusts the balance between its parts, being programmed by what F. calls a «genetic clock», set in its DNA from the time of fertilization, so as to develop synchronically ⁹⁶ and grow in a co-ordinated way [146-158]. Radical changes in internal arrangement, and various external disturbances – even ones as drastic as the removal of a cell in biopsy – do not break this chain of development, and the embryo displays characteristics peculiar to a life: the ability to regenerate and to perdure despite constantly changing structure. The «purposive, goal-directed or teleological» character of the activities of the embryo – its characteristics which F. recognizes as «a group or system of co-ordinated cells» [159] – suggests an organizational integrity sufficient for individual life according to an organization-teleology criterion. Thus the Australian Senate Committee concluded that from the time of fertilization the embryo is «a genetically new human life organized as a distinct entity oriented towards further development... as a biologically individuated member of the human species».

F.'s response is not to deny this clear evidence of individuality, but simply to deny the sufficiency of this criterion [126.149.157-159; cfr 170]. Every time evidence of individuality is adduced, F. responds that this is insufficient, and that the individuality of the organism must be established *before* this evidence

⁹⁴ Senate Committee 1, pp. 682-683. This was quoted with approval by the Committee in its report, at § 2.17.

⁹⁵ «Mammalian development depends on mechanical, biochemical and electric inductive signals between cells, whose developmental potency is thereby triggered and activated to gradually form a morula, an implanted blastocyst, an embryo proper, a fetus and a live offspring after birth» [167].

⁹⁶ Although at [175] F. claims that their clock mechanisms are not synchronized until the primitive streak stage, how they «become synchronized and triggered» is not explained.

can be admitted⁹⁷. But this circular requirement can itself be admitted only at the cost of denying individuality to those maturer humans which he holds are self-evidently ontological individuals.

Turning then, to hylomorphism, the organizational integrity that we find in the embryo coheres well with the view that there is a single human soul present from conception. As Fienus, the 17th century Aristotelian who led the movement in biology away from delayed hominization, argued:

the soul is the principle which organizes the body from within, arranging an organ for each of its faculties and preparing its own residence, not merely consenting to be breathed into a physical being which has already organized itself [47, quoting Needham].

A more recent writer argues as follows:

If we understand [the human soul] as that element of the human being which establishes it in its being as human, differentiating us from the lower forms of life, account must also be taken of it in our becoming. The development of the human being, from conception to full maturity, is a purposive one which cannot be ultimately explained as a series of biochemical processes, any more than the fully formed human being... In any purposeful development towards an end, the end is somehow present in the beginning, shaping the development towards the end⁹⁸.

This approach seems to be in the background of the Catholic Church's declarations on abortion (1974) and artificial reproduction (1987) and its increasing insistence on respecting the embryo as a human person from fertilization [cfr 59-64]. F.'s argument (against Singer and others) about the organizational tendency of the infant would seem to apply equally well to the embryo:

The growth and development of an infant [read: embryo] is the growth and development of a human being to maturity, not growth and development into a human being. The developing infant [embryo] gradually realizes its natural potential to express more fully what it already is. It does not grow into something else... No animal has a human nature nor is any endowed with a human being's specific natural capacities. [77-78]

⁹⁷ It is rather frustrating for the reader on finding clear evidence of organizational integrity and teleology to be met with claims such as «Directedness and finality are said to be *intrinsic* only if they appear within what is already known to be a definitely established given ontological individual and for its benefit... Positive indications are required to establish the presence of a human individual. It would be a vicious circle to argue that something is a living individual on questionable *a priori* grounds that there were *intrinsic* purposive activities. Intrinsic finalism needs to be established and not simply assumed» [149*].

⁹⁸ Daniel, p. 66. Cfr Tonti-Filippini 2, p. 47: «The embryo is so organized as to be developing toward human adulthood and must therefore have whatever it is in the way of form to have that organization, dynamism and integration within the first cell such that a human adult can result without any further addition of anything other than the nourishment which it assimilates into itself».

F. accuses some of his opponents of the apparently self-evident⁹⁹ falsehood of «Platonic or Cartesian dualism».

I do also think, however, that some who openly profess Aristotelian-Thomistic philosophical principles, surreptitiously, albeit unwittingly, are influenced by philosophical dualism when it comes to establishing the beginning of the human person in a zygote [130].

Yet on the basis of what has been argued in this chapter it would seem that F.'s notion of human souls indiscernibly popping into existing animal colonies to unite and hominize them is far more open to the charge of «surreptitious, albeit unwitting, dualism» than the view that the human soul directs (i.e. is the principle of) the continuous development of the human organism from fertilization toward human adulthood¹⁰⁰.

5.6. *Untwinnability*

As we have seen (2.4 and 3.5 above) the twinnability of the early embryo is the most crucial evidence which F. brings forward for its non-individuality. He asserts that in twinning, probably due to environmental factors, one zygote ceases to be and gives rise to two new zygotes; that this can occur at any stage in the first two weeks; and that all embryos have this potential. From this he concludes that the embryo cannot be an individual.

The same zygote would also have the natural active potential to develop into two human individuals by the same criteria. We could legitimately ask whether the zygote itself would be one or two human individuals. It would seem absurd to suggest that at the same time it could both be one and more than one human individual, granted that each must be a distinct ontological individual... It would have to be both one, and more than one, human individual at the same time [120.122; cfr xvi, 122-125.135-136].

Here F. seems to be relying on the principles that a thing cannot be both one and two at once (ultimately, the principle of non-contradiction), and that unity cannot be divided without ceasing to exist (the principle of indivisibility).

But the argument fails on several grounds. F. is right to say that «it would seem absurd» to say that the one thing is both one and more than one individual *at the same time*. The problem is, *no one says this*. Those who claim the twinnable embryo is an individual argue that it is one individual until twinning; there are thereafter two individuals. At no stage is there «both one and more

⁹⁹ While in general terms I share F.'s anti-Cartesianism, I think it should be admitted that there is a dualism even in the hylomorphic theory, let alone its peculiarly Christian form which allows for the continuation of the immortal «separated soul» after death.

¹⁰⁰ Daly and Tonti-Filippini have characterized the transformation which F. claims occurs here as «magic». A good analysis of the dualism implicit in delayed hominization theories is Higginson, pp. 70ff.

than one human individual» at the same time. Thus in answer to F's question «how could a zygote be one distinct human individual whilst it still had the capacity to become more than one distinct individual?» [xvi] we might answer that like any asexually reproducing creature, the twinnable embryo is just that: one individual with a potential to «become» two. While such asexual reproduction, with the original organism ceasing to exist (and leaving no corpse) or continuing to exist (and giving rise to an offspring indistinguishable from itself), is for F. paradoxical, implausible, unappealing and unrealistic [120.136] it remains a fact of life (and death) in many species.

Nor does F. really address the meaning of «potential» or «capacity» here – a very complex notion in the Aristotelian-Thomistic metaphysic he is relying upon¹⁰¹. The very meaning of «a capacity for one thing to become two» is that there is just one thing before the division and no longer one but two thereafter. Thus any piece of string has the capacity to become two pieces of string. Before it is cut it is just as much one piece as each of the pieces after cutting is one piece. Otherwise the counting would be pointless¹⁰². Furthermore, as noted above, many plant and animal organisms reproduce asexually («clone») and some reproduce both sexually and asexually. Untwinnability is not a criterion of individuality for other objects or other living species: why should it be for human beings? F.'s response to this begs the question:

The short answer is that a tree is not a human zygote or a human individual. The biological structures of the tree and the human zygote reveal the essential differences that are relevant to determining whether one living individual continues in being or whether two new ones begin [xvi-xvii].

Obviously a tree is not a human being: the unanswered issue here, of course, is whether the two reproduce in similar ways in some situations, and the implications of this for individuality.

Asexual reproduction by embryos is no more significant than will be the cloning of adult humans when that technology is perfected¹⁰³; no one will claim that a clonable adult is not an individual. Even normal sexual reproduction involves one «ontological individual» (the parent) giving rise to another «ontological individual» (the gamete) [121]. Normal cell division in growth is likewise a cloning process¹⁰⁴. As Tonti-Filippini shows, this means F. ultimately demands of the embryo a standard of individuality which even adult humans could not satisfy. Wennberg suggests a useful thought experiment:

¹⁰¹ A now classic treatment of some of the issues regarding potentiality is Monod; cf. the works of Lockwood and Wiggins.

¹⁰² This analogy was suggested to me by Daly.

¹⁰³ Dr Robert Jansen told the Senate Committee (1, pp. 438-439) that it is likely that this will be possible «within a few years». On the possible ways in which cloning might occur see: Daly & Tonti-Filippini, p. 8; Sinsheimer.

¹⁰⁴ Alberts et al., p. 813: «Almost every multicellular animal is a clone of cells».

Imagine that we lived in a world in which a certain small percentage of teenagers replicated themselves by some mysterious natural means, splitting in two upon reaching their sixteenth birthday. We would not in the least be inclined to conclude that no human being could therefore be considered a person prior to becoming sixteen years of age; nor would we conclude that life could be taken with greater impunity prior to replication than afterward (pp.2.71) ¹⁰⁵.

Another difficulty with F.'s account of twinning is that it sits uncomfortably with his general argument that until implantation the embryo is really a colony of individual organisms, not an ontological individual. But what, other than an individual, could twin? And what could the twins produced be, other than two individuals? We do not say that «where there was one now there are two» (= twinning) if there were really a hundred individuals there in the first place. (One possible interpretation, which F. does not himself offer, would be that the colony, like a too-large termite colony, splits up into two new colonies.) Likewise when F. talks of aggregating embryos, he cannot say «where there were two or three now there is one» ¹⁰⁶.

When the twinning argument was first raised in the late '60s and early '70s, Humber argued that while it may well be true that we cannot know how many lives are present at conception, we do have good reason for believing that *at least one* human life has begun (p.69). Two decades later, and despite F.'s sophisticated embryological evidence, we seem to be left with much the same conclusion.

5.7. *Unchimærability*

F. argues that

experiments with mice show how single cells taken from three separate early mouse embryos can be aggregated to form a single viable chimæric mouse embryo. In this case the resultant individual mouse certainly did not begin at the zygote stage [xvii; cfr 139-146.159-163].

The developmental potential of fertilized eutherian mammalian eggs is «far too indeterminate and unrestricted» for ontological individuality [145]. This

¹⁰⁵ Cfr Foster, p. 40. Another, proposed by Tonti-Filippini (2, p. 43), is that of creating an exact replica of every cell in a human body by means of a super-computer which is able to scan every cell and then to replicate it from raw materials.

¹⁰⁶ Finnis 2, pp. 110-111: «As the professional discussion of Ford's arguments in the 1989 *Proceedings of the American Catholic Philosophical Association* demonstrated (not to mention one in the forthcoming *Linacre Studies in Bioethics*), Fr. Ford never states, let alone accounts for, many of the facts which persuade embryologists to refer (like everyone else) to "two or three embryos" where, according to him, there are not two or three individual bodies but dozens (as many as there are cells in two or three blastocysts)».

suggests another criterion for individuality: the inability to accept cells from (or be aggregated with) another organism (= a chimæra) ¹⁰⁷.

But as we have seen (5.1 above) such a criterion would disallow any organism which accepts a transplant, transfusion or even nutrition. Furthermore it would disqualify much older embryos and foetuses because the most common form of chimæra in humans is the «blood chimæra» where blood cells from one fetal twin colonize another ¹⁰⁸. And today there are several experiments involving the introduction of genetically foreign (brain, pancreas and other) stem cells into adult patients in the hope that these cells will colonize that patient's diseased organ, thereby creating a chimæra: the capacity of the patient to receive such a colony is surely no proof that he/she is not an individual.

Just as in twinning it is unclear whether one «parent» embryo produces a single «offspring» embryo, or one embryo ceases to exist in creating two «offspring» embryos, so in chimæras it is unclear whether one embryo remains the surviving «recipient» of material from other ones which (may) cease to exist in the process or if all contributing embryos cease to exist in the creation of a new embryo. Once again we have no empirical way of deciding which is the case ¹⁰⁹. But neither case is inconsistent with the ontological individuality of the donor(s) and recipients(s) [contra 145].

From the artificial induction of chimæras in laboratory mice F. concludes that in natural human development embryonic cells (presumably from one or more genetic colonies) amalgamate at a later stage to form the definitive individual human body [pp. 139-146]. The leap from the bizarre to the normal here is imprudent. Hilgers draws an opposite conclusion: human chimæras, if they do occur, «would occur only extremely rarely, and then only as a result of abnormal, diseased development», and thus tell us little about the nature of the normal embryo ¹¹⁰.

6. CONCLUSIONS

F. charges that «the trouble with the traditional view is that it uncritically assumes that the human person is present from fertilization» and then «ignores or selects the facts to suit a preferred philosophical theory» [130]; he, on the other hand, rejects such *a priori*, aiming to make the theory fit the facts. F.'s book raises a number of important questions and provides some useful answers.

¹⁰⁷ A view also favoured by Ramsey as «clinching the rebuttal of the argument that genotype is the line to draw on the beginning of life» (1, p. 190).

¹⁰⁸ Filice, pp. 44-45. Cfr McLaren 1; Uchida et al. Dawson 2, pp. 6-7, emphasizes how little we know about chimæras.

¹⁰⁹ Although, as in a transplant short of a brain transplant, we usually have no difficulty deciding which is the recipient and which the donor on the basis of which provides the majority of those parts of the body which are necessary for personhood.

¹¹⁰ Hilgers, p. 151; cfr Billings, p. 13.

His collection of biological and historical information is helpful, if needing some qualification, and his focus on the difference between genetic and ontological individuality perhaps timely. It reminds those who hold to personhood-from-conception that reliance upon biological argument alone is insufficient.

We should not a priori and uncritically accept that because human genetic individuality is established from the zygote stage onwards, the zygote itself is a human individual. Human genetic individuality is not to be confused with human ontological individuality [XVI].

F's analysis of identical twinning shows conclusively that genetic individuality is not essential to ontological individuality, and suggests that some human individuals (monozygotic twins) may come to be later than at fertilization. Any «homunculus» theories still lurking in our imaginations must be purged [110]. F. also convincingly refutes some common arguments in this debate, such as the restriction of personhood to the viable [79.82] or those with brain matter [81-82] or the actively reflective [35.76-82], and the inference from «the prodigality of nature» («natural wastage» of embryos) to arguments about the nature of the embryo [180-181] ¹¹¹.

When did I begin? points to some other issues of importance. F. reminds us that the meaning of «individual» in the notion of the person as an *individual* human or human *individual* is complex. Perhaps in a sequel he could treat in greater depth the other half of this description: the meaning of «human». How is it that we know (as F. seems to) that a hydatidiform mole is not a *human* individual (even if it is an ontological individual)? What is a being with some human and some animal genes or chromosomes? ¹¹² We might quote again F.'s claim:

We can readily identify a child and a dog. Our attitudes towards them differ because we recognize that the child is a personal being that is superior to the dog in nature and dignity [3].

Can we really so readily identify a human child and is his/her superiority really so self-evident? Here we enter the realm of the natural kinds debate averted to above.

But F.'s book does not attempt to settle these issues. Its central concern is individuation, and its conclusion is that not until two to three weeks after fertilization is there a human individual. The foregoing analysis suggests that F.'s case fails at several crucial points. This is not to question either the well-publicized honesty of his efforts, nor the possibility that a more plausible case could

¹¹¹ This argument of Karl Rahner has been pleaded by writers such as Donceel and Mahoney, and most recently by Bede Griffiths.

¹¹² Already transgenic mice have been produced with a human gene: Dawson I; Palmitter & Brinster.

yet be made for delayed hominization. Nor is it to pretend that the case for human personhood from conception has been established *en passant* in the present critique. But after a close examination of all the history, philosophy and embryology F. offers, it seems to this reader that «the commonly held view that the human individual begins when the zygote is formed at fertilization» stands unshaken ¹¹³.

¹¹³ Since completing this paper I have been sent a copy of a doctoral thesis submitted at Georgetown University in April 1991: Dianne Nutwell Irving, *Philosophical and Scientific Analysis of the Nature of the Early Human Embryo*. Dr Irving is a rare example of an expert research scientist who is also a first-class metaphysician, and her thesis is the most thorough and persuasive study of this issue so far encountered by this author.

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NOTA CRITICA

LA RENOVACIÓN DE LA MORAL PEDIDA POR EL VATICANO II

A propósito del libro de W. MAY, *An Introduction to Moral Theology*, Our Sunday Visitor Press, Huntington 1991

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En 1980 se lamentaba Mons. Delhaye, a la sazón Secretario de la Comisión Teológica Internacional, de que en los últimos años se habían publicado muchos libros de moral a luz del Concilio, pero pocos con la moral del Concilio Vaticano II¹. Afortunadamente, ésta situación ha pasado: hoy disponemos ya de un buen número no sólo de estudios monográficos sino de obras generales de teología moral, realmente fieles al espíritu y a la letra del Concilio².

