

*Chosen in Christ to Be Saints. III:
Moral Virtues and Bioethics*

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Chapter 1

Mortal Virtues as Principles of the Christian Life¹

1.1 The Moral Virtues

The study of fundamental morality has enabled us to understand that the moral (or ethical) virtues are the moral criteria for governing our use of goods and the exercise of our activities.² These virtues regulate our desires, feelings, and actions having to do with goods and activities. By “goods” is meant anything with a positive value that can be made use of by a human being: time, money, emotions, the body, sexuality, food, clothing, knowledge, etc.; “activities”, by contrast, signify the various *dimensions* of human life: work, leisure, family life, cultural or athletic activities, religious practices, and so on.

Moral virtues are not merely rational convictions about the correct mode of behaving, but something much more complex: they are criteria of our conduct that have also become stable dispositions of the emotional life and free will of the person who has them. Virtues show their efficacy at three different levels. They have an *intellectual* or *normative* aspect, that is, a cluster of rational criteria showing us the right way of eating,

¹Translation by Gerald Malsbary of *Scelti in Cristo per essere santi. III: Morale speciale*, 2^a ed., Edusc, Roma 2012.

²For the general theory of the virtues, we refer to the studies and bibliography indicated in the first volume of this work, E. Colom, A. Rodríguez Luño, *Scelti in Cristo per essere santi. Elementi di Teologia Morale Fondamentale* 3rd ed., Edizioni Università della Santa Croce (Rome, 2003) Ch. VII (henceforth we shall refer to this book as *Scelti in Cristo I* [= *Chosen in Christ, I*]). Here, we are only interested in the elements that are essential for introducing the study of special morality.

of doing our jobs, etc., but they also have an *emotional* aspect, insofar as the *emotions* of a virtuous person (i.e. inclinations, sentiments, and so on) and also directly or indirectly the *will* are put into stable order by those same criteria. Finally, there is a *dispositional* aspect since the virtuous ordering of the emotions and will *predispose* the person and make him or her capable of choosing rightly in each and every moment and circumstance. Special moral theology is concerned above all with the intellectual or normative aspect of virtue.³

The theory of the moral virtues must be approached from a perspective in which the fundamental task of morality is to order one's conduct globally, as conducive to the good of human life considered *as a whole*, or that which in technical terms is referred to as the "ultimate end". It presupposes that morality can and should provide a concrete answer

³Out of the vast bibliography on this topic we will suggest here only a few of the most useful titles, first in English or English translation, then in other languages. 1) *in English*: R. Guardini, *The Virtues. On Forms of Moral Life* (orig. 1963; Chicago: H. Regnery, 1967); J. Pieper, *The Four Cardinal Virtues* (Notre Dame, Indiana: Notre Dame University Press, 1966); P. T. Geach, *The Virtues* (Cambridge: Cambridge University Press, 1977); A. MacIntyre, *After Virtue* (Notre Dame, Indiana: Notre Dame University Press, 2nd ed. 1984); R. Cessario, *The Moral Virtues and Theological Ethics* (Notre Dame, Indiana: Notre Dame University Press, 1991); *idem*, "The Meaning of Virtue in Catholic Moral Life: Its Significance for Human Life Issues", *The Thomist*, 53 (1989) 173 – 196; M. Carl, "Law, Virtue, and Happiness in Aquinas' Moral Theory", *The Thomist*, 61 (1997) 425- 447; R. Mirkes, "Aquinas on the Unity of Perfect Moral Virtue", *American Catholic Philosophical Quarterly*, 71 (1997) 589 – 605; *idem*, "Aquinas's Doctrine of Moral Virtue and Its Significance for Theories of Facility", *The Thomist*, 61 (1997) 189 – 218; J. Peterson, I The Interdependence of Intellectual and Moral Virtue in Aquinas", *The Thomist*, 61 (1997) 449 – 454; 2) *in other languages*: G. Dwelshauvers, *L'Exercice de la volonté: L'habitude. La responsabilité. L'éducation de l'effort. L'utilisation de l'énergie volontaire. Personnalité et liberté*. (Paris: Payot, 1935); D. Isaacs, *La educación en las virtudes humanas*, 3rd ed., (Pamplona: Eunsu, 1979/1981); G. Abbà, *Lex et virtus, Studi sull' evoluzione della dottrina morale di San Tommaso d'Aquino* (Roma: LAS, 1983); E. Schockenhoff, *Bonum Hominis. Die anthropologischen und theologischen Grundlagen der Tugendethik des Thomas von Aquin* (Mainz: Matthias Grünewald Verlag, 1987); R. Garcia de Haro, *L'agire morale e le virtù* (Milano: Ares, 1988); A. Rodriguez-Luño, *La scelta etica. Il rapporto tra libertà e virtù* (Milano: Ares, 1988); E. Kaczynski, F. Compagnoni, eds., *La virtù e il bene dell'uomo. Il pensiero tomista nella teologia post-moderna* (Bologna: Dehoniane, 1993); G. Angelini, *Le virtù e la fede* (Milano: Glossa, 1994); R. Gerardi, *Alla sequel di Gesù. Etica delle beatitudini, doni dello Spirito, virtù* (Bologna: Dehoniane, 1998); J.-L. Bruges, *Ideas felices: virtudes cristianas para nuestro tiempo* (Madrid: BAC, 1998); G. Samek Ludovici, *L'Emozione del bene. Alcune idee sulla virtù* (Milano: Vita e Pensiero, 2010). Some useful bibliographies are also to be found in : G. E. Pence, "Recent Work on Virtues", *American Philosophical Quarterly* 21 (1984) 281-298; M. Alvarez Mauri, "Perspectivas actuales sobre la virtud. Estudio bibliográfico. *Pensamiento* 192 (1992) 459 – 480.

to the question about the ultimate good of the human being, since the manner of one's life will depend on the answer that is given. An example can help clarify how the content of the virtues depends on the idea of the global human good. Someone, let's say, has been offered a professional promotion – a promotion that would bring with it a noticeable increase in social prestige as well as income. The new position also requires a considerable increase in the amount of hours spent on the job each week. This last circumstance would bring in turn a restriction of the time available for family, putting a damper on plans for expanding the family, as well as reducing free time for church, sports, and other leisure activities. What should the person choose? To move toward one or the other position requires an evaluation of what there is in life that makes things like professional prestige, economic standing, family, health, religious practices, etc., the good and desirable things they are. In order to choose, we are forced to think in very concrete terms about what makes for a good and right life, about what kind of life we want to have. Once that has been clarified, it is possible to determine the priority that should be assigned to each of the activities under consideration. Someone who thinks that the global human good depends above all, or at least to a decisive degree, upon social and economic standing will make a different choice from someone who thinks that role played by family life and religious practices is a lot more important. In both cases, the priorities adopted will reflect the idea one has of the global human good and its components. Such priorities are a part of the content of moral virtues when viewed in their intellectual or normative aspect.

This problem was first approached in a philosophical way in classical Greece. The outcome of the great Greek philosophers' reflections was the doctrine of the moral virtues: prudence, justice, courage and self-moderation. These virtues, with the content that was assigned to them at that time, describe the way to live well according to the idea of the good life that those philosophers had reached by way of rational investigation.⁴

⁴Readers interested in the fundamental content of Greek ethics can consult A. Rodríguez-Luño, *Ética General*, 4th ed. (Pamplona: Eunsa, 2001), ch. 4. A very full study is available in J. Annas, *The Morality of Happiness* (Oxford: Oxford University Press, 1993). See also: C. Gill, *Personality in Greek Epic, Tragedy, and Philosophy. The Self in Dialogue* (Oxford: Clarendon Press, 1996).

1.2 Christian Moral Virtues

Moral theology takes up the study of the moral ordering of human life in the light of divine revelation which begins in the Old Testament and reaches its culmination in Christ. By the light of revelation we are also enabled to claim that the Greek doctrine of the ethical virtues offers us a sound conceptual foundation for interpreting the Christian experience of morality. Many normative principles established by the Greeks provide Christians too, with a good criterion of moral discernment. But the same cannot be said for all of them, if we think about slavery, for instance, or about certain kinds of sexual behavior. It is also true that Greek moral reflection was not in a position to overcome the resistance of the human heart and its baser inclinations. Aristotle recognized, with a certain honest realism, that most people “live by their emotions, pursuing their own pleasures, and the things that can procure those pleasures . . . while having no idea of what is . . . truly pleasurable”.⁵

In the first three chapters of the *Letter to the Romans*, St. Paul interprets the same experience in the light of his faith in Christ the Redeemer, and affirms that neither the gentiles nor the Jews – the former on the basis of the moral law inscribed in their hearts, the latter through the Law of Moses – were able to avoid sin. Both Jews and gentiles have an absolute need for the salvific action of God in Christ through the mediation of faith.

The New Testament epistles give us a strong impression that the Christians who had converted from paganism were quite conscious of a moral transformation effected within them by faith in Christ. “Put to death, then, the parts of you that are earthly: immorality, impurity, passion, evil desire, and the greed that is idolatry. Because of these the wrath of God is coming (upon the disobedient). *By these you too once conducted yourselves, when you lived in that way. But now you must put them all away: anger, fury, malice, slander and obscene language out of your mouths.*”⁶ Moral transformation proceeds by the light of the global human good, given through faith and by the power of the grace of the Holy Spirit dwelling in all those who believe in Christ.

⁵Aristotle, *Nicomachean Ethics*, X, 9: 1179b 13- 16, our translation.

⁶*Col* 3: 5-8 (our italics); cf. also *Eph* 2: 3.

The *Letter to the Ephesians* provides a comprehensive account of human destiny. In Christ, we have been chosen “before the foundation of the world, to be holy and without blemish before him. In love he destined us for adoption to himself through Jesus Christ”.⁷ According to the correlation between the ultimate end and the virtues, to which we made reference already, this new vision of the end (sanctity understood as a progressive identification with Christ) implies criteria of self-governance and priorities that are new -- to some extent at least – and that are appropriate for the type of life that belongs to the children of God in Christ. These are the Christian moral virtues, presided over and informed by faith, hope and charity (love).⁸ These are the “code” of the Christian life, the living principles that make it possible. Their basic orientation is Christological: they express the way of life that Christ made his own and taught to others.

1.3 The Role of Faith and Reason in Determining the Content of the Moral Virtues of the Christian

The *Letter to the Romans* states clearly that inadequate knowledge of God darkens the moral conscience and leads to the worst kinds of sin.⁹ Faith in Christ, on the other hand, brings about a renewal of the mind that makes it possible to discern the will of God and what is good, pleasing to Him, and perfect.¹⁰ Does this mean that everything that moral theology teaches about the virtues, and whatever is expounded in this book, will only be able to be understood by believers? No, not exactly.

Faith is the supreme principle of conscience. Grace and the Christian virtues are the vital principles that make possible the realization in

⁷ *Eph* 1: 4-5; see also *Eph* 1: 3 – 14.

⁸In our Fundamental Moral Theology it was explained that virtuous deeds of a Christian correlated with both the infused moral habits and the acquired ones, which make up two different levels that are inseparable in Christian moral action. See *Chosen in Christ to be Saints*, I, Ch. 7.5-7.7. Everything that we will discuss below presupposes this doctrine.

⁹*Cf.* for example *Rom* 1: 28-29.

¹⁰*Cf.* *Rom* 12: 2.

practice of what the believer knows. Our communion with God in Christ is the supreme end to which everything is referred in the final analysis. Nevertheless, grace does not create man from nothing, nor is faith a source of moral conscience for a world in which nothing can be known about God and the good. Grace and faith are principles of healing, elevation, and renewal: they heal, they elevate and they renew an existing human being who, even though wounded by sin, is nevertheless able to attain to a certain understanding about good and evil. The renewal of the mind of which St. Paul speaks happens in continuity with, and not in negation of, whatever was already achieved through natural reasoning or through the Law of Moses.

Therefore, on one side, Christian virtues presuppose a renewed vision of the value of human goods and their absence: richness and poverty, pleasure and pain, health and sickness, life and death all acquire a new meaning in the light of the Paschal mystery, and thereby establish in each Christian a new attitude in regard to the contrasts. On the other side, St. Paul often recalls the moral teachings of the Law of Moses, of traditional Old Testament wisdom, and of natural reason as valid criteria of moral discernment, which certainly ought to be subordinated to the definitive decision of faith working with charity. On many occasions a moral criterion is invoked that is expressed very fully, in order not to exclude that which is valid by human wisdom,¹¹ and at times there is explicit recourse to the judgment of non-believers “that you may conduct yourselves properly toward outsiders and not depend on anyone”.¹² It is implied that there are standards of moral judgment that are equally valid for believers and non-believers.

In sum, it can be said that the Christian moral message, if it is new, is *new without a rupture*, or new in the sense of a *completion*. Christian morality goes beyond human morality and the Law of Moses, but at the same time brings them both to their fullness. In the Fundamental Morality we spent some time elaborating on the consequences of this doctrine.¹³ We are now solely interested in emphasizing that, in the study of moral virtues in particular, theology has recourse not only to

¹¹Cf. *Phil* 4: 8.

¹²*1 Thess* 4: 12

¹³Cf. *Chosen in Christ to be Saints*, I, Ch. 1.1.3.

Revelation, but also to reason, experience and to the human sciences. This should not result in a group of juxtaposed, contrasting perspectives. At the very end, faith and charity are the supremely comprehensive principle that articulates in a coherent way the moral life of the person renewed in Christ. Whatever reason can attain to, ought to be validated in the light of faith, hope and charity in order for it to be considered as a way that must be taken in order to identify with Christ.

1.4 Virtues: The Principles of Christian Morality

The Second Vatican Council emphasized many times the importance of virtues for a right moral life. In first place comes charity, which “governs all the means of sanctification, gives them form, and leads them to their end”¹⁴, a function that is shared by the other theological virtues.¹⁵ After these there are the virtues of humility, obedience, fortitude and chastity,¹⁶ followed by the social virtues such as loyalty, justice, sincerity, courtesy and fortitude.¹⁷ The encyclical *Veritatis splendor* affirms along the same lines that “in order to ‘discern the will of God, what is good, what is pleasing to Him and perfect’, (*Rom.* 12, 2) it is of course necessary to have an awareness of the law of God in general, but that is not enough: what is indispensable is a kind of “connaturality” between a human being and what is truly good. This kind of connaturality is rooted, and grows, in the virtuous attitudes of the human person himself: prudence and the other cardinal virtues, and even before these the theological virtues of faith, hope and charity. This is what Jesus meant when he said, “He who does what is true comes to the light” (*John* 3: 21).”¹⁸

¹⁴*Lumen Gentium* no. 42.

¹⁵*Cf.* Vatican Council II, Decree, “*Apostolicam actuositatem*: on the Apostolate of the Laity, (Nov. 18, 1965) no. 4.

¹⁶*Cf.* Vatican Council II, Decree, “*Perfectae Caritatis*: on the Renewal of Religious Life” (October 28, 1965), no. 5.

¹⁷*Cf.* *Apostolicam actuositatem*, (note 14 above), no. 4.

¹⁸John Paul II, Encyclical *Veritatis splendor*, Regarding certain fundamental questions of the Church’s moral teaching (August 6, 1993), no. 64.

Ancient Greek ethics, with all its limitations, already recognized that for human conduct to be good, it would be necessary to perfect the principles from which good action proceeds. The idea is taken up again in the Christian doctrine of the four cardinal virtues. These perfect all the principles of action – practical reason, the will, and the two sensitive appetites – and they can be considered therefore as general conditions for right conduct. To act well requires a prudent discernment of what is acceptable to God, an interior rectitude that is just, the fortitude to restrain aggressiveness and overcome fears, and self-moderation in the use of pleasurable goods.¹⁹ Good action is prudent, just, brave and temperate.

In the Christian moral life there is a peculiar interweaving between the moral virtues and the theological virtues, on account of which it is definitely the case that the moral virtues are necessary for living in truth and charity. The exercise of the moral virtues on the part of a Christian “is animated and inspired by charity, which ‘binds everything together in perfect harmony’ (*Col.* 3, 14); it is the *form of the virtues*; it articulates and orders them among themselves: it is the source and goal of their Christian practice.”²⁰ Perhaps it was St. Augustine who emphasized that the cardinal virtues of the Christian are nothing other than diverse aspects of charity. They express the multiplicity of the forms of love. There is a famous passage in the *De moribus ecclesiae* which deserves to be quoted in its entirety: “If virtue leads us to the happy life, then I would not define virtue in any other way than as the perfect love of God. For in speaking of virtue as fourfold, one refers, as I understand it, to the various dispositions of love itself. Therefore these four virtues -- would that their efficacy were present in all souls as their names were on all lips -- I would not hesitate to define as follows: temperance is love giving itself whole-heartedly to that which is loved; fortitude is love enduring all things willingly for the sake of that which is loved; justice is love serving alone that which is loved, and thus ruling rightly, and prudence is love choosing rightly between that which helps it and that which hinders it. Now since this love as I have said is not love of things in general but rather love of God, that is, of the supreme good, the supreme wisdom,

¹⁹ Cf. *S. Th.* I- II, q. 61, aa. 3, 4, and 6.

²⁰ *Catechism of the Catholic Church*, no. 1827.

the supreme harmony, we can define the virtues thus: that temperance is love preserving itself whole and unblemished for God; fortitude is love enduring all things willingly for the sake of God; justice is love serving God alone, and therefore ruling well those things subject to man, and prudence is love discriminating rightly between those things which aid it in reaching God and those things that might hinder it”.²¹

Looking at the same reality from the side of the moral virtues, it is important to point out that charity grows and is intensified by way of moral effort. “In order that love as good seed may grow and bring forth fruit in the soul, each one of the faithful . . . [should apply himself to] prayer, to self-abnegation, lively fraternal service and the constant exercise of all the virtues.”²² Through the operation of the moral virtues the goods and activities of human life become visible and are effectively realized in accordance with the Christian vision of human existence. Faith, hope and charity will be negated in practice by egoistic behavior, or by conduct that is full of fear and apprehension about one’s own security, without respect for the rights of others, overly anxious about goods and or small earthly pleasures, etc. What causes scandal is the sight of “so many people who call themselves Christians because they have been baptized and have received other sacraments, but then prove to be disloyal and deceitful, insincere and proud, and . . . they fail to achieve anything. They are like shooting stars, lighting up the sky for an instant and then falling away to nothing. If we accept the responsibility of being children of God, we will realize that God wants us to be very human. Our heads should indeed be touching heaven, but our feet should be firmly on the ground. The price of living as Christians is not that of ceasing to be human or of abandoning the effort to acquire those virtues which some have even without knowing Christ. The price paid for each Christian is the redeeming Blood of Our Lord and he, I insist, wants us to be both very human and very divine, struggling each day to imitate him who is *perfectus Deus, perfectus homo*“.²³

“For such as each one is, so does the end appear to him”.²⁴ Experience

²¹St. Augustine, *De moribus ecclesiae*, 1, 15 (25); trans. Donald A. and Idella J. Gallagher, *Fathers of the Church*, vol. 56 (1966).

²²*Lumen gentium*, no. 42.

²³St. Josemaria Escrivá, *Friends of God* (London, New York: Scepter, 1990) no. 75.

²⁴*S. Th.* I – II, q. 58, a. 5, corpus. This is a passage of Aristotle (*Nicomachean Ethics*,

shows that this principle expresses a human tendency that is difficult to avoid. Effort in the realm of the cardinal virtues, supported by the grace of God and by the gifts of the Holy Spirit is shown to be necessary in order for the Christian to keep a clear vision of the existence of his own faith. If there is no struggle to affirm the vision through one's own actions, even within the limitations of human weakness, we run the risk of having our more defective actions be the ones that determine our vision of life. In this connection we should recall the words of the apostle James: "So also faith of itself, if it does not have works, is dead. Indeed someone might say, 'You have faith and I have works; demonstrate your faith to me without works, and I will demonstrate my faith to you from my works'".²⁵ The faith will not come to expression at all, if the believer does not strive to shape the principles of his action with the light and word of God. And herein lies the task of the moral virtues.

1114a32) quoted by St. Thomas.

²⁵*Jas* 2: 17-18.

Chapter 2

Prudence

2.1 Prudence in the Scriptures

The study of the virtue of prudence in the perspective of the Christian theological tradition brings us into contact, on the one hand, with the biblical teaching on prudence and wisdom, and on the other hand with the Greco-Roman tradition of ethical philosophy. The biblical doctrine is primarily of a religious character. In order to attain to a sure and systematic comprehension of moral experience, moral theology needed to make a judicious adaptation of the conceptual elaboration developed in Greek philosophy. Such an encounter with rational reflection was also made necessary by the universal character and audience of Christianity, as well as by the need to break the exclusive bond between the revealed teaching and the Jewish ethical and cultural tradition. The whole enterprise is another historical expression of the necessary collaboration of faith and reason, which certainly poses hermeneutical problems of its own that we cannot take the time to develop here.¹

Philosophical reflection on prudence is studied by the philosophy of ethics,² and some of these points will need to be considered here in due

¹On this issue cf. G. Angelini, *Teologia Morale Fondamentale. Tradizione, Scrittura e teoria*. (Milan: Glossa, 1999) pp. 241 and following.

²Cf. A. Rodriguez-Luño, *Ética General* (2001), Ch. VII. For a full account see: P. Aubenque, *La prudence chez Aristote* (Paris: Presses universitaires de France, 1976) ; S. M. Ramirez, *La prudencia* (Madrid: Palabra, 1979); B. Wald, *Genitrix Virtutum. Zum Wandel des aristotelischen Begriffes praktischer Vernunft* (Münster: Lit, 1986); D. J. Den Uyl, *The Virtue of Prudence* (New York, Bern, Frankfurt, Paris, London: Peter Lang, 1991); M. Rhonheimer, *Praktische Vernunft und Vernünftigkeit der Praxis. Handlungstheorie bei Thomas von Aquin in ihrer Entstehung aus dem Problemkontext der aristotelischen Ethik*

course; first, however, we must study the biblical sources.

2.1.1 *Prudence and Wisdom in the Old Testament*

In the Old Testament the concepts of prudence and wisdom are very closely connected. This is particularly clear in the Wisdom books, which also contain most profound reflections on prudence and wisdom as related to the conduct of the life of the individual.³ In its deepest meaning, the conduct of the wise person consists in obedience to the will of God: to know, and to want to follow, the paths of the Lord.⁴ Wisdom does not mean the height of speculative vision so much as having the right attitude in one's encounters with God: "The beginning of wisdom is fear of the Lord, and knowledge of the Holy One is understanding."⁵ This message is repeated over and over again.⁶

There is a balance in the wisdom books between passages that are optimistic about the possibility of governing one's own life on the basis of knowing the order in the world (the earlier part of *Proverbs*), and passages that are driven by doubt and disillusionment (*Job* and *Ecclesiastes*).⁷ In contrast to those who experience wonder at the order created by God, those who think they can understand it sufficiently by means of their own intelligence are accused of stupidity. There is a faith in the divine order, and a certain disappointment when it is realized that such an order cannot always be empirically verified; this is especially true in certain extreme cases, when experience itself seems to belie the

(Berlin: Akademie Verlag, 1994); D. Westberg, *Right Practical Reason. Aristotle, Action, and Prudence in Aquinas* (Oxford: Clarendon Press, 1994); R. Elm, *Klugheit und Erfahrung bei Aristoteles* (Paderborn: Schöningh, 1996).