He querido sin embargo comenzar con este recuerdo, para poner de relieve uno de los méritos de este libro de William May: el constituir un verdadero prototipo de la moral auspiciada por el Vaticano II, sea por su modo de nutrirse en la enseñanza de la Sagrada Escritura al tratar cada uno de los argumentos e inspirarlos continuamente en la necesidad del cristiano de dar frutos por la caridad para la vida del mundo; sea porque el autor muestra conocer en profundidad las polémicas subseguidas al Concilio, y se vale de ellas para penetrar en las enseñanzas conciliares, teniendo presentes y saliendo al paso de las dificultades del ambiente.

An Introduction to Moral Theology no sigue el esquema habitual de los cursos o manuales de teología moral fundamental, sino que el autor selecciona

¹ Cfr. PH. DELHAYE, *Metaconcilio: la mancanza di un discernimento*, CRIS documenti, n. 43, Roma 1980, p. 17.

² Baste pensar en obras que fueron apareciendo desde poco después de esa fecha como las de C. CAFFARRA, *Viventi in Cristo* (Milano 1981); G. GRISEZ, *The Way of the Lord Jesus* (Chicago 1983); S. PINCKAERS, *Leus sources de la morale chrétienne (Sa méthode, son contenu, son histoire)* (Fribourg 1985), y *L'Evangile et la morale* (Fribourg 1990); o las inmediatamente anteriores del mismo DELHAYE, *Discerner le bien du mal, dans la vie morale e sociale (Etude sur la morale du Vatican II)* (1979), de D.J. LALLEMENT, *La connaissance de Jésus-Christ* (Paris 1978); *Vivre en chrétienne dans notre temps* (Paris 1979); y obras colectivas como *Ética y teología ante la crisis contemporánea* (Pamplona 1980), *Principles of Catholic Moral Life* (Washington 1980), *Persona, verità e morale* (Roma 1986), etc.

algunos temas clave para, desde ellos, con más claridad e inmediatez abrir las perspectivas exigentes y esperanzadoras de la enseñanza moral de Cristo. De este modo, aclara la raíz de muchas perplejidades éticas: por qué hay quienes no entienden las realidades del espíritu, en qué se engañan y cómo se les puede positivamente ayudar a conocerlas y vivirlas. Y todo en un modo accesible, convincente, como resumado de la propia vida y experiencia personales. William May es un educador experimentado – padre de siete hijos, y profesor desde hace muchos años en la Universidad Católica de Washington-, que habla de la vida y de lo que interesa a los hombres, no de elucubraciones de la razón racionante sino de perspectivas de la inteligencia creyente.

La obra está dividida en seis capítulos. En el primero, *Human Dignity, Free Human Action, and Conscience*, trata de quién es el hombre, creado a imagen de Dios, caído y redimido por Cristo, y cuál es el modo de obrar que le permite dirigirse y acompañar a los demás hacia su plenitud humana de hijos de Dios. En el segundo, *The Natural Law and Moral Life*, describe la ley inscrita por Dios en nuestra naturaleza, como guía hacia esa plenitud. En el tercero, *Moral Absolutes*, plantea el nudo crucial del debate ético contemporáneo, raíz de muchas desorientaciones, al haber oscurecido las exigencias radicales que el hombre no puede abandonar si quiere vivir como persona. El capítulo cuarto, *Sin and the Moral Life*, se ocupa de la autodestrucción y desintegración personal por el pecado, aclarando por qué – otro punto decisivo del actual debate teológico – la Iglesia ha siempre distinguido entre dos tipos de culpa, mortal y venial. El capítulo quinto, *Christian Faith and our Moral Life*, despliega las perspectivas que abre a la persona el conocimiento de su vocación divina, y en concreto la realidad, los desafíos y las alegrías de la vocación personal a la santidad. El sexto y último aborda otro nudo gordiano de las discusiones odiernas: *The Church as Moral Teacher*, aclarando las desviaciones de la teología del disenso y cuál sea el valor del Magisterio ordinario. Trataremos seguidamente de describir el contenido sustancial de cada capítulo, valiéndonos lo más posible de las propias palabras del autor.

El prof. May resume así, en la introducción al libro, el contenido del primer capítulo: «I believe that the central biblical themes of crucial significance to moral theology and moral life are those of creation, sin, incarnation and redemption, and eschatology. From Scripture we learn that human persons are utterly unique in the material universe since, of all material creatures, they alone have been created in the image and likeness of God. They are *persons* whom God wills *in* themselves. Precisely because they are persons, endowed with intelligence and free choice, they are inwardly capable of receiving from God the gift of his own divine life» (p. 14).

En la obra aparece, pues, desde el principio la doctrina tradicional de la unidad sin confusión entre naturaleza y gracia, y, por ende, el carácter de don

inefable de nuestra sobrenatural participación en la misma vida divina³: «Every living human body, the one that comes to be when new human life is conceived, is a living image of all-holy God. Moreover, in creating Man, male and female, God created a being inwardly capable of receiving His own life (...) Every human being, therefore, is intrinsically valuable, surpassing in dignity the entire material universe, a being to be revered and respected from the very beginning of its existence. This intrinsic, inalienable dignity proper to human beings is God's gift, in virtue of which every human being, of whatever age or sex or condition, is a being of moral worth, an irreplaceable and nonsubstitutable person. Because this dignity a human being, as Karol Wojtyla has said, 'is the kind of good that does not admit of use and cannot be treated as an object of use and as such a means to an end'. Because of this dignity a human being 'is a good toward which the only adequate response is love'» (pp. 19-20).

En cuanto hemos visto está la primera y radical dignidad de la persona, pero «according to the catholic tradition, as found, for example in St. Thomas Aquinas and in the teachings of Vatican Council II» hay una segunda raíz de la dignidad personal: «The second kind of dignity is the dignity to which we are called as intelligent and free persons capable of determining our own lives by our own free choices. This is the dignity that we are to give to ourselves (with the help of God's unfailing grace) by freely chosen to shape our lives and actions in accord with truth. In other words, we give to ourselves this dignity

³ Nunca se subrayará bastante este punto, si queremos ser fieles a la revelación, a nuestra incomparable dignidad de hijos de Dio por la gracia. Ciertamente, la vocación del hombre es única, de hecho sobrenatural (CONCILIO VATICANO II, Const. past. *Gaudium et spes*, n. 22): pero esto no comporta que la participación en la vida divina propia de la gracia pertenezca de suyo a nuestra naturaleza, lo que negaría la existencia misma de una fin sobrenatural, reduciéndolo a una especie de «nuevo super-fin natural» del hombre histórico: cfr G. COLOMBO, «il problema del soprannaturale negli ultimi cinquant'anni», en *Problemi e orientamenti di Teologia Dogmatica*, C. Marzorati Edit., Vol. II, Milano 1957, pp. 575 y ss. Son luminosas las siguientes consideraciones de otro autor contemporáneo: «Toutes les différences entre le véritable christianisme et ses déformation humaines ont là leur racine: Dieu a-t-Il voulu nous élever à partager sa propre vie, ou bien ses interventions par le Christe et par l'action de son Esprit ne font-elles que promouvoir la vie humaine, qu'on qualifiera de divine si elle est seulement plus humaine? On peut encore aller plus profond en disant: la vie de Dieu, qu'est-ce que cela pour nous? Admettons-nous que Dieu a en Lui-même une vie infinie tout a fait indépendante de la création, et qu'ayant très librement voulu créer, Il a appelé les créatures intelligentes à une élévation par la grace au dessus de leur nature, élévation qui leur permet de communier à Sa vie divine infinie, éternelle? Ou bien, limiterons-nous notre connaissance du Dieu vivant à la connaissance d'une action divine dans le monde, dans l'humanité, qui pourrait nous porter à travailler à une sur-humanité, mais toujours seulement dans un développement indéfini de la création? Si Dieu n'est connu de nous que dans l'expérience de notre existence humaine, de notre activité en ce monde, il n'est pas de révélation surnaturelle à proprement parler, mais un sorte de révélation immanente à la vie de l'humanité (...). Mais si Dieu a en Lui-même une vie infiniment distincte du développement des créatures, vie proprement divine dans laquelle Il a voulu nous introduire, tout est autre. Dieu, alors, a dû nous faire connaître sa vie par une révélation proprement dite. Cette révélation, l'Eglise nous dit qu'elle a eu deux objets, qui sont en intime connexion: ce que Dieu est en Lui-même et son très libre dessein de nous appeler au partage de sa vie»: D.J. LALLEMENT, *La connaissance de Jésus-Christ*, Téqui, Paris 1977, pp. 44-45.

and inwardly participate it by making good moral choices, and such choices are in turn dependent upon true moral judgments. The nature of this dignity was beautifully developed at Vatican Council II, and a brief summary of its teaching will help us to grasp the crucial importance of true moral judgments and good moral choices if we are to respect our God-given dignity and participate in the dignity to which are called as intelligent and free persons» (p. 20).

Destacaremos los momentos cruciales de su análisis: a) la innegable existencia de nuestra libertad: «The reality of free choice, so central to the biblical understanding of man, was clearly affirmed by Church Fathers as Augustine and by all great scholastics. As St. Thomas put the matter, it is only through free choice that human persons are masters of their own actions and in this way beings made in the image and likeness of God. The great truth that human persons are free to choose what they are to do and, through their choices, to make themselves *to be* the persons that they are was solemnly defined by the Council of Trent. Vatican Council II stressed that the power of free choice 'is an exceptional sign of the divine image within man' (*Gaudium et spes*, n. 17)» (pp. 22-23); b) el carácter inmanente de nuestras acciones por las cuales nos hacemos –en la medida en que esto queda en nuestras manos– los hombres que somos: es decir, «the *self-determining* character of free choices. It is in and through the actions we freely choose to do that we give to ourselves an identity, for weal or woe. This identity abides in us until we make other, contradictory kind of choices» (p. 25); c) el papel y el significado de la conciencia, en su triple sentido de juicio o acto de la inteligencia sobre el bien o mal moral de las propias acciones, de *sindéresis* o hábito de los primeros principios morales y, finalmente, de auto-conciencia profunda del yo: «At this level, in other words, there is a mode of self-awareness whereby we are aware of ourselves as moral beings, summoned to give ourselves the dignity to which we are called as intelligent and free beings. This is the level of conscience to which *Dignitatis humanae* referred when it declared that '... all men ... are by their own nature impelled, and are morally bound, to seek the truth' about what they are to do (n. 2)» (p. 29).

Algunos han entendido erróneamente que la conciencia –precisamente a este tercer nivel, que llaman conciencia *trascendental* – decidiría sobre el bien y el mal del propio actuar, sin sujeción a ninguna norma concreta absoluta. Se trata, sin embargo de un error, porque «there is thus the serious obligation, stressed by the Council documents that have already examined, to seek the truth. Our judgment of conscience does not make what we choose to do *to be* morally right and good; in other words, we are not, through our judgment of conscience, the arbiters of good and evil. Our obligation is to conform our judgments of conscience to objective norms of morality, norms that have as their ultimate source, as *Dignitatis humanae* put it, "God's divine law eternal, objective, universal" (n. 3). Is for this reason that the Council Fathers spoke of a "correct" conscience, declaring, "the more a correct conscience prevails, the more do persons and groups turn aside from blind choice and try to be guided by objective standards of moral conduct" (*Gaudium et spes*, n. 16)» (p. 31).

Puesto que los hombres son inteligentes y libres, son capaces de participar en el plan de la sabiduría y el amor divinos. Este es el tema del *capítulo segundo*, la *ley natural* o modo humano de participar en la ley eterna: «“highest norm of human life is God’s divine law-eternal ... man has been made by God to participate in this law, with the result that, under the gentle disposition of divine providence, he can come to perceive ever increasingly the unchanging truth” (*Dignitatis humanae*, n. 3). Man’s participation in God’s divine and eternal law is precisely what the Catholic theological tradition understands by “natural law”, the law that he discovers “deep within his conscience” (*Gaudium et spes*, n. 16). Although they did not use the expression “natural law” to designate man’s participation in God’s divine eternal law in these passages from *Dignitatis humanae* and *Gaudium et spes*, the Council Fathers clearly had the natural law in mind, for right after saying that “man has been made by God to participate in this law”, they explicit referred to three texts of St. Thomas; and of these one was obviously uppermost in their mind, for in it Aquinas affirms that all human beings know the immutable truth of the eternal law at least to this extent, that they know the universal principles of the natural law» (p. 37).

El autor divide en tres apartados su análisis de la ley natural: el pensamiento de Santo Tomás (pp. 37-54), el Concilio Vaticano II (pp. 54-59) y los estudios de Grisez-Finnis-Boyle (pp. 59-80). Respecto al primero – analizando la *Summa Theologiae* – señala que «in the mind of St Thomas law as such not only belongs to reason but consists of true propositions or precepts brought into being by reason» (p. 39). Porque «Thomas teaches that *all* created realities “participate” in the eternal law. But they do so differently, in accordance with their natures. Nonrational beings participate in the eternal law in a purely passive way insofar as from they receive an “impression” whereby “they have inclinations toward their proper acts and ends”. The eternal law is “in” them inasmuch as they are ruled and measured by it. But human persons, inasmuch as they are intelligent, rational creatures, participate *actively* in the eternal law, and their active, intelligent participation is precisely what the natural law is. The eternal law is “in” them both because they are measured by it *and* because they actively rule and measure their own acts in accordance with it. It is thus “in” them properly and formally as “law”» (pp. 39-40). Por eso, puede describirse también como «a body or ordered set of true propositions formed by practical reason about what-is-to-be-done» (p. 41). El primero de estos preceptos es «*good is to be done and pursued, and evil is to be avoided*. And upon this are based all other precepts of natural law, namely, that all those things belong to natural law that practical reason naturally grasps as goods to be done (or evils to be avoided)’. Continuing, Thomas says that “good” has the meaning of an end, whereas “bad” has the opposite meaning. It thus follows that “reason naturally apprehends as goods, and consequently to be pursued in action, all this things to which man has natural inclination, and things contrary to them (reason naturally apprehends) as evils to be avoided”» (p. 41). «To put

matters another way, the basic practical principle that *good is to be done and pursued, and that its opposite, evil, is to be avoided* is specified by identifying real goods of human persons. According to Thomas, there exist within us "natural inclinations" dynamically directing us toward specific aspects of human well-being and flourishing, and our practical intelligence "naturally" apprehends as good, and therefore to be pursued in human choice and action, the realities to which these natural inclinations direct us. When he says that practical reason "naturally" apprehends the goods to which human beings are naturally inclined, Thomas means that there is no need for discursive, syllogistic reasoning in order for us to know them as good. Knowledge of these goods is not innate, but is direct and nondiscursive, given human experience» (pp. 41-42). Luego, tras aclarar la controversia sobre la referencia de Santo Tomás a la definición de Ulpiano (pp. 47-51)⁴, analiza su pensamiento en la *Summa contra Gentes* (pp. 51-54), para concluir, «This brief account of St. Thomas's teaching in Book 3 of *Summa contra Gentes* allows us to have a clear idea of the way he conceived natural law in this work. It is something pertaining to human intelligence. Indeed, it is the way human beings *actively* participate in the divine law, ordering their own actions in accordance with this law insofar as this is inwardly known by them. This law directs man to live in accordance with reason, i. e., to respect the "end" or "ends") for which has been made and to which he is naturally inclined. These "ends" include, first of all, God, whom man must adore and to whom he must cling in love. But, in a somewhat different way, these "ends" include life in fellowship and amity with others, proper respect for one's personal integrity and dignity, and proper respect for goods as purposes to which specific sorts of human activity, e. g. genital sex, are ordered. The account in the *Summa contra Gentiles*, while differently expressed than the account in the *Summa Theologiae*, is fundamentally the same» (p. 54).