³The following works are useful for acquiring a fuller understanding of the subject: E. Beaucamp, *I saggi d'Israele guida all'esperienza di Dio* (Milan: Paoline, 1964); A. Feuillet, *Le Christ Sagesse de Dieu* (Paris: Gabalda, 1966); J. Lévêque, *Job et son Dieu* vols. 1 & 2 (Paris: Gabalda, 1970); G. Von Rad, *La sapienza in Israele* (Casale Monferrato: Marietti, 1982); A. Bonora, *Giobbe: Il tormento di credere. Il problema e lo scandalo del dolore* (Padua: Libreria gregoriana, 1990); W. P. Brown, *Character in Crisis. A Fresh Approach to the Wisdom Literature of the Old Testament* (Grand Rapids, MI, Cambridge, UK: William B. Eerdmans, 1996).

⁴*Cf.* Prov 8: 32- 36.

⁵Prov 9: 10.

⁶*Cf.*, for example Prov 1,7; 15, 33; Ps 111, 10; Job 28, 28.

⁷I draw here on the interpretation of G. Angelini, *Teologia Morale Fondamentale* (1999), pp. 355 – 388.

expectations of the just (as with Job).

On such a basis it becomes clear that the foundation of the wise man's sense of security can be nothing other than God's faithfulness to his promises. Wisdom now acquires the form of faith in God and in the divine faithfulness. Wisdom consists in trusting God, even when experience seems to be putting us to the test. "Love justice, you who judge the earth, think of the Lord in goodness, and seek him in integrity of heart. Because he is found by those who test him not, and he manifests himself to those who do not disbelieve him."⁸ It is in this profound sense that the fear of God is the beginning of wisdom. Intelligence does not depend only on purely intellectual qualities, but on the practical attitude assumed by a person in his encounters with God and his law. The character of a person's life depends on this, and not on his fortune or misfortune.⁹

Even when his disappointments are many and his suffering incomprehensible, a prudent man's faith in God should not waver: that is the fundamental teaching of the book of Job. His story opens with the doubting questions of Satan: "Have you not surrounded him and his family and all that he has with your protection? You have blessed the work of his hands, and his livestock are spread over the land. But now put forth your hand and touch anything that he has, and surely he will blaspheme you to your face."¹⁰ Job laments, and appears to want to call the Lord to account. But his conduct is a model of true prudence: his faith is not bound up with the success of his affairs. Job is defended by God from the accusations of his friends.

The book of Ecclesiastes appears to aim a criticism at the pagan wisdom of the surrounding peoples, which clearly has limitations.¹¹ Worldly wisdom would like to try out what life has to offer before we commit ourselves in one direction or another. But the result of one's own experience is disappointing: "I have seen all things that are done under the sun, and behold all is vanity and a chase after wind."¹² Experience, eager to try everything, is not the path that leads to wisdom. Hence this is the end

⁸ *Wis* 1: 1- 2; cf. *Prov* 3: 5.

⁹ Cf. *Prov* 15: 15 -17.

¹⁰ *Job* 1: 10-11.

¹¹ Cf. *Ecc* 8: 17; 9: 10, 12; 10: 14; 11: 5.

¹² *Ecc* 1: 14.

of the book: “The end of the matter, all has been heard. Fear God, and keep his commandments; for this is the whole duty of man.”¹³

2.1.2 *Prudence and Wisdom in the New Testament*

The Greek adjective *phrónimos* (“prudent”) and the adverbial form *phronímōs* (“prudently”) appear frequently in the Gospel parables. The prudent one is he who gives due obedience to the words of Christ: effective obedience is the expression of the prudence of a believer. In some parables the foolish man (*mōrós*) is contrasted with the prudent man. At Matthew 7:24 and following the obedient man is likened to the wise man who builds his house upon the rock, while the fool is like someone who builds his house on the sand, a house that will soon fall in ruins. At Matthew 25: 1, the prudent virgins bring their oil along with their lamps, while the foolish virgins do not, and end up not being admitted to the wedding banquet.

Watchfulness or vigilance is connected with prudence in the government of one’s life: “Watch, therefore: you do not know when the lord of the house is coming, whether in the evening or at midnight or at cockcrow, or in the morning. May he not come suddenly and find you sleeping. What I say to you, I say to all: “Watch!”¹⁴ To be watchful means to keep in order one’s own desires concerning the true and definitive good (union with God) and consequently to revise one’s values and choices, in a radical way if necessary: “If your hand causes you to sin, cut it off. It is better for you to enter into life maimed than with two hands to go into Gehenna, into the unquenchable fire.”¹⁵ The true value of one’s hand – and the real importance of what a human being considers good -- can only be prudently judged in the light of life’s eschatological completion.

The dishonest steward is praised “for acting prudently” (*phronímōs*).¹⁶ He knows how to get ready prudently for the moment when his stewardship will be taken away from him. On the other hand, the rich man is

¹³ *Ecc* 12: 13 (RSVCE trans.)

¹⁴ *Mk* 13: 35- 37.

¹⁵ *Mk* 9: 43.

¹⁶ *Lk* 16: 8.

blamed who enjoyed his present life without thinking about his future and definitive life: “But God said to him, ‘You fool (*áphrōn*), this night your life will be demanded of you, and the things you have prepared, to whom will they belong?’”¹⁷ *Reflection on one’s own priorities and choices in the light of eschatological fulfillment, or the lack of such reflection, is what determines prudence or stupidity in the use of one’s goods.* In the parable of the Prodigal Son, the son’s long distance away from the house of his father is simultaneous with the wasting of his father’s inheritance “on a life of dissipation”.¹⁸ By contrast, once his thinking and his desires are directed toward the house of his father, he is stimulated to a purification of the heart and wins freedom from his anxiety about earthly goods.

In Chapter 8 of the *Letter to the Romans*, words derived from the verb *phronéō* have the meaning of “concern for” something, and possess a positive or negative connotation according to the direction taken by such concern or interest.¹⁹ Here, then, the close connection between prudence and the right concerns of the heart becomes clear. In the *First Letter to the Corinthians* St. Paul shows the opposition between the wisdom of this world and the “foolishness” of the Cross. With the death of Christ, the wisdom of the world becomes foolishness. Wisdom and foolishness in this connection do not mean simply theoretical qualities, but the quality of one’s attitude toward the divine plan. True stupidity is the refusal to accept the divine message of the Cross.²⁰ St. Paul opposes presumptuous and self-sufficient prudence, but never reason and wisdom as such. In the second chapter of the same letter he affirms that there is a Christian wisdom, different from the worldly kind,²¹ taught to the mature,²² and revealed by the Holy Spirit to the apostles and preachers

¹⁷*Lk* 12: 20.

¹⁸*Lk* 15: 13.

¹⁹“For those who live according to the flesh are concerned with (*phronoûsin*) the things of the flesh, but those who live according to the Spirit with the things of the Spirit. The concern (*phrónēma*) of the flesh is death, but the concern (*phrónēma*) of the Spirit is life and peace. For the concern of the flesh is hostility toward God; it does not submit to the law of God nor can it; and those who are in the flesh cannot please God.” (*Romans* 8: 5 – 8)

²⁰*Cf.* *1 Cor* 1: 17 – 25.

²¹*Cf.* *1 Cor* 2: 6.

²²*Cf.* *1 Cor* 2: 14 – 15.

of the Gospel,²³ but hidden from the wise of this world.²⁴ Christ himself is considered the wisdom of God.²⁵

The brief indications given so far should be enough to show the importance that Holy Scripture attributes to wisdom and prudence for the conduct of one's life. They are in close agreement with faith, and they express the attitude of man in the encounter with God and His plans. It has nothing to do with "wiliness" or ambiguity. Prudence and wisdom consist above all in the concrete discernment of good and evil, of what corresponds to, and of what is opposed to, the divine plan for every person.

2.2 Prudence in the Catholic Moral Tradition

2.2.1 *The Fathers of the Church*

The Fathers of the Church did not achieve a systematic elaboration of moral theology. Their works were profound reflections, deeply rooted in Holy Scripture, that covered all the doctrines that we today consider as dogmatic, moral or theological spirituality. But both the great Fathers of the Eastern Church (St. Basil, St. Gregory Nazianzenus, St. Gregory of Nyssa, St. Cyril, St. John Chrysostom, etc.) and the great Fathers of the Western Church (St. Ambrose, St. Augustine, St. Gregory the Great) have left us important contributions to the doctrine of the virtues. *A common idea among the Fathers is the consideration of prudence as one of the four fundamental or general virtues* (which we call the cardinal virtues).²⁶ The term "cardinal virtue" was first used

²³Cf. 1 Cor 2: 10 - 11.

²⁴Cf. 1 Cor 2: 8.

²⁵The theme of discernment (*dokimázō* and its derivatives) acquires great importance in St. Paul. We have already considered one of the more significant passages (*Romans* 12: 2) in the preceding chapter. It is not necessary to do so again here. For a fuller account see: G. Therrien, *Le discernement moral dans l'Épître aux Romains* (Rome: Accademia Alfonsiana, 1968); A. Feuillet, "Les fondements de la morale chrétienne d'après l'Épître aux Romains", *Revue Thomiste* 70 (1970) 357-386.

²⁶Cf. for example, St. Basil, *In principium Proverbiorum*, 6: PG 31, 397. The Fathers incorporate in this way the inheritance of Greek philosophy also present in *Wisdom* 8: 7.

by St. Ambrose of Milan in his important work *De officiis ministrorum* (written in 386). This work constitutes the first systematic exposition of Christian ethics, and owes a great deal to Cicero, both for its literary qualities and its distribution of the material. Prudence, as directed toward the discovery of the truth,²⁷ acquires a notable importance in this work and is presented in Christian terms on the basis of examples taken from the Scriptures. Great emphasis is given to the interconnection of the virtues among themselves and of each with prudence.

We have already referred in the preceding chapter to one of the most characteristic contributions of St. Augustine. He showed that the cardinal virtues express the multiplicity of the forms of love, and therefore prudence is nothing other than the love that discerns with clarity that which helps us come nearer to God and that which hinders us from doing so.²⁸ Closely allied to the reflections of St. Augustine are those of John Cassian (360 – 435) on *discretio*. Cassian shows how all the virtues have in common a component of right judgment, discernment, and practical wisdom, just as they also include moderation and adaptation to circumstances. Cassian speaks in this connection of a *prudens discretio*.²⁹

2.2.2 *From Medieval Theology to the Present Day*

In the medieval monastic theological tradition, the reflections of St. Bernard (d. 1153) on *discretio* are important: the role of *discretio* is to guide the actions of all the other moral virtues.

By the thirteenth century, reflections on prudence acquired the form of specific treatises, hand in hand with an increasingly accurate knowledge of the text of the sixth book of Aristotle's *Nicomachean Ethics*. William of Auxerre, Philip the Chancellor and Albert the Great all prepared the way for the great systematic exposition by Thomas Aquinas. At first, the interest of research was directed to uncovering the proper act of prudence, and the influence of this virtue on the moral life. It became clear that there was a difficulty in attributing the category of

²⁷ Cf. Saint Ambrose, *De officiis ministrorum* I, 24, 107 – 27, 109: Biblioteca Ambrosiana 13, 89 – 103). For a study of this important work see M. Becker, *Die Kardinaltugenden bei Cicero und Ambrosius: De Officiis* (Basel: Schwabe, 1994).

²⁸ Cf. St. Augustine, *De moribus ecclesiae*, I .15, 25: NBA 13/1, 53.

²⁹ Cf. John Cassian, *Institutiones*, V, 41: *Sources Chrétiennes* 109, 256.

“moral virtue” to a habit whose proper act seemed to be a judgment. St. Albert the Great approached a solution to the problem by distinguishing prudence (whose act is the *imperium*) from the virtue of good deliberation (*eubulia*) and right judgment (*synesis*), but the exact relationship among these three virtues was anything but clear.³⁰ St Thomas devoted a good deal of space to the study of prudence in his *Commentary on the Sentences*. The *Summa Theologiae* (II-II, qq. 47 – 56) provides a thorough-going treatment that is still an essential point of reference to-day. For Thomas, prudence is the virtue that assures the rectitude and truth of the practical reason in all its functions. The direction of moral action, considered in the concrete, pertains entirely to it.

The scholastic tradition produced some excellent studies of prudence. One thinks, for example, of Gaetano’s commentary on St. Thomas’s *Summa Theologiae* (II-II).³¹ In general, however, it should be acknowledged that the role of prudence in the moral life has not been well understood. There has been a decreasing attention paid to prudence and an increasing attention paid to conscience (as seen, for example, in the *Summa* of the Thomist scholastic Francisco de Vitoria and in the *Cursus Theologicus* of John of St. Thomas). This is a consequence of the abandonment of the ethical perspective of the “first person”, an event of major importance which we explored in fundamental moral theology.³²

In the context of the rediscovery and renewal of the moral teaching of St. Thomas during the twentieth century, the treatise on prudence has been re-evaluated. The works of T. Deman³³ and S. Pinckaers³⁴ have been particularly important. In the last quarter of the century, the study of virtue ethics has further contributed to understanding the role of prudence.³⁵

³⁰For the scholastic theology on prudence see O. Lottin, *Psychologie et Morale aux XII et XIII siècles*, vol. III (Gembloux, Belgium: Duculot, 1949), 255 – 280.

³¹Gaetano’s commentary has been printed in the Leonine edition of St. Thomas’s *Summa Theologiae* (Rome: Typographia Poliglotta S. C. de Propaganda fide, 1891).

³²Cf. *Chosen in Christ to be Saints*, I, 2. 2.

³³Cf. for example his commentary on the *Secunda Secundae* (Tournai: Desclée, 1949) and his justly celebrated study, *Probabilisme*, in DTC XIII/1, 1936, pp. 417-619.

³⁴Cf. *The Sources of Christian Ethics*, trans. Sr. M.T. Noble (Washington, D.C.: Catholic University of America Press, 1995); “Coscienza, verità e prudenza”, in G. Borgonovo, ed., *La coscienza* (Città del Vaticano: Libreria Editrice Vaticana, 1966) 126 – 141.

³⁵Cf. for example G. Abbà, *Lex et virtus. Studi sull’evoluzione della dottrina morale di S. Tomasso d’Aquino* (see above: Chapter One, note 2); Id., *Felicità, vita buona e virtù*.

2.3 Theological Analysis of the Virtue of Prudence

2.3.1 *The Nature of the Virtue of Prudence*

The Aristotelian definition of the virtue of prudence -- *recta ratio agibilium* -- is a good point of departure. We can translate it somewhat freely as the right regulation of particular moral actions, considered in all their concreteness and in view of all their circumstances.³⁶ In this connection, *The Catechism of the Catholic Church* states that “prudence is the virtue that disposes practical reason to discern our true good in every circumstance and to choose the right means of achieving it”.³⁷ It is the habit that stabilizes and secures the rectitude of the practical reason in its task of planning and governing moral behavior in detail. If we consider it as it exists in the Christian believer, we would be able to define it as *the virtue through which the practical reason, illuminated by faith*

Saggio di filosofia morale, 2nd enlarged ed. (Rome: LAS, 1995); Id., *Quale impostazione per la filosofia morale? Ricerche di filosofia della morale – 1* (Rome: LAS, 1996); A. MacIntyre, *After Virtue* (see above, Chapter One, note 2); M. Rhonheimer, *The Perspective of Morality: Philosophical Foundations of Thomistic Virtue Ethics*, trans. G. Malsbary (Washington, D. C.: Catholic University of America Press, 2011); Id., *Praktische Vernunft und Vernünftigkeit der Praxis* (see above, Chapter One, note 2); Id., *Natural Law and Practical Reason*, trans. G. Malsbary (New York: Fordham University Press, 2000); A. Rodríguez-Luño, *La scelta etica* (1988); Id., *Etica* (Florence: Le Monnier, 1992); Id., *Ética General* (2001).

³⁶For the virtue of prudence one can consult the following works: *Summa Theologiae*, II-II, qq. 47 – 56; H.D. Noble, “Prudence” DTC 13, 1926, 1023 – 1076; F. Dander, “Die Klugheit. Ihr Wesen und ihr Bedeutung für den Christlichen Charakter nach der Lehre des hl. Thomas von Aquin”, *Zeitschrift für Ascese und Mystik* 7(1932) 97 – 116; T. Deman, “La Prudence” *Revue des Jeunes* (Paris: Desclée, 1949); J. Pieper, “Prudence” in *The Four Cardinal Virtues*, trans. Richard and Clara Winston (Notre Dame, Indiana: Notre Dame University Press, 1966); E. Gagnon, *Trois vertus cardinales: la prudence, la force, la tempérance et leurs annexes* (Montreal: Institut Pie-XI, 1962); B. Morisset, “Le syllogisme prudential”, *Laval théologique et philosophique* 19 (1963) 62 – 92; R. M. McInerny, “Prudence and Conscience”, *The Thomist* 38 (1974) 291 - 305; S. M. Ramirez, *La Prudencia* (see above, note 2); A. Rodríguez-Luño, *La scelta etica* (see Chapter One, note 2); T. G. Belmans, “Le jugement prudential chez saint Thomas”, *Revue Thomiste* 99 (1991) 414-420; D. M. Nelson, *The Priority of Prudence: Virtue and Natural Law in Thomas Aquinas and the Implications for Modern Ethics* (University Park, PA: Pennsylvania, 1992); D. Tettamanzi, *Verità e libertà* (Casale Monferrato: Piemme, 1993) pp. 309 – 366; M. Rhonheimer, *The Perspective of Morality* (see note 35) pp. 223-230 and 372-421; J. F. Selles, *La virtud de la prudencia según Tomás de Aquino* (Pamplona: Servicio de Publicaciones de la Universidad de Navarra, 1999).

³⁷CCC, 1806.

and moved by the love of the Holy Spirit, judges and commands what needs to be done in detail, here and now, in order to realize living out our life as children of God in Christ, and to avoid whatever is opposed to that life.

A characteristic feature of prudence is that its *task is to direct actions considered in their maximum concreteness, by guaranteeing the rightness of the entire process of practical reasoning that is presupposed by such a directive function.* Universal propositions such as “Theft is a sin against justice”, or “Euthanasia is a serious moral offense” pertain to moral wisdom about actions in general, that is to say, to the types of actions that are good or bad. Such wisdom is presupposed by prudence, but does not constitute its object. It would not even be correct to say that prudence consists in the application of general moral wisdom (or moral knowledge) to concrete actions. It does that in addition, but not *only* that. It is not the task of prudence to deduce particular actions from premises, or choose one among possible, already given actions, but rather to individualize (and sometimes “invent”) and bring to fulfillment those actions which here and now realize virtues (justice, for example) and more generally, to individualize and bring to fulfillment the actions which, here and now, in *this* situation and in view of the problem before us, allows us to act in a way that befits our condition of being a son or daughter of God in Christ. Prudence guides and directs us every day and in all our affairs in the quest for Christian sanctity to which we have been called.

Prudence is the perfection of the practical intellect. Nevertheless it is still a moral virtue, and not only an intellectual one. Intellectual virtues make us capable of good actions, but they do not imply, and still less guarantee the *right use* of such a capacity. Moral virtues, on the other hand, include the will to act well in their very essence. It is not possible to make an impure use of chastity, nor a cowardly use of fortitude. If someone, though theoretically capable of chastity, is nevertheless not willing to act chastely, we would have to say, simply, that such a person does not have the virtue of chastity. It is not the task of prudence to deliberate about whether or not one should act with justice, but about what actions are necessary to perform in order realize justice most effectively, here and now. Prudence presupposes

the other moral virtues (in their intentional dimension),³⁸ and without moral virtues (i.e. without wanting to be just, temperate, etc.), prudence cannot exist.³⁹ First, the person has to want to follow Christ, and then to act with justice, fortitude, temperance, humility, etc., and after this, prudence particularizes and orders a series of actions that will resolve – with justice – the complicated situation of employment or finance that, for example, some manager of a firm has to resolve.

*Christian prudence not only presupposes the possession of the moral virtues: it also presupposes charity.*⁴⁰ Only in the light of faith and under the impulse of charity can a person live coherently as a Christian in all circumstances. In order to individualize and bring to fulfillment the actions worthy of a Christian, the person must first live in a Christian way, that is, to seek an identity with Christ in his own acts and activities.

This does not make prudence into a simple corollary of faith and the moral virtues. Prudence develops a function peculiar to itself, as is expressed in the traditional terms “pilot of the virtues” [*auriga virtutum*] or “mother of virtues” [*genetrix virtutum*], since prudence is necessary for each of the other virtues to attain to their principal act, which is right choice and right action. It is not enough to want to be just or self-controlled, even if such a desire is very strong. It is necessary to individualize and carry out the line of conduct that realizes justice or temperance here and now. Without this special task of prudence, the other virtues would not be able to come to expression, and if they are not able to be expressed, they cannot become consolidated within the subject himself (in this sense prudence is also a “mother” that gives birth to the virtues).

To use a summarizing formula, we could say that *prudence is the virtue of effectively realizing the good*. By means of prudence our good desires and our noble ideals become actual reality. And when we contemplate the great distance that exists between the ideal and the reality, between the desire to carry out an economic activity informed with jus-

³⁸ Cf. *Chosen in Christ to be Saints*, I, Ch. 7. 3.1.

³⁹ Cf. *S. Th.* I–II, q. 58, a. 5.

⁴⁰ *Ad rectam autem rationem prudentiae multo magis requiritur, quod homo bene se habeat circa ultimum finem, quod fit per caritatem, quam circa alios fines, quod fit per virtutes morales* (*S. Th.* I–II, q. 65, a. 2).

tice, and the effective realization of such an action, we can understand both the importance and the difficulty of the virtue of prudence.

From the negative point of view, it is also convenient to recall that every sin involves an action that is contrary to prudence, and that the lack of prudence is a moral fault, not merely a technical error or the product of a dull intellect. It is true that in matters of high technical complexity (in the economic and political fields, for instance) unintended errors can occur that do not constitute a moral fault as such. But in general, to know what needs to be done here and now, and to bring it to fulfillment at the right moment, is not a morally neutral question, but in fact the proper expression of virtue and moral excellence. *Not* to know how to realize the good, or, although knowing how, *not* to realize it, is attributable to a lack of virtue, and not to mere intellectual error.

2.3.2 *The Acts of the Virtue of Prudence*

Considered globally, prudence has the task of making good and excellent all the acts of the reason involved in the carrying out of actions, that is to say, deliberation, judgment, and command (Lat. *imperium*). St. Thomas holds that deliberation and judgment are acts of virtue connected to prudence, (as we will see in what follows), but that command *is the specific act of prudence*. The reason behind this is that prudence is the principal virtue concerned with the direction of actions, and its object therefore ought to be the principal act of the reason with respect to the completion of actions, and that is command or *imperium*. This act consists in “the application to action of that which has been deliberated about and judged. And because this act is closer to the end of the practical reason, it is consequently the principal act of practical reason, and thus of prudence.”⁴¹ As was stated in the beginning, the end of the practical reason is not the contemplation of the good nor the propounding of high ideals, but their effective realization, and that is determined immediately by a command, which, to be sure, presupposes good deliberation and correct judgment. Someone who knows what ought to be done (such as removing oneself from occasions of sin, resisting impulses, etc.) but goes days and month without doing so, is not prudent: he

⁴¹*S. Th.* II-II, q. 47, a. 8, c.

does not actually manage to carry out the action, and thus comes to be lacking in the very act that is proper to prudence.