En cuanto al tratamiento de la ley natural en el Concilio Vaticano II, señala: «According to the Council Fathers, "all men, because they are persons, that is, beings endowed with reason and free will and therefore bearing personal responsibility, are both impelled by their nature and bound by a moral obligation to seek the truth" (*Dignitatis humanae*, n. 2). The truth at stake is, moreover, not an abstract or speculative truth. Indeed, men "are bounded to adhere to the truth once come to know it and to direct their whole lives in accordance with the demands of truth" (*ibid.*). Their duty is to "prudently form right and true judgments of conscience" (*ibid.*, n. 3). The truth in question, in other words, is *moral truth*, truth known by practical reason –and in knowing it men participate in God's divine and eternal law» (p. 54). Y resume el análisis de

⁴ Cuestión que el autor aclara en las siguientes términos: «This analysis of the way in which Thomas incorporated Ulpian's definition of natural law into his own thought on the subject shows that he never accepted Ulpian's understanding natural law as nonrational kind of instinct. Rather, he consistently held natural law, formally and properly as *law*, is the work of practical reason. He accepted Ulpian's definition only as a very restricted or limited way of understanding natural law, as referring those tendencies that human beings share with other animals and which, in the human animal, must be brought under the rule of reason, under the tutelage of natural law» (p. 51).

los varios textos del Concilio, en el siguiente «set of propositions: 1) The highest norm of human life is God's divine law, eternal, objective, and universal (*Dignitatis humanae*, n. 3).- 2) Human persons have been so made by God that they are able, by exercising their intelligence, to come to know ever more securely the unchanging truths meant to guide human choices and actions contained in God's law (*Dignitatis humanae*, n. 3; *Gaudium et spes*, n. 16).- 3) The human search for unchanging truth is not easy, and it is for this reason that God has, through divine revelation, made His law and its unchanging truths known to mankind and has given His Church the competence and authority to teach mankind the requirements of His divine and natural law (*Gaudium et spes*, nn. 17,51; *Dignitatis humanae*, n. 14).- 4) Nonetheless, the unchanging truths of the moral order can be known by human intelligence insofar as these truths are rooted in the being of human persons and in the constitutive elements of human nature (*Dignitatis humanae*, nn. 3.14; *Gaudium et spes*, nn. 16.17.51).- 5) The divine, eternal law, which is the natural law insofar as it comes to be in the minds of human beings, contains (a) first or common principles and (b) more particular and specific norms transcending historical and cultural situations precisely because they are rooted in constitutive elements of human nature and human persons and conform to the exigencies of human nature and human persons. Among the (a) first or common principles are such principles as *good is to be done and evil is to be avoided* (cfr. *Gaudium et spes*, n. 16) and *human activity should harmonize with the genuine good of human race* (cfr. *ibid.*, n. 35). Among (b) more particulars and specific norms are those moral absolutes proscribing the killing of the innocent, suicide, torture, and similar kinds of actions (cfr. *Gaudium et spes*, nn. 27.51.79-80)» (pp. 58-59).

Particularmente interesante y detallado es el apartado que dedica al pensamiento de Grisez-Finnis-Boyle sobre la ley natural, cuyo contenido resume así: «The natural law consists of an ordered set of true propositions of practical reason. The first set (I) consists of first principles of practical reasoning, of which the fundamental principle is that *good is to be done and pursued and evil is to be avoided*, a principle that is given specific determinations by identifying the basic forms of human flourishing which are the goods that are to be pursued and realized. These principles of practical reasoning are used in one way or another by everyone who considers what to do, however unsound his conclusions. The second set (II) consists of (a) the first principle of morality – which expresses the integral directiveness of all the principles of practical reasoning – and (b) its specifications or modes of responsibility. The first principle is that *in voluntary acting for human goods and avoiding what is opposed to them, one ought to choose and otherwise will those and only those possibilities whose willing is compatible with a will toward integral fulfillment*. Its specifications – the modes of responsibility – exclude ways of choosing that ignore, slight, neglect, arbitrarily limit, or damage, destroy, or impede basic human goods. In the light of the first principle of morality and its specifications human persons are able to distinguish between acts reasonable-all-things-considered (and not merely relative-to-a-particular-purpose) and acts that are

unreasonable-all-things-considered, i.e., between ways of acting that are morally right and morally wrong. The third set (III) of natural law propositions, formulated in the light of the first and second sets, consists of specific moral norms, of which some are absolute whereas others admit exceptions in the light of the principles that gave rise to them to begin with. In addition, the integral directiveness of the first principles of practical reasoning – expressed in the first principle of morality that directs us toward the ideal of integral human fulfillment – provides us with the criterion for establishing moral priorities among our interests in the basic human goods of human existence. When this goods are considered from the perspective of this integral directiveness – the directiveness of unfettered practical reason – the good of religion, or of harmony between human persons and God or the ‘more-than-human source of meaning and value’ is seen to have a priority insofar as commitment to this good offers to human persons an overarching purpose in terms of which they can order their lives as a whole. Thus a commitment to religious truth emerges as the commitment that can integrate the whole of human life when this is conceived in the light of the demands of moral truth» (pp. 77-78). Con ello, concluye May, Grisez-Finnis-Boyle han realizado una significativa contribución al tema de la ley natural, prosiguiendo las bases puestas por Santo Tomás, en tres puntos: a) la identificación de la totalidad de los bienes básicos del hombre, de los que el Aquinate dio sólo una enumeración ejemplificativa; b) la distinción entre los principios de la razón práctica y los principios de la moralidad; c) y en orden al procedimiento para especificar las normas morales a través de los modos de responsabilidad (pp. 78-80).

Sin la menor duda, es mérito de estos autores haber vuelto a fundamentar la ley natural en los bienes intrínsecos de la persona (que la segunda escolástica había perdido), y haber prestado con sus estudios una eficaz ayuda a mejor identificar los bienes básicos que integran la perfección del hombre, cuestión decisiva para la determinación de las normas morales específicas, y en particular de los varios preceptos concretos negativos de carácter absoluto o *absolutos morales*, en los términos que se verán más adelante. También es interesante su estudio sobre los principios morales y su formulación, y en concreto de los modos de responsabilidad. Como es sabido, Santo Tomás habla de la ley natural, por así decirlo, en dos claves: una como dinamismo intrínseco – capacidad, inclinación y exigencia hacia la propia perfección y plenitud – y otra en cuanto formulación racional de esas inclinaciones y exigencias. La presentación de la ley natural como conjunto de preceptos atiende prioritariamente a este segundo aspecto o dimensión, a lo que – con lenguaje del Aquinate al tratar de la Nueva Ley – podríamos llamar el elemento externo o letra de la ley, más que al dinamismo intrínseco del cual es expresión. La formulación del primer principio de la Ley natural y de los «modos de responsabilidad» realizadas por Grisez-Finnis ayuda a reconocer sobre todo los preceptos *negativos* concreto absolutos o *absolutos morales*. Sin embargo, nos parece que la moral de virtudes de Santo Tomás sigue proporcionando un camino más rico y completo – en su conjunto – para el discernimiento de las exigencias *positivas*

de la ley moral. Ciertamente, la ley natural se presenta mediante la formulación de principios y normas, pero es ante todo el dinamismo hacia su propia perfección –inscrito por Dios en la naturaleza de la persona, en su deseo del bien sin restricciones y en la inclinación de su inteligencia a la verdad – que se despliega a través de las virtudes. Por eso, Santo Tomás tiene como formulación preferida y comunmente usada del primer principio la del mandamiento del amor a Dios y al prójimo, raíz de todas las virtudes. En Santo Tomás, los primeros principios – precepto del amor, la regla áurea – son, por así decirlo, más que fórmulas universales *ideas en acción* inseparables de suyo de todo el despliegue de las virtudes morales, porque éstas no son vistas sólo como simples disposiciones que facilitan cumplir mandatos conocidos sino cual principios activos del *conocimiento* del bien singular y concreto, además de energía para amarlo adecuadamente. Concluyendo, considero que la exposición de estos autores complementa en algunos puntos la de Santo Tomás, pero, a mi juicio, podría fundirse mejor con ella.

* * *

Terminada la exposición de la estructura y fundamento de la ley natural, el autor dedica el *capítulo tercero* al tema de los *absolutos morales*, punto importante de la ley natural y centro del actual debate teológico-moral. Posiblemente sea el capítulo más logrado de la obra, en el cual los estudios de Grisez-Finnis sobre la ley natural son más determinantes, y el que confiere a *An Introduction to Moral Theology* una particular fuerza clarificadora.

La discusión entre los teólogos del disenso y el Magisterio no versa sobre la negativa a reconocer un mal moral en el aborto, la contracepción o el adulterio sino sobre el hecho de que tales actos *sean siempre un mal moral*, y por tanto estén prohibidos por normas morales absolutas o sin excepción. May precisa cuidadosamente el sentido en que emplea la expresión *absolutos morales*, paralela a la de *actos intrínsecamente ilícitos* de uso más corriente en la tradición cristiana: «The expression (moral absolutes) is used here to refer to *moral norms identifying certain types of action without employing in their decription any moral evaluative terms*⁵. Deliberately killing babies, having sex with someone other than one's spouse, contracepting, and making babies by artificial insemination are examples of types of action specified by norms of this kind. Such norms are called "absolute" because unconditionally and definitively exclude specifiable kinds of human action as morally justifiable objects of choice. They are said to be true always, under every circumstance (*semper et pro* [or ad] *semper*). The type of actions specified by such norms are called "intrinsically evil acts"» (p. 100).

Un primer importante punto resaltado por el auto, es que la negación de los absolutos morales entre teólogos católicos tiene unos *inicios bien recientes* y conocidos: «The roots of the rejection of moral absolutes can be found in the

⁵ El subrayado es nuestro.

reasoning advanced by authors of the celebrated "Majority Report" of the Papal Commission for the Study of Population, the Family, and Natality. This commission had been established by Pope John XXIII and, after his death, had been increased in size by Pope Paul VI. Its original purpose was to advise the Holy See about what to say in international organizations about the population problems and proposed solutions to it. But the expanded body undertook to study the whole issue of contraception. The documents of this commission, which were intended, in accord with the mandate given to the commission, solely for the use of the Holy Father, who had the responsibility to assess their work, were leaked to the public in 1967, plainly with the intent of putting pressure on Pope Paul VI to change the teaching of the Church on contraception. In the papers comprising what come to be called the "Majority Report" of the commission, the authors presented arguments to justify the practice of contraception by married couples⁶. Nevertheless, they insisted, in company with all Catholic moral theologians of the time, that there are moral absolutes (...) Despite their protests, however, it soon became clear that the reasoning they advanced to support their view that married persons could, under given conditions, rightly practice contraception could also be used to justify exceptions to other norms that had been regarded up to that time as absolute by Catholic moral theologians. This point has been conceded by revisionist theologians such as Charles E. Curran» (p. 101).

Concretamente, los argumentos en que se funda el «Majority Report», son fundamentalmente dos: a) primero, lo que llaman el «principio de preferencia» o «principio del bien proporcionado»; todo acto puede realizarse si hay una razón proporcionada para ello: así, quitar la vida a otro es un mal porque – cita literal del Report – «is contrary to right reason *unless there is question of a good of a higher order*» (p. 102)⁷; b) en segundo lugar, y complementando el principio de la razón proporcionada, sostienen que los actos de los cónyuges no deben examinarse aislados, sino en el conjunto de la vida conyugal: su argumento es que «there is a "material privation" (or what will later be called "ontic", "pre-moral", or "non moral" evil) in contraceptive activity insofar as it deprives a conjugal act of its procreative potential. However, the contraceptive intervention is only a partial aspect of a whole series of contracepted marital

⁶ Cabe aún concretar más, lo que la mayoría sostuvo no fue siquiera la licitud de la contracepción en general, sino de la «píldora contraceptiva»; nadie, en un primer momento, se atrevió a decir que podía ser lícito, por ejemplo, el onanismo: cfr PH. DELHAYE, «*Intrinsicque déshonnête*», in AA.VV., *Pour relire "Humanae vitae"*, Gembloux 1970, pp. 23-34; R. GARCÍA DE HARO, *Matrimonio e famiglia nei Documenti del Magistero*, Ares, Milano 1989, pp. 175-176 y 213 y ss; *The Formation of the Priest in Pastoral Assistance to the Family*, Vatican Polyglot Press, Roma 1991, pp. 21-25.

⁷ Basan esta argumentación en la no rechazo por el Magisterio de la pena de muerte: no vamos a entrar aquí en la discusión pendiente sobre el tema; nos limitaremos a subrayar que entre la muerte del inocente (siempre condenada por la Iglesia) y la condena a muerte de un criminal, hay *diversidad del objeto moral* del acto; y que *nunca* la Iglesia ha admitido que pueda existir razón proporcionada para matar un inocente.

acts, and his entire ensemble "receives its moral specification from the other finality, which is good in itself (namely, the marital union) and from the fertility of whole conjugal life" (...). Rather, *what* they are doing – the moral "object" of their act – is "the fostering of love responsibility toward generous fecundity". And this is obviously good, not bad» (pp. 102-103).

A continuación, y antes de pasar a la crítica, May precisa la terminología de los teólogos revisionistas: «First of all, revisionist theologians – among them Franz Bockle, Charles E. Curran, Josef Fuchs, Bernard Haring, Louis Janssens, Richard McCormick, Timothy E. O'Connell, Richard Gula, Franz Scholz, and Bruno Schuller – while denying the existence of moral absolutes in the sense previously described, acknowledge that there are other kinds of moral absolutes. They admit that there are absolutes in the sense of "transcendent principles" that direct us to those elements of our existence whereby we transcend or surpass the rest of material creation. Thus they acknowledge the absoluteness of such principles as "One must always act in conformity with love of God and neighbor" and "One must always act in accordance with right reason". Similarly, they regard as absolute norms that they call "formal". These norms articulate what our inner dispositions and attitudes ought to be. It is thus always true that we should act justly, bravely, chastely, and so on. Such formal norms express the qualities that ought to characterize the morally good person. They are *not* concerned with specific human acts and choices but rather with the moral being of the agent. In a way they are, as Josef Fuchs has said, "exhortations rather than norms in the strict sense"⁸; and, as Louis Janssens has noted, they "constitute the absolute element in morals"⁹. Finally, these theologians admit that norms using morally evaluative language to refer to actions that human persons ought never freely choose to do are absolute. Thus, we ought never to *murder*, because to murder is by definition to kill a person *unjustly*. Likewise, we ought never to have sex with the *wrong* person, because such sex is also wrong by definition. Yet norms like this are tautological and do not help us to know which specific kinds of killing are unjust or what specific kind of sex is sex with the wrong person, etc. As Fuchs observes, these "absolute" norms are "parenthetic", not instructive, and simply serve to remind us of what we already know and exhort us to avoid morally wrong actions and to engage in morally right ones¹⁰. While acknowledging "absolutes" of the foregoing kind, revisionist theologians deny that there are moral absolutes in the sense of norms universally proscribing specifiable sorts of human action described in morally neutral language. They call such norms "material" or "behavioral/material" norms. According to them such norms identify "physical acts" or "material acts" or "behavior", including, in some cases, the "direct" or

⁸ FUCHS, *Christian Ethics in a Secular Arena*, p. 72.

⁹ JANSSENS, «Norms and Priorities in a Love Ethic», 208.

¹⁰ FUCHS, *Christian Ethics in a Secular Arena*, P. 72; see FUCHS, «Naturrecht oder naturalistischer Fehlschluss?», 441.416.419; see also RICHARD MCCORMICK, *Notes on Moral Theology 1965-1980* (University Press of America, Lanham, MD 1981), pp. 578-579.

immediate effects of such acts, described independently of *any* of the acting subject's purposes¹¹. As one revisionist theologian, Richard Gula, puts it, "material norms", "when stated negatively, point out the kind of conduct which ought to be avoided *as far as possible*", but all norms "ought to be interpreted as containing the implied qualifiers, *if there were no further intervening factors*, or *unless there is a proportionate reason*, or *all things being equal*"¹²» (pp. 103-104).

Además de los dos argumentos del «Majority Rapport» ya señalados – del «principio del bien proporcionado» y de la «naturaleza del acto humano como totalidad» –, los revisionistas usan un tercer argumento para negar los absolutos morales: la historicidad de la existencia humana. «According to revisionist theologians, material norms are useful generalizations alerting us, as Gula says, to the "kind of conduct that ought to be avoided as far as possible"¹³. We come to the knowledge of these norms by collaborative exercise of human intelligence by persons living together in communities on shared human experiences¹⁴. Since material norms are discovered in this way, it follows that they are affected by human historicity and the openended, on-going character of human experience. Revisionists recognize that there is a "transcendent", "transhistorical" and "transcultural" dimension of human persons, insofar as human persons are called to "a steadily advancing humanization"¹⁵. Nonetheless, "concrete" human nature, by reason of its historicity, is subject to far-reaching changes. It thus follows that no specific material norm, articulated under specific historical conditions, can be true and applicable universally and unchangeably. Nor does it follow from this that these norms are merely subjective and relative. Their objective truth corresponds to the actions they proscribe or prescribe insofar as these are related to the "whole concrete reality of man" and of the particular, historical society in which people live. Nonetheless, while these norms are true and objective, they cannot be absolute in the sense of being universally true propositions about what human persons ought or ought not to do in every conceivable situation. In fact, as Fuchs has said, "a strict behavioral norm, stated as a universal, contains unexpressed conditions and qualifications which as such limit its universality"¹⁶. Since human experience, reflection upon which leads to the formulation of material norms, is itself an on-going, openended process, it follows, as Francis Sullivan put it, that "we can never exclude the possibility that future experience, hitherto unimagined, might put a moral problem into a new frame of reference which call for a revision of a norm that,

¹¹ FUCHS, *Personal Responsibility and Christian Morality*, p. 191; FUCHS, *Christian Ethics in a Secular Arena*, p. 74; JANSSENS, *Norms and Priorities in a Love Ethic*, 210.216; GULA, *Reason Informed by Faith*, pp. 288-289.