2.4 The Various Forms of Prudence and its Associated Virtues

St. Thomas organizes all other moral virtues around the four cardinal virtues, considering them as parts of the latter, in accordance with the relationships in which they stand to them. He names as *integral parts* those virtues that guarantee the component functions that are indispensable for the perfected act of the principal virtue. *Subjective parts* are the various species of the principal virtue, and *potential parts* are, finally, the associated or supplemental virtues that are ordered to the matters where the essence of the principal virtue is not fully realized.⁴² A terminology closer to our present way of speaking might call them, respectively, 1) the integral elements of a virtue, 2) the diverse species or kinds of a virtue, and 3) associated virtues.

2.4.1 *Integral Elements of Prudence*

St. Thomas distinguishes eight integral elements of prudence. Five of these (memory, reason, intelligence, docility and sagacity) he considers with respect to prudence being a cognitive virtue, and the others (foresight, circumspection, and caution) he considers with respect to its commanding function.

1) In prudent knowing, three things can be considered. In the first place, there is knowing as such: that which regards the past being *memory*, that which regards the present situation being *intellect* or *intelligence*. In the second place, with regard to the acquiring of knowledge, we have *docility* when the knowledge is obtained through the instruction or counsel of another person, or else we have *sagacity* which is the virtue of making a good conjecture on the basis of one's own considerations. Another part of this last is "shrewdness" [Lat. *sollertia*], which according to Aristotle is the swift conjecture of the logical middle term [cf.

⁴² Cf. *S. Th.* II-II, q. 48, a. unicus.

Posterior Analytics 89b 10-11]. Finally, we must consider the use of the knowledge, that is, the passage that is made from things already known to the knowing and judging of new things, and this belongs to *reason*.

2) In rightly commanding, prudence puts order into what is proportionate to the end, and then we have *foresight*.⁴³ To study carefully the circumstances of action, is to have *circumspection*. And thirdly, to avoid obstacles we need *caution* [Lat. *cautela*].⁴⁴

These elements help clarify that if we want to resolve a problem prudently, especially if it is a complex or delicate one, it is necessary to take precedents into account: to see how the same problems, or problems analogous to the current situation, have been handled in the past (“experience is the mother of science”). It is also necessary to make sure we have a clear understanding of the principles on which our reasoning should be based, and to have grasped and well understood the various aspects of the current problem, in order to study it in the light of our conscience. It is part of prudence to know how to be skeptical about one’s own competence when it is appropriate, and to ask the counsel of someone in a position to give it.⁴⁵ If the problem requires an urgent solution, the prudent person should be capable of getting at the core of the question to be resolved, in a brief space of time, in order to come up with the most adequate answer [*sollertia*]. Both the experience of the past as well as the understanding and study of the various aspects of the problem before us aim toward facilitating the most opportune choice: a choice well-suited to obtaining the desired end (i.e., resolving the problem without committing injustice against anyone, without giving scandal, etc.),

⁴³Jesus speaks of the necessity of foresight through the example of the man who wants to build a tower or who wants to engage in a battle (cf. *Lk* 14: 28-32). But the conclusion is very surprising: “In the same way, everyone of you who does not renounce all his possessions, cannot be my disciple” (*Lk* 14: 33). Here, the Lord is concerned with teaching prudential foresight: to attain identification with Him (the end), one must be willing to let go of every possession (the proportionate means).

⁴⁴Cf. *S. Th.* II- II, q. 48, art. unicus.

⁴⁵“To be prudent the first step is to acknowledge our own limitations. This is the virtue of humility. Through it, we admit that in certain matters we cannot cover everything, that in so many cases we cannot take in all the circumstances that have to be borne in mind in order to make a fair judgment. So, we look for advice; but not from just anyone. We go to a person with the right qualities, to someone who wants to love God as sincerely as we do and who tries to follow him faithfully. It is not enough to ask just anyone for their opinion. We must go to a person who can give us sound and disinterested advice.” Saint Josemaría Escrivá, *Friends of God*, no. 86.

and at the same time, a choice well-weighed with regard to consequences (i.e., in such a way as to avoid counter-productive actions that would only aggravate the situation, or preclude future solutions), and, finally, with awareness of the obstacles that could possibly arise.⁴⁶

2.4.2 *The Species of Prudence*

It is necessary now to distinguish two fundamentally different types of prudence: *personal prudence*, which is the prudence of the person in the government of his or her own life, and *governing prudence*, which is the prudence needed to govern a collectivity.⁴⁷ Because there are different kinds of collectivity (family, army, the state, the church or some part of the church), there are also various forms of governing prudence.⁴⁸

There is a formal distinction between personal prudence and governing prudence, which parallels the distinction between personal and political morality, economic morality, etc.⁴⁹ This distinction is founded in the difference of ends: personal prudence is referred to the good of the acting subject, considered as a child of God in Christ, while governing prudence is referred to the common good of the collectivity assumed in each case (the political common good, the family's common good, the common good of the Church, etc.). It is rather improbable for a personally imprudent person to be good at governing at any level, but it is relatively easy for someone who is very capable of governing him- or herself *not* to have the qualities needed to be a good governor. And this will be even more the case, the larger and more complex the collectivity in question.

Governing at any level implies more and less serious responsibilities, but they will always be serious. It requires a clear vision of common good that is to be promoted and protected, an understanding of social change and social dynamics, courage and a spirit of service, a sense of

⁴⁶For St. Thomas's account of these virtues see *S. Th.* II-II, q. 49, aa. 1 - 8.

⁴⁷Holy Scripture speaks of domestic prudence (*Prov* 24: 3), of the prudence of public authorities (*1 Kings* 3: 9-12; *Ps* 71: 1-2), and of the prudence needed by ecclesiastical ministers (*Acts* 6: 3; *1 Tim* 3: 2), etc.

⁴⁸*Cf.* *S. Th.* II-II, q. 50, articles 1 - 4. On prudence in the political order, see L. E. Palacios, *La prudencia política* (Madrid: Instituto de Estudios Políticos, 1946).

⁴⁹The distinction between personal and political morality has been studied in fundamental moral theology: *cf.* *Chosen in Christ to be Saints*, I, Ch. 9.1.2.

authority and at the same time a great love (i.e. not just respect, which is already a great deal) for the legitimate personal freedom of every person, objectivity, avoidance of all manipulation, a sense for what is right and just, and a spirit of clemency.

Some tasks of governing, especially in the family and in the Church, have a pronounced formative dimension, to which the following words can be well applied: "... when in our own life or in that of others we notice something that isn't going well, something that requires the spiritual and human help which, as children of God, we can and ought to provide, then a clear sign of prudence is to apply the appropriate remedy by going to the root of the trouble resolutely, lovingly and sincerely. There is no room here for inhibitions, for it is a great mistake to think that problems can be solved by omissions or procrastination. Prudence demands that the right medicine be used whenever the situation calls for it. Once the wound has been laid bare, the cure should be applied in full and without palliatives. When you see the slightest symptom that something is wrong, be straightforward and truthful about it, irrespective of whether it involves helping someone else or whether it is your own problem. When such help is needed, we must allow the person who, in the name of God, has the qualifications to carry out the cure, to press in on the infected wound, first from a distance, and then closer and closer until all the pus is squeezed out and the infection eradicated at its source. We must apply these procedures first to ourselves, and then to those whom, for reasons of justice or charity, we are obliged to help; I pray especially that parents, and everyone else whose job is to train and educate, may do this well."⁵⁰

2.4.3 *Virtues Associated with Prudence*

Let us now take up the virtues that pertain to the secondary (though no less important) acts of prudence: deliberation and judgment. The virtue of good deliberation is *eubulia* (this is the Greek name for it given by Aristotle), the virtue that renders perfect our ability to seek out and design the actions we want to carry out, through the accurate examination of the diverse aspects of these possible actions, and through

⁵⁰St. Josemaría Escrivá, *Friends of God*, no. 157.

the exploration of the possibility of taking different courses of action.

The judgment of things that have been deliberated about is the virtuous outcome of two habits: *synesis* and *gnome* (these two being Aristotle's Greek names for them). *Synesis* perfects the judgment about ordinary things, according to the moral and legal principles that are valid and applicable in the typical cases. *Gnome* is the capacity of judging rightly those extraordinary cases which unexpectedly reach outside the laws: when the application of ordinary rules would bring more injustice than justice, more bad than good. When such cases occur, they must be approached with higher-level principles of justice or morality. *Gnome* governs the virtue of *epikeia*, which has already been treated in fundamental moral theology.⁵¹

The distinction between *prudence*, *eubulia*, *synesis* and *gnome* may seem artificial. In the life of a person, all four are perfections of the practical intellect of one and the same person, and consequently they are all very closely inter-connected. But they do identify diverse functions which do not always operate together. We frequently meet with people who may have a clear vision of what to do, but are always indecisive, and never reach the point of action. In more complex situations, such as political and social ones, the ability to deliberate ("legislative"), the ability to decide ("judicial") and the ability to command action ("executive" or governing in the strict sense) are quite separate.⁵²

⁵¹Cf. *Chosen in Christ to be Saints*, I, Ch. 10. 4.4. See also A. Rodríguez-Luño, "La virtù dell' epicheia. Teoria, storia e applicazione", *Acta Philosophica* VI/2 (1997) 197-236, and VII/1 (1998) 65-88.

⁵²On these virtues, see S. *Th.* II-II, q. 51, aa. 1 – 4.

The Virtue of Prudence:

Integral elements	Memory
	Reason
	Intelligence
	Docility
	Sagacity (shrewdness)
	Foresight
	Circumspection
	Caution
Species of prudence	Personal prudence
	Governing prudence
Associated virtues	Eubulia
	Synesis
	Gnome

2.5 Prudence and the Gift of Counsel

Like St. Thomas, many theologians hold that the gift of counsel belongs to the subject matter of prudence.⁵³ The Christian virtue of prudence perfects the practical reason, illuminating it by faith in its task of directing the accomplishment of actions. The gift of counsel make the person docile to the divine action, so that, moved by the Holy Spirit, it can bring to fullness the capacity of governing oneself and others.⁵⁴

The question can be raised here, whether it wouldn't be simpler to speak about the action of the Holy Spirit, without also bringing the *gift* into the picture, which is another supernatural habit. The answer would be that the Holy Spirit guides the life of the believer, but not in a purely extrinsic way. The divine action allows the human being to acquire through docility and generosity a steady kind of perfection, in virtue of which the human subject is always the co-performer (and thus

⁵³Cf. *S. Th.* II- II, q. 52, aa. 1 - 4, and see also the excellent study by J. Noriega, "*Guiados por el Espíritu Santo*". *El Espíritu Santo y el conocimiento moral en Tomás de Aquino* (Rome: Pontificia Università Lateranense, 2000); this work has an extensive bibliography.

⁵⁴Cf. *S. Th.* II-II, q. 52, a. 2, ad 2.

a true performer) even of those actions which exceed the human way of acting with that virtue, and perfections of this kind are gifts of the Holy Spirit.

The perfecting action which is the gift of counsel is manifests itself within Christians, and particularly in the lives of the saints, in the face of unexpected or difficult problems calling for a speedy solution, and the solution is arrived at in a kind of intuitive manner when there has not been enough time for human reasoning or evaluation. Persons familiar with spiritual direction experience this frequently.

2.6 Sins Against the Virtue of Prudence

We have mentioned that imprudence is involved in every kind of sin. Here we are concerned only with the sins that are opposed directly to the virtue of prudence. Of these, some are clearly opposed to prudence because they consist in a lack of something required for the virtue, while others consist rather in a false prudence, or the deformation of something proper to prudence.⁵⁵

2.6.1 *Sins Directly Opposed to Prudence*

There are four of them: hastiness, inconsideration, inconstancy, and negligence.

Hastiness (*praecipitatio*, precipitousness, impetuosity) or lack of reflection is directly opposed to *eubulia*. The name itself evokes a spatial image: something falls from a “precipice” at a great speed [Lat. *prae-* + *cep-*, “with the head going before”, or “headlong”]. Someone is hasty in action who passes directly from the idea or the general principle to a concrete action without taking time to reflect on the experiences of the past, on the concrete conditions of the present situation, or on the possible consequences of the action. He omits the needed deliberation and allows himself to be swayed by an immediate impulse.⁵⁶ In a more

⁵⁵St. Thomas treats the first kind in Questions 53 and 54 of II-II, and the second kind in Question 55.

⁵⁶The Bible frequently warns against impetuosity of speech (*Prov* 10: 19; *Eccl* 5: 2; *Jas* 3:2), and teaches that one should always act with caution: “A man of discernment keeps his

general sense, impetuosity also means not reflecting on the course that one's life is taking, and letting oneself be concerned excessively with immediate needs. An attentive consideration of the ultimate meaning of one's own life as a Christian is needed in order to see the priorities that are actually informing one's personal conduct.

Inconsideration is directly opposed to *synesis* and *gnome*. It consists in omitting the attentive evaluation of the various aspects that are needed for formulating a correct judgment. If there has been hastiness already, there will also be inconsideration, but the latter can be present even without hastiness.

Inconstancy is a failure of the imperative or “commanding” act of prudence. Someone is inconstant when he abandons for no good reason the propositions and resolutions that he has already made on the basis of a well-founded judgment. Such abandoning of resolutions is in most cases a way of responding to the resistance created through a disordered affectivity (“it costs too much...” , “it’s difficult...”, “it doesn’t suit me...”, and so on). Following Aristotle on this point, St. Thomas takes these three vices to be a consequence of in chastity or lust (Lat. *luxuria*).⁵⁷

Negligence is also opposed to the imperative act of prudence. To put it more concretely, it consists in the omission of the act of the practical reason that commands the realization of an action. It is not the same as with inconstancy, which is to give up on something that has already been decided in the face of some obstacle; rather, it is an interior weakness that does not succeed in bringing action to fulfillment. The negligent person never arrives at a decision to act, while the inconstant person abandons what he once had decided to do.⁵⁸

temper cool” (*Prov* 17:27, Jerusalem Bible trans.).

⁵⁷“For this reason we use the word *sophrosyne* [temperance] because it “saves” [*sōzei*] “the reason” [*prōnēsin*]. It saves, that is, good judgment. For pleasure and pain do not corrupt every kind of judgment (not for example, the judgment whether or not the angles of a triangle add up to the sum of two right angles), but only judgment concerning action. The starting points or principles of actions are that for the sake of which they are done: the starting point of an action is no longer obvious to someone who has been corrupted by pleasure or pain, nor [is it obvious that] it is for the sake of this and because of this that he should choose to do everything. Vice, in fact, destroys the starting point (or principle)”. Aristotle, *Nicomachean Ethics*, VI. 5: 1140 b 11-19, our translation.

⁵⁸The *Letter of James* (1: 22- 25) compares the one who does not put the word of God into practice to someone who looks at his face in a mirror but then forgets who he is, that is

2.6.2 *The Vices of Pseudo-prudence*

These are: prudence of the flesh, cunning, guile, fraud (or cheating), and excessive anxiety about temporal goods.

Prudence of the flesh is the specific kind of intelligence that lives according to the flesh (the old man, marked by sin), and is put into practice by those who consider temporal goods as the ultimate end of life. Saint Paul refers to it when he says: “The concern of the flesh (*tò gàr phrónēma tēs sarkòs*) is death, but the concern of the Spirit (*tò dè phrónēma toû pneúmatos*) of the Spirit is life and peace. For the concern of the flesh is hostility toward God; it does not submit to the law of God nor can it; and those who are in the flesh cannot please God.”⁵⁹ The prudence of the flesh is “the prudence of those who are intelligent but try not to use their intelligence to seek and love Our Lord. A truly prudent person is ever attentive to God’s promptings and, through this vigilant listening, he receives in his soul the promise and reality of salvation: *I glorify thee, Father, Lord of heaven and earth, for having hidden these things from the wise and prudent and revealed them to little ones* (Mt 11:25).”⁶⁰

Cunning, guile and *cheating* are uses of intelligence to attain one’s ends through deception, pretense or ambiguity.⁶¹ Guile and cheating (or fraud) are, as it were, the actualizations of cunning: guile [Lat. *dolus*] involves speech, fraud implies actions. “There is a false kind of prudence (cunning would be a better name for it) which is at the service of selfishness and is expert in using the best means to achieve warped ends. In such circumstances, cleverness and perspicacity only serve to worsen one’s dispositions and to bring upon oneself the reproach St. Augustine made in one of his sermons: *Are you trying to bend the heart of God, which is always upright, so that it may fall in with the perversity of yours?* (St. Augustine, *Enarrationes in Psalmos*, 63, 18).”⁶²

to say: it did him no good to hear what he was supposed to do.

⁵⁹Rom 8: 6- 8.

⁶⁰Saint Josemaría Escrivá, *Friends of God*, no. 87.

⁶¹It is in this sense that St Paul condemns acts of seeming asceticism: “While they have a semblance of wisdom in rigor of devotion and self-abasement and severity to the body, they are of no value against gratification of the flesh (*Col 2: 23*). This reveals their close association with “the prudence of the flesh”.

⁶²Saint Josemaría Escrivá, *Friends of God*, no. 85.

Excessive anxiety about temporal goods, which, while it may not see such goods as the ultimate end, nevertheless frequently values them over goods of a higher nature or produces anxiety and is the cause of many errors of judgment, and consequently many other sins. The confidence with which persons dominated by this vice attach themselves to their own evaluation of things and actions is astounding -- actions that are, to all appearances, completely outside the scope of the Christian life.

Saint Thomas maintains that these vices have their root in avarice.⁶³

It is a widely held opinion among moral philosophers that many of these vices, when considered in themselves, are venial sins by their type, even though they can become serious sins once they cause scandal or pave the way for other sins. This opinion is correct, but suffers from abstractness. Certainly, if the only defect of someone's conduct is that he is hasty, it would remain within the realm of minor faults. But reason is the principle of all human acts, and prudence is necessary for all the other moral virtues. It is by way of impetuosity (and the other vices we have been discussing) that persons fall into very serious behaviors in all the other areas of morality. No few injustices are caused, and one can even go so far as to lose his faith (as pastoral experience teaches us every day). Prudence of the flesh in the strict sense is a serious sin and can become the cause of very serious moral disorder.

⁶³*Cf. S. Th.* II-II, q. 55, a. 8.

Sins Opposed to the Virtue of Prudence:

Sins directly opposed to prudence	Impetuosity
	Inconsiderateness
	Inconstancy
	Negligence
Vices of false prudence	Prudence of the flesh
	Cunning
	Guile
	Fraud (or cheating)
	Excessive anxiety about temporal goods

2.6.3 *Formation and Consolidation of the Virtue of Prudence*

Prudence as an infused moral virtue grows step by step with sanctifying grace. All the means that make possible growth in the grace of God (prayer, sacraments, good works) also bring an increase of prudence. As an acquired virtue, prudence is formed and grows by means of the repetition of virtuous acts.

The formation of prudence poses special problems, however. In its perfected form it presupposes the possession of all the moral virtues, but these virtues for their part can only grow under the guidance of prudence. This circularity, which has already been studied and set in order in fundamental moral theology from the theoretical point of view,⁶⁴ presents some difficulties in practice. This is true both for adolescents who are still on their way to maturity, and for adults who are in fact very far from perfect with respect to the virtues, but who, nevertheless, are confronted every day with problems calling for quick solutions without being able to count on the assistance of the habit of prudence. Ethical philosophy manages the problem through recourse to the formative character of the community in which one lives, such as the family or other social group.

Moral theology ought to add something very important: the help of the grace of God, of the divine law and the teachings of the Church. Sacred scripture teaches us that the believer needs to ask God for help

⁶⁴Cf. *Chosen in Christ to be Saints*, I, Ch. 7.3.2 – 3.

to know how to live well. “Make known to me your ways, Lord; teach me your paths. Guide me by your fidelity and teach me, for you are God my savior, for you I wait all the day long.”⁶⁵ “Teach me to do your will, for you are my God. May your kind spirit guide me on ground that is level.”⁶⁶ On his or her part, the believer collaborates in being open to the divine light, in struggling habitually to govern the emotions, particularly lust and avarice, which lie at the root of imprudence. It is also necessary to take the time to reflect on one’s own actions and on one’s own life, to get accustomed to weighing the meaning of events *sub specie aeternitatis*, in the light of our eternal destiny. “What profit will there be for one to gain the whole world and forfeit his life? What can one give in exchange for his life?”⁶⁷ Christian prudence has its firmest foundation in faith, and in trusting God.

⁶⁵ *Ps* 25: 4-5.

⁶⁶ *Ps* 143: 10.

⁶⁷ *Mt* 16:26.

Chapter 3

Justice

3.1 Introduction

The semantic range of the term “justice” is very wide: it will be necessary to begin by setting a limit to what we will study in this chapter.

The concept of justice plays an important role in religious experience as well as in politics, ethics, and law. In the religious experience of the people of Israel, the idea of justice was based on the rectitude of attitude within the terms of a bi-lateral relationship. On this basis, the justice of God was understood as being revealed “in his divine way of operating in the encounter with his people, that is to say, in his redemptive and saving action,”¹ by which God shows that he is faithful to his promises, despite the repeated infidelities of men. The Pauline concepts of the justice of God and justification by faith find their place in this framework.² In the political context, justice refers basically to the promotion of the common good, by way of preserving the fundamental rights of the person and social justice. In moral experience, justice has a general meaning of overall rectitude or sanctity, and a more specific meaning connected to the social relationships between human persons and, in particular, to those situations in which there exist, on the one side, the title to a right (to life, to liberty, to good reputation, etc.) and on the other side, a strict obligation to conduct oneself in such a

¹H. Seebass, s.v. *Giustizia*, in L. Coenen, E. Beyreuther, H. Bietenhard, eds., *Dizionario dei concetti biblici del Nuovo Testamento*, 4 th ed. (Bologna: Edizioni Dehoniane, 1991), p. 790.

²Cf. J. D. G. Dunn, *La teologia dell’apostolo Paolo* (Brescia: Paideia, 1999), pp. 337 – 348, with full bibliography.

way that the person entitled to a right is effectively able to enjoy the mastery of what pertains to him.³ This latter is properly the realm of the cardinal virtue of justice, “the universally human”⁴ which finds so many realizations among all the peoples of the world, and is abundantly illustrated in the Holy Scriptures.⁵

In this volume we will be concerned only with the problems that enter into the realm of the cardinal virtue of justice. The study of political and social justice will be taken up in the fourth volume of this manual. We treated the justice of God and justification in the first⁶ and second volumes.

In light of the enormous extent of the theme, we will devote three chapters to the study of justice. The present chapter takes up the examination of the entire topic of the virtue of justice, except for problems regarding human life. These latter will be studied in Chapters 4 and 5.