¹² GULA, *Reason Informed by Faith*, p. 291.

¹³ GULA, *Reason Informed by Faith*, p. 291.

¹⁴ FRANCIS SULLIVAN, *Magisterium: Teaching Authority in the Catholic Church*, Paulist Press, New York 1983, pp. 150-151. Sullivan lists Curran, Fuchs, Bockle, Shuller, Haring, and other revisionists as agreeing with this way of putting the matter.

¹⁵ FUCHS, *Personal Responsibility and Christian Morality*, 129.

¹⁶ *Ibid.*, p. 124.

when formulated, could not have taken such new experience into account" ¹⁷» (p. 109).

Luego de su preciso análisis del contenido y de los argumentos de los revisionistas, May los somete a una detallada crítica. *Ante todo, señala que sus afirmaciones respecto a lo que la tradición afirma son inexactas*: «Revisionist theologians, as we have seen, uniformly refer to moral absolutes as "material" or "concrete behavioral" norms. They say that these norms identify "physical acts" or "material acts", including, in some instances, the direct effects of these acts. They maintain that such "material" acts are physical or material events considered in abstraction of any purpose or intention of their agents. But Catholic theologians who today defend the truth of moral absolutes and those who did so in the past, including St. Thomas Aquinas, offer a much different account of these "material" or "behavioral" norms, which they *never* call "material" or "behavioral" norms. According to these theologians – es decir, los seguidores de la tradición patrístico-tomista –, the human acts identified and morally excluded by such norms are not specified independently of the agent's will. Rather, they are specified "by the object" (*ex obiecto*), and by "object" they mean exactly *what the agent chooses*, i.e., the act to be done or omitted and the proximate result sought in carrying out the choice to do this act. Thus, for example, Pope John Paul II, in *Reconciliatio et poenitentia*, referred to a "doctrine, based on the Decalogue and on the preaching of the Old Testament, and assimilated into the *kerygma* of the Apostles and belonging to the earliest teaching of Church, and constantly reaffirmed by her up to this day". What doctrine? The doctrine that "there exist acts which *per se* and in themselves, independently of circumstances, are always seriously wrong by reason of their object (*propter obiectum*)". The Catholic tradition affirming these moral absolutes held that these norms do not bear upon acts "in their *natural* species" but rather upon them "in their *moral* species (or genus)"» (pp. 110-111). *En segundo lugar, niega que «el principio del bien proporcionado» sea una verdad autoevidente*, contra lo que parecen pensar los teólogos revisionistas: precisamente, porque la comparación entre la grandeza de los bienes en que se funda sería posible sólo «if they could be reduced to some common denominator such as centimetres, inches, or feets, scales adopted not by discovering a truth about these realities but by an arbitrary act of the will. But the goods involved in moral choice are not reducible to some common denominator. They are simply different and incomparable goods of human persons. Thus the presupposition upon which the alleged "preference principle" rests is false: one cannot determine, prior to choice, which alternative unambiguously promises "greater" good. One cannot determine, in a nonarbitrary way, which human goods are greater or lesser. They are all incomparably good, irreducible aspects of human flourishing and wellbeing. And the same is true of individual instances of these basic goods of human

¹⁷ SULLIVAN, *Magisterium*, pp. 151-152; see FUCHS, *Personal Responsibility and Christian Morality* p. 140.

persons. Who could judge whether Jane Smith's life is a "greater good" than life of John Jones?» (p. 113). *En tercer lugar, y respecto al argumento de la totalidad, señala el equívoco en que se funda:* «it is true that an act must be good in its "totality" or "wholeness" if it is to be morally good (*bonum ex integra causa*). But it is not true that we cannot judge that a proposed act is morally bad without taking into account *all* of its elements, for if we know that *any* of its elements is bad (la intención o la obra, el fin o el objeto), we can know that the *whole* act is morally vitiated» (p. 116).

Resta el *argumento de la historicidad de la existencia humana*. May lo describe primero con las palabras de Sullivan, apenas referidas, sobre la fundación del conocimiento humano en la experiencia realizada en comunidades concretas, lo que implicaría siempre la posibilidad de nuevas imaginadas experiencias, que obligarían a reformular toda norma concreta e imposibilitarían declarar ninguna como definitiva (pp. 117-118). Y sigue la crítica precisa: «But revisionist theologians do not explain clearly what "concrete", as opposed to "transcendent", human nature means. They do not show how fundamental human goods, such as life itself, knowledge of the truth, friendship, and so forth, might cease to be good and perfective of human persons, nor do they explain how their claim about radical change in human nature is compatible with the unity of the human race and our solidarity with Christ. They fail to show how this claim can be harmonized with such basic truths of Catholic faith as, for instance, that "all human beings...have the same nature and the same origin"¹⁸, a "common nature"¹⁹, and the "same calling and destiny", and so, being fundamentally equal both in nature and in supernatural calling, can be citizens of the one people of God regardless of race or place or time²⁰. Thus the denial of moral absolutes on the alleged claim that there is a radical change in concrete human nature because of human "historicity" simply cannot sustained» (p. 118).

Finalmente, May pone de relieve las razones profundas que sustentan la existencia de los absolutos morales, según la constante tradición de la Iglesia. El tema se aclara si se tiene en cuenta la distinción entre las exigencias afirmativas y negativas de la vocación cristiana: «Because the human person's vocation is to love, even as he or she has been and is loved by God in Christ, it is not possible to say, affirmatively, precisely what love requires, for its affirmative obligations must be discovered by us in our creative endeavor to grow daily in love of God and neighbor. But moral absolutes show us what love *cannot* mean: it cannot mean that we deliberately set our wills *against* the good gifts that God wills to flourish in his children and close our hearts to our neighbors. Each true specific moral absolute summons each person to revere the goods intrinsic to human persons. Human persons, each in his or her corporal and spiritual unity (*Gaudium et spes*, n. 14), are the only earthly

¹⁸ *Gaudium et spes*, n. 29; *Lumen gentium*, n. 19.

¹⁹ *Lumen gentium*, n. 13.

²⁰ *Gaudium et spes*, n. 29; *Lumen gentium*, n. 13.

creatures God has willed for themselves (*Gaudium et spes*, n. 24). Respect for human persons, each for his or her own sake, is therefore required by the Creator's design, and is a primary element in love of God and of one's neighbor as oneself. Such a respect and reverence is, moreover, a primary demand of that divine dignity to which Christ has raised human nature by assuming it (*Gaudium et spes*, n. 22)» (p. 123)²¹.

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El capítulo cuarto aborda el tema del pecado, con el propósito «to present in some depth the meaning of personal sin (...) The major concerns of this chapter, therefore, are with (1) the core meaning of sin, (2) the distinction between mortal and venial sin and the basis of this distinction, and (3) the effect of sin on our moral life» (p. 139).

May comienza por presentar el sentido del pecado en la Biblia. «The story of the "fall" of Adam and Eve in Genesis 3.1-14 is a dramatic portrayal of the reality of sin and its essential features. Our protoparents deliberately violate a known precept of God (*Gn* 3,3-6). Their outward act of disobedience is an expression of their inner act of rebellion; they are moved to sin partially by suspicion about God's love for them, partially by frustration over the limits to their liberty imposed by God's precept, and partially by desire for the immediate good, "knowledge of good and evil," promised by the performance of the sinful act. Their rebellious deed harms them (*Gn* 3,7) and alienates them from God, from one another, and from themselves (*Gn* 3,8-24). Faced with their sin, they try in vain to defend themselves with specious rationalizations (*Gn* 3,8-15), but

²¹ En apéndice trata la discusión sobre el pensamiento de Santo Tomás acerca de los absolutos morales, que los revisionistas han interpretado equivocadamente, para concluir: «His thought can be summarized as follows: 1. He teaches that there are acts that are "evil in themselves in their kind" (*secundum se malas ex genere*), which may never be done "for any good" (*pro nulla utilitate*), "in no way" (*nullo modo*), "in no event" (*in nullo casu*) – and gives examples of such acts in morally neutral terms: killing the innocent (*Summa Theologiae*, II-II, q.64, a.6), committing adultery in order to overthrow tyranny (*De Malo*, q. 15, a. 1ad 5), "putting forth falsehood" (*Summa Theologiae*, II-II, q.69, a.2). 2. He teaches that besides affirmative precepts (which bind generally *semper*, but not universally, *ad semper*), there are negative precepts which are valid and binding always and universally (*semper et ad semper*), e.g., "at no time is one to steal or commit adultery" (*Ad Romanos*, c. 13, lect. 2; *In III Sent.* d. 25, q. 2, a. 1b, ad 3; *In IV Sent.* d. 17, q. 3, a. 1d, ad 3; *De Malo*, q. 7, a. 1, ad 8; *Summa Theologiae* II-II, q. 33; q. 79, a. 3, ad 3). 3. He everywhere rejects arguments attempting to solve "conflict cases by identifying a state of affairs or effect which could seem to be lesser evil (*minus malum*) than doing act that is wicked in itself of its kind (*secundum se malum ex genere*)" (*In IV Sent.* d. 6, q. 1, qua 1, a. 1, ad 4; *Summa Theologiae*, II-II, q. 110, a. 3, ad 4; III, q. 68, a. 11, ad 3; 9.80, a. 6, ad 2). 4. He teaches that it is a revealed truth that evil may not be done for the sake of good, even the highest and greatest good such as salvation (*Summa Theologiae*, III, q. 68, a. 11, ad 3). 5. He teaches, as we have seen, that the precepts of the Decalogue, most of which are negative and binding always and universally (*semper et ad semper*) are, when properly understood, subject to no exceptions whatsoever, even by divine dispensation (*Summa Theologiae*, I-II, q. 100, a. 8; *In III Sent.*, d. 37, q. 1, a. 4). The conclusion is evident: St Thomas affirmed the truth of moral absolutes" (pp. 135-136).

nothing they can do can prevent the disastrous effects of their sin (*Gn* 3,14-24). The idea that sin is a perverse revolt against God, so dramatically set forth in the story of the fall, is central to the Old Testament's understanding of sin. The Old Testament consistently regards sin as a wicked rebellion against the Lord (*Nm* 14,9; *Dt* 28,15), a contemptuous spurning of God (2 *Sm* 12,10; *Is* 1,4; 43,24; *Mi* 4,6). When seen from the perspective of God's covenant with His people, sin is recognized as an act of unfaithfulness and adultery (*Is* 24,5; 48,8; *Jer* 3,20; 9,1; *Ez* 16,59; *Ho* 3,1). When viewed from the perspective of divine wisdom, sin is branded "foolishness" (*Dt* 32,6; *Is* 29,11; *Prv* 1,7) (...). Sin springs from the "heart" of a person, and as such is an act involving a personal, inner, and enduring wrong (1 *Sm* 16,7; *Jer* 4,4; *Ez* 11,19; *Pss* 51), a view of sin reaffirmed most clearly in the New Testament (*Mk* 7, 20-23 and par.)» (pp. 139-140). Luego, cuida de aclarar que «Scriptures understand sin to be essentially an offense against God. Nonetheless, sin does not hurt or harm God in His inner being, for God as the wholly transcendent One can in no way be harmed by the actions of His creatures. Rather, sin harms the sinner (*Jb* 35,6; *Is* 59, 1-2; *Jer* 7,8. 19). Still, sin does wound God in His "image," i.e., in the human persons He has made to share in His life. Inasmuch as it is a refusal by sinners to let themselves be loved by God, sin in a certain sense, as the biblical scholar Stanislaus Lyonnet has observed, harms the "God who suffers from not being loved, whom love has, so to speak, rendered *vulnerable*" (p. 141). Finalmente señala que «the New Testament takes up and deepens these Old Testament themes on the reality and evil of sin. Because of its more profound grasp of the loving intimacy that God wills to share with His children, the New Testament deepens the Old Testament understanding of sin as separation from God. The Father so loves us that He sends His only-begotten Son to be with us and for us, actively seeking to reconcile sinners with Himself, loving sinners even while He is being repudiated by them. Thus sin is a refusal of the Father's love (*Lk* 25), a refusal rooted in the heart, in the free, self-determining choice of the sinner to reject God's offer of grace and friendship» (pp. 141-142).

Otra perspectiva fundamental del Nuevo Testamento es la de presentar siempre el pecado en el clima de una llamada a la *conversión*: «the concept of sin is closely linked to the concept of conversion. Jesus begins His public life by calling people to repentance (*Mk* 1,4.15; *Mt* 3,7-10; *Lk* 3,7). As the biblical scholar Johannes Bauer observes, "this presupposes that the men to whom [Jesus's preaching] is addressed have already *turned away* from God. It is precisely in this turning away from God that sin consists. It is disobedience to God (*Lk* 15, 21) and lawlessness (*Mt* 7,23; 13,41)". Just as we turn to God and cleave to Him through the act of conversion, so by sinning we turn away from Him» (p. 142). Además, el Nuevo Testamento subraya la *esclavitud engendrada por el pecado*: «Another point (...) in the New Testament teaching on sin is that we are lost and slaves to sin without God's help. Left to our own resources we cannot live long without sin, for it is God who guides us on the path of righteousness (cfr *Rm* 1-5). If we abandon God through sin, we are like the prodigal son and the lost sheep in the parable of Luke's gospel (*Lk* 15). But

God is our friend, our savior, our redeemer; The very name Jesus means salvation, for He is the one sent by the Father to redeem us and to reconcile us to the Father» (p. 142).

Desde estas bases aborda la crítica de legalismo, que algunos dirigen a la tradición cristiana. Tal legalismo, dicen, se mostraría en la conocida definición agustiniana del pecado como «algo dicho, hecho o deseado contra la ley eterna». Pero, en realidad, tal definición se presenta como «too “legalistic”» sólo cuando se tiene una concepción errada de la ley divina, y se piensa que San Agustín concibe el pecado «as basically the infraction of some externally imposed norm». En tal perspectiva, «the repudiation of “legalism” by these theologians is quite justified. Moral principles and norms are not arbitrary rules imposed upon human liberty; they are rather truths in whose light good choices can be made. But if we keep in mind the traditional Catholic understanding of “law” as a wise and loving ordering of human persons to the goods – and the Good – perfective of them, we can see the good sense of this Augustinian definition of sin (...) The Council said, “Man has been made by God to participate in this law, with the result that, under the gentle disposition of divine providence, he can come to perceive ever more increasingly the unchanging truth” (*Dignitatis humanae*, n. 3; cfr *Gaudium et spes*, nn. 16-17) (...) The natural law is the way in which human persons “participate” in God’s divine and eternal law. Through the natural law human persons come to an ever deeper understanding of what they are to do if they are to be fully the beings God wills them to be. In short, the eternal law is God’s wise and loving plan; for the good of human persons and so great is His love and respect for them that He has made them able to share actively in His loving and wise plan so that they are not only ruled and measured by it but are inwardly capable of shaping their choices and actions in accordance with its truth. When “eternal law” is understood in this nonlegalistic way, we can understand how sin is, in essence, a morally evil act, i.e., a freely chosen act known to be contrary to the eternal law as this is made manifest in our conscience (*Dignitatis humanae*, n. 3; *Gaudium et spes*, n. 16). As morally evil, the freely chosen act is deprived of the goodness it can and ought to have. As an evil or privation in the moral order, the sinful act blocks the fulfillment of human persons on every level of existence, harming and twisting the person in his or her depths (*Gaudium et spes*, n. 27), damaging human community, and rupturing the relationship that God wills should exist between Himself and humankind (see *Gaudium et spes*, n. 13) (...) Sin, in other words, is a deliberately chosen act known to violate the basic norm of human activity, namely, that such activity, “in accord with the divine plan and will, should harmonize with the authentic good of the human race, and allow men as individuals and as members of society to pursue their total vocation and fulfill it” (*Gaudium et spes*, n. 35) (pp. 143-144). Lejos de ser legalística, la concepción cristiana del pecado lo muestra en su realidad intrínseca de voluntaria y culpable autodestrucción de la persona.

De ahí, la presentación en profundidad de la *dimensión social del pecado*; Precisamente, porque «the inner core of sin is a free, self-determining choice

that abides within the person, the reality of sin, traditionally termed the "guilt" or "stain" of sin, remains within the sinner. In short, we make ourselves *to be* the persons we are by the choices that we freely make. In every sinful choice we make ourselves to be sinners and guilty in the sight of the Lord. This perduring of sin within the sinner is what is meant by the "state" of sin or condition of sinfulness. Jesus summons us to recognize our sinfulness and to have a change of heart, *metanoia*, a conversion, which consists in a new self-determining choice whereby, in response to and with the help of God's unfailing and healing grace, we give to ourselves the identity of repentant sinners, of persons who have been reconciled to God. Sin persists in the being of the person who sins, and one morally evil commitment can lead to many morally wicked acts insofar as through the free choice to sin one has disposed oneself to act sinfully. To put this another way: sin is not simply deviation in isolated pieces of external behavior; it is evil in the existential domain and extends to all that exists by or is affected by sinful choices. In addition, when the sinner is a baptized person there is, as was already noted, an "ecclesial" element in sin – the sinner's sin affects not just the sinner but the whole Church. Through baptism we become one body with Jesus, members of His body, the Church. Thus, as St. Paul stressed so dramatically in 1 Corinthians 6, when a Christian has sex with a whore he joins to her not only his own body but the body of Christ as well; his sin is not only one of impurity but also one of defiling the Church. There is thus a sacriligious aspect to the sinful choices of those who have, through baptism, become one body with Christ. All this helps us to see the social significance of sin. The sinful choices of individuals, when tolerated and accepted by the society in which they live, soon become the practices of the society. They become embedded in its laws and customs, its way of life, its way of mediating reality to its people. Thus it is right to consider sin social as well as personal. But we must keep in mind that every social sin originates in and is perpetrated by individual person's sinful choices. Particular persons, as Pope John Paul II has emphasized, are responsible for initiating and maintaining such social evils as the oppression of minorities, unjust wars, the manipulation of communications, etc.» (pp. 147-149).

Respecto a la *distinción entre pecado venial y mortal*, que los revisionistas han querido poner en discusión, May nota que «in the New Testament Jesus sharply distinguishes between the "beam" in the hypocrite's eye and the "mote" in the eye of the hypocrite's brother (Mt 7,5), and it is evident that He considers the hypocrite's sin far grave than the sin of one whom the hypocrite criticizes. Moreover, in the prayer He taught His disciples, He asks them to beg forgiveness for their daily "debts" or transgressions (Mt 6,12; Lk 11,4), while He threatens others with hell's fire for their sins (Mt 23,33). The epistles distinguish between the daily sins in which even those regenerated in baptism can be guilty and those offenses which exclude one from the kingdom of heaven (contrast James 3,2 and 1 Jn 1,8 with 1 Cor 6,9-10 and Gal 5,19-21)» (p. 150). Los defensores de la llamada *opción fundamental* niegan esta distinción sosteniendo que «a sin is "mortal" only when there is a fundamental option against God and His love (or

against some other Ultimate). Mortal sin, in other words, involves the exercise of fundamental or basic freedom. The distinction between grave and light matter is relevant to the distinction between mortal and venial sin insofar as grave matter, according to the proponents of fundamental option, is the sort of thing likely to be an *occasion* for making or reversing one's fundamental option. Actions not likely to change one's fundamental disposition toward or against God are "light" matter. "Grave" and "light" matter can be used to name not only morally evil acts but also morally good ones (...). Still, proponents of this view recognize that one can change one's stance before God in particular acts of free choice. In other words, according to the proponents of fundamental option theory, grave matter is a "sign" that one's fundamental freedom may be at stake. Nonetheless, according to its advocates, one could freely choose to engage in an act that one knows involves grave matter, e.g., committing adultery or deliberately killing an innocent human being, and still not violate one's fundamental option toward God (or some Ultimate). Thus advocates of this position frequently distinguish between three kinds of sin: venial, in which only light matter is involved or in which one's freedom of choice is inhibited or one's knowledge is not clear; grave sins, which entail grave matter knowingly and freely chosen; and mortal sin, which requires that one exercises one's basic or fundamental freedom by taking a stance totally opposed to God (or some Ultimate)» (pp. 155-156). Sigue luego la *crítica* ajustada y precisa: «fundamental option theories, which either relocate self-determination from free choice to an exercise of basic freedom distinct from free choice or hold that we are self-determined only by *some* free choices and not by all of our free choices, fail to take seriously the reality of free choice. As we have seen before, we make or break our lives as moral beings in and through the choices that we make in our daily lives. We become liars, adulterers, cheaters, murderers, etc. in freely choosing to lie, commit adultery, cheat, kill the innocent, etc. As has been said over and over again, at the heart of human actions is a free, self-determining choice, and this choice abides in us until contradictory choices are made. As St. Thomas said, "to act (i.e., to choose to do something) is an action abiding in the agent" (*Summa Theologiae*, I-II, q. 57, a. 4). Fundamental option theory fails adequately to take into account the *self-determining* significance of the free choices we make in our daily lives» (pp. 156-157).

* * *

El *quinto capítulo* está dedicado mostrar el lugar de la fe en nuestra vida moral. No se plantea cuando debemos hacer actos de fe bajo pena de pecado, sino como la fe debe inspirar toda la vida del cristiano. «According to Catholic faith Jesus Christ our Lord is the "center and goal of the whole history of mankind" (*Gaudium et spes*, n. 10). Christ is the one who "fully reveals man to himself" (*Gaudium et spes*, n. 22). He is the "perfect man" (*Gaudium et spes*, nn. 22.38.41.45), in whom 'human nature is assumed, not annulled" (*Gaudium et spes*, n. 22). He is the one who "by his incarnation has somehow united all

men with himself" (*Gaudium et spes*, n. 22; *Redemptor hominis*, nn. 13.18) (...) Christ is our redeemer, our savior, and by uniting our lives with his we can in truth become fully the beings his Father wills us to be. The purpose of this chapter is thus to investigate the meaning of our lives as moral beings who have, through baptism, become "one" with Christ. Its purpose is to see how the "natural law" is brought to fulfillment and completion by the gospel "law" of Christ» (p. 167).

Para desarrollar el tema, el autor trata de los siguientes puntos: «1. the existential context within which our struggle to live morally good lives is situated; 2. Jesus Christ, the foundation of Christian moral life; 3. the meaning of our baptismal commitment and of our personal vocation to follow Christ; 4. the specific nature of Christian love as the principle of the moral lives of Christians; 5. the Lord's "Sermon on the mount," with its beatitudes, as the "charter of Christian ethics"; 6. the question of specific Christian norms; and 7. the "practicality" of the Christian moral life» (p. 167).

Destacaremos los momentos salientes. Comienza por describir nuestra *vida nueva en Cristo*: «Jesus, Vatican Council II instructs us, "fully reveals man to himself" (*Gaudium et spes*, n. 22). He does so because he is the center of human history, the one who holds primacy of place in God's loving plan for human persons and, indeed, for the whole created universe. This is clearly the central message of the New Testament, a message eloquently summarized by St. Paul in his words to The Colossians (*Col* 1,15-22) (...) Jesus is true God and true man. He is true God, for "in him all the fullness of God was pleased to dwell". He is God's eternal, unbegotten "Word" (cfr *Jn* 1,1). And Jesus is true man, for he is God's eternal Word made flesh, i.e., man (cfr *Jn* 1,14). "Born of a woman" (*Gal* 4,4), he is "like his brothers in every respect" (*Heb* 2,17), "tempted as we are, yet without sinning" (*Heb* 4,15). Insofar as he is man, Jesus achieves human fulfillment by living a perfect human life, one manifesting God's goodness in a unique and special way: "I glorified you on earth, having accomplished the work you gave me to do" (*Jn* 17,4). And his Father crowns his work by raising him – and all persons who are united with him – from the dead. Indeed, as St. Paul teaches us, "Christ has in fact been raised from the dead, the first-fruits of all who have fallen asleep. Death came through one man and in the same way the resurrection of the dead has come through one man. Just as all men die in Adam, so all men will be brought to life in Christ" (*1 Cor* 15,20-22). Again, as man, Jesus is the "first-born of all creation" (*Col* 1,15), and is completed by creation united under him: God "has let us know the mystery of his purpose, the hidden plan he so kindly made in Christ from the beginning to act upon when the times had run their course to the end; that he would bring everything together under Christ as head, everything in the heavens and everything on earth" (*Eph* 1,9-10; *Eph* 1,22-23)» (pp. 172-173).

En suma, Cristo es el *fundamento de la vida cristiana*, «for the life we now are empowered to live is in reality a divine life as well as a human life. Just as Jesus fully shared our humanity and our human life so we, by being engrafted into the "vine" which is Christ (cfr *Jn* 15,1-11), really share his divinity. In him

we are literally divinized, and our life in union with God begins here and now, to be brought to fulfillment in the heavenly kingdom when, "with death conquered the children of God will be raised in Christ and what was sown in weakness and dishonor will put on the imperishable" (cfr *1 Cor* 15,42.53); charity and its works will remain (cfr *1 Cor* 13,8; 3,14), and all of creation (cfr *Rm* 8,19-21), which God made for man, will be set free from its bondage to decay" (*Gaudium et spes*, n. 39). Although our life in union with Jesus and, in, with, and through him, with the Father and the Holy Spirit, will reach its fulfillment only on the day of the resurrection, it is absolutely essential to realize that divine life is already, here and now, present within us. We are, *now*, God's children; the divine nature has been communicated to us. While always remaining human, we really share in Christ's divinity. We are literally "other Christs," truly brothers and sisters and in, with and through him, God's very children. We receive this divine life in baptism, and this divine life is nurtured by the heavenly food God wills to give us, the body and blood of his Son, our Redeemer and Brother, Jesus Christ. From the earliest times Christian faith has held that eating this food differs markedly from eating other food. When we eat ordinary food we transform it into ourselves. But when we ingest Jesus living body, "he makes our mortal flesh come alive with his glorious resurrection life", precisely because "the partaking of the body and blood of Christ does nothing other than transform us into that which we consume" (*Lumen gentium*, n. 26, citing St. Leo the Great)» (p. 174).

Esta nueva vida en Cristo entraña una vocación: la vocación a la santidad común a todos los bautizados, pero que es en cada uno personal, y exige nuestro empeño por corresponder. «Our life as Christians begins when, in living faith, we accept God's word (*1 Thes* 1,6; 2,13; *Eph* 1,13), which the Gospels compare to a seed sown in good soil (*Mt* 13,23; *Mk* 4,20), and which Paul regards as a continually active power in believers (*1 Thes* 2,13), having an inner power to bear fruit and grow (*Col* 1,5f; *Eph* 1,13; *2 Cor* 6,1). But it is not enough simply to have received the word. The Christian's baptismal commitment requires him or her to take up the "sword given by the Spirit" and use it as a weapon in the spiritual combat (*Eph* 6, 17). God is indeed our Savior and Redeemer. It is through his initiative that we are now, by virtue of the love he has poured into our hearts, saved (*Ti* 3,5; *Eph* 2,5.8; *1 Cor* 15,1). He has sanctified us (*1 Cor* 1,2; 6,11), filling us with the fullness of Christ (*Col* 1,10), making us new men and women (*Eph* 2,15), clothing us in Christ (*Gal* 3,7) and making us new creatures (*2 Cor* 5,17), pouring his love into us through the Holy Spirit (*Rm* 5,5), so that we are indeed called by him and chosen (*Rm* 1,6; 8,28.33; *1 Cor* 1,24; *Col* 3,12) and made into his children, the children of light (*Eph* 5,8; *1 Thes* 5,5; *1 Jn* 3,1). But God's work in us is not completed by baptism. God continues to save us (*1 Cor* 1,1a3; *2 Cor* 2,15), to make us holy and blameless (*1 Thes* 5,23; 13). And we are called and empowered by his grace to respond freely and be his co-workers in perfecting our holiness (*2 Cor* 7,1) by wholeheartedly dedicating ourselves to a life of righteousness and sanctification (*Rm* 6,19). It is our task continually to "put on the Lord Jesus Christ" (*Rm* 13,14), casting off the works of darkness and

putting on the armor of light (*Rm* 13,2; *Eph* 5,8-11). As the children of the God who is love our call and commitment is to "abide in him" (*1 Jn* 2,28; 4,13f) and walk in the light and not in darkness (*1 Jn* 1,7). By reason of our baptismal commitment we are, in short, "to be what we are!". We are to image Christ in our lives, to cooperate with him in redeeming others and, indeed, in redeeming the entire cosmos. We are to lead apostolic lives, for like the Apostles we too are sent into the world in the love and service of the Lord (cfr the final words of the Mass, when we are sent forth to bring God's saving work to others by our own daily deeds)» (pp. 180-181).

El autor se detiene seguidamente en mostrar que el amor de caridad es el primer principio del obrar cristiano (*Christian Love, the Principle of Our Life in, Christ*: pp. 183-186), y como las Bienaventuranzas especifican los requerimientos del amor cristiano (*The Beatitudes, Specifying the Requirements of Christian Love*: pp. 186-190). May sigue, a este propósito, el pensamiento de Grisez-Finnis-Boyle. De nuevo, en mi opinión, los estudios de estos autores, cuyo interés es innegable, al centrar la guía de la conducta moral fundamentalmente en los *modos de responsabilidad*, proporcionan un esquema menos abierto que el Santo Tomás. En el Doctor Angélico la *guía de la vida cristiana* se apoya en una rica multiplicidad de elementos o figuras, apta a mostrar mejor sea la interrelación entre la acción de Dios y la correspondencia de la criatura, sea la unidad entre fe y obras, doctrina y vida, sabiduría y amor, sea, en fin, la activa-pasividad propia del obrar cristiano. Para Santo Tomás, el primer principio activo, que desarrolla el dinamismo intrínseco de la ley natural y de la ley Nueva de la gracia, abriendo simultáneamente el camino al «conocimiento y al amor del bien», son las *virtudes morales humanas*²² y *sobrenaturales* (vistas, ambas, no sólo como "habilidades" para cumplir mandatos, sino también y antes para el mismo *descubrir* el bien o valor moral: sólo el virtuoso juzga rectamente del contenido de la virtud). Las virtudes, como principio de conocimiento y amor del bien, están complementadas por un segundo tipo de hábitos operativos, los *dones del Espíritu Santo*, que capacitan al creyente a *entender* y seguir con docilidad las iniciativas del Espíritu, dado que nuestra mente (inteligencia y voluntad) aún informada por las virtudes teologales resta torpe para obrar según nuestra altísima condición de hijos de Dios. Por otra parte, y en una línea de indicadores más bien externos, están los *preceptos* sobre lo que debemos obrar y evitar; pero los preceptos son sólo una parte del conjunto enseñanzas sapienciales sobre la conducta ética, propio de la Biblia, que resultan irreducibles a una formulación en solas normas, pues contienen otra serie de modos importantísimo de ilustrar la conducta, expuestos en forma de *máximas* – no raramente paradójicas –, *parábolas*, *ejemplos*, etc. En fin, forman parte de esa guía y nos ayudan a tomar las actitudes adecuadas, las *promesas* sobre cuanto el Señor quiere que alcancemos y está dispuesto a obrar en nosotros si procuramos ser fieles (la vida eterna y la realización del *Reino de Dios*, ya incoado en la

²² Entre ellas, además de las cuatro cardinales, incluida por tanto la prudencia, esa otra virtud – tan central en la Biblia, particularmente en el Nuevo Testamento – que es la humildad.

tierra, donde obra en las almas la felicidad, la paz, y hace que rindan los *frutos* del Espíritu) y las *bienaventuranzas*, que no sólo entrañan actitudes que el Señor nos pide, sino que anuncian y describen las pruebas – previniendo así nuestro desconcierto - con que Dios trabajará la tierra árida de nuestra alma, hasta convertirla en un campo bien dispuesto para que la semilla de fruto al ciento por uno. En suma, sin disminuir su valor, los estudios de Grisez-Finnis, a mi juicio, no rendirán todo cuanto ya ofrecen sino engarzándose mejor en el conjunto de la tradición patrístico-tomista.

Este capítulo concluye con un sugestivo apartado sobre *The Practicability of the Christian Moral Life*, otra de las cuestiones debatidas por la moral revisionista: imposible para el hombre con sus solas fuerzas, la grandeza moral del cristianismo es sin embargo accesible a quien usa los medios que el Señor proporciona «If we are, moreover, to live our lives as faithful followers of Jesus, we need to make use of the aids he wills to give us in our struggle. We cannot live as Christians unless, like Jesus himself, we give ourselves over to prayer, to communion with God, in a colloquy in which we present to him our needs and ask him for his help, praising and thanking him for his boundless goodness to us. We need, above all, to remain close to Jesus by receiving with devotion and love his body and blood in the Eucharist and coming to him in the confessional when we have sinned or have need of advice as to what we ought to do to live as his faithful disciples. Jesus, our best and wisest friend, is the great “enabling factor” of our moral lives, but he cannot help us if we do not let him to do so. Long ago St. Augustine said, “God does not command the impossible, but by commanding he admonishes you that you should do what you can and beg him for what you cannot” At the Council of Trent the Church made these words of St. Augustine its own (DS 1536). While the Christian life may at times seem to be an impossible ideal, it is possible because of God’s grace. For fallen mankind it cannot be attained, but for men and women who have been regenerated in the waters of baptism and nourished with the body and blood of Christ it can. For, like Jesus, their one desire is to do what is pleasing to the Father. “The love of God,” wrote the author of the First Epistle of John, “is that we keep his commandments. And his commandments are not burdeenome; for whoever is begotten of God conquers the world” (1 Jn 5,3-4). Commenting on this text, St. Augustine wrote “These commandments are not burdeenome to one who loves, but they are so to one who does not”. St. Thomas referred to this text of Scripture and Augustine’s comment on it when he took up the question, is the New law of love more burdeenome than the old law? He noted that it is indeed more difficult to govern one’s inner choices in accord with the demands of Christian love than to control one’s external actions. But he went on to say that the difficulty is present when one lacks the inner power or virtue to live the life of Christian love. But, and this is his major point, for the virtuous person, the one into whom God’s own love has been poured and who abides in this love, what is seemingly difficult becomes easy and light. Thus Jesus, who demands that his disciples take up their cross daily and follow him, likewise says “Take my yoke upon you and learn from me, for I am meek and humble of heart, and

you will find rest for yourselves. For my yoke is easy, and my burden light" (Mt 11,29-30)» (pp. 195-196).