3.2 Justice in the Holy Scriptures and in the Catholic Moral Tradition

3.2.1 *The Old Testament*

Even though charity is not absent from the Old Testament, the social virtue par excellence in the Old Law is justice (sedaqah) and the social relationship most emphasized is that of “right” (mispat). In effect, starting with the Decalogue⁷ and the Code of the Covenant,⁸ the Old Testament contains many precepts that regulate just relationships between persons. In the Covenant Code there are teachings on Hebrew

³ Cf. C. J. Errázuriz, *Il diritto e la giustizia nella Chiesa. Per una teoria fondamentale del diritto canonico* (Milan: Giuffrè, 2000), pp. 95-99.

⁴ Cf. M. Cozzoli, s.v. *Giustizia*, in F. Compagnoni, G. Piana, S. Privitera, eds., *Nuovo dizionario di teologia morale* (Cinisello Balsamo: Paoline, 1990), p. 500.

⁵ Cf. A. Bonora, s.v. *Giustizia*, in P. Rossano, G. Ravasi, A. Girlanda, eds., *Nuovo dizionario di teologia biblica* (Cinisello Balsamo: San Pablo, 1988), pp. 713-726, especially p. 714.

⁶ Cf. *Chosen in Christ to be Saints*, I, 4. 3.

⁷ Cf. *Ex* 20:12-17.

⁸ Cf. *Ex* 20:22-23, 19. See also E. Testa, *La morale dell' Antico Testamento* (Brescia: Morcelliana, 1981), pp. 120 and following.

slaves,⁹ on homicide and bodily injuries,¹⁰ on losses and loans,¹¹ on legal arbitration,¹² and so on. In other places, actions such as usury, fraud and the withholding of wages are condemned.¹³ The wisdom literature is full of counsel concerning justice: “Blessed those who do what is right, whose deeds are always just,”¹⁴ “Ill-gotten treasures profit nothing, but justice saves from death.”¹⁵

*The force of the Old Testament idea of justice is also expressed when it is emphasized that the religious cult and the Covenant itself lose their substance without justice.*¹⁶ Injustice profanes the temple, while justice makes it the throne of Yahweh.¹⁷ Fasting is in vain if it is undertaken so as to go along with oppression: “Is this not rather the fast that I choose: releasing those bound unjustly, untying the thongs of the yoke; setting free the oppressed, breaking off every yoke? Is it not sharing your bread with the hungry, bringing the afflicted and the homeless into your house? Clothing the naked when you see them, and not turning your back on your own flesh? Then your light shall break forth like the dawn, and your wound shall quickly be healed; your vindication shall go before you, and the glory of the Lord shall be your rear-guard.”¹⁸ The reward that each one will receive according to his own works can also be applied, with the same qualifications, to the community and the nations: “Justice exalts a nation, but sin is a people’s disgrace”.¹⁹

In the Bible, God is the “Just One”, par excellence,²⁰ because he has formed a saving Covenant with his people, to which he is unswervingly

⁹ Cf. Ex 21:2-11.

¹⁰ Cf. Ex 21: 12-26.

¹¹ Cf. Ex 22: 4- 14.

¹² Cf. Ex 23:1-9.

¹³ Cf. Deut 23:20; 24:14-15.

¹⁴ Ps 106:3.

¹⁵ Prov 10: 2. Cf. also Ps 17:25-26; 11:2-3; Prov 11:1-6; Wis 1:15.

¹⁶ Cf. Isa 1: 11-17.

¹⁷ Cf. Jer 7: 4- 15.

¹⁸ Isa 58:6-8. Cf. Zech 7: 9-10. These words appear to be a kind of prelude to the words of Jesus about the Last Judgment, with regard to the behavior to be shown toward one’s neighbor (Mt 25: 31- 46), and which the Apostle James echoes: “Religion that is pure and undefiled before God and the Father is this: to care for orphans and widows in their affliction and to keep oneself unstained by the world.” (Jas 1:27).

¹⁹ Prov 14:34. Cf. Jdt 5:17-18.

²⁰ Cf. A. Bonora, “Giustizia di Dio e giustizia umana nella Bibbia”, *Credere oggi* , 11/5 (1991) 19-30.

faithful.²¹ This justice is made manifest in various ways, sometimes in the form of the castigation of impious persons or nations,²² sometimes as liberation of the oppressed.²³ In the face of constant failures and infidelities on the part of the chosen people, a profound understanding begins to develop of the justice of God as unilateral fidelity to the Covenant, which we have already emphasized. In the light of God's justice, human justice cannot simply limit itself to a relationship of strict equivalency, but must always be accompanied by mercy (*hesed*): "Whoever pursues justice and kindness will find life and honor".²⁴ In another sense, divine justice begins to be considered at a more spiritual level with an eschatological dimension,²⁵ brought into relation with peace,²⁶ a relationship that reaches its culmination in the frequently cited verse of Isaiah: "The work of justice will be peace."²⁷ Even if God is the Just One *per se*, a mere human being can also be just, by living in accordance with the requirements of the Holy Covenant.²⁸ Nevertheless, because of his wretchedness, man cannot always succeed in fulfilling his duties. God is patient and long-suffering in his dealings with men.²⁹ In the end, the just one identifies with the poor and the oppressed, and in general, more with those who place their hope in the Lord.³⁰

In the Old Testament there are frequent appeals to live justice in the more social dimensions. In the same way that God liberated the people from slavery in Egypt, so must the Israelites not impose the yoke of oppression on their neighbors.³¹ The institution of the "Year of Jubilee" also served for a renewal of social justice.³² Injustice is a frequent theme of prophetic denunciations: assassination carried out for the sake of lust

²¹ Cf. *Gen* 24: 27; *Josh* 23: 14; *Pss* 30:6; *Deut* 9: 6-7, 14.

²² Cf. *Esth* 4:17n; *Pss* 9: 16-17; *Dan* 9: 6-7; 14.

²³ Cf. *Pss* 7:11; *Jer* 11:20.

²⁴ *Prov* 21:21.

²⁵ Cf. *Isa* 9:6; 11: 1-5; *Jer* 23: 5-6; 33: 14-16.

²⁶ Cf. *Pss* 84: 11- 14.

²⁷ *Isa* 32: 17.

²⁸ Cf. *Pss* 17: 21-23; *Ezek* 18: 5 – 28.

²⁹ Cf. *Sir* 18: 7-14.

³⁰ Cf. *Isa* 57:15; *Jer* 20: 11-13; *Wis* 3: 12; *Pss* 7.

³¹ Cf. *Ex* 19: 4-5; 22: 20-22; *Deut* 5: 12-15; 6: 20-24; *Am* 2: 6-10; 3: 9-10; 9: 7-8.

³² Cf. John Paul II, Apostolic Letter *Tertio millennio adveniente*, November 10, 1994, no.

or cupidity,³³ violence,³⁴ abuse of authority,³⁵ injustices in courts of law,³⁶ oppression of the poor,³⁷ excessive opulence and riches,³⁸ hoarding of goods,³⁹ fraud,⁴⁰ etc.

Yahweh's care for the poor stands out very clearly: his care, that is, for those who have been oppressed by tyranny, for those who are at the mercy of those in power, for those unable to get justice. These are the people whose only recourse is to the Lord. The "Poor of Yahweh" finally obtain a moral and religious meaning: the humble, the pure of heart, those who place their trust in God.⁴¹ God, as King and Shepherd of his people, undertakes the defense of the weak.⁴² This will occur in its fullness in the time of the Messiah.⁴³ The Israelites are exhorted to exercise special care for persons who are the most exposed to oppression: orphans, widows, forest-dwellers,⁴⁴ the poor and needy,⁴⁵ those who are found to be suffering any kind of affliction,⁴⁶ slaves,⁴⁷ debtors,⁴⁸ laborers,⁴⁹ etc. The just person should take to heart the cause of the sorrowful, free the oppressed from the power of the oppressor, be a father to the defenseless.⁵⁰

3.2.2 *The New Testament*

"You call me 'teacher' and 'master' and rightly so, for indeed I am. If I therefore, the master and teacher, have washed your feet, you ought to wash one another's feet. I have given you a model to follow, so

³³ Cf. 2 Sam 12: 1-15; 1 Kings 21.

³⁴ Cf. Ezek 33:26.

³⁵ Cf. Isa 10; 1-2; Jer 22:3; Am 4: 1; 5: 11- 12.

³⁶ Cf. Isa 32:7; Am 5: 7.

³⁷ Cf. Isa 10: 1-2; Jer 22: 3; Am 4: 1; 5: 11- 12.

³⁸ Cf. Am 6: 1-7; Mic 2: 1-2.

³⁹ Cf. Isa 5: 8-9.

⁴⁰ Cf. Mic 6: 10-11.

⁴¹ Cf. Ps 39:18; Prov 21: 5.

⁴² Cf. Prov 22: 22- 23; Ezek 34: 2-4, 10.

⁴³ Cf. Ps 71: 12-14; Isa 25: 1-8; Ezek 34: 11-31; Isa 61: 1-2.

⁴⁴ Cf. Deut 10: 18-19.

⁴⁵ Cf. Deut 15: 11.

⁴⁶ Cf. Deut 22: 1-4.

⁴⁷ Cf. Deut 23: 16-17.

⁴⁸ Cf. Deut 24: 10-11.

⁴⁹ Cf. Deut 24: 14-15.

⁵⁰ Cf. Prov. 29:7; Sir 4: 9-10.

that as I have done for you, you should also do . . . I give you a new commandment: love one another. As I have loved you, so you also should love one another. This is how all will know that you are my disciples, if you have love for one another.”⁵¹ *The commandment of love* (caritas) is a radical novelty of the New Testament (it is a “new commandment”). It was not completely unknown in the Old Testament, but Jesus brings it to its moral fullness and frees it from the external legalism into which it had fallen.⁵² The love of God and neighbor, taken to its radical fullness, even to the extent of loving one’s enemies and to turning the other cheek,⁵³ was made possible by the complete self-donation of Christ.⁵⁴ And this is a new, moving energy that breaks into society and brings that “higher justice” in which the entire Law is comprised.⁵⁵ It is a love that must show preference for the poorest and neediest, as in the parable of the Good Samaritan, where the cultic function of the priest and the Levite are contrasted with the concrete and merciful assistance of someone considered “the enemy” in race and culture.⁵⁶ And it is also the love of the Lord that makes common cause with all human misery and indigence, to the extent of identifying himself with the neediest.⁵⁷

Nevertheless much care must be taken lest we misunderstand the message of the New Testament. *The obligation to pardon and turn the other cheek should not lead to the under-evaluation of the evil of injustice, but rather to the attribution of even more importance to respect for the rights of those innocent brothers who would have to be respected and pardoned even if they had been blameworthy.* Saint Paul reproaches the faithful of Corinth for taking their brothers to the pagan courts. Before all else he recalls the highest demands of Christian charity: “...it is, in any case, a failure on your part that you have lawsuits against one

⁵¹ *Jn* 13: 13-15; 34-35.

⁵² *Cf.* *Mt* 5: 17-20; 15: 3-9. For the significance of *caritas* in the New Testament and its social repercussions, see: B. Maggioni, “L’Amore del prossimo nel Nuovo Testamento”, in G. Ambrosio (ed.), *La Carità e la Chiesa. Virtù e ministero*, (Milan: Glossa, 1993); R. Penna, “Dalla fede all’amore: la dimensione caritativa dell’Evangelo nel NT”, in A. Montan (ed.), *Il Vangelo della carità per la Chiesa e la società*, (Bologna: EDB, 1994), pp. 61-79.

⁵³ *Cf.* *Mt* 5:39.

⁵⁴ *Cf.* *Mt* 20:28; *1 Jn* 4: 9-10.

⁵⁵ *Cf.* *Rm* 13:9.

⁵⁶ *Cf.* *Lk* 10:30-37.

⁵⁷ *Cf.* *Mt* 25:40; 45.

another. Why not rather put up with injustice? Why not rather let yourselves be cheated?”⁵⁸ But he does not want to be misunderstood, since he who abuses the charity of others does evil. And that is why he recalls the most fundamental requirement of justice: “Instead, you inflict injustice and cheat, and this to brothers.”⁵⁹ If we must pardon offenses, still more must we not offend our neighbor. And he states in forceful language that injustice excludes us from the heavenly kingdom: “Do you not know that the unjust will not inherit the kingdom of God? Do not be deceived: neither fornicators nor idolators nor adulterers nor boy prostitutes nor sodomites nor thieves nor the greedy nor drunkards nor slanderers nor robbers will inherit the kingdom of God.”⁶⁰ In the *Letter to the Romans* Saint Paul considers injustice, along with sexual disorder, as one of the primary manifestations of the sinful condition of humanity that has refused to acknowledge God: “And since they did not see fit to acknowledge God, God handed them over to their undiscerning mind to do what is improper. They are filled with every sort of wickedness, evil, greed, and malice; full of envy, murder, rivalry, treachery, and spite. They are gossips and scandalmongers and they hate God. They are insolent, haughty, boastful, ingenious in their wickedness, and rebellious toward their parents.”⁶¹

One must conclude that *the emphasis of the New Testament on love, as the supreme commandment and bond of perfection, presupposes justice and contains the strongest possible condemnation of injustice*. “Love and justice are not standing next to each other in parallel, but each is the continuation and expression of the other. Where justice is not founded on love for the human being, it is not a justice that is based on the New Testament perspective. On the other hand, in this world where good and evil are so well mixed, a love which does not strive to translate itself into ordinary concrete judgments in society remains sterile and utopian, and thus is not an authentic love.”⁶²

⁵⁸ 1 Cor 6:7.

⁵⁹ 1 Cor 6:8.

⁶⁰ 1 Cor 6:9-10.

⁶¹ Rom 1:28-30.

⁶² S. Mosso, *Il problema della giustizia e il messaggio cristiano*, (Rome: Pietro Marietti, 1982), p. 123. Clarifications about justice in the Gospels can be found in J. Dupont, *Le Beatitudini*, 2 vols. (Rome: Edizioni Paoline, 1977-1979).

3.2.3 *Greek and Roman Thought*

Greek and Roman thought is the second element, together with the biblical tradition, that contributed to Christian reflection on justice. In the most ancient Greek tradition justice expresses the order of the entire cosmos, in accordance with which every single thing occupies its own position and carries out the task that has been assigned to it.⁶³

Plato — reacting to the crisis of the Sophists, Plato restored objective content to justice. He provides a full exposition of his conception in the *Republic*. Justice in the State consists in the harmony of the three classes of which it is composed (philosophers, warriors, and craftsmen), each one of which must carry out its proper task. In the human being, justice consists in the perfect equilibrium of parts of the soul (intellect, irascible part and concupiscible part).

Aristotle — the study that this philosopher made of justice was and still is an achievement of great importance. The entire fifth book of his *Nicomachean Ethics* is dedicated to this virtue. Aristotle privileged the rather restricted and specific meaning of justice as the virtue that consists in the observation of the just mean in the distribution of goods and obligations. The just mean is realized through the criterion of equivalence, something that is not considered the same in diverse types of justice. In the first place, there is a general justice, which pertains to the laws of the political community. Because the laws of the Greek *polis* covered the entire realm of the moral life, general justice comprehends all the other virtues: “And for this reason justice often appears to be the greatest of the virtues, and neither sunset nor dawn seem to be equally worthy of admiration. As the proverb goes, ‘All the virtues are summed up in justice’.”⁶⁴ There is then a particular justice, which pertains to respecting the rights of the individual, whether this be on the part of the political community, or on the part of the other individuals in the community. The distribution of goods and benefits to citizens on the part of the political community follows a criterion of proportional equality. In the relations between persons, such as those of buying, selling, renting,

⁶³Cf. A. MacIntyre, *Whose Justice? Which Rationality?* (South Bend, IN: Notre Dame University Press, 1988).

⁶⁴Aristotle, *Nicomachean Ethics*, V, 1; 1129 b 27-30 (our translation).

etc., the norm of arithmetical equivalence holds sway: he who sells ought to receive the exact value of the thing sold, and he who has made a loan ought to receive that which he is owed for it, and thus equality is restored between the two parties.⁶⁵ Justice brings recognition of the other. In this sense, Aristotle affirms that “justice alone among the virtues is also considered to be the “good of the other”, since it is directed toward others. Indeed, justice does what is advantageous for another person, whether that person be an office holder of the community or simply a member of the community. The worst person, in fact, is the one who exercises his own wickedness not only towards himself but also towards his friends, while the best person is not the one who exercises his virtues only with respect to himself, but also with respect to others, since that is a difficult thing to do.”⁶⁶ There can also be found in Aristotle a clear distinction between the natural and the conventional elements of law.⁶⁷ In this and in other respects, Aristotelian reflection on justice was largely taken up again by St. Thomas Aquinas, as we shall have occasion to see below.

The Roman Jurists — the Roman jurists proceeded to the detailed determination of what was proper for each person: for the seller and the buyer, for the *paterfamilias* and the persons under his responsibility; for Roman citizens,⁶⁸ etc. Justice is the willingness to act in conformity with the legal rights of each person. Ulpian’s definition is famous: “Justitia est constans et perpetua voluntas suum cuique tribuendi”,⁶⁹ and this has been substantially accepted into theological tradition.

⁶⁵For an introductory discussion of the Aristotelian conception of justice, see E. Zeller, R. Mondolfo, *La filosofia dei greci nel suo sviluppo storico*, Parte II, volume VI (Florence: La Nuova Italica Editrice, 1966), pp. 50-57; G. Reale, *A History of Ancient Philosophy*, vol II., trans. John R. Catan (Albany: State University of New York Press, 1985); for a fuller presentation see W. F. R. Hardie, *Aristotle’s Ethical Theory*, 2nd ed. (Oxford: Clarendon Press, 1980); S. Broadie, *Ethics with Aristotle* (Oxford-New York: Oxford University Press, 1991); G. Zanetti, *La nozione di giustizia in Aristotele. Un percorso interpretativo* (Bologna: Il Mulino, 1993); F. D. Miller, *Nature, Justice, and Rights in Aristotle’s “Politics”* (Oxford: Clarendon Press, 1995).

⁶⁶Aristotle, *Nicomachean Ethics*, V, 1:1130 a 3-8 (our translation).

⁶⁷*Cf. ibid.*, V, 7: 1134 b 18-22.

⁶⁸*Cf. Acts* 16: 37-38; 22: 25-29.

⁶⁹*Digest*, I, 1. 10: “Justice is the constant and perpetual will to render to each his own [i.e. his own legal right].”

3.2.4 *The Fathers of the Church*

In the earliest Christian writers and in the Fathers of the Church we find many of the questions we have already considered with relation to the Old and New Testaments, presented in a non-systematic form. There are also numerous echoes of Greek and Roman thought, which are not uncritically accepted. Thus, for example, St. Gregory of Nyssa commenting on the fourth beatitude (Mt 5:6), does not conceal his own scepticism about the possibility of education in a society founded on equality.⁷⁰

Lactantius — In the fifth and sixth books of the *Divine Institutes* and in the *Epitome* that follows, Lactantius (250-325) offers the first systematic treatment of justice. Lactantius is a mediating figure: thoroughly acquainted with classical Greek and Roman culture, with both East and West, and a convinced Christian apologist, he witnessed the birth of a new era at the Edict of Constantine (313). He critically reviewed the Roman concept of justice, especially that of Cicero, from the Christian perspective. Justice is not only equity, but piety above all: “Piety and equity are, as it were, two deep currents: from these two sources come forth all of justice; its principle and origin reside in the former, while in the latter is found all its force and rationality.”⁷¹ If there is ever an absence of piety towards God, in whose paternity we are all brothers, there will no longer be equity. The pagans, indeed, knew of equity, but only a few select persons were its object, not all human beings.

⁷⁰ Cf. *On the Beatitudes*, Oration IV. PG 44: 1236 a. Eng. Translation in Hilda C. Graef, St. Gregory of Nyssa, *On the Lord's Prayer, The Beatitudes in Ancient Christian Writers*, vol. 210 (New York: Newman Press, 1954). For the argument, see A. Penati Barbardini, “Giustizia e giustificazione nei Padri Cappadoci: l'argumentazione di Gregorio di Nissa”, in A. Bonato *et al.*, *Giustizia e giustificazione nei Padri della Chiesa*. Dizionario di Spiritualità Biblico-Patristica, 29. (Rome: Borla, 2001), pp. 200-202.

⁷¹ Lactantius, *Divinarum Institutionum* V, 14, 11 (*Sources Chrétiennes*, 204, 202). For an English translation see: Mary F. Macdonald, trans., *Lactantius, The Divine Institutes*, Fathers of the Church, vol. 49 (Washington, D.C.: Catholic University of America Press, 1964). For the interpretation of Lactantius see: V. Loi, “I valori etici e politici della romanità negli scritti di Lattanzio”, *Salesianum* 3 (1965), 66 – 133; *id.*, “Il concetto di ‘Iustitia’ e fattori culturali dell’etica di Lattanzio”, *Salesianum* 4 (1966) 583 – 625; V. Buchheit, “Die Definition der Gerechtigkeit bei Laktanz und seinen Vorgängern”, *Vigiliae Christianae* 33 (1979) 356-374; V. Lombino, “La giustizia nei primi apologeti latini”, in A. Bonato *et al.*, *Giustizia-giustificazione nei Padri della Chiesa*, (see note above) pp. 152-172.

Saint Ambrose — a not dissimilar direction was taken by Saint Ambrose, who offered ample reflections on justice in his *De Officiis Ministrorum*, in his *Commentary on Psalm 118*, and in other works. Departing from the classical conceptions, he placed justice in relation to piety, charity, and mercy.⁷² But he equally underlines radical openness to the good of the other, which is inherent in justice: “Justice alone is the virtue that in every circumstance has utility for daily life and the common advantage, precisely because its nature is to open itself to others more than to close in on oneself; it preserves the other’s advantage even at the cost of personal disadvantage. It is the one virtue that seeks to gain the least advantage while having the greatest merit.”⁷³

Saint Augustine — We have already seen that St. Augustine sees all the cardinal virtues in their intimate connection with love (*caritas*). At this point we can add his clarification that, in its specific essence, the virtue of justice coincides with the Golden Rule: “What you do not wish to have done to yourself, do not do to another (*cf. Tob 4: 6*) . . . since no one wishes to be harmed by another, he should not harm others.”⁷⁴ In his *Eighty-Three Questions* he expresses essentially the same idea, following Cicero: “Justice is a habit of the soul practiced for social utility, which gives to each person what he deserves”.⁷⁵ The same definition is repeated in Book XIX of the *City of God*, but there it is inserted in a complex theological discussion of “true justice”, on which we cannot now linger. Saint Augustine conceives of justice as a fundamental virtue of social and political life, which values every person as the bearer

⁷²Cf. *De Officiis ministrorum*, I, 27, 127-8, 138: ed. M. Testard (Turnhout: Brepols, 2000); for an English translation, see: Ivor J. Davidson, trans., *Ambrose, De Officiis*, 2 vols. (Oxford-New-York: Oxford University Press, 2001).