* * *

El sexto y último capítulo versa sobre *The Church as Moral Teacher*. «Catholics believe that the Church is the "pillar of truth" (cfr. 1 Tim 3,15). Jesus promised His apostles that He would not leave them orphans and that He would send His Holy Spirit to assist them (cfr Jn 14,16-17.26; 15,26-27; 16,7-15; 20,21-22; Lk 24,49; Acts 1,8; 2,1-4). The role of the Holy Spirit paralleled that of the apostles; both bore witness to Jesus and communicated the truth revealed in Him to the first Christian communities (cfr Jn 15,26-27). The Spirit revealed nothing new; rather, He helped the apostles to appropriate God's revelation in Jesus (cfr Jn 16,13-15). Within the Church the apostles held first place (cfr 1 Co 12,28), for upon them the Church is established, both now and forever (cfr Eph 2,20; Rev 1,8.2n). The apostles were chosen to receive God's revelation in Jesus, but this revelation was not meant for them alone but for all humankind, to whom Jesus sent them to teach His truth (cfr Mt 28,20). The apostolic preaching, through which the revelation given by our Lord was communicated to the apostolic Church, was, as Vatican Council II affirmed, "to be preserved in a continuous line of succession until the end of time. Hence, the apostles, in handing on what they themselves had received, warn the faithful to maintain the traditions which they had learned either by word of mouth or by letter (cfr 2 Thes 2,15); and they warn the faithful to fight hard for the faith that had been handed over to them once and for all (cfr Jude 3). What was handed on by the apostles comprises everything that serves to make the People of God live their lives in holiness and increase their faith. In this way the Church, in her doctrine, life and worship, perpetuates and transmits to every generation all that she herself is, all that she believes (*Dei Verbum*, n. 8)» (pp. 203-204). «In short, the magisterium, understood precisely as the authority to teach in the name of Christ the truths of faith and "everything that serves to make the People of God live their lives in holiness" (*Dei Verbum*, n. 8) is entrusted to the college of bishops under the headship of the Roman Pontiff. It is, moreover, necessary to emphasize, as did St. Thomas Aquinas in the Middle Ages, that this teaching office is essentially and primarily pastoral in nature, charged with the *cura animarum*, the "care of souls". It is not, as some contemporary theologians seem to hold, primarily "jurisdictional" in character, concerned with Church discipline and order. It is concerned rather with truths of both faith and morals» (p. 204).

May entra luego en el examen de las dos formas del Magisterio infalible el *extraordinario*, constituido por las definiciones solemnes de un Concilio ecuménico o las declaraciones «ex cathedra» del Romano Pontífice, y, en segundo lugar, el Magisterio *ordinario y universal*, conforme a *Lumen gentium* 25 (en cuyas seculares enseñanzas se encuentran contenidas prácticamente la totalidad de las normas morales absolutas: punto capital, sobre el que luego

volveremos). El restante Magisterio auténtico no es de suyo infalible, «but it is necessary to understand precisely what this term means. It is a technical one to designate magisterial teaching that are *authoritatively* proposed, and proposed *as true and certain*, but not taught as absolutely irreformable. Teachings of this kind are not to be regarded as “fallible” teachings, as if they were merely probable opinions or expressions of some “party line” or merely “official” policy. Rather, teachings, whether of faith or morals, proposed in this way are taught by the magisterium as truths that the faithful, including theologians, are to accept and in the light of which they are to shape inwardly their choices and actions. These teachings, precisely because they are taught with the more-than-human authority vested in the magisterium by the will of Christ, express the “mind” of Christ on the matters in question» (p. 206-207). Aunque estas enseñanzas no ligan directamente la fe – quisiera subrayarlo como comentario –, se dirigen también a la fe del creyente, en cuanto es la fe – como virtud, como principio operativo – la que nos mueve a asentar a la enseñanza de quienes tienen, por voluntad de Cristo, la Autoridad en la Iglesia.

En segundo lugar, el autor se ocupa de la existencia de normas morales concretas enseñadas infaliblemente. Retoma, pues, desde otro ángulo la cuestión de los *absolutos morales*. Remitiendo a cuanto a dicho en el capítulo tercero, subraya que la existencia de tales enseñanzas era pacíficamente admitida antes de la *Humanae vitae*, por ejemplo, por el mismo Rahner²³, antes del 1968. «I believe – and so do other theologians – that the core of Catholic moral teaching, as summarized by the precepts of the Decalogue (the Ten Commandments), precisely *as these precepts have been traditionally understood within the Church*, has been taught infallibly by the magisterium in the day-to-day ordinary exercise of the authority divinely invested in it. We are not deliberately to kill innocent human beings; we are not to fornicate, commit adultery, engage in sodomy; we are not to steal; we are not to perjure ourselves. Note that I say that the core of Catholic moral teaching is summarized in the precepts of the Decalogue *as these have been traditionally understood within the Church*. Thus, for example, the precept «Thou shall not commit adultery», has

²³ De quien cita (pp. 272-273) el siguiente inequívoco pasaje: «The Church teaches these commandments [the Ten Commandments] with divine authority exactly as she teaches the other “truths of the faith”, either through her ‘ordinary’ magisterium or through an act of her “extraordinary” magisterium in *ex cathedra* definitions of the Pope or a general council, but also through her ordinary magisterium, that is, in the normal teaching of the faith to the faithful in schools, sermons, and all the other kinds of instruction. In the nature of the case this will be the normal way in which moral norms are taught, and definitions by Pope or general council the exception; but it is biding on the faithful in conscience just as the teaching through the extraordinary magisterium is... *It is therefore quite untrue that only those moral norms for which there is a solemn definition... are binding in the faith on the Christian as revealed by God* ...When the whole Church in her everyday teaching does in fact teach a moral rule everywhere in the world as a commandment of God, she is preserved from error by the assistance of the Holy Ghost, and *this rule is therefore really the will of God and is binding on the faithful in conscience*»: KARL RAHNER, S.J., *Nature and grace: Dilemmas in the Modern Church*, Sheed & Ward, London 1963, pp. 51-52.

traditionally been understood unequivocally to exclude not only intercourse with someone other than one's spouse (adultery), but all freely chosen genital activity outside the covenant of marriage. This was precisely the way this precept of the Decalogue was understood by the Fathers of the Church, for example, St. Augustine, by the medieval scholastics, and by all Catholic theologians until the mid 1960's. Thus, in discussing the sixth commandment, Peter Lombard, whose *Libri IV Sententiarum* was used as the basic text in Catholic theology from the middle of the twelfth century until the middle of the sixteenth century, stressed that this commandment required one to forbear from all nonmarital genital activity. Lombard, together with all medieval theologians and, indeed, all Catholic theologians until the very recent past, held that any sexual activity fully contrary to the purposes of marriage and of the sexual differentiation of the species into male and female was gravely sinful as a violation of this precept of the Decalogue. This is, in addition, the teaching found in the *Roman Catechism*, and the teaching of this catechism on the precepts of the Decalogue is crucially important. The *Roman Catechism*, popularly known as *The Catechism of the Council of Trent*, was mandated by Trent, was written primarily by St. Charles Borromeo, was published with the authority of Pope St. Pius V in 1566, and was in use throughout the world until the middle of this century. It was praised by many popes, who ordered that it be put into the hands of parish priests and used in the catechetical instruction of the faithful. In 1721 Pope Clement XIII published an encyclical, *In Dominico Agro*, devoted to this catechism. In it he said that there was an obligation to use it throughout the universal Church as a means of "guarding the deposit of faith". He called it the printed form of "that teaching which is common doctrine in the Church". Vatican Council I said that as a result of this catechism "the moral life of the Christian people was revitalized by the more thorough instruction given to the faithful". From all this, one can see the significance of the witness of this catechism to truths both of faith and morals. It is a reputable witness to the ordinary, day-to-day teaching of bishops throughout the world in union with the Holy Father (...) This teaching of the *Roman Catechism* was in no way changed by Vatican Council II. It was, indeed, firmly reasserted. Recall that this Council, after affirming that matters of faith and morals can be taught infallibly in the day-to-day exercise of the magisterial authority by bishops throughout the world in union with the pope, insisted that this is even more the case when the bishops, assembled in an ecumenical council, act as teachers of the universal Church and as judges on matters of faith and morals. In the light of this clear teaching it is most important to examine some key statements made by the Fathers of Vatican Council II about *specific moral norms*. An examination of this kind shows, beyond the shadow of a doubt, that the bishops united at Vatican Council II under the leadership of the pope unambiguously insisted that certain specific norms proposed by the magisterium are to be held definitively by the faithful. In doing so, they fulfilled the conditions set forth in *Lumen gentium* and noted already, under which bishops can propose matters of faith and morals infallibly. For instance, after affirming the dignity of human persons and

of human life, they unequivocally brand as infamous numerous crimes against human persons and human life, declaring that: "the varieties of crime [against human life and human persons] are numerous: all offenses against life itself, such as murder, genocide, abortion, euthanasia, and willfull self-destruction; all violations of the integrity of the human person such as mutilations, physical and mental torture, undue psychological pressures; all offenses against human dignity, such as subhuman living conditions, arbitrary imprisonment, deportation, slavery, prostitution, the selling of women and children, degrading working conditions where men are treated as mere tools for profit rather than free and responsible persons; all these and their like are criminal; they poison civilization; and they debase their perpetrators more than their victims and militate against the honor of the Creator" (*Gaudium et spes*, n. 22). Some of the actions designated as criminal here are, it is true, described in morally evaluative language, such as "murder," "subhuman," "arbitrary," and "degrading." As so described, such actions are obviously immoral. But other actions unequivocally condemned as absolutely immoral in this passage are described factually, without the use of morally evaluative language, e.a., abortion, euthanasia, willful self-destruction (suicide), slavery, the selling of women and children. Specific moral norms proscribing such deeds are absolute, exceptionless» (pp. 210-213).

Esto sentado, May se ocupa del *disenso* del Magisterio. Para encuadrar su análisis, comienza por aclarar los orígenes del disenso: «As William B. Smith has pointed out, "the question of *Dissent* as presently posssed [e.g., by Curran and associateds] is of relatively recent vintage". As Smith observes: "A careful review of standard theological encyclopedias and dictionaries of theology finds no entries under the title of *Dissent* prior to 1972. Standard manuals of theology did raise possible questions about the rare individual who could not give nor offer personal *assent* to formal Church teaching, and such questions were discussed under treatments of the Magisterium or the Teaching of the Church, examining the status of such teaching and its binding force and/or extent" (pp. 215-216). Seguidamente nota que el Concilio Vaticano II nada nuevo estableció sobre el disenso, y en modo alguno aprobó su práctica. El único episodio que se relaciona con el tema es la respuesta que la Comisión Teológica del Concilio dio a una pregunta formulada por tres obispos, acerca del sentido del *religiosum obsequium* de la inteligencia y la voluntad, cuando una persona juzga que *interne assentire non posset*? Que debe hacer entonces? «The reply of the Theological Commission was that in such instances the "approved theological treatises should be consulted". As Smith observes, "it should be noted that the question posed to the Commision concerned the *negative* inability to give positive assent ... which is not at all the same as a *positive right* to dissent". If these "approved theological treatises" are examined, one discovers, as Germain Grisez as shown in detail, that no approved manual of theology ever authorized dissent from authoritative magisterial teaching. Some of them treated the question of *withholding internal assent* by a competent person who has serious reason for doing so. The manuals taught that such a person ought to maintain

silence and communicate the difficulty he experienced in assenting teaching in question to the magisterial teacher (pope or bishops) concerned (...) They spoke, not of *dissent*, but of *withholding assent*, which is something far different from dissent» (p. 216).

Se trata de un dato tan evidente, que el mismo Curran lo ha reconocido, optando por apoyar el derecho al disenso no ya en el Concilio y la alusión de la Comisión Teológica a los manuales tradicionales sino en base a lo que habría afirmado Newman en su *Grammar of Assent*²⁴. Posición, comenta May, simplemente sorprendente, si uno recuerda lo que Newman escribía: «The sense of right and wrong, which is the first element in religion, is so delicate, so fitful, so easily puzzled, obscured, perverted, so subtle in its argumentative methods, so impressible by education, so biased by pride and passion, so unsteady in its course that, in the struggle for existence amid the various exercises and triumphs of the human intellect, this sense is at once the highest of all teachers, yet the least luminous; and the Church, the Pope, the hierarchy are, in divine purpose, the supply of an urgent demand»²⁵ (p. 217). En suma, «the claim made by Curran and others that "it is common teaching in Church that Catholics may dissent from authoritative, noninfallible teaching of the magisterium when sufficient reasons doing so exist" is spurious supported only by weak and tendentious arguments» (p. 217). Lo ha venido a confirmar la Instrucción sobre la vocación eclesial del teólogo de 1990, distinguiendo y tratando separadamente «*quaestions* that theologians may raise about such teachings (nn. 24-31) and *dissent* from such teachings (nn. 32-41). It judges that questioning can be compatible with the "religious submission" required, but it firmly and unequivocally repudiates dissent from these teachings as incompatible with this "religious submission" and irreconcilable with the vocation of the theologian» (p. 220).

En suma, como el lector habrá ido comprobando a lo largo de esta nota, es la de William una *Introduction to Moral Theology* realmente valiosa y merecedora de ser prontamente traducida a las lenguas latinas.

²⁴ CURRAN ET AL., *Dissent in and for Church*, pp. 47-48.

²⁵ J.H. NEWMAN, «Letter to the Duke of Norfolk», en *Certain Difficulties Felt by Anglicans in Catholic Teaching*, vol. II, Christians Classics, Westminster 1969, p. 240.

MARRIAGE AND FAMILY IN WESTERN SOCIETY *

CARL A. ANDERSON **

Today, questions regarding marriage and family are at the forefront of social, political, and legal controversies throughout Western society. During the last two decades many nations have undergone a radical transformation in their laws regarding abortion, divorce and the treatment of couples cohabitating outside of marriage. Such radical change is sometimes promoted as «reform». But when viewed in its historical context, these revisions can be seen more appropriately as reflecting an alternative vision of the human person – a vision which the lessons of history show to be something quite different than reform.

This paper will attempt to provide the historical context in which to more appropriately assess present questions regarding marriage and family. It will begin with a discussion of classical family culture in ancient Greece and Rome and the response to it by early Christians; part II will consider the Christian synthesis of Roman and European views of marriage during the Middle Ages; part III will present the rejection of that synthesis by the founders of the Enlightenment and their secularization of marriage; part IV will review the Marxist theory of marriage as a form of dialectic and the implementation of that philosophy in the family law of the Soviet Union; part V will explore the philosophy of individual radical autonomy and its dissolution of marriage as a unique institution as it has evolved in the United States (I would add here that this philosophy also underlies most of the revision in European family law since the late 1960's); and finally, part VI will reflect on principles which should guide the return to an authentic marriage and family culture.

I. CHRISTIANITY AND CLASSICAL FAMILY CULTURE

The oldest manuscripts which we have of Greek legal orations, such as *Against Athenogenes*, date from after Pericles and concern family law. The

* Conferenza tenuta al Congresso "Juan Pablo II y la Familia" celebrato da Familia Mexicana, Guadalajara 13-16 Maggio 1991. Gli Atti saranno pubblicati da FAME, Lomas de Chapultepec, Mexico D.F.

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Oration Against Neaera by Demosthenes demonstrates that in the century following the onset of the Peloponnesian War, the disintegration of family morality and structure was pervasive throughout the highest levels of Athenian society. In the face of this social and moral anarchy Plato sought to point the way towards the creation of a new society in *The Republic* in which the family of his time would be drained of social, economic and legal functions. Instead, men and women would live separately and their children raised and educated in common. The ancient historian Polybius concluded that the social collapse of the family in Greece was a substantial factor in the failure of Greek society in its wars against Rome.