⁷³*Commentary on Psalm 118*, 16, 14. Ed. M. Petschenig, *Expositio Psalmi CXVIII*, Corpus Scriptorum Ecclesiasticorum Latinorum, vol. xi (Vienna: Tempsky, 1913). For an English translation see: Ide M. Ni Riain, *Homilies of St. Ambrose on Psalm 118* (Dublin: Halcyon Press, 1998). For justice in St. Ambrose, see: A. Fernández, *Teología Moral, III: Moral, Social, Económica y Política* (Burgos: Aldecoa, 1993) pp. 411-413; A. Bonato, “Il tema della giustizia nel pensiero di Ambrogio”, in A. Bonato *et al.*, *Giustizia-giustificazione nei Padri della Chiesa*, pp. 225-273.

⁷⁴*De Doctrina Christiana*, 3, 14, 22 (D. W. Robertson, trans., *Saint Augustine, On Christian Doctrine* (Indianapolis-New York: Bobbs-Merrill, 1958) p. 92.

⁷⁵*De diversis quaestionibus 83*, 31, 1 (D. L. Mosher, trans., *Saint Augustine, Eighty-Three Different Questions*, Fathers of the Church, vol. 70 (Washington, D. C.: Catholic University of America Press, 1982).

of in alienable rights, and guarantees order in transactions and respect for the common good.⁷⁶

3.2.5 *From the Scholastics to Today*

St. Thomas Aquinas — in the period of medieval scholasticism the detailed synthesis of St. Thomas Aquinas is paramount,⁷⁷ and we will study it in the systematic section below. Since justice is the fundamental norm of social and political life, throughout history theological reflection on justice has had to confront new social problems that arise in connection with changes in the economy, society, and politics. The treatment of justice is probably the part of special morality that has undergone the most numerous and complex developments. From the fifteenth century, the study of justice contained in the *Summa Sacrae theologiae* of St. Anthony of Florence (1389-1459), is deserving of attention.⁷⁸

The Discovery of the New World and the Second Scholasticism — With the discovery of the New World and the strengthening of political absolutism in Europe, questions requiring theological discernment were multiplied, and as a result copious treatments *De Iustitia et Iure* (“Concerning Justice and Law”) began to appear, among which

⁷⁶On justice in Saint Augustine, see M. T. Clark, “Augustine on Justice”, *Revue des Études Augustiniennes*, 9 (1963) 87- 94; *Id.*, “Platonic Justice in Aristotle and Augustine”, *Downside Review* 82 (1964) 25-35; J. F. Thonnard, “Justice de Dieu et justice humaine selon Saint Augustin”, *Augustinus* 12 (1967) 387 – 402; G. Filoramo, “Giustizia-giustificazione in Agostino”, in A. Bonato *et al.*, *Giustizia-giustificazione nei Padri della Chiesa*, pp. 274-287.

⁷⁷*Cf.* *Summa Theologiae*, II-II, qq. 57 – 122. *Cf.* F. Olgiati, *Il concetto di giuridicità in S. Tomasso d’Aquino*, 2nd ed., (Milan: Vita e Pensiero: 1944); L. Lachance, *L’humanisme politique de saint Thomas: individu et État*, 2 vols., (Paris: Recueil Sirey/Ottawa: Les Éditions du Lévrier, 1939); *Id.*, *Le concept de droit selon Aristote e saint Thomas d’Aquin* (Ottawa: Les Éditions du Lévrier, 1948); G. Granieris, *Contributi tomistici alla filosofia del diritto* (Turin: 1949); J. Pieper, *Justice*, trans. L. E. Lynch (London: Faber and Faber, 1957), also available in J. Pieper, *The Four Cardinal Virtues* (Notre Dame, IN: Notre Dame University Press, 1966); D. Mongillo, “La struttura del ‘De Iustitia’. *Summa Theologiae* II-II, qq. 57 – 122”, *Angelicum* 48 (1971) 355-377; J. F. Ross, “Justice is Reasonableness: Aquinas on Human Law and Morality”, *The Monist*, 58 (1974) 86-103; J. Martinez Barrera, C. I. Massini Correias, “Notas sobre la noción de justicia política en Tomás de Aquino”, *Sapientia* 47 (1992) 271- 280; J. Porter, “De ordine caritatis: Charity, Friendship, and Justice in Thomas Aquinas’ *Summa Theologiae*”, *The Thomist* 53 (1989) 197-213; E. Stump, “Aquinas on Justice”, *American Catholic Philosophical Quarterly. Supplement* 71 (1997) 61-78.

⁷⁸A full account of the contents is available in A. Fernandez, *Teología Moral*, III, cit., pp. 193-201.

works by the following authors at least deserve mention here: Domingo de Soto (d. 1560), Luis de Molina (d. 1600), Gregorio de Valencia (d. 1603), Domingo Bañez (d. 1604), the monumental *De Legibus* of Francisco Suárez (d. 1617) and the important treatise of Juan de Lugo (d. 1660).⁷⁹ Questions were raised concerning private property and its social function; commerce; lending, usury, and banking activity; the just price of goods; labor and the just salary; the origin and foundation of political power; the rights of peoples and the questions that today are considered part of international law, etc.

The Last Two Centuries — The last two centuries have opened up new and important fields for the theology of justice. The industrial revolution, along with the “social question”, the rise of atheistic and dictatorial regimes, and of juridical positivism, have all constituted a powerful stimulus not only for theology, but also for the Magisterium of the Church, which has produced a corpus of teachings now known as the “Social Teaching of the Church”.⁸⁰ The tragic experience of the Second World War launched new reflection on natural right and human rights, regarding both the theoretical aspect of its foundation and the practical aspect of its effective application.⁸¹ Apart from the developments of

⁷⁹For the basic contents, see: A. Fernandez, *Teología Moral*, III, cit., pp. 201-232. See also A. Folgado, “Los tratados *De Legibus* y *De Justitia et jure* en los autores españoles del siglo XVI y primera mitad del XVII”, *La Ciudad de Dios*, 172 (1959) 457 – 484.

⁸⁰Cf. A. F. Utz, *La doctrine sociale de l'Eglise à travers les siècles*, 4 vols., (Rome/Paris: 1969); J. Y. Calvez, J. Perrin, *Chiesa e società economica. L'insegnamento sociale dei papi da Leone XIII a Giovanni XXIII* (Milan: Centro Studi Sociali, 1965); J. Höffner, *La dottrina sociale cristiana* (Cinisello Balsamo: Paoline, 1987); J. M. Ibañez Langlois, *La dottrina sociale della Chiesa: itinerario testuale dalla Rerum Novarum alla Sollicitudo rei socialis* (Milan: Ares, 1989); A. F. Utz, *Dottrina sociale della Chiesa e ordine economico: economia, etica, politica* (Bologna: EDB, 1993); P. Donant, *Pensiero sociale cristiano e società post-moderna* (Rome: AVE, 1997); A. Luciani, *Catechismo sociale cristiano* (Cinisello Balsamo: San Paolo, 2000); E. Colom, *Curso de doctrina social de la Iglesia* (Madrid: Palabra, 2001). The following work provides a very useful synthesis: Congregation for Catholic Education, *Guidelines for the study and teaching of the Church's social doctrine in the formation of priests* (Washington, D. C.: United States Catholic conference, 1989). A larger and more comprehensive synthesis is: Pontifical Council for Justice and Peace, *Compendium of the Social doctrine of the Church* (Città del Vaticano: Libreria Editrice Vaticana: 2004).

⁸¹Cf. J. Maritain, *The Rights of Man and the Natural Law*, trans. Doris C. Anson (New York: Scribner, 1943); L. Strauss, *Natural Right and History* (Chicago: University of Chicago Press, 1953); L. Lachance, *Le Droit et les droits de l'homme* (Paris: PUF, 1959); A. Passerin d'Entreves, *La dottrina del diritto naturale*, 3rd ed. (Milan: Edizioni di Comunità, 1997); G. Concetti, ed., *I diritti umani*, (Rome: AVE, 1982); V. Buonomo, *I diritti umani nelle*

liberation theology,⁸² it should be emphasized that in these areas the Christian doctrine of justice continues to confront the attempts to found justice in contractualism.⁸³ The developments in bioethical science and genetics have opened the vast field of bioethics and bioethics law,⁸⁴ just as the development of commerce and communications have brought into existence the whole group of problems known today by the name of “globalization”. These are, for the most part, the challenges that today’s Christian doctrine of justice must face.

3.3 Justice: its Form and Essence

3.3.1 *Object of the Virtue of Justice*

St. Thomas accepts the Roman Jurists’ definition of the virtue of justice, which we mentioned before: “the constant and perpetual will to give each his own”. He keeps it exactly the same in substance, but thinks that it can be expressed more rigorously by saying that “justice is the habit by means of which one gives to each person what is that person’s right (*ius*), with a constant and perpetual will.”⁸⁵ Therefore the object of the virtue of justice is to give to each one what is right, to give and respect that which belongs to and is due to each one: life, freedom, goods which are legitimately possessed, reputation, etc. More briefly, it can be said that the object of the virtue of justice is “the right”, but understanding by this the “just thing itself”, “that which is just” (*ipsa res iusta*)⁸⁶ and not

relazioni internazionali: la normativa e la prassi delle Nazioni Unite (Rome-Mursia-Milan: Pontifical University of the Lateran, 1997); G. M. Chiodi, *I diritti umani: un’immagine epocale* (Naples: Guida, 2000).

⁸²Cf. S. Cotta, *Liberazione & liberazione*, (Milan: Ares, 1975); J. M. Ibañez Langlois, *Teología de la liberación y lucha de clases* (Santiago de Chile: Universidad Católica de Chile, 1985).

⁸³Perhaps the most well-known representative of this tendency is J. Rawls, *A Theory of Justice* (Cambridge, MA: Belknap Press, 1971). The critical literature on Rawls is endless. At least one book to recommend would be: M. Sandel, *Liberalism and the Limits of Justice* (Cambridge-New York: Cambridge University Press, 1982).

⁸⁴We will consider bioethical problems in Chapter V.

⁸⁵*S. Th.*, II-II, q. 58, a. 1, corp.

⁸⁶“In this way, the word “right” (*ius*) was first used to indicate the just thing as such (*ipsam rem iustam*); afterwards it was applied to the art by which what is just is recognized; still later it was used for the place in which justice was rendered, as when it is said that

the law or the science of law.

There are three characteristics of justice: alterity, right in the strict sense, and equality.

Alterity (“otherness”) — In the most obvious sense, *alterity* signifies that justice is directed to the other, and therefore that in every relation of justice there are required two or more physical or moral persons. In the proper sense of the word there is no relation or obligation of justice toward oneself, which naturally does not mean that there are not important moral obligations toward oneself. Such obligations do exist, but they are not the object of the virtue of justice. Alterity also has a more profound meaning. Justice regulates relations with persons who are “other” with regard to us, who are or who can be strange or foreign, “other-than-us”. To those who are alien is given what belongs to them, whether these persons are friends or not, sympathetic or antipathetic, known or unknown, from our own country or from neighboring or enemy countries. That which is owed in justice is owed to each one who possesses the legitimate title to it. Justice is represented by a blindfolded woman, since she does not favor anyone by looking at them. “Listen to complaints among your relatives, and administer true justice to both parties even if one of them is a resident alien. In rendering judgment, do not consider who a person is, give ear to the lowly and the great alike.”⁸⁷

The behavior of a public official who only gives to his favorites, or to those of the same political party, that which is owed equally to all the citizens who are entitled to it, provokes a natural repulsion.

Right in the strict sense — Right in the strict sense signifies that the obligation of justice is the obligation to give to the other that which is his own. Consequently, the other can seek and actively claim the fulfillment of a just obligation on our part, and the political community

someone must appear “before the law” (*in iure*); finally “right” (*ius*) is said to be that which is given by someone whose office is to dispense justice, even though what he decides may not in fact be right.” (*S.Th.* II-II, q. 57 a. 1 ad 1). On this conception of right, the importance of which can hardly be exaggerated, see: M. Villey, *La formation de la pensée juridique moderne*, 4th ed., (Paris: Les Éditions Montchretien, 1975); *Id.*, *Philosophie du droit*, 2nd ed., (Paris: Dalloz, 1978); J-P. Schouppé, *Le réalisme juridique* (Brussels: Story-scientia, 1987); J. Hervada, *Introducción crítica al derecho natural* 5th ed., (Pamplona: Eunsa, 1988).

⁸⁷ *Deut* 1:16-17.

can legitimately use coercion to see that justice is carried out by us. Someone who has done a job for us, has the right to receive the agreed-on compensation. This money is his, and if we do not pay him he can report us, and we will be forced to pay him. If someone has done work for us, in an especially speedy and obliging way, he should also reasonably expect a certain sign of our appreciation, at least a few words of thanks, but that is not owed to him in justice (even if it owed for some other reason) and the state cannot force us to thank him.

Equality — Equality is characteristic of justice in the sense that the fulfillment of an obligation re-establishes the equality between two persons: when someone who has commissioned a work has paid the person who did it, the equality is restored, and neither of the two no longer owes anything to the other. Justice can only be given among persons who stand on a level of fundamental equality. When two persons are in relation to one another, such that one of the parties can never be able to pay the other what he is owed, a relationship of justice does not exist, properly speaking. Thus the relationship between God and the human person is not a relationship of justice in the strict sense, no more than the relationship between children and their parents. The human being can never give God something that would be the equivalent of the life he has received from Him, nor can children ever give their parents something the equivalent to the lives they have received from them. Between man and God, between children and parents, the full “adjustment” implied in justice cannot be attained.

These three characteristics bring out the truth that justice *implies a fundamental recognition that every human being, just by the fact of being human, has the same personal rights, subjective rights, and fundamental dignity.* Even others have their rights. Right is the irrevocable and inalienable link that binds together a person and the goods that are possessed by nature (of life, freedom, good reputation, etc.) and what he has legitimately acquired, and are necessary for his life and personal development. Justice requires a fundamental recognition of the irrevocable and inalienable bond that exists between other persons and their goods. And this occurs not because such recognition helps the one who acts, but principally because such recognition is good for the others. Justice represents the first and fundamental level of a person’s

self-transcendence. Earlier, we considered Saint Ambrose's statement, according to which justice "safeguards the interests of the others even at the cost of one's own personal disadvantage."⁸⁸ We now can add to this, that the radical recognition of the other in his person and subjectivity is the first and essential condition of social life. Without justice it is not possible for people to live together. The political community must use all the means necessary to realize a respect for justice and to restore it when it has been offended. The very survival of society is at stake.

3.3.2 *The Typology of Justice*

There is a variety of positions with regard to the species or subjective parts of justice. Two of these positions are fundamental: some believe that there are three species of justice: *general* or *legal justice*, which orders the relations of persons with respect to society;⁸⁹ *distributive justice*, which orders the relations of society with respect to persons; and *commutative justice*, which orders the relations between persons.⁹⁰ Others, among whom are counted Aristotle and St. Thomas,⁹¹ hold that there are two kinds of justice: *general* or *legal justice* on the one hand, and *particular justice* on the other. This latter is then subdivided further into commutative and distributive justice.

The second opinion seems preferable, because it does not distinguish the virtues according to the differences between the subjects whose relations are being ordered, but according to their formal objects. And in our case, the only formal difference that exists is the difference between the common good, which is the concern of general or legal justice, and the particular or private good, to which is referred particular justice.⁹²

⁸⁸ *Commentary on Psalm 118*, 16, 14 (see note 73).

⁸⁹ In this context, when we speak of "persons" we also include moral persons (an association, a corporation, etc.).

⁹⁰ Cf. for example A. Van Kol, *Theologia moralis* (Barcelona: Herder, 1968), vol. 1, no. 540.

⁹¹ Cf. *S. Th.*, II-II, q. 58, a. 7.

⁹² "The common good of the state and the singular good of one person do not differ only according to the few and the many, but according to a formal difference: the nature of the common good is different from that of the individual good. Thus the Philosopher (i.e. Aristotle) says that "they do not speak rightly who say that the state and the family and other things of that kind differ only by their multitude or their fewness". (*S. Th.*, II-II q. 58, a. 7, ad 2).

The particular good, no matter whether it is an object of distributive justice or of commutative justice, is always the same private good, and there is no formal difference between the two kinds in this respect.

Günthör clarifies the basic difference between these two viewpoints. If the three-fold classification is accepted, the three species of justice seem simply juxtaposed at the same level, and the individual and his rights seems to be the sole point of reference for commutative and distributive justice. “On the other hand, according to Thomas Aquinas, the various types of justice constitute a complete unity. *Iustitia legalis*, also known as *iustitia generalis*, which orients man toward the common good, is like the “soul” of the “body” of justice. It does not stand on the same level as *iustitia particularis* (commutative and distributive), but above it, and directs and guides it from the perspective of the common good. Therefore, it immediately takes up all the moral virtues to its own service, in order to direct them toward that goal. This is why Thomas calls “*iustitia legalis*” or “*generalis*” a superior virtue (*virtutem superiorem*, *S. Th.* II-II, q. 58., a. 6 ad 4). According to him, “*iustitia legalis*” or “*generalis*” is really the supreme virtue among the moral virtues, since its object, the common good, supersedes the good of the individual person (*cf. S. Th.* II-II, q. 58, a.12). As for “particular justice”, he says very significantly that this gives to the other what belongs to him with consideration for the common good (*quasi considerans bonum commune, ibid*, ad 1), that is to say: in all respects, and with a view to all the juridical matters that inter-relate two individual persons as well as distinct groups within the larger whole, one must never leave the vision of the common good: when a decision is made about something requiring “particular justice”, it is necessary to take account of it [i.e. the common good]”. ⁹³In fact, the tripartite division of justice has facilitated an individualistic vision of justice, which appears to be outdated today.

General or legal justice orders persons to the common good of the society, moving each one to give his own contribution voluntarily. The common good is directly the object of general justice. Indirectly it can be the object of any other moral virtue, assuming that all the virtues can be referred to the common good. But general justice is nevertheless not the

⁹³A. Günthör, *Chiamata e risposta. Una nuova teologia morale*, 6th ed. (Cinisello Balsamo: Paoline, 1989) vol. III, no. 95.

genus of which all the other virtues are species. Its “general” character only means that it can command the acts of all the other moral virtues in view of the common good.⁹⁴

To the end of avoiding both a totalitarian and an individualistic conception of justice, it is necessary to recall that if it is true that physical and moral persons are parts of society, it is equally true that no person is limited to being merely and exclusively a part of society, or of some whole in general, and still less can be a simple means for the good of society. Furthermore, the proper subordination of the particular good to the common good cannot be interpreted as the subordination of the person to society, for three reasons at least: 1) because a particular good is one thing and a person to whom the particular good belongs is a very different thing; 2) because the common good is not identified with political society, the latter being only a means to the attainment of the former; and 3) because the common good is not the good of the society as if the society were something separate and independent from the physical and moral persons comprised in it. The common good is by definition a good that has been reached with the collaboration of all and is communicable and communicated to all. In the final analysis, society remains at the service of the person, a thesis, however, that cannot be interpreted to mean that the common good is simply a means to an end. The common good is a common end. Political organization, society as a governmental and administrative structure, etc. has as its function the attainment of the common good.⁹⁵

Commutative justice regulates the juridical relations between physical or moral persons, and it rules by a criterion of arithmetical equality: in the exchanges of various kinds, a price must be paid that exactly corresponds to the value of what is being acquired, or more generally speaking, of the professional service that is being rendered. Distributive justice regulates the relationship between the community and its members. In the distribution of the common good a criterion of proportional equality should be observed. Everyone does not need or give the exactly the same things, and, according to the situation, the differing situations, needs,

⁹⁴Cf. *S. Th.* II-II, q. 58, articles 5 and 6.

⁹⁵For more on this point see A. M. Quintas, *Analisi del bene commune*, 2nd ed. (Rome: Bulzoni, 1988).

and rights of members of the community need to be kept in mind.

There has been much discussion concerning the exact nature of *social justice*, to which the Magisterium of the Church frequently refers. For some, this figures as another kind of justice, for others, however, it is fundamentally reducible to general or legal justice, or even to commutative or distributive justice. From the foregoing it should be clear that justice in its various aspects is a social virtue in its very nature; “It establishes in human relations the harmony that promotes equity with regard to persons and the common good.”⁹⁶ Even contracts between private individuals have an effect on the whole of society, which requires them not only *not* to oppose the common good, but to work in its favor as well. Social justice is not, therefore, irrelevant to commutative justice, since it includes themes such as the just wage, the relations between labor and management, etc. On the other side, social justice is also found to be in relation with distributive justice, in so far as functions proper to the latter are attributed to it: regulation of taxes, re-distribution of income, etc. All this explains why there is not one opinion only about the nature of social justice. It seems to us to coincide substantially with legal or general justice, even if the question will have to be dealt with more deeply in Volume IV.

3.3.3 *Virtues Associated with Justice*

Let us now consider the potential parts of justice, that is to say, those moral virtues that have an object very near to that of justice, but nevertheless lack one of the essential characteristics of it.

The character of “equality” is lacking in the moral virtues of *religion*, *piety* and *observance*. The former inclines us to giving to God the worship that we owe him, and this is treated in the second volume. The second and the third have as their object the respect and obedience owed to our parents and the legitimate authorities. They are referred to in the Fourth Commandment of the Decalogue.⁹⁷

“Right” in the strict sense is lacking in *veracity*, *gratitude*, *vindication*, *liberality*, *affability*, *fidelity* and *epikeia*. Veracity refers to truthfulness

⁹⁶ *Catechism of the Catholic Church*, no. 1807

⁹⁷ Cf. *Catechism of the Catholic Church*, nos. 2197 – 2257.

of words and deeds. Gratitude inclines someone to compensate in some way the benevolence of others in their dealings with us. Vindication tries to obtain reparation for injuries received; it does not, however, refer to the punishment of delicts on the part of public authority.⁹⁸ Liberality (or generosity) facilitates the generous giving of one's own goods beyond what is required in strict justice. Affability makes our relationship with our neighbor be attractive and pleasing. Fidelity keeps our efforts going that we have freely undertaken for the sake of persons or life-ideals, despite the internal and external obstacles that come along with them.⁹⁹ Epikeia obtains the correction of the laws when this decreases because of their universality. It has been studied in the first volume.

3.3.4 *Justice and Charity*

The teaching of the Church holds that human society is supported by the two pillars of justice and charity. The Pastoral Constitution *Gaudium et spes* mentions the connection between these virtues seven times.¹⁰⁰ It was comprehensively explained by John Paul II with the following words: “The experience of the past and of our own times demonstrates that justice alone is not enough, that it can even lead to the negation and destruction of itself, if that deeper power, which is love, is not allowed to shape human life in its various dimensions. It has been precisely historical experience that, among other things, has led to the formulation of the saying, *summum ius, summa iniuria*. This statement does not detract from the value of justice and does not minimize the significance of the order that is based upon it; it only indicates, under another aspect, the need to draw from the powers of the spirit which condition the very order of justice, powers which are still more profound.”¹⁰¹

These two virtues are found at various levels: justice is a natural moral virtue, even if there exists a corresponding infused virtue, which

⁹⁸The Latin word “vindication” is sometimes translated “vendetta” in Italian. But this word has a very different meaning in ordinary speech from that of the moral virtue designated by the Latin word. See *S. Th.* II-II, q. 108, a. 2, ad 1.