But if Hellenistic society was unable to resist Roman military expansion, Rome itself was equally unable to resist the influence of Greek culture and as it related to the family, that culture was one which promoted childlessness, divorce, cohabitation without marriage, homosexuality, and adultery. Thus, the *Pax Romana* was anything but peaceful for the Roman family. Indeed, it was a major objective of Augustus to reestablish traditional Roman values regarding the family. To that end, Augustus instituted major legal reforms to strengthen family life among the governing class. Augustus sought to redirect attention to family life and childbearing by enactment of the *Lex Julia et Papia Poppaea* which among its provisions provided that: 1) unmarried persons lost their right of inheritance; 2) married persons without children could claim only half of their legacies; 3) women who had children obtained greater independence under the law; 4) among candidates for government office, the one with the most children was given preference and among consuls, the one with the most children was given seniority. Later, Augustus promulgated the *Lex Julia de adulteriis* which substantially increased the punishment for adultery. Perhaps most importantly, Augustus sought to strengthen the traditional *dignitas* form of Roman marriage by transforming the practice of keeping a mistress as a lower, but legally recognized form of marriage. Known as *concubinatus*, this new legal relationship established civil law consequences regarding maternity, inheritance and social position similar to that of the traditional Roman marriage. The new law also applied many of the legal impediments to traditional marriage such as prohibitions against bigamy, polygamy, and incest, as legal barriers to *concubinatus* marriage. Thus, many Romans who sought escape from family responsibility which resulted from traditional marriage by entering into informal companionate relationships found that the new law now imposed similar legal duties on these relationships as well.

Thus, Augustus implemented a three-fold plan to strengthen the unity of Roman family life and preserve the family as a central institution of Roman society. The Julian Laws encouraged childbearing and the childful family, discouraged adultery and sexual activity outside of marriage, and it removed many of the economic incentives to non-marital cohabitation. To a significant degree, Augustus succeeded. It was not until the fourth century that Roman society suffered an extraordinary collapse of family culture. By the time of the Constantinian era, Roman culture essentially «limited marriage to temporary

companionship, considered children a nuisance and a liability, and valued man-woman relationships primarily as an agreeable sexual escape valve»¹.

From the fourth through the sixth centuries the struggle between Christianity and classical culture increasingly focused upon the family. Constantine sought through new social laws to effect «a complete reconstitution of the *familia* or household as conceived by Roman pagan law»². Although his effort was influenced by Christian social thought in reforms towards dependents, women, children, and slaves, it nonetheless failed.

Shortly before the sack of Rome in 410 A.D., St. Jerome would write of the Romans in terms used earlier by Polybius of the Greeks: «It is by reason of our sins that the barbarians are strong, it is our vices that bring defeat to the families of Rome»³.

Yet the voluminous work on the family of both St. Jerome and St. Augustine and especially Augustine's formulation of marriage as *fides, proles et sacramentum* formed the basis for a new conceptual ordering of family life. This vision would ultimately be reflected in the Sixth century code of family law, the *Novellae* promulgated by Justinian. Its preface stated:

Previous legislation has dealt with aspects of these matters piecemeal. Now we seek to put them all together and give the people certain clear rules of conduct so as to make the family the standard form of life for all human beings for all time, and everywhere ... This is the Christian way of life⁴.

Unlike the Julian laws of Augustus, major provisions of the *Novellae* code applied not only to the governing class of Roman citizens, but to all social classes. For the first time, the code provided that only heterosexual relations within marriage would be legal. Violations would subject the offender to physical punishment. It also outlawed the practice of providing sexual activity as part of normal business contracts. Perhaps most importantly, the code abolished the legal recognition of companionate marriage or *concubinatus* previously established by the Julian laws.

II. THE CHRISTIAN SYNTHESIS OF MEDIEVAL EUROPE

The *Novellae* code laid the foundation for the new Christian family culture emerging in Europe from the mixture of barbarian and Roman family traditions. That new culture rested upon four great moral themes: that marriage is

¹ CARLE ZIMMERMAN and LUCIUS CERVANTES, *Marriage and the Family: A Text for Moderns*, Henry Regnery, Chicago 1956, p. 26.

² CHARLES COCHRANE, *Christianity and Classical Culture*, Oxford University Press, London and New York 1944, p. 198.

³ CARLE ZIMMERMAN, *Family and Civilization*, Harper and Brothers, New York 1947, p. 453.

⁴ ZIMMERMAN and CERVANTES, *Marriage and the Family*, p. 61.

good, that procreation is good, that marriage is the only ethical setting for sexual activity, and that women were persons just as were men. Already these principles had substantially changed the legal status and rights of women and children. Women benefitted from new laws making divorce more difficult and requiring the consent of both spouses for the validity of a marriage. Children benefitted not only from the greater stability of the marriage bond, but from the abolition of *patria potestas*, the father's power of life or death over the lives of his children⁵.

Furthermore, the new culture recognized the responsibility of the lawgiver to protect the family; after all, three of the Ten Commandments sought to preserve the family. Moreover, the Gospel accounts of statements made by Jesus on the subject of marriage made clear two profound obligations of the lawgiver. First, that the law of marriage arose not from the whim of the lawgiver but from within the very nature of the human person and the natural order. «Have you not read that the creator from the beginning made them male and female [and this is why] the two become one body?» (Mt 19,5). But the lawgiver was not only under an obligation to respect marriage and family as a requirement of the natural order, a command of the lawgiver which contradicted natural justice could not itself do justice to the family. «Now I say this to you: the man who divorces his wife ... and marries another, is guilty of adultery» (Mt 19,9).

The emerging new European culture raised the fundamental question of family law: just when do «the two become one body,» that is, just when does a marriage come into existence? Roman law envisioned marriage arising from the consent of the couple and a shared household life together maintained by affection. However, according to the customs of the Germanic people, marriage arose as a result of a process of betrothal, solemnization, and consummation. Certainly, under Germanic tradition a marriage existed at the end of the procedure with consummation. It was not until the ninth century that Pope Nicholas I authoritatively stated that consent made marriage and not consummation (*matrimonium non facit coitus sed voluntas*)⁶.

The twelfth century work of Hugh of St. Victor, Peter Abelard, and Peter Lombard in developing the recognition of the sacramentality of marriage and finally the decision of Pope Lucius III at the Council of Verona (1184) to list marriage among the sacraments assured that the greatest minds of the Church would be engaged in efforts to further clarify the institution of marriage in theology and law⁷.

⁵ HAROLD BERMAN, *Law and Revolution: The Formation of the Western Legal Tradition*, Harvard University Press, Cambridge 1983, p. 168.

⁶ LADISLAS ORSY, *Marriage in Canon Law*, Michael Glazier, Wilmington 1986, pp. 24-25.

⁷ PETER ELLIOTT, *What God Has Joined: The Sacramentality of Marriage*, Alba House, New York 1990, pp. 87-90; see also, SIGFRIED ERNST, «Marriage as Institution and the Contemporary Challenge to It», in *Contemporary Perspectives on Christian Marriage: Propositions and Papers from the International Theological Commission*, eds. RICHARD MALONE and JOHN CONNERY, Loyola University Press, Chicago 1984, pp. 39-90.

The importance of defining clearly the constitutive elements of marriage and when they occur is an achievement in the development of Western culture which can hardly be overstated. As the English historian Paul Johnson has noted,

the stable monogamous marriage is one of the most fundamentally creative inventions of Judaeo-Christian civilization. We can trace its gradual emergence in the successive books of the Old Testament. We note that one of the most important innovations of Jesus' teaching, as expressed in the New Testament, was to strengthen the stability of the monogamous family. Christian moral theologians have always fought a tremendous battle to uphold this enlightened concept. Other societies failed to do so, and suffered accordingly.⁸

Martin Luther's assault on the sacramentality of marriage in his *Babylonian Captivity* had profound effects on the historical treatment of marriage. First, the rejection of sacramentality signaled the emergence of civil jurisdiction over the marriage bond. That development, in turn, made inevitable the nationalization of marriage law. No longer would universal precepts and their interpretation be acknowledged throughout Europe. Second, the loss of sacramentality brought with it the loss of indissolubility. The principle of consent as the constitutive element of marriage would remain. But without the status of sacrament, the marital bond would increasingly be viewed as a contract and one which could be vitiated when its obligations were broken by the immoral conduct of one of the spouses.⁹

III. THE ENLIGHTENMENT AND THE SECULARIZATION OF MARRIAGE

The secularization of marriage was completed by the *Philosophes* of the Enlightenment. For them, the sacramentality of marriage was simply a reflection of the «irrationality, cruelty, and unnaturalness of Catholic society»¹⁰. Rousseau argued that «the state ought to emancipate itself from the notion of marriage as a sacrament and treat it exclusively as a civil and, of course, dissoluble, contract»¹¹. The *Philosophes*' view of marriage followed upon their view of the nature and goal of the human person. Diderot posed the question: «What, in your opinion, are the duties of man?». He answered: «To make himself happy»¹².

⁸ PAUL JOHNSON, «The Family as an Emblem of Freedom», in *Emblem of Freedom: The American Family in the 1980s*, eds. CARL ANDERSON and WILLIAM GRIBBIN, Carolina Academic Press, Durham 1981, p. 25.

⁹ ELLIOTT, *What God Has Joined*, pp. 101-102.

¹⁰ MAX RHEINSTEIN, *Marriage Stability, Divorce and the Law*, University of Chicago Press, Chicago 1972, p. 267.

¹¹ *Ibid.*, p. 200.

¹² PAUL HAZARD, *European Thought in the Eighteenth Century: From Montesquieu to Lessing*, Meridian Books, Cleveland 1963, p. 165.

Similarly, Saint-Lambert would write of the Enlightenment's new moral code the following in his *Catechisme universel*:

Q: What is man?

A: A being possessed of feelings and understanding.

Q: That being so, what should he do?

A: Pursue pleasure and eschew pain ¹³.

But perhaps the highest recognition of the new view came in America when Thomas Jefferson wrote that among the fundamental rights of the person was the right to «the pursuit of happiness». According to Max Rheinstein, «the philosophy of the Enlightenment conceived of marriage as one of the avenues open to man in his pursuit of happiness, and man's right to pursue happiness was one of those inalienable rights which no government ought to be able to block» ¹⁴. Moreover, the *Philosophes*' understanding of nature itself mandated a radical change in their understanding of the nature of marriage. John Locke's *An Essay Concerning Human Understanding*, «the psychological gospel of the eighteenth century», advanced a fundamental tenet of the new moral order:

... if nature be the work of God, and man the product of nature, then all that man does and thinks, all that he has ever done or thought, must be natural, too, and in accord with the laws of nature and of nature's God ¹⁵.

Thus, Rousseau, Voltaire, and Diderot discovered in the «unspoiled innocence» of native societies and the «noble savage» an alternative to the Christian tradition of marriage. Especially for Rousseau, the individual can only be free when liberated from the corrupting social institutions around him. The ties of marriage and family, far from protecting and promoting human freedom, are for Rousseau chains which bind the person in oppression. To be free, man must first be liberated from the family. As Robert Nisbet has written,

Rousseau sees the State as the most exalted of all forms of moral community. For Rousseau there is no morality, no freedom, no community outside the structure of the State. Apart from his life in the State, man's actions are wanting in even the minimal conditions of morality and freedom ¹⁶.

During the French Revolution, this Enlightenment ideology became official policy. Title II of the revolutionary Constitution of 1791 proclaimed marriage as a civil contract. The revolutionary divorce law of 1792 proclaimed mar-

¹³ *Ibid.*, p. 169.

¹⁴ RHEINSTEIN, *Marriage Stability, Divorce and the Law*, p. 25.

¹⁵ CARL BECKER, *The Heavenly City of the Eighteenth Century Philosophers*, Yale University Press, New Haven 1932, p. 66.

¹⁶ ROBERT NISBET, *The Quest for Community*, Oxford University Press, London and New York 1953, p. 140.

riage «a secular institution designed to serve individual human beings in their pursuit of happiness» and enumerated broad grounds for its termination¹⁷. The French divorce law of 1792 reflected the idea that «any indissoluble tie is an infringement of individual liberty and that therefore the principle of individual liberty presupposes a natural right to divorce»¹⁸.

IV. MARXISM AND MARRIAGE AS DIALECTIC

Marxist theory on the family rests upon the work of Frederick Engels in *The Origin of the Family, Private Property and the State*¹⁹. Engels describes his work as «the fulfillment of a bequest» to Karl Marx and in it he sought to place the family at the center of Marx's theory. Engels argues that the evolution of the family was directly related to the evolution of the means of production. According to Engels,

monogamy does not by any means make its appearance in history as the reconciliation of man and woman, still less as the highest form of such a reconciliation. On the contrary, it appears as the subjection of one sex by the other, as the proclamation of a conflict between the sexes²⁰.

Quoting from his earlier work with Marx, *The German Ideology*, Engels insists that, «The first class antagonism which appears in history coincides with the development of the antagonism between man and woman in monogamous marriage, and the first class oppression with that of the female sex by the male»²¹.

Because Engels maintains that «the modern individual family is based on the open or disguised domestic enslavement of the woman» in which the husband represents the bourgeois and «the wife represents the proletariat... the first premise for the emancipation of women is the reintroduction of the entire female sex into public industry»²². Men and women can be fully liberated only when they are both fully incorporated into the public economy. Thus, as early Marxists were eager to point out, the fundamental premise of Marxism «demands that the quality possessed by the individual family of being the economic unit of society be abolished»²³. Thus, the attempted destruction of the family as a social and economic unit is an inevitable consequence of socialism.

¹⁷ RHEINSTEIN, *Marriage Stability, Divorce and The Law*, p. 202.

¹⁸ MARY ANN GLENDON, «The French Divorce Reform Law of 1796», *American Journal of Comparative Law*, 24 (1976), pp. 199-200.

¹⁹ KARL MARX and FREDERICK ENGELS, *Selected Works*, International Publishers, New York 1968, p. 468.

²⁰ *Ibid.*, pp. 502-503.

²¹ *Ibid.*, p. 503.

²² *Ibid.*, p. 510.

²³ *Ibid.*

Marxist family theory was given political expression within weeks of the Russian Revolution. The first general decree of the Soviet regime concerned the dissolution of marriage. The more comprehensive Soviet Family Code of 1918 rejected the recognition of any religious character of marriage: only a civil ceremony conducted in a registry office would establish binding rights and obligations. The 1926 Soviet Family Code removed even the requirements of a civil ceremony and for the first time recognized *de facto* cohabitation as equal to marriage and enjoying many of the same legal rights and social benefits. The withdrawal of the Soviet state from the regulation of marriage reached the point that by 1930, «marriages could be terminated by informal mutual consent, unilateral declaration, or mere desertion without any announcement or agreement whatsoever»²⁴. The objective of such laws was stated by the Soviet sociologist Volfson in 1929. In his *Sociology of Marriage and the Family* he argued that the family under Marxism would lose its productive function, its joint household function, its child-rearing function, and its function in regard to the care of the aged. Since, therefore, «the family will be purged of its social content, it will wither away»²⁵.

However, since *de facto* marriage had been recognized, Soviet authorities next had to resolve the question of how to treat individuals who entered into a second *de facto* marriage without first obtaining a divorce from their previous «spouse». The answer adopted by the 1926 Family Code was simply to abolish the crime of bigamy. By the mid-1930s there were reports «about men who had as many as 20 wives and about those who had been registered for marriage 15 times». Tragically, official Soviet government estimates the number of homeless and fatherless children as high as nine million. While such harsh realities would soon force a more humane reform of Soviet family law, the underlying issue would remain.

Years earlier, the Soviet theorist Liadov had asked: «Is it possible to bring up collective man in an individual family?». He lost no time in providing the answer: «A collectively thinking child may be brought up only in a social environment ... The sooner the child is taken from his mother and given over to a nursery, the greater is the guarantee that he will be healthy»²⁶. But who is this healthy, collectively thinking child who emerges from the new socialist equality? This equality is not an equality in the sense of *external* factors, such as the equality of rights, opportunities or benefits. Instead, it is an equalization of *internal* factors, of «the abolition of differences... in the inner world of the individuals constituting society... The equality proclaimed in socialist ideology means identity of individualities»²⁷.

²⁴ JAN GOREKI, «Communist Family Pattern: Law as an Instrument of Change», *University of Illinois Law Forum* 1972 (1972): pp. 121-124; see also, HAROLD BERMAN, «Soviet Family Law in Light of Russian History and Marxist Theory», *Yale Law Journal*, 56 (1946), 26.

²⁵ Quoted in IGOR SHAFAREVICH, *The Socialist Phenomenon*, Harper and Row, New York 1980, p. 245.

²⁶ *Ibid.*

²⁷ *Ibid.*, p. 261.

Thus, a philosophy of the human person is presented in which the individual identity of each human being dissolves into the communal «being» of the state. This view of the person finds legal expression in the Marxist concept of «species being». Having cast aside an understanding of the person as possessing inherent and inalienable rights, Marxism conceives of the person and his rights only in terms of the larger community, that is to say as part of the abstraction of a «species being». The

Marxist recognition of rights stems from its view of persons as indivisible from the social whole; only by meeting the will of the whole can the higher freedom of the individuals be achieved ... no matter what the actual wishes of men and women may be, their «true choice» is to choose the goals the [socialist] state has set ²⁸.

V. RADICAL AUTONOMY AND THE DISSOLUTION OF MARRIAGE

Unlike the influence of an absolutist legal positivism in Marxist societies where the state is itself the embodiment of morality, the emerging influence of a skeptical positivism within the legal structures of the Western democracies has resulted in the emergence of a morally neutral state. This view of the role of the state finds itself rooted in the shift away from the understanding of «the createdness of nature as the primal truth» to the abstraction of a state of nature ²⁹. Having lost the sense of «createdness» of nature and thus of a highest good to which the human person is directed by his nature, the morally neutral state deals with questions of justice in terms of social contract, rather than in terms of natural law.

The influence of Kant upon this legal philosophy was to lead to, as George Parkin Grant observes, «a sharp division between morals and politics» ³⁰. As Grant further explains:

Properly understood, morality is autonomous action, the making of our own moral laws. Indeed any action is not moral unless it is freely legislated by an individual. Therefore the state is transgressing its proper limits when it attempts to impose on us our moral duties... The state is concerned with the preservation of the external freedom of all, and must leave moral freedom to the individual ³¹.

The influence of this philosophical view on jurisprudence can be seen clearly in the United States Supreme Court's 1973 abortion decision in *Roe v.*

²⁸ JEROME SHESTACK, «The Jurisprudence of Human Rights», in *Human Rights in International Law: Legal and Policy Issues*, ed. THEODOR MERON, Oxford University Press, London and New York 1984, vol. 1, p. 83.

²⁹ GEORGE GRANT, *English-Speaking Justice*, University of Notre Dame Press, Notre Dame 1985, p. 16.

³⁰ *Ibid.*, p. 28.

³¹ *Ibid.*

*Wade*³². In that decision, the Court ruled that the Constitution protected the woman's right to choose an abortion free from regulation by government. While the decision discussed abortion as protected by a right to privacy, in reality the Court established a zone of autonomous decision-making.

The Supreme Court premised its decision that the child before birth was not a person and was not entitled to the protection of the law on its assertion that government could not resolve the difficult question of when life begins. One year earlier, however, the New York State Court of Appeals upheld that state's newly enacted permissive abortion statute against a challenge that it denied unborn children their right to protection under the law. The New York court found «that upon conception a fetus has an independent genetic "package" ... It is human... and it is unquestionably alive»³³. Nonetheless the court held that this «human entity» need not be recognized as a person or protected under the law. The court concluded that «[i]t is a policy determination whether legal personality should attach and not a question of biological or natural correspondence»³⁴.

In *Roe v. Wade*, the Supreme Court held that this «policy determination» would pass from the legislature to the individual woman. Both court decisions portray different facets of a legal positivism grounded in a failure to adequately deal with the contingent nature of man's existence. As the American juridical approach to abortion suggests, modern liberalism, having discarded the natural law tradition, has itself proven inadequate to establish a firm foundation to secure rights of justice with freedom for the human person. Thus, while the absolutist positivism of Marxism finds the individual and his conscience absorbed into an abstract «species being», the skeptical positivism of Western liberalism permits the individual, through the fiction of legal non-personhood, to effectively exclude fellow human beings from the human species.

The Supreme Court's jurisprudence of abortion had its roots in a case decided only eight years earlier on the constitutional status of marriage. In the 1965 case of *Griswold v. Connecticut*, the Supreme Court ruled that the State of Connecticut's ban on the use of contraceptives by married couples was unconstitutional³⁵. Connecticut had defended its statute by asserting that the use of contraceptives, even in marriage, was immoral. The Supreme Court disagreed. In its opinion, defending the «sacred precincts of marital bedrooms» through a new right of privacy, the Court stated:

We deal with a right of privacy older than the Bill of Rights—older than our political parties, older than our school system. Marriage is a coming together for better or for

³² 420 U.S. 113 (1973); see especially, CHARLES RICE, *Beyond Abortion: The Theory and Practice of the Secular State*, Franciscan Herald Press, Chicago 1979.

³³ *Byrn v. New York City Health and Hospital Corp.*, 286 N.E. 2d. 887 (1972).

³⁴ *Ibid.*, p. 889.

³⁵ 381 U.S. 479 (1965). For an analysis of the *Griswold* case, see ROBERT BORK, «Neutral Principles and Some First Amendment Problems», *Indiana Law Journal*, 471 (1971), 1; and LOUIS HENKIN, «Privacy and Autonomy», *Columbia Law Review*, 74 (1974), 1410.

worse, hopefully enduring, and intimate to the degree of being sacred... It is an association for as noble a purpose as any involved in our prior decisions ³⁶.

By placing marital activity within a newly defined constitutional zone of autonomous decision-making, the Supreme Court sharply limited the authority of the state to regulate marriage.

Seven years after *Griswold*, the Supreme Court found in *Eisenstadt v. Baird* ³⁷ that the «sacred precincts» of the marital bedroom recognized in *Griswold* were really no more sacred than any other bedroom. «Whatever the rights of the individual to access to contraceptives may be», wrote the Court, «the rights must be the same for the married and the unmarried alike» ³⁸. If under *Griswold* the distribution of contraceptives to married persons cannot be prohibited, a ban on distribution to unmarried persons is equally impermissible. The Court reasoned:

It is true that in *Griswold* the right of privacy in question inhered in the marital relationship. Yet the marital couple is not an independent entity with a mind and heart of its own, but an association of two individuals each with a separate intellectual and emotional make-up. If the right of privacy means anything, it is the right of the individual, married or single, to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the decision to bear or beget a child ³⁹.

In *Griswold*, marriage was «a coming together... intimate to the degree of being sacred». It was the sacredness of the intimate relationship within marriage which required protection according to the Supreme Court, not the institution of marriage itself. As the Court later stated in *Eisenstadt*, such intimacy may occur outside the bonds of marriage. With the *Eisenstadt* decision, the Court began to «blur the distinction» between the legal institution of marriage and informal, non-marital cohabitation ⁴⁰.

The legal tendencies we have been discussing have profound consequences for family law and policy in the United States. First, the newly established constitutional right of privacy when combined with recently enacted «no-fault» divorce legislation has radically changed the couple's expectations regarding marriage. A system of divorce at the will of either spouse does more than simply effect exit from marriage. It changes the social «rules» for entry into marriage. A system of «no-fault» divorce rewards the spouse's commitment to individuality and the individual's good rather than that of the common good of the marital couple. Because a commitment to the marital community is not protected by the «no-fault» legal environment, such a commitment is made solely at the spouse's own risk. Thus, the new legal framework actually promotes tendencies which en-

³⁶ 381 U.S. at 486.

³⁷ 495 U.S. 438 (1972).

³⁸ *Ibid.*, 453.

³⁹ *Ibid.*

⁴⁰ MARY ANN GLENDON, «Marriage and the State: The Withering Away of Marriage», *Virginia Law Review*, 62 (1976), 699.

hance individuality and separation of the marital couple rather than tendencies which support unity and mutuality. Since the «no-fault» legal structure tells the marital couple to invest less in the marital community, it is not surprising that they increasingly expect less from it. With fewer and fewer legal, economic, and social returns from marriage, it is not surprising that more and more couples find less reason to maintain the marital commitment.

This phenomenon is also promoted by the Supreme Court's jurisprudence on marriage reflected in decisions which essentially view marriage not as a unity or an institution, but essentially as a relationship between two separate and distinct individuals.

VI. CONCLUSION: THE RETURN TO A MARRIAGE AND FAMILY CULTURE

In building a new culture that fully respects the institutions of marriage and family it will not suffice to simply speak of the «sacred precincts of the marital bedroom» or to praise marriage as an institution which is «intimate to the degree of being sacred». To view sexual intimacy or one's expectation of privacy associated with it as the defining characteristic of marriage, is to misunderstand the precise point on which the unique position of marriage has been based within Western culture.

This tradition views matrimony as a natural institution with one of its principal ends being the good of the offspring. Procreation concerns more than simply the decision to bear or beget a child. It is also a commitment to the upbringing, education and development of the child. To reduce the procreative end of marriage to merely sexual activity is to fundamentally re-define the meaning of marriage. Having lost the connection between the unitive meaning and the procreative meaning of marriage, many contemporary societies easily take the second step of equating sexual activity within marriage with that occurring outside of marriage.

The unique position of marriage in Western culture arose not only as a result of a more complete understanding of procreation, but also as a consequence of the Judeo-Christian insight that the commitment of the spouses to one another was faithful and exclusive until death. This irrevocable (in canon law) and nearly irrevocable (in civil law) gift of one person to another within marriage distinguished it from all other relationships. Yet, it is this commitment of the spouses to treat each other as irreplaceable and nonsubstitutable that is precisely denied by cohabitation outside of marriage. Sexual activity outside of marriage by its very nature communicates to the other that he or she is replaceable and that a substitute may be found in the near future. Outside the marriage bond or within a bond that may be easily dissolved, sexual activity ceases to be the unique gift of one person to another person ⁴¹.

⁴¹ WILLIAM MAY, *Sex, Marriage, and Chastity*, Franciscan Herald Press, Chicago 1981, pp. 77-79.

The Western tradition, in holding that one of the principal ends of marriage includes the good of the offspring, developed through time a comprehensive legal structure around the institution of marriage to protect not only the spouses themselves, but also their children. That structure was premised on the realization that there existed a profound connection among the begetting, nurturing, and educating of children. To the degree that we are once again able to live according to these fundamental insights and impart them to others we will be able to establish the foundation for a truly marriage – and family – centered society. The words of St. Augustine ring as true today as they did when he wrote to the Christians of his own age: «We are the times. As we are, so shall the times be».

VITA DELL'ISTITUTO

A. SITUAZIONE DEI TITOLI DI STUDIO

a) Sezione romana

DOTTORATO IN SACRA TEOLOGIA

LORENZO BRONZ, *Temi etici nella «Sententia super De anima» di Tommaso d'Aquino.*

HERMAN GEISSLER, *Gewissen und Wahrheit bei John Henry Newman.*

LICENZA IN SACRA TEOLOGIA

PIERSANTO ZERBINI, *La volontà nella vita spirituale secondo S. Giovanni della Croce nel I Libro della «Salita del Monte Carmelo».*

DIEGO A. LOPEZ LOPEZ, *Juan Pablo II y la Pastoral Familiar en America Latina. Perspectivas generales.*

GIUSEPPE PRINCIPALI, *Teoria bioetica contemporanea e Magistero della Chiesa.*

MASTER IN SCIENZE DEL MATRIMONIO E DELLA FAMIGLIA

ROMANO KOBIA, *Education in the Family: the Role of the Father.*

b) American campus

LICENTIATE IN SACRED THEOLOGY OF MARRIAGE AND FAMILY

WILLIAM BEAUDIN, *The Unity of the Person As It Relates to Marriage and Family Life.*

JOHN F. BREHANY, *Perfection Through Christian Fatherhood.*

MICHAEL CAREY, *A Feminist Anthropology: Woman in the Thought of Edith Stein.*

JOSEPH D'AMECOURT, *Divine and Human Fatherhood.*

GREGORY W. GORDON, *Donum Vitae As Donum Nuptiale.*

JOHN NJENGA, *A Comparison of the Role of Community in Tribal Africa to Christian Community of Love.*

CHARLES J. PERRY, *The Eucharist: Source and Summit of the Christian Life.*

TIMOTHY SAUPPÉ, *On the Orders of Love and Authority: Ephesians 5, 21-33, Pope John Paul II and the Woman.*

MARY SHIVANANDAN, *Implications of Lindbeck's Approach to Doctrines for Premarital Sexual Attitudes and Behavior.*

MASTER IN SACRED THEOLOGY

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BETH A. KERIN

JAMES B. KNAPP JR.

PAUL TERRENCE LAMB

MARIAH A. MCNALLY

SR. SUSILIA SUSAIMARION

B. ATTIVITÀ SCIENTIFICHE

American campus

1) Nel mese di Ottobre 1990, si sono svolte alcune conferenze, tenute dal Prof. Ralph McInerny, sul tema generale *Faith and Morals: the Question of Christian Ethics*, alle quali hanno partecipato circa 600 persone. Il calendario di tali conferenze è stato il seguente:

17 ottobre 1990: *Is A Philosophical Ethics Possible?*

18 ottobre 1990: *Does Man have a Natural Ultimate End?*

24 ottobre 1990: *The Role of Faith in Moral Philosophizing.*

25 ottobre 1990: *The Nature of Moral Theology.*

2) Il 23 gennaio 1991, Sua Eccellenza Daniel E. Pilarczyk, Arcivescovo di Detroit e Presidente della Conferenza Nazionale dei Vescovi Cattolici ha tenuto una conferenza sul tema: *Seamless Consistency: Religious and Civil*, a cui hanno partecipato 300 persone, oltre ai Professori e agli studenti dell'American campus e della Dominican House of Studies.

3) Il 26 febbraio 1991, il Prof. Angelo Scola ha tenuto una conferenza sul tema: *The Relationship between Nature and Grace according to Von Balthasar*. Erano presenti 20 persone, membri della Faculty dell'American campus e ospiti di altri Istituti teologici.

4) Il 14 marzo 1991, il Prof. Anton Rauscher s. j., Direttore del Katholische Sozialwissenschaftliche Zentralstelle, ha tenuto una conferenza sul tema: *Marriage and the Family in our Society*, alla quale hanno partecipato i Professori e gli studenti dell'American campus e della Dominican House of Studies, per un totale di 40 persone.

5) SUMMER PROGRAM

Si è svolto dal 24 al 28 giugno 1991, sul tema generale: *The Future of Catholic Health Care and the Redemption of Human Suffering*. I Professori che hanno tenuto le lezioni sono stati i Proff. L. Albacete, F. Martin e W.E. May.

Si sono svolti anche i seguenti workshops:

- *The Family's Response to New «Options» in Nutrition* (Proff. B. Ashley e W. May).
- *Informed Consent: Decision Making and the Elderly* (Proff. R. Destro e J. Gouldrick)
- *How We Witness to the Power of Redemption in Health Care* (Prof. T. Weinandy).
- *Increasing Demands, Diminishing Resources and Moral Choices in Resource Allocation* (Prof. C. Anderson e Sister C. Keehan).

Al Summer Program hanno partecipato 69 persone.

INDICE DELL'ANNO 1991

ARTICOLI

TOMÁS MELENDO	<i>Metafisica del amor conyugal</i>	pag. 9
STANISLAW GRYGIEL	<i>In the beginning is the end and in the end is the beginning</i>	» 25
PIERPAOLO DONATI	<i>Le dimensioni relazionali della Bio-etica</i>	» 55
BENEDETTO TESTA	<i>La funzione del Magistero ordinario nell'elaborazione teologica</i>	» 67
BENEDICT M. ASHLEY, OP	<i>Moral Theology and Mariology</i>	» 137
WILLIAM E. MAY	<i>Christian Faith and its «Fulfillment» of the Natural Moral Law</i>	» 155
STEPHEN THERON	<i>Precepts of Natural Law in Relation to Natural Inclinations: a Vital Area for Moral Education</i>	» 171
PHILIPPE CASPAR	<i>La Création de l'âme humaine et l'animation immédiate de l'embryon chez Lactance</i>	» 189
ANTHONY FISHER, OP	<i>Individuogenesis and a Recent Book by Fr. Norman Ford</i>	» 199

NOTE CRITICHE

TERENCE KENNEDY C.S.S.R.	<i>Principles of Moral Life and the Contemporary Theological Debate. Reflexions on William May's, «Principios de vida moral»</i>	» 83
R. GARCÍA DE HARO	<i>La moral y la metafísica de la persona y de su obrar. A propósito del libro de C. Cardona, «Metafísica del bien y del mal»</i>	» 87
R. GARCÍA DE HARO	<i>La renovación de la moral pedida por el Vaticano II. A propósito del libro de W. May, «An Introduction to Moral Theology»</i>	» 245

IN RILIEVO

RUDOLF EHMANN, MD	<i>Problems in family planning</i>	» 95
CARL A. ANDERSON	<i>Marriage and Family in Western Society</i>	» 273

Finito di stampare nel mese .
di gennaio 1992
dalla tipografia Città Nuova della P.A.M.O.M.
Largo Cristina di Svezia, 17
00165 Roma tel. 5813475/82