⁹⁹For fidelity, see the interesting monograph by J. Morales, *Fidelidad* (Madrid: Rialp, 2004).

¹⁰⁰*Cf.* 21/6, 30/2, 72/1-2, 77/2, 78/1-2 and 93/1. For the connection between justice and charity see E. Colom, *Chiesa e società* (Rome: Armando, 1996), ch. 12.

¹⁰¹John Paul II, *Dives in misericordia* (Nov. 30, 1980), no. 12.

strives to secure the foundation of social life. Charity, by contrast, is a theological or divine virtue infused by sanctifying grace. Its final cause is to love God in himself, and as a consequence, to love all the creatures that are loved by him. *Charity reaches higher than justice, and therefore presupposes it.* To love others as if they were brothers or sisters presupposes that these others are recognized as persons with as much subjectivity, dignity, and rights as we have ourselves, a recognition that stands at the basis of justice. About this there can be no doubt. The problems arise, rather, from the risk that matters which in reality pertain to the most rigorous demands of justice may come to be attributed to gratuitous charity, falsifying in this way the true nature of social problems, or when an insistence on more intimate bonds leads to a neglect of the most basic requirements of justice. For example, the bonds of charity that exist between someone who assigns some work to be done and someone who actually carries it out should not lead in any way to a payment that is less than just, or to a job being performed carelessly. The bad conscience of someone who does not respect the rights of others cannot be ‘purified’ by a charitable gift or by some other act of charity. In regard to this Aubert wrote that “respect and the correct attitude given to the needs imposed by the uniqueness of each person, with regard both to their rights and to their possessions (this is realized by justice), are presupposed in every search for interpersonal unity, and in every attempt at communication between persons (this is the meaning of friendship). But since, by reason of its object, charity or love integrates, while overcoming, the object proper to friendship, in that very step charity also secures its bond with justice. The realization of justice is a kind of *permanent condition of caritas*, and at one and the same moment an indispensable preparation for it as well as its glorious shining-forth.”¹⁰² Charity requires the realization of justice as a necessary condition for its own truth. Without justice, charity becomes illusory and a caricature of itself: the respect for the rights of others is an “extrinsicization” of love, and every injustice is at least indirectly a lack of charity.

But even justice has need of charity. The aim of justice, that is, securing respect for personal alterity (or “otherness”), shows its own limits: otherness cannot be brought to the extreme of injuring unity and

¹⁰²J. M. Aubert, *Morale sociale* 2nd ed., (Assisi: Cittadella, 1975), pp. 109-110.

communication, which are just as essential to the full truth about the human being. Out of justice flows the tendency to overcome oneself, to place oneself at the service of friendship. It pertains to justice to make friendship possible, and in accordance with friendship, justice can meld persons into a relationship of “others” who mutually respect each other in love. Justice requires the practice of charity, as a quality necessary for interiorizing and personalizing justice, granting that love alone “does justice” to the dignity of the person. A justice that is “reified” and impersonal is always defective. Experience shows that a justice left to itself – with an excessive exaltation of alterity – easily becomes suffocated in egoism and individualism, and brings a risk of greater injustices. Abstract justice – it is important not to forget – has within itself something harsh and even cruel. Shakespeare has left a magisterial example of this in *The Merchant of Venice*.

The Christian primacy of charity does not mean that it dissolves the need for other virtues, as if love could justify any behavior. Charity is the form of all the virtues not because it annihilates the formal object proper to each of them, but because it operates as a final and efficient cause of the other moral objects. It is the business of charity to elevate the moral life as a whole, with the grace of the Lord Jesus Christ, toward the love of the Father and in communion with the Holy Spirit, and consequently, toward the love of neighbor. “Charity is the greatest social commandment. It respects others and their rights. It requires the practice of justice, and it alone makes us capable of it. Charity inspires a life of self-giving.”¹⁰³ Justice and charity are necessary virtues – as St. John writes – for someone to “belong to God”.¹⁰⁴

3.3.5 *The Justice of Desire: The Tenth Commandment*

The root of injustice lies in the heart of man.¹⁰⁵ *The virtue of justice must extend all the way to the purification of the heart. The heart of the just man rejoices in the good of another, and his desires recognize the*

¹⁰³ *Catechism of the Catholic Church*, no. 1889.

¹⁰⁴ “No one who fails to act in righteousness belongs to God, nor anyone who does not love his brother.” (1 Jn 3: 10).

¹⁰⁵ Cf. Mt 15: 19.

*dignity and the belongings of another as an unquestionable norm. This requirement of justice is expressed in the Tenth Commandment: “You shall not desire your neighbor’s house or field, his male or female slave, his ox or donkey, or anything that belongs to your neighbor.”*¹⁰⁶ This prohibits envy, the desire to possess earthly goods without measure, “It forbids *avarice* arising from a passion for riches and their attendant power. It also forbids the desire to commit injustice by harming our neighbor in his temporal goods.”¹⁰⁷

The Christian is guided by the Spirit¹⁰⁸ and follows the desires of the Spirit.¹⁰⁹ Justice in one’s desires constitutes one of the primary manifestations of the action of the Spirit within the soul. But it goes yet further, all the way to poverty “in spirit”.¹¹⁰ “Let all then have care that they guide aright their own deepest sentiments of soul. Let neither the use of the things of this world nor attachment to riches, which is against the spirit of evangelical poverty, hinder them in their quest for perfect love.”¹¹¹ The virtue of justice finds its best and most effective guarantee outside of itself. Only through following Jesus, who for our sake “became poor”,¹¹² can our hunger and thirst for righteousness be stronger than the disorder of greed.

3.3.6 *The Fundamental Forms of Injustice*

Injustice (Latin *iniuria* and *iniustitia*) can signify every action contrary to the cardinal virtue of justice, whether we are speaking of general, commutative, or distributive justice. *Iniuria* is the generic name for sins against justice. There are two great classes of injury: appropriation of what belongs to another (*ablatio rei alienae*) and the damaging of the possessions or rights of another (*iniusta damnificatio*). The difference between the two classes depends on whether or not there occurs an enrichment or material advantage on the part of the one committing the injury. The action of stealing a car or a watch belongs to the first class,

¹⁰⁶ Dt 5: 21. Cf. Ex 20: 17.

¹⁰⁷ *Catechism of the Catholic Church*, no. 2536.

¹⁰⁸ Cf. Rom 8: 14.

¹⁰⁹ Cf. Rom 8: 27.

¹¹⁰ Cf. Mt 5: 3.

¹¹¹ *Lumen gentium*, no. 42.

¹¹² 2 Cor 8: 9.

while setting a car on fire or slander (damage of someone's reputation) belongs to the second. The belongings of others that come into our possession ought to be returned to their rightful owner, and damages that have been unjustly caused call for replacement or restoration.

Injustice is a mortal sin *ex genere suo*,¹¹³ which is to say, that it is a grave sin in itself, but will be less so if the thing stolen or lost is something in scarce supply (for example, the theft of a 20 € bill from a person who is in a good financial situation).¹¹⁴ Sacred Scripture counts sins against justice among the sins that exclude someone from the Kingdom of God.¹¹⁵ Since justice is a virtue that concerns the foundation of life in society and is also presupposed by charity, it is not difficult to understand why sins against justice are so serious.

Injustice does not constitute the lowest essential category (infima species) of a sin. Not even the two large subdivisions of injustice constitute that. In the sacrament of Penance, it is necessary to specify the type of injustice committed: theft, robbery, homicide, calumny, false testimony in a law court, etc.

In general terms, an injustice cannot be committed against someone who consents to it. But it is necessary that the consent of the one who is entitled to the right be free and licit. This will not apply, obviously, in the case of inalienable rights (right to life, to bodily health, to conjugal fidelity, etc.).

3.4 Harming the Property of Others

3.4.1 *Foundation and Limits of the Right of Property*

For our present study, it will not be necessary to enter into any detailed theoretical reflections on the right of private property. *Catholic theological tradition has always supported the right of property, even though*

¹¹³Cf. *S. Th.* II-II, q. 59, a. 4. On the exact significance of the technical expression *ex genere suo* see *Chosen in Christ to be Saints*, I, ch. xi, 4 a).

¹¹⁴Of course, as is the case in every sinful act, a serious injustice by its matter can be subjectively a venial sin if full awareness or complete consent is not present.

¹¹⁵Cf. *1 Cor* 6: 9-10.

*not as an absolute right, insofar as private property is understood in the light of the more general principle of the universal destination of goods.*¹¹⁶

Ever since the appearance of the social question, the Magisterium of the Church has been concerned many times to defend both the universal destination of goods and the right of private property, beginning with the great social encyclical of Leo XII, *Rerum novarum*.¹¹⁷ The same teaching has been repeated by other Popes, by the Second Vatican Council,¹¹⁸ and by John Paul II.¹¹⁹

Our present interest is to indicate just what is the subject and what is the object of ownership. We can do this here in a very synthetic way, since it will be necessary for us to recur to it when we turn to the study of particular problems. With regard to the intrinsic goods of his own nature, whether of the soul or body, the human person has ministerial ownership, like an administrator (i.e., he is not able to dispose of his own life and bodily integrity in an arbitrary manner). On the other hand, he has a full dominion in the strict sense of the word over his external goods, whether it is a question of moveable or immoveable property, which, however, is not absolute, for the reason mentioned before, and even over the goods produced by his own labor or invention (intellectual and artistic property, industrial and software patents, etc). He also has dominion in the strict sense of the word over goods that are partly internal and partly external, such as reputation and honor, even if this is subject to certain limits, in virtue of which such things are at times inalienable, at times the right to them can be lost (e.g. the common good can demand the uncovering of a hidden crime, along with the loss of good reputation that might follow). There cannot be full and direct ownership of another human being (slavery), even if one can have a right to another person's labor that has been legally and freely stipulated by a contract.

The subjects of ownership or dominion are physical or moral persons.

¹¹⁶ Cf. *S. Th.* II-II, q. 32, a. 5, ad 2; q. 66, a. 2.

¹¹⁷ Cf. Leo XIII, Encyclical *Rerum novarum* (May 15, 1883): *Leonis XIII P.M. Acta*, XI, Romae 1892, 99-107; 111-114; 131-133. See also E. Colom, *Chiesa e società*, cit., pp. 242-247.

¹¹⁸ Cf. *Gaudium et spes*, nos. 69, 71. See also E. Lio, *Morale e beni terreni. La destinazione universale dei beni terreni nella "Gaudium et spes" e in alcune fonti*, (Rome: P. U. L. – Città Nuova Editrice, 1976).

¹¹⁹ Cf. for example, the Encyclical *Centesimus annus* (May 1, 1991), nos. 30-32.

Among physical persons are included those who are not yet born and persons who lack the use of reason by reason of age or mental disability. Where there cannot be an actual exercise of reason it is clear that an administrator should take care of the person's possessions in conformity with the prescriptions of the law or the dispositions of a judge. Physical persons who have died are no longer the owners of external goods, but they retain in principle the right to a good reputation. In some particular situations, such as between parents and minor children, or between a husband and wife, the right of property acquires some specific characteristics that are normally regulated in detail by civil laws. These laws are to be obeyed, except in the case of manifest injustice.

3.4.2 *Theft: its Nature and Morality*

Theft is a sin against justice that consists in the concealed appropriation of the goods of another, against the reasonable objection of the owner.

¹²⁰ Fully equivalent to theft are the failure to return something that has been found and known to belong to another, and failure to restore what has been extorted by deception or taken on loan, including the failure to pay back loans.¹²¹ If the usurpation of the property of another is not concealed, but takes place in the presence of the owner through intimidation or violence, the sin is called *rapine*, which adds to the 'real' injury (from Latin *res*, "thing") a 'personal' injury, that is, the offense and violence done to the owner. If the stolen item is a sacred object, it is a case of *sacrilegious theft*, which is also a sin against the virtue of religion.

There is mention of the reasonable objecting will of the owner in the definition of theft because "there is no theft if consent can be presumed or if refusal is contrary to reason and the universal destination of goods. This is the case in obvious and urgent necessity when the only way to provide for immediate, essential needs (food, shelter, clothing...) is to put at one's disposal and use the property of others."¹²²

¹²⁰The *Catechism of the Catholic Church* defines theft as "usurping another's property against the reasonable will of the owner." (no. 2408).

¹²¹Cf. P. Palazzini, *Vita e virtù cristiane* (Rome: Paoline, 1975), p. 328.

¹²²*Catechism of the Catholic Church*, no. 2408. The case of extreme necessity cannot be considered as "legitimate theft", nor even as an "exception" to the intrinsic evil of theft.

Theft is a mortal sin “ex genere suo”. It is contrary to the Seventh Commandment of the Decalogue, and is therefore recognized in the Scriptures as one of the most serious sins.¹²³ For St. Paul it is one of the faults that exclude someone from the Kingdom of God.¹²⁴ In order to evaluate concretely the seriousness of any theft, one must consider, on the one hand, the unjust enrichment of the one who commits the theft and, on the other hand, the loss that is suffered both by the owner and by the social order. For this reason we should distinguish *absolutely serious* matter from *relatively serious* matter. Chiavacci’s clarification will be helpful here: “We must recall the two malicious motives in theft: unjust enrichment is serious if it is a true enrichment, taking account of the average economic situation of the society in which one lives. This is an objective, if variable datum: that which can be considered a true enrichment is always serious matter, independently of the loss suffered by the victim (*materia absolute gravis*). But the damage inflicted can be serious even if the object of the theft has a value lower than what would be considered objectively an enrichment: there is, consequently, a seriousness of matter that is bound up with the condition of the person who has been robbed, that is, a relative datum that cannot be determined objectively. If the damage is serious, the matter will still be considered serious, even if it does not constitute true enrichment (*materia relative gravis*). The seriousness of the matter, and of the sin of theft, will have to be measured by the seriousness of the loss, but only to a certain limit. Once the matter has reached the level of true enrichment, the matter will always be serious, even if the damage inflicted is light: matter ‘absolutely serious’ (*materia absolute gravis*) therefore functions as a ceiling for ‘relatively serious’ matter (*materia relative gravis*); a ceiling beyond which there will always be mortal sin”.¹²⁵ This would mean, then, that the theft of a not very large sum of money from a person of modest economic means is a serious misdeed, but so is the theft of a significant sum of money, even from a fairly wealthy person who is not terribly hurt by the loss.

A delicate, and often discussed question, is how to characterize the

¹²³Cf. *Ex* 20: 15; *Lev* 19: 11; *Mt* 15: 19; 19: 18; *Mk* 7: 22; *Lk* 18: 20.

¹²⁴*1 Cor* 6: 10.

¹²⁵E. Chiavacci, “Furto”, in F. Campagnoni, G. Piana, S. Privitera, eds., *Nuovo dizionario di teologia morale*, cit., p. 469.

concrete values for determining relatively or absolutely serious matter.¹²⁶ Referring to *relatively serious matter*, Mausbach maintains that “for the low-to mid-range categories of paid workers, the daily wage is judged as serious matter – the wage that constitutes the support of a man and his family for one day. If we are speaking of the impoverished, the threshold can be much lower.”¹²⁷ In our view, this is a reliable index, and other authors agree. On the other hand, concerning *absolutely serious matter*, Palazzini affirms that “theologians establish the seriousness of theft by the monthly income of a business, or of a person with a mid-range salary,”¹²⁸ and therefore about € 1,200 (net income). Other writers speak of the weekly net income of a laborer or of a medium-sized business. The latter seems to us to be closer to the truth.

The value of these indices is certainly very relative. They are not to be applied mechanically. For a concrete judgment it is necessary to keep in mind the circumstances, and especially the average standard of living of the society in which one lives. However, on the one hand, even if the loss that affects a very wealthy person has little significance, certain transgressions of justice are serious because of their negative impact on the social order and on the respect each person deserves. On the other hand, one needs to have a criterion for the maximum in order to know when there is a serious obligation for restitution in the case of losses at the point of sale of large commercial networks, whose proprietors presumably enjoy an excellent financial position.

3.4.3 *Some Particular Kinds of Theft*

Thefts in the Domestic Arena — We are now speaking about thefts that can be carried out in a family environment, among persons usually living under the same roof. Thefts of food and drink for immediate use on the part of children or even of service personnel would be difficult to construe as serious matter, considering the objective value of the items and recalling that the head of a family is normally more opposed to a stealthy taking of things than to the taking itself. It could be a serious

¹²⁶Cf. for example St. Alfonsus Maria de’ Liguori, *Theologia Moralis*, lib. IV, tract. V., cap 1, dubium II, nos. 526-528.

¹²⁷G. Mausbach, *Teologia Morale*, rev. ed. G. Ermecke (Alba: Paoline, 1959) p. 1067.

¹²⁸P. Palazzini, *Vita e virtù cristiane*, cit., p. 329, n.273.

deed if the food taken by the service employee or the child were of such a quantity as to be sold to people outside the household, or if the food and drink were of a very high value. Thefts of money carried out by service employees, however, can be considered equivalent to thefts committed by outsiders.

Thefts from each other of a husband or wife normally do not constitute serious matter. In order to reach the level of seriousness the value of the stolen item must be higher (perhaps double) in the case of something owned by one of the spouses, and much higher (perhaps four times) in the case of shared items. In any event, there will be truly serious cases, as when one spouse disposes of a large quantity of money in spite of the reasonable objection of the other, for superfluous expenditures or for amusement, and there is significant damage done to the family economic situation.

Thefts of parents carried out by children who are still their dependents are judged in the light of all the circumstances: the economic condition of the family, presumed permission of the parents, the quantity they would have given if the request were made openly, the use made of the stolen item, etc. To reach the level of serious matter, the amount would have to be at least double the amount considered serious for thefts among persons outside the family. But serious sins can be defined as those from which a true obligation of restitution arises, either because of serious damage done to the parents which deprives them of the funds they were reserving for their retirement or for the other brothers and sisters, or, for example, when a son or daughter spends a sum of money on superfluous or harmful activities that the parents had planned with great sacrifice to be used for college expenses, etc. Here the verse of the Book of *Proverbs* is apt: “Whoever defrauds father or mother and says “It is no sin” is a partner to a brigand”.¹²⁹

Small, Repeated Thefts — Repeated thievery in trivial matters can constitute a serious sin in two cases: a) if they are governed by an intention to add up, little by little, to a quantity that would constitute serious matter; b) if, even in the absence of such an intention, they take place without a significant interval between the events, without any contrition or restitution, and their total value adds up to serious

¹²⁹ *Prov* 28: 24.

matter.¹³⁰ Saint Alfonsus, and many other moralists along with him, hold that in these cases the value of the stolen items should add up to 50% more if the person robbed is single, and double if more than one person is robbed.¹³¹ Others maintain that if the persons robbed are very numerous, the matter has to reach an absolutely serious level for it to be a mortal sin.¹³² The reasoning behind this is that in each of these cases, a loss is caused that is less than would have been the case if a single person had been robbed in a single act of theft.

3.4.4 *Fraudulent Behavior*

Fraud is an action injurious of the right of another person through a deception that has turned into bad faith. A fraud can be fiscal, commercial, having to do with food, etc., This phenomenon appears always to be widespread: it not only affects the world of business, but also political life, the legal world, communications and even scientific research. One kind of fraud, ‘swindling’ (known in Italian as *truffa*), is when someone persists in carrying out deception in order to gain an unjust profit to the loss of others. From the moral point of view, there are certain elements that are specific for a determinate area of life, but the principles to be applied are those already indicated, to the extent that fraud is nothing other than robbery carried out with deception.¹³³ The other kind of fraud, *abuse of office*, takes place when a public official makes an illegitimate use of his functions to procure for himself or others some advantage or even favor; the moral criteria are the same as for theft (in the former instance) or for unjust injury (in the latter).

More complicated from the moral perspective is the theme of *corruption*.¹³⁴ Holy Scripture devotes several passages to it. In the Book of

¹³⁰The principles apply here that we have explained in *Chosen in Christ*, I, ch. 11, par. 5, concerning the numerical distinction of sins. Innocent IX condemned the following proposition: “Nobody is held under threat of mortal sin to restore what has been taken by means of small thefts, no matter how large the total sum might be.” (DH 2138).

¹³¹*Cf.* St. Alfonsus Maria de’ Liguori, *Theologia Moralis*, lib. IV, tract. V., cap. 1, dubium II, no. 530.

¹³²*Cf.* D. Prummer, *Manuale Theologiae Moralis*, 15th ed., (Barcelona -- Freiburg im Breisgau -- Rome: Herder, 1961), vol. II, no. 82.

¹³³*Cf.* *Catechism of the Catholic Church*, no. 2409.

¹³⁴On this topic we have closely followed H. Fitté, *Teologia e società* (Rome: Apollinare

Exodus it is taught never to take a bribe, “for a bribe blinds the clear-sighted and distorts the words of the just”.¹³⁵ The Psalms ask: “Lord, who may abide in your tent? . . . [he who] lends no money at interest, accepts no bribe against the innocent.”¹³⁶ And *Isaiah* affirms that the wise man is “whoever walks righteously . . . and waves off contact with a bribe.”¹³⁷ In the New Testament, John the Baptist warns: “Stop collecting more than what is prescribed . . . do not practice extortion . . . and be satisfied with your wages.”¹³⁸ In the broadest sense, one can say with the *Catechism of the Catholic Church* that corruption is the act “in which one influences the judgment of those who must make decisions according to the law”.¹³⁹ It has to do with an illicit compensation offered to, or demanded by, a public functionary, a director or employee of a business, etc., with the implicit or explicit purpose of obtaining or doing a favor through some economic activity or administrative practice, or else to avoid an unjust loss or the denial of a right through the abuse of the exercise of the powers of one’s office or position [in Italian these acts are normally called ‘*bustarelle*’ or ‘*tangenti*’].

Such actions produce deleterious effects on persons who are in the society because they directly attack human dignity. In fact, corruption lowers the responsibility and the initiative of persons, puts an obstacle before healthy competition and the motivation to improve the quality of products; it makes people lose their self-esteem and their professional sense in work which no longer respects personal merit or capabilities. Furthermore, it weakens inter-personal relationships and increases suspicions among persons and institutions; contracts, norms, plans, and promises lose their credibility; and it sets up an alternative, “parallel” society, directed by force and power and not by justice and professional competence, a society organized in a complicated way for the purpose of securing one’s own rights. As a result the legal devices and controls for ensuring legal behavior grow to gigantic proportions, and bureaucracy

Studi, 2000) pp. 260-267. For a comprehensive overview of the problem see also J. T. Noonan, *Bribes* (New York: Macmillan, 1984).

¹³⁵ *Ex* 23: 8.

¹³⁶ *Ps* 15: 1, 5.

¹³⁷ *Isa* 33: 15.

¹³⁸ *Lk* 3: 13-14.

¹³⁹ *Catechism of the Catholic Church*, no. 2409.

as well, making legislation seem to be something arbitrarily imposed. All this hurts most deeply the poorer societies: corruption is found to be “among the causes that greatly contribute to underdevelopment and poverty”¹⁴⁰ and at the same time – along with other causes – is at the origin of the debt crisis in many countries.¹⁴¹ The spreading of corruption generates real structures of sin that make right actions so difficult and incite people to injustice. In the words of John Paul II: “The absence of stability, together with the corruption of public officials and the spread of improper sources of growing rich and of easy profits deriving from illegal or purely speculative activities, constitutes one of the chief obstacles to development and to the economic order.”¹⁴²

In the legal field, there are specific types of corruption that also have a moral significance.¹⁴³ ‘Corruption’ (or *subornatio*) is when someone who wants to have something offers to pay someone who can provide or facilitate the gaining of that thing. ‘Extortion’ (or *concessio*) is when, by contrast, a payment is demanded, as a condition for accomplishing a certain act or for carrying out something for another person’s benefit, by someone in a position to do so (i.e. a public official, a person with political influence etc.). The variety of cases is quite large. In extortion, for example, the compensation can be demanded for carrying out quickly a bureaucratic process that has to be done, without delaying it on purpose, or for not performing a financial audit or not reporting tax or income irregularities, etc. With corruption, compensation can be offered in order to receive favorable treatment in a contract-bidding situation, or for getting ‘inside’ information or acquiring recommendations that can secure the winning of a contract, etc. The sums raised in this manner can be used for personal enrichment or for the support of a political party or other morally unacceptable cause.¹⁴⁴ In order to eval-

¹⁴⁰Pontifical Council on Justice and Peace, *Compendium of the Social Teaching of the Church*, cit., no. 447.

¹⁴¹*Cf. ibid.*, no. 450.

¹⁴²*Centesimus annus*, no. 48.

¹⁴³In colloquial Italian one speaks sometimes of a “tangente”, understood as the illicit giving of money (or other analogous good) that guarantees to the payer the enjoyment of some advantage. The word “tangente” is also sometimes used to refer to what has been offered by someone to get such an illicit advantage.

¹⁴⁴This circumstance neither changes the moral object of the action nor its malice, which is still extortion.

uate these actions it is necessary to keep in mind that there is a moral obligation to complete one's work (or duty assigned by public or private contract) that expects a just remuneration. To carry out one's work on the condition of striking a deal to obtain some other goods is an unjust breaking of the contract. To this injustice is added the loss in many cases incurred by third parties (other bidders, rival businesses, etc.), the scandal of instigating of someone to sin (if someone is corrupted), and, in any case, cooperation in the diffusion of immoral behavior.

Spontaneously offering or asking for compensations of this kind are, nevertheless, also contrary to the virtue of justice, even when the purpose of doing so is only to obtain things one has a right to have, or just to carry out one's obligations. In that case it is an enrichment (of oneself, or of one's own group or party, etc.) which does not have any legitimate title, and is therefore an unjust enrichment. If the purpose for which the bribe is offered or requested is to obtain things or to perform something contrary to the moral law or the civil laws, with possible losses to third persons, to the state, to the inhabitants of a particular region, or to the environment, etc., further dimensions of immorality are added. This kind of conduct often causes losses and unjust situations, calling for serious measures of restitution and indemnification.

Sometimes, a certain professional or administrative ambience can be so corrupted that it is impossible or extremely difficult for citizens and honest business people to carry on their normal activities: it endangers not only one's own subsistence, but also that of the employees who depend on the businesses and their families (as , for example, when an honest businessman sees himself forced into bankruptcy and is forced to close down the business and dismiss his employees). It cannot be ruled out that, on some occasions, it is permissible to give compensation to a public or private functionary, as long as the following conditions are *simultaneously* present:

1. that the functionary or private person has *explicitly requested* it.
2. that it is *necessary* to obtain something that one not only has the *right* to have, but also the *serious obligation* to have (for example, to not be forced to dismiss employees), or to avoid a proportion-

ately serious loss derived from the unjust conduct of the one who is asking for the bribe.

3. that no unjust loss is caused to third parties and that the danger of scandal is fully avoided.¹⁴⁵
4. that careful consideration has been given to the moral obligation to make one's own personal contribution to the moral healing and improvement of the employment situation, and of the political, social, and economic structures involved in the situation.

We said that it cannot be ruled out that sometimes it is morally licit to act following these criteria. In such cases an injustice is not being committed, but rather injustice is being suffered, and not for personal interests, but for interests of a higher nature, connected with the good of other persons and families. Nevertheless it should be emphasized that in principle, one should act positively to eliminate these situations of injustice by joining one's own strengths and means to those of other honest persons who find themselves in the same situation, and proceed to make well-timed and appropriate denunciations (if possible, bringing some positive outcome), promoting legal reforms among the professional ranks and commerce organizations, as well as legal actions that would be helpful in protecting the professional or productive activities and honest citizens, and in discouraging corruption, etc. "Casuistic" solutions applied in an emergency cannot be taken up as habitual criteria for acting without serious damage being done to the common good, and sooner or later without detriment to one's own professional or employment interests.¹⁴⁶

¹⁴⁵Even the person who asks for the bribe can be scandalized, because his own immoral way of behaving is reinforced by the fact that the persons who accept the bribe may be thought of as upright by others. Even colleagues, friends or dependents of the person who is the victim of extortion can be scandalized, if they cannot know that the latter is being forced to act against his own ethical convictions in order to keep his employees working, etc. To accept money from extortion is usually punished by the civil laws. If everything comes to light, there will be public scandal in addition. All such circumstances need to be evaluated carefully.

¹⁴⁶John Paul II, speaking about structural sins, recalls that "It is a case of the very personal sins of those who cause or support evil or who exploit it; of those who are in a position to avoid, eliminate or at least limit certain social evils but who fail to do so out of laziness, fear or the conspiracy of silence, through secret complicity or indifference; of those who take refuge in

3.4.5 *Particular Situations: Extreme Necessity and Hidden Compensation*

Extreme Necessity — the taking of something that legally belongs to another does not always constitute an injustice. Drawing out the consequences of the principle of the universal destination of goods, St. Thomas affirms that “if the need is so urgent and obvious as to make it clear that assistance must be made with the things that are lying to hand, as for example when a danger is threatening a person and there is no other way to help, then it is licit for someone to meet his need by making use, secretly or openly, of things belonging to someone else. This would not, properly speaking, have the nature of theft or rapine.”¹⁴⁷ St. Thomas’s conclusion is widely accepted. Yet it should be added that the faculty of disposing of the goods of another only proceeds from a truly extreme necessity (danger of death, of an injury to one’s bodily integrity, or of serious threat to health) which cannot be avoided in any other way, and it only extends to the use or the consumption of only what is necessary to overcome the danger. Generally, the item must be returned when it is no longer needed. If it is a question of something that is consumed, and if it is possible afterwards to replace it, a man who loves justice will do so if the item that was used has a significant value, even if can be theoretically disputed whether or not there is an obligation in this case.¹⁴⁸ In any event, the belongings of another person cannot be taken if, as a consequence of the action, the owner would be placed into a situation of extreme necessity.

Hidden Compensation — The question arises, here, whether it is just to recover a thing secretly that has been unjustly taken by another person (“hidden compensation”). There certainly exists a right to one’s own property, but it is also true that normally nobody ought to carry

the supposed impossibility of changing the world and also of those who sidestep the effort and sacrifice required, producing specious reasons of higher order. The real responsibility, then, lies with individuals”. (John Paul II, *Apostolic Exhortation to Reconciliation and Penitence* [Dec. 2, 1984] no. 16).

¹⁴⁷*S. Th.*II-II q. 66, a. 7. *Gaudium et spes*, no. 69, teaches the same doctrine with reference to this passage of Aquinas.

¹⁴⁸Various opinions have been formulated in the past on this matter. Cf. J. Mausbach, *Teologia Morale*, cit., pp. 1070-1-71; D. M. Prümmer, *Manuale Theologiae Moralis*, cit., vol. II, no. 88.

out their own restoration of justice. This is why Thomas wrote that “if someone without being seen takes back something of his own that has been wrongly taken by another, he sins, but not because he has injured the one who stole the item (and in fact he is not obliged to restore or pay him back anything) but he sins against legal justice (*communem iustitiam*) by usurping a judgment of his own things, by-passing the order of law. And in this way he is obliged to give satisfaction to God, and put effort into laying the consequent scandal to rest, if his neighbors are affected.”¹⁴⁹ Nevertheless, it is commonly believed that hidden compensation is licit if: a) there definitely exists a right of ownership in the strict sense for the object in question; b) it is not possible to obtain the recovery of the thing in some other way without serious inconvenience; c) there is no danger of causing an injustice to the person possessing the thing (for example, by exaggerating the re-payment value of the item) or to a third party who might be suspected of the theft; d) scandal and public disorder can be avoided. In practice, although admitting its licitness on the theoretical level, the just man rarely will have recourse to it, and still more rarely suggest it to others.¹⁵⁰

3.5 Unjust Damage in General

3.5.1 *The Nature and Morality of Unjust Damage*

Unjust damage (*iniusta damnificatio*) is the generic name for the intentional harming of another person’s rights to his own natural goods, without any enrichment or material advantage coming to the person who causes the damage, such as occurs in the case of theft or rapine. Damage to the supernatural goods of another is scandal, a sin against charity that has been treated in volume II of this manual. In the following pages we will discuss damage to the goods belonging to another, whether spiritual (defamation, calumny), corporeal (mutilation, abortion), or external (destruction of material goods).

Insofar as it harms justice, unjust damage is a sin that is serious by definition (*ex genere suo*). Now, we know that what is serious *ex*

¹⁴⁹ *S. Th.* II-II, q. 66, a. 5, ad 3.

¹⁵⁰ *Cf.* D. Prümmer, *Manuale Theologiae Moralis*, cit., vol. II, no. 88.

suo genere can be less serious in cases where there is a scarcity of the material in question, or if there are other aggravating causes. Unjust damage is the source from which flows the responsibility for restoring or repairing the damage inflicted, provided the damage is truly, effectively, and formally unjust. The action is *truly* unjust if justice is harmed, as well as the rights of another. If a passer-by fails to help extinguish a fire that has broken out in a sidewalk store, but was in fact able to help, he sins against the virtue of charity, but he is not making an assault upon any right of the store-owner, and is not obliged to restore the damage. The action that causes the damage is *effectively* unjust; by contrast, a licit action that becomes the occasion or *conditio sine qua non* for the causation of loss on the part of another subject, is not so. If someone who respects the legal requirements sells a hunting rifle, which is afterwards used to shoot a third person, he has not committed an effectively unjust action. An action is *formally* unjust when it constitutes a sin against justice. The injury of the right of another in a completely involuntary way is not formally unjust. Nevertheless it is possible that the unintentional causation of damages can amount to a juridical misdeed. In that case there is a moral obligation to repair the damages a) if a judicial sentence so determines; b) if it was freely stipulated by contract, either explicitly or implicitly.¹⁵¹

3.5.2 Co-operation in Unjust Damage

It is often the case that various persons operate together to cause an unjust loss. *Traditionally, six types of positive cooperation, and three forms of negative or passive cooperation are distinguished, and they can*

¹⁵¹Referring to what Thomas Aquinas affirms at S. T. II-II, q. 62, a. 6, De Victoria wrote that Aquinas “establishes a universal principle in the matter of restitution [. . .]: that, namely, one can be held to make restitution either for the goods taken or for the injustice of the action committed. First conclusion: he who possesses the good of another, no matter in what way he has received it, is obliged to restore it. Second conclusion: for the injustice committed, he who has destroyed the clothing of another (by setting someone’s house on fire, for example, or by destroying his possessions) is obliged to restore it. Third conclusion: even when taking the goods of another with the consent of the owner, but for my own benefit (such as a loan), I am obliged to make restitution in case of its loss. Fourth conclusion: if, on the other hand, I have accepted something for the benefit of the owner (i.e as a deposit), and it has been destroyed without my fault, I am not obliged to its restitution. (F. De Vitoria, *Comentarios a la Secunda Secundae de Santo Tomás*, [Salamanca: 1934], vol. III, p. 175).

be conveniently learned by the following two Latin hexameter verses:

*Iussio, consilium, consensus, palpo, recursus,
participans; Mutus, non obstans, non manifestans.*¹⁵²

The positive co-operator is one who commands or orders an action, who advises it, goes along with it, or encourages its accomplishment through compliments or flattery, who offers the means for it to be done, and who participates in the unjust action. The negative or passive co-operator is he who says nothing *before* the damage has been done, does not interfere with the action *during* its accomplishment of the action, or does not report anything about it *afterwards*.

In general, what has been said above is valid for any joining in any action of unjust damage. *There is a moral obligation to make reparation or restitution if one's own co-operation is truly, effectively, and formally unjust.* In the case of material co-operation, this will be so if a judicial sentence has established it or if it has been freely stipulated. Let us now add a few precisions on some forms of co-operation.

Command and Order — The most effective encouragement of an evil action is to command (*iussio*) or prescribe it (*mandatum*).¹⁵³ The person commanding is the principal cause of the evil, and, if the first conditions of damage mentioned above are present, there is an obligation of restitution not only with respect to the one who has been damaged,¹⁵⁴ but also with respect to the person commanded or the executor of the act, if there has been abuse of authority, force or fraud on the part of

¹⁵²[“Command, advise, agree with, flatter, help, Join in! Be quiet before, stand by during, after do not tell”]. Cf. M.D. Prümmer, *Manuale Theologiae Moralis* (cited above), vol. II, no. 100; J. Mausbach, *Teologia Morale* (cited above), pp. 1093-1097. The *Catechism of the Catholic Church* also takes into consideration both positive co-operation as well as negative or passive co-operation: “Sin is a personal act. Moreover, we have a responsibility for the sins committed by others *when we co-operate in them*: by participating directly or voluntarily in them; by ordering, advising, praising or approving them; by not disclosing or not hindering them when we have an obligation to do so; by protecting evil-doers” (no. 1868).

¹⁵³Command, properly speaking (Latin *iussio*), is when the one making the command takes advantage of his authority over the person carrying out of the command (for example, if the commanding person is a military officer, and the one carrying out the command is a subordinate. The prescription or “mandate” (*mandatum*) occurs, by contrast, through a freely made agreement: if, for example, the person giving the mandate is paying something in order to have the unjust action carried out.

¹⁵⁴The following thesis was condemned by Innocent XI: “He who encourages or induces another person to a serious act of damage against a third person is not obliged to make restitution for this action.” (DH 2139).

the person giving the order.

Counsel — Someone who advises or counsels another person to cause damage to a third party is not considered the principal cause of the damage inflicted, and is obliged to repair the damage only to the extent that his counsel had an effective influence upon the unjust action. Such a counsel-giver is only obliged to compensate the doer of the damage if the damage was carried out by way of mendacity or fraud, or if the one giving the counsel had the duty, by reason of his position (as a public official, a confessor, etc.) to give good counsel. It is not considered to be an unjust action when the counsel that is given replaces some greater evil *that cannot be absolutely avoided* with a lesser evil against the same person. Such counsel is considered, in fact, as being offered in the interest of the victim.¹⁵⁵

Consent — Someone who consents can simply be someone who approves the evil action of another, without influencing the act, or it can be someone who agrees with others in causing damage (such as a judge who agrees with the other members of a panel in dispensing an unjust sentence, or the same kind of action when performed by members of a legislative committee).

Participation in the Action — In the narrower sense, co-operation with carrying out an injustice is participation in the very action that caused the damage. Formal co-operation is always illicit and implies the obligation to make compensation if, and the extent to which, the cooperation was a cause of the damage. If the co-operation was so essential to the act as to make the injustice impossible without it, the obligation to compensate extends to the entire damage *in solidum*; if the co-operation was not essential, there is an obligation to repay only part of the inflicted damage. Material co-operation, and the conditions under which it is considered licit have been treated in Volume One.¹⁵⁶ With actions such as assassination, adultery, etc., material cooperation in an immediate way is never licit, “because in such cases justice has an unconditional right that cannot be freely trampled upon or outweighed

¹⁵⁵ Cf. M.D. Prümmer, *Manuale Theologiae Moralis*, vol. II, no. 103b; J. Mausbach, *Theologia Morale*, p. 1094.

¹⁵⁶ Cf. *Chosen In Christ to be Saints*, I, ch. XI, par. 8.

by higher goods of the other party.”¹⁵⁷

Passive Co-operation — Negative or passive co-operation (being silent, not being an obstruction, not reporting) is an injustice which gives rise to a certain obligation to make recompense, when the one who co-operates was obliged, in virtue of his office or in virtue of an implied or expressed contract, to prevent the unjust action, so long as this could have been done without some grave disadvantage to themselves. This would apply to policemen, bank-tellers, forest rangers, inspectors, administrators, etc., who did not interfere with or report illicit actions taking place within the arena of their special competence. Such persons are hired to carry out actions of prevention and notification, and they infringe upon commutative justice if they do not perform that duty conscientiously.

In many instances the degree of compensation is regulated by civil laws. It is morally licit and obligatory to conform to those laws, provided they are not manifestly unjust.

3.6 Responsibilities to Truth and to the Honor and Reputation of one's Neighbor

Truth, honor and reputation are promoted, preserved, or damaged by means of language (whether oral or written, in images or some other way). These goods are so important to the person that biblical wisdom goes so far as to affirm that “Death and life are in the power of the tongue”.¹⁵⁸ In this respect, therefore, the use of language constitutes an essential chapter in the treatise on the virtue of justice and its parts (truthfulness, *veracitas*). Everyone knows, of course, that the theology of language and communication, or as some might say, the theological study of truth and falsehood, opens up a very wide panorama. We will dedicate a few summarizing notes to this in sub-section a), before taking up the study of the specific normative issues regarding the use of speech

¹⁵⁷J. Mausbach, *Teologia Morale*, pp. 1095 – 1096.

¹⁵⁸*Prov* 18: 21.

in sub-sections b) – g), which will constitute the principal task of this section.¹⁵⁹

3.6.1 *Theological Reflections on Truth, Language, and Communication*

*The study of the biblical meaning of language begins with an encounter with the creative, revealing, and redemptive Word of God: the divine Word that communicates to man his being, truth, and salvation, for in these are made manifest the Wisdom and Love that make up the personal communion within the Trinity – the origin and supreme exemplar of all communication between God and man and among human beings themselves.*¹⁶⁰ Revelation permits us to understand that the essentially communicative character of the human person – his need to live in relation, the fact that for a human being to live means to meet and be met – shows that a certain likeness to the inter-Trinitarian communion has been inscribed within the very creation of man.¹⁶¹ The communicative dimension is an expression of the dignity of the human being, created according to the image and likeness of God. In this way, the divine Word reveals the theological and moral significance of the human word. The creative, and in an analogous and fuller way, the revealing and redemptive Word of God is the word of truth and love. It is the Word that gives being, truth and life, the Word that unites, the Word that saves and makes happy. So likewise is, and should be, our human speech,

¹⁵⁹For all the various themes regarding responsibility for the truth, see A. Sarmiento, T. Trigo, E. Molina, *Moral de la persona* (Pamplona: Eunsa, 2006), chs. 17 – 21.

¹⁶⁰A few references to the creative Word should suffice here: “God of my ancestors... you... have made all things by your word” (*Wis* 9:1). Creation is the work done by the word of wisdom that came forth “from the mouth of the most high” (*Sir* 24: 3; cf. *Prov* 8:22-31; *Col* 1: 15-16). God creates by speaking (*Gen* 1: 3,6,9,14,20,24,26). And right next to the Word of wisdom stands the Spirit of love: “And God’s Spirit hovered over the waters” (*Gen* 1:2; Jerusalem Bible trans.). And “the same Spirit ‘who searches the depths of God’ (*1 Cor* 2: 10) searches the depth of the Father and the Word-Son in the mystery of creation. Not only is he the direct witness of their mutual love from which creation derives, but he himself is this love. He himself, as love, is the eternal uncreated gift. In him is the source and the beginning of every giving of gifts to creatures” (John- Paul II, Encyclical *Dominum et vivificantem, On the Holy Spirit in the Life of the Church and the World* (May 18, 1986) no. 34).

¹⁶¹Cf. John-Paul II, Apostolic Letter *Mulieris dignitatem* (August 15, 1988) no. 7.

within the limits of its power.

But there rises, against this salvific communication between God and man, the temptation-bringing word of the “father of lies”,¹⁶² who plants the seed of suspicion of God’s intentions. It is a word that proceeds from envy, seeking to cause division and death: “But by the envy of the devil, death entered the world, and they who are allied with him experience it”.¹⁶³ The father of lies “was a murderer from the beginning”.¹⁶⁴ Death originates in the denial of the truth of God’s word. That is the radical lie, in which all deception has its origin. To the “word of life”¹⁶⁵ and to the “Spirit of truth”¹⁶⁶ sets itself in opposition the deceptive word that blocks divine communication, and places obstacles before the perception of God’s glory and all its manifestations in the world of man.

Christ renews the human being and all the dimensions of his being. Saint Paul exhorts us to put off the old man along with our former conduct and be clothed anew in the new man, created according to God’s way, in justice and in the sanctity of the truth.¹⁶⁷ “Therefore, putting away falsehood, speak the truth, each one to his neighbor, for we are members one of another.”¹⁶⁸ Human language, dialogue and communication have been purified and elevated to the end of participating, even if at the infinite distance of analogy, in the communication between the Father, Son, and Holy Spirit. *In anticipation of the eschatological fulfillment, however, human language and communication continue to be a good, a capacity entrusted in freedom.* We must be careful that our words express truth, and are inspired by love, in such a way that we are “living the truth in love”.¹⁶⁹

The meaning of human language can be denied. Man can make it into an instrument of hatred and lies, into a word that harms, divides, makes others suffer, and kills. “Many have fallen by the edge of the sword, but not as many as by the tongue”.¹⁷⁰ The just man must pray

¹⁶² *Jn* 8: 44.

¹⁶³ *Wis* 2: 24.

¹⁶⁴ *Jn* 8: 44.

¹⁶⁵ *1 Jn* 1: 1.

¹⁶⁶ *Jn* 14: 17; 15: 26.

¹⁶⁷ *Cf. Eph* 4: 22-24.

¹⁶⁸ *Eph* 4: 25.

¹⁶⁹ *Eph* 4: 15.

¹⁷⁰ *Sir* 28: 18.

to the Lord, “Hide me from the malicious crowd, the mob of evildoers. They sharpen their tongues like swords, bend their bows of poison words”.¹⁷¹ No connection is possible between the word of hatred that strikes and divides, and the communion of the Father with the Son in the Holy Spirit. “Whoever says to his brother, ‘Raca’, will be answerable to the Sanhedrin, and whoever says, ‘You fool’, will be liable to fiery Gehenna”.¹⁷² Those who defame and bring calumny will be numbered among those who are distant from God¹⁷³ and will not inherit the Kingdom of God.¹⁷⁴ The deformation of language is not only the result of hatred and envy; sometimes it simply reveals blankness of mind, superficiality, or the absence of preconceptions. The Lord’s admonition, nevertheless, is explicit: “I tell you, on the day of judgment people will render an account for every careless word they speak. By your words you will be acquitted and by your words you will be condemned”.¹⁷⁵

In today’s society, the power of language, for good or for ill, has much increased. Communication, public opinion, the rapid diffusion of messages and images have an ever-increasing importance. If, on the one hand, this makes for a certain safeguard of freedom, for solidarity even at the global level, for unhindered development and fruitful competition, there is another side, too. It has made ethical discernment more complicated, and has expanded the moral import of communicative acts, whether public or private. Professional life, political and economic activities, the life of the Church and the work of evangelizing both of institutions and of the faithful as individual can all be determined by the atmosphere of faith (or lack thereof) they find themselves in, an atmosphere created, rightly or wrongly, by the surrounding flood of communication. Nobody can be unaware that in such circumstances it is all the more important that communication in all its forms be inspired by respect for the ethical requirements of truth, honor, good reputation, and, ultimately, charity.

Therefore it is particularly important today to remember that communication according to justice and charity is a value of utmost impor-

¹⁷¹ *Ps* 64: 3-4.

¹⁷² *Mt* 5: 22.

¹⁷³ *Cf. Rom* 1: 29-30; *2 Tim* 3: 3.

¹⁷⁴ *Cf. 1 Cor* 6: 10.

¹⁷⁵ *Mt* 12: 36-37.

tance for believers. “Love does no evil to the neighbor; hence, love is the fulfillment of the law”.¹⁷⁶ The vice of detraction, like any other speech which is intended to hurt, “... is recognized as especially contrary, and more bitterly hostile, to love (which is God) than other vices, as you yourselves can see. Whoever detracts, shows above all that he is devoid of love. And by speaking evilly, what else does one intend but that the one he is speaking about become hated and despised by those to whom he speaks? And thus the evil-speaking tongue injures charity in all those who hear it, and, as much it can, kills and extinguishes charity as well. And not only this, but it also brings damage to all the people contaminated by those accursed words when they hear them spoken. Behold: how quickly and easily a great multitude of souls can become infected by a malicious word!”.¹⁷⁷

On the basis of such considerations, we can clearly see the importance of promoting a culture of true respect for the human person, with both the use of the written or spoken word and in the development of professional activities, especially those (such as the medical, journalistic, legal and consultative fields) that often have to do with dimensions of human life that by their nature need to be treated with discretion and complete reserve. The promotion of such a culture corresponds to a great degree with civil laws and the ethical codes of the professions, which should justly harmonize the right to honor and good reputation with other rights that are equally important and necessary, such as the right to information or the right to the free expression of one’s own thoughts. From this point of view, it is a favorable sign that the protection of all the above-mentioned rights is becoming ever more just and effective, whether this take the form of a legal guarantee of the dignity and liberty of persons and institutions, or in the important educational dimension that such protection can provide, especially for future generations.

*The promotion of a culture of true respect of the person ought also to become the object of an intense pastoral action on the part of the Christian community and its Pastors, who have the duty of building up the Body of Christ in charity.*¹⁷⁸ Ever since the days of the first Chris-

¹⁷⁶ Rm 13: 10.

¹⁷⁷ St. Bernard of Clairvaux, *Sermones super Cantica Canticorum*, 24: 4: *Opera* (Roma: Editiones Cistercienses, 1957) vol. 1, pp. 154-155 (our translation).

¹⁷⁸ Cf. Eph 4: 11-16.

tian communities founded by the Apostles, pastors have instructed the faithful to be very conscious of the moral responsibility connected with the use of speech, to the end of safeguarding and promoting concord, respect, and mutual love, and for the effective diffusion of the Gospel, which would be seriously hindered if the example of charity ever came to be lacking among the faithful – the specific example that allows them to be recognized as true disciples of the Lord.¹⁷⁹ So, for example, when Saint Paul writes to the Corinthians to announce his third visit to the city, and expresses his parental concern about not finding the faithful up to his expectations: “... I fear... that there may be rivalry, jealousy, fury, selfishness, slander, gossip, conceit, and disorder”,¹⁸⁰ attitudes and actions that in other passages are condemned as “works of the flesh”,¹⁸¹ or of the “old self”.¹⁸² This is how he exhorts the faithful of Ephesus: “No foul language should come out of your mouths, but only such as is good for needed edification, that it may impart grace to those who hear... all bitterness, fury, anger, shouting and reviling must be removed from you, along with all malice. Be kind to one another, compassionate, forgiving one another as God has forgiven you in Christ”.¹⁸³ The whole teaching can be summed up with reference to the words of St. James, who identified “not falling short in speech” as the hallmark of the perfection we are called to as Christians.¹⁸⁴

3.6.2 *Truth and Lying*

Holy Scripture indicates clearly that lying is a moral fault¹⁸⁵ particularly displeasing to God.¹⁸⁶ *The Church maintains that lying is a violation of the Eighth Commandment of the Decalogue.*¹⁸⁷ There is a wide agreement among theologians (if not quite unanimity) that while lying constitutes

¹⁷⁹ Cf. *Jn* 13: 35.

¹⁸⁰ *2 Cor* 12: 20.

¹⁸¹ *Gal* 5:19-21.

¹⁸² *Col* 3: 8-9.

¹⁸³ *Eph* 4: 29, 31-32.

¹⁸⁴ Cf. *Jas* 3: 2.

¹⁸⁵ Cf. *Ex* 23:7; *Lev* 19:11; *Prov* 12:22; *Sir* 20:26; *Col* 3:9; as well as the other passages from the Pauline corpus referred to in the preceding paragraph.

¹⁸⁶ Cf. *Ps* 5:6-7; *Prov* 6:17.

¹⁸⁷ Cf. *Catechism of the Catholic Church*, no. 2464.

a venial sin in itself, it can become a mortal sin when it seriously injures justice or charity.¹⁸⁸ On the other hand, there is a substantial debate over the exact definition of lying and on other related questions, such as, for example, the permissibility or not of the “mental reservation”, of “false speech”(*falsiloquium*), of the use of ambiguous or equivocal expressions, and above all when keeping a secret or other obligations of justice or charity would seem to require the concealment of the truth.¹⁸⁹

Saint Augustine — We will begin by considering the nature and definition of lying. Saint Augustine has a precise idea about the nature of the immorality of lying, although he grants that the theme is a difficult one. The first treatise that he wrote on the subject begins as follows: “Lying presents a great problem. It is an issue that often disturbs us in our daily affairs; we have to be careful not to accuse someone of lying when there was no lie, and on the other hand we may think that we need to lie sometimes, with a lie that is somehow ‘noble’ or ‘called for’ or ‘merciful’”.¹⁹⁰ According to him, “Lying is a false statement said with the intent to deceive”,¹⁹¹ he holds that the will to deceive is an essential element of lying; therefore, he who says something false but thinks he is telling the truth has not said a lie.¹⁹² His own moral evaluation of lying

¹⁸⁸ Cf. *Catechism of the Catholic Church*, no. 2484. Some theologians hold, however, that lying is a grave sin *ex genere suo* (or intrinsically) that can become venial in the case of trivial matter (*parvitas materiae*). See, for example, J. Mausbach, *Teologia* (cited above), p. 1125.

¹⁸⁹ See A. Vermeersch, “De mendacio et necessitatibus commercii humani”, *Gregorianum* 1 (1920) 11 - 40 and 425-474; *Idem*, “De Mendacio. Supplementum duarum priorum partium”, *Gregorianum* 2 (1921) 279-285; St. Bersani, “De intrinseca mendacii deformatione”, *Divus Thomas* (Pia.) 29 (1936) 3 - 14; G. Müller, *Die Wahrhaftigkeitspflicht und die Problematik der Lüge* (Freiburg-Basel-Wien: Herder, 1962); K. Hörmann, *Verità e menzogna* (Rome: Paoline, 1958); M. Brunec, “Mendacium intrinsece malum sed non absolute”, *Salesianum* 26 (1964) 608-685; W. Molinski, s.v. “Ethos della verità” in *Sacramentum Mundi. Enciclopedia Teologica*, vol. VIII (Brescia: Morcelliana, 1977), cols. 619-631; A. Günthör, *Chiamata e risposta* (cited above), vol. III, pp. 443- 460; M. Cozzoli, s.v. “Bugia”, in F. Compagnini, G. Piana, S. Privitera, eds., *Nuovo dizionario di teologia morale* (cited above), pp. 105-112; A. Bondolfi, “Non dire falsa testimonianza”, *Alcuni rilievi critici sul preteso carattere assoluto dell’ottavo (nono) comandamento*, in B. Marra, ed., *Verità e veracità* (Naples: ATISM, 1995) pp. 69-72; S. Kodera, *El debate sobre el “derecho a la verdad” en la Teología Moral Católica (1850 - 1950)* (Rome: Pontificia Università della Santa Croce, 1997); F. Roca Benito, *Estudio y valoración del pensamiento de A. Vermeersch sobre la naturaleza de la mentira* (Rome: Pontificia Università della Santa Croce, 2000).

¹⁹⁰ *De Mendacio* 1,1 (*Patrologia Latina*, vol. 40; our translation)

¹⁹¹ *De Mendacio* 4,5

¹⁹² *De Mendacio* 3,3

is always negative: for Augustine, Holy Scripture warns us “never to lie at all”.¹⁹³ Lying, therefore, is an action intrinsically evil, since words have been created so that human beings could share their knowledge with each other, and to use words with the intent to deceive is a sin.¹⁹⁴ He distinguishes various types of lies involving various degrees of moral seriousness, “but in general every kind of lie is evil, and to be avoided at all costs by the virtuous and spiritually-minded.”¹⁹⁵

Saint Thomas Aquinas — St. Thomas distinguishes three elements in lying: the false assertion (material falsity), the conscious will to say the assertion (formal falsity), and the intention to deceive (effective falsity).¹⁹⁶ He takes the essence of lying to consist in formal falsity, that is, the in the conscious will to affirm what is false. The desire to deceive is the effect of the lie, the full development of its ethical substance, but not its essence.¹⁹⁷ St Thomas in this way emphasizes the intrinsic disorder of lying. Words are the signs of thought, and therefore it is against their nature to express as true what is considered false in the mind. Here is the root of the disorder, and not only in the damage that it brings to one’s neighbor¹⁹⁸ and to the life of society.¹⁹⁹ Lying can be adequately defined as *locutio contra mentem*,²⁰⁰ a voluntary and conscious affirmation of what is known to be false.

Regarding the inner nature of lying, there has frequently been an exaggerated emphasis on the difference between John Duns Scotus, on the one side, and St. Thomas on the other. An important contribution of D. Waffelaert²⁰¹ makes it sufficiently clear that, even if the intrinsic evil of lying consists for Thomas in the contradiction between the interior judgment of the mind and the words which are the natural external

¹⁹³*De Mendacio* 21, 42

¹⁹⁴*Cf. Enchiridion* 7, 22.

¹⁹⁵*De Mendacio* 17, 23. In another of his writings St. Augustine expresses himself in a similar way: “There are many kinds of lying, and we should hate them all equally”. (*Contra mendacium*, 3, 4).

¹⁹⁶*Cf. S. Th.* II-II, q. 110, a. 1.

¹⁹⁷“Cupiditas fallendi pertinent ad perfectionem mendacii, non autem ad speciem ipsius: sicut nec aliquis effectus pertinent ad speciem suae causae” (*S. Th.* II-II, q. 110, a. 1, ad 3.).

¹⁹⁸*Cf. S. Th.* II-II, q. 110, a. 3, corpus, and ad 4.

¹⁹⁹*Cf. S. Th.*, II-II, q. 109, a. 3, ad 1 and q. 114, a. 2, ad 1.

²⁰⁰*Cf. S. Th.* II-II, q. 110, a. 1, corpus.

²⁰¹*Cf. D. Waffelaert*, “Dissertation sur la malice intrinsèque du mensonge”, *Nouvelle Revue Théologique*, 13 (1881) 479 – 497 and 14 (1882) 258-265 and 362-375.

expression of that judgment, the will to deceive is implicit in the will to assert what is false.²⁰²

Grotius — A third way to understand lying was proposed by Grotius in his book, *De iure belli et pacis* (1620). For Grotius, lying is a discourse which injures the concurrently-existing right of one's interlocutor to know the truth.²⁰³ Lying is the negation of the truth that is owed to the other. If the other does not have an actual right to know what we are thinking, and if we tell him the truth the superior right of a third person would be harmed, or for some other such reason, the conscious affirmation of what is false on our part is not a lie, but simply false discourse (*falsiloquium*), which is morally indifferent or even morally necessary. This conception of lying was accepted by some – very few, actually – Catholic moral theologians such as Bogeni, Berardi, Dubois and in the first seven editions of A. A. Tanqueray's *Synopsis Theologiae Moralis et Pastoralis*. The idea facilitates a simple solution to some difficult cases, and has the merit of taking into account the person of the interlocutor, but taken as a whole, nevertheless, it is difficult to accept. Cases of a right to know our thinking in the strict sense are rare. Lying is not *per se* opposed to justice, but only to a potential part of it, namely, veracity. As Günthör wrote, "The obligation to speak the truth is situated within a very vast field: it originates from respect towards the other person, from love, and from responsibility with regard to the fact that human life is governed by an atmosphere of trust. The theory of the *falsiloquium* is therefore based on too restricted a foundation, that is, the presumed existence of a person's right to the truth, a right that that person can acquire but also lose."²⁰⁴ It would seem very difficult to maintain that we can state false things with an untroubled conscience in every case where the person we are speaking with does not have a right to the truth.

The Mental Restriction — Without any doubt, however, there

²⁰²Waffelaert holds that lying is defined as "expressio assertiva illius quod interne iudicatur falsum" (loc.cit, p. 481). But he adds that from such a disorder "there follows (*nata est sequi*) in itself and from the nature of things the deception of the person listening. This deception, consequently, is necessarily willed in an implicit manner in the expression of the falsehood. For this reason, St. Thomas and nearly all the theologians who followed him located lying *completive et perfective* in the will to deceive". (p. 482 -- our translation from French).

²⁰³"*Sermo repugnans cum iure existente et manente illius quem alloqueris*" (*De iure belli et pacis*, lib. III, cap. 1, 8).

²⁰⁴A. Günthör, *Chiamata e risposta*, (op. cit.,) vol. III, n. 394.

are some cases where it is licit and even obligatory to hide the truth,²⁰⁵ in order to avoid revealing a secret, or to avoid being implicated in a crime, for courtesy (i.e. the normal courteous formulas), or for still other reasons. One way to resolve these problems, other than being silent which is not always possible, is to use words, phrases, or ambiguous signs (which can have two or more possible meanings), or to employ mental reserve or restriction. With regard to the latter, a distinction is customarily made between the *restrictio pure mentalis* (also called ‘*restrictio stricte mentalis*’) and the *restrictio late mentalis* (known simply as ‘*restrictio realis*’). In the *restrictio pure mentalis*, the one who speaks gives a restricted or different meaning to his own words known only to himself, and thus in practice this would be a case of deception. There is a sizable consensus among moralists that it should be considered illicit. The *restrictio late mentalis* is also an ambiguous discourse, but in this case the ambiguity does not arise from a special meaning given to the speaker’s words by an internal act known only to the speaker, but from the objective situation in which the speaking takes place. Günthör explains it as follows: “It is the situation itself that renders the discourse ambiguous. The speaker makes use of such ambiguity as a way to protect a secret. When he speaks, he certainly has in his mind a determinate meaning, and the person asking him the question and who functions as his interlocutor can assume such a meaning, but the discourse in that particular situation remains objectively ambiguous.”²⁰⁶ If the situation is a serious one, this second type of mental restriction (*restrictio late mentalis*) would be licit. The use of words or phrases that are objectively ambiguous is also considered licit to the extent that the seriousness of the

²⁰⁵ Cf. *S. Th.*, II-II, q. 110, a. 3, ad 4.

²⁰⁶ A. Günthör, *Chiamata e risposta*, vol. III, n. 398. This author proposes the following example: “A defendant, when a judge questions him in the course of a criminal trial whether he has committed the act that he has been charged with, answers “no”. Everyone knows that this response signifies a real denial of the accusation, as if it could also mean, ‘It is your business as a judge to demonstrate the action with which I have been charged (and which I have possibly committed); it is not my business to make your job any easier, or facilitate it with a confession.’ Juridical practice has developed in this way, and has actually made it established policy that a guilty party is not obliged to confess at the judge’s request, to whom, according to normal practice, the “no” answer means what was just stated. On the other hand, rather than speak of a “*restrictio late mentalis*”, it would be preferable to speak of a “*restrictio realis*”, that is to say, a restriction on the meaning of words that results from an objective situation.” (*ibid.*)

matter renders it necessary, and this would include the normal formulas of politeness,²⁰⁷ provided they are used with moderation.

Toward a More Adequate Conception of Lying — At the theoretical level, none of the proposed solutions appear entirely satisfactory. A more exact concept of lying is needed, we think, that would make better sense of the data. There are many situations in which false things are asserted or where there is even an attempt to deceive the other person, but where common sense would not see a lie. In many games, a contestant is obliged to try to deceive the other player (as with penalty kicks in soccer, in poker, etc.); there are the fictions of literature, movies or the stage; the secret service agents of a nation assume fictional names when dealing with their fellow citizens; persons who have promised to keep a secret are at times obliged to say that they do not know something when they really do know, but cannot communicate how; in military actions various expedients are used (even putting false documents in enemy hands) to deceive the enemy about the place and time of an offensive action, etc.

Vermeersch's Theory — An interesting attempt at solving the problem has been made by A. Vermeersch.²⁰⁸ This author is a convinced proponent of the intrinsic negativity of lying. He thinks that language and other analogous signs are the unique means of communication among human beings. Communication is absolutely necessary among human beings for personal and social life, and charity itself presupposes the communication of spiritual values by way of language. Therefore language, in so far as it is an instrument of communication, must be considered inviolable, and disunity and lack of communication was one of the first consequences of original sin. Nevertheless, to pronounce words that are known to be false is not enough to constitute the sin of lying. What constitutes such a sin is the making of false affirmations in a context where such statements are presented, and seen, as signs of our inner thinking,

²⁰⁷This would be the case, for example, when a guest invited to dinner compliments the cooking of the lady of the house even though the guest may not really think she is a very good cook.

²⁰⁸See, for example, A. Vermeersch, *De mendacio et necessitatibus commercii humani*, (cit.). Cf. also F. Roca Benito, *Estudio y valoración del pensamiento de A. Vermeersch sobre la naturaleza de la mentira*, cit.)

that is, as words with which we are expressing our convictions.²⁰⁹ Lying is a *locutio contra mentem*, but there is not a *locutio* in the formal sense every time words are said. Sometimes, the context or the meaning of the words makes it clear that there is no intention to express one's own mind; at other times, it is not clear whether or not there is such an intention. In these two cases, we cannot say that the sin of lying is actually being committed. This especially comes to the fore when it is difficult to keep an important secret, when silence or ambiguity is not enough, and when the person unjustly interrogated may be in a coercive situation: here, Vermeersch considers it licit to apply the principle of the legitimate defense, and to make use of defensive speech (*verba defensiva*): by the use of such words, a legitimate defense is what is directly intended, while only indirectly (*praeter intentionem*), and only as strictly necessary, a false assertion *is permitted* to be said, which leads the unjust aggressor astray. Vermeersch's theory came under some criticisms in its time,²¹⁰ some of these being due above all to an imprecise understanding by the critics of the doctrine they were criticizing, but others were based on real difficulties and some inconsistencies on Vermeersch's part.

In our view, the explanation of the *restrictio realis* provided by Günthör, and the theory of Vermeersch both approach the heart of the problem. Nevertheless, this has still not been brought into a sharp enough focus. If we recall that lying was defined with respect to the virtue of veracity (or "truthfulness"), it should likewise be understood with respect to the definitions of the relations and ethical contexts that are regulated by that virtue. This is the direction taken to the problem by M. Rhonheimer, whose position will now be presented.²¹¹

Rhonheimer's Theory — For Rhonheimer, lying should be seen as an infraction of the potential part of the virtue of justice known as *veracity*. Veracity constitutes the communicative basis of human soci-

²⁰⁹"Mentiens peccat, non quatenus verba profert *obiective* falsa (in notione obiecti includendo ipsam mentem suam seu cogitationes et affectus) sed quatenus ea formaliter adhibet ut signa intellectus, seu quatenus, exercite seu ipso verborum usu dicit *se loqui*, id est, mentem suam communicare. Recordemur dictum a Scoto: 'Mendax ad hoc loquitur ut conceptum suum exprimat, et illud non exprimit sed oppositum.' Quare, qui aperte ludit vel fabulam recitat, non mentitur". (A. Vermeersch, *De mendacio et necessitatibus commercii humani*, cit., 36).

²¹⁰By di St. Bersani, M. Ledrus, P. Lumberg, M. Brunec and M. Hufter to mention a few.

²¹¹Cf. M. Rhonheimer, *The Perspective of Morality*, pp. 363- 370.

ety. A lie is a willed false assertion within a communicative context. A communicative context is characterized by the fact that a human community exists in it, as mediated by linguistic communication, in virtue of which language possesses the function of being the sign for the thoughts, feelings, and intentions of the persons who use the sign. The abuse of language through a false assertion is an act of communicative deception.

Lying is not simply a false assertion. A false assertion is a linguistic act in which the sign (speech) does not coincide with the thought of the speaker. This can happen, for instance, when someone does not know a language very well, or makes a mistake in speaking. A lie is an assertion that is *voluntarily* false spoken within a communicative context. *Objectively* a lie is a linguistic act directed against an agent's orientation toward the human community, and directed, furthermore, against the good of the other. Another person reasonably expects not to be deceived, since he has a "right to community". In addition, the other also has the right to the proper functioning of social institutions, which likewise presuppose veracity. Lying is therefore opposed to benevolence toward the other and is a negation of the recognition of the other as my equal.

The objective identity of the willed false assertion within a community of communication subsists independently of the ulterior intentions with which the lie is carried out: to injure someone (a damaging lie); to procure an advantage or to avoid a disadvantage to oneself, to another, or even to the person being deceived (an unofficial or interested lie); to make a joke (joking lie). In the final analysis, a false assertion is considered a lie when the other person can reasonably expect that the speaker is telling the truth ("reasonably" meaning in this case not "according to what can be foreseen", but "according to the virtue of veracity").

We have already mentioned some of the objective contexts in which a voluntarily false assertion need not be considered a lie: jokes, acts of war, actions taken for national security, acts where it would be unjust to reveal a professional secret, etc.; the example discussed by Kant and Hegel has become famous: someone enters a room in a rage, carrying a knife, and wants to assassinate someone who is hiding. The question is whether someone who is in the same room and knows where the person is hiding is absolutely obliged to tell the truth. What happens if the intruder does

not accept silence for an answer, and demands a response? It is not a problem to say nothing, but is it licit to give a false answer? It seems that it could be justified: in effect, the divulgence of the truth would be equal to the action of “putting a dagger in someone’s hand”, while giving false information would be a mere act of self-defense (“taking a dagger out of someone’s hand”). There is not a question, in this situation, of a communicative context. The intruder would not reasonably expect the person to tell the truth. And if the would-be assassin wanted the person to die only because he was in an agitated state at the time, he would afterwards, it is likely, even be grateful to the “liar” who gave him the false information. In reality other possibilities also exist: one could, and perhaps one should, attempt to overpower and disarm the assassin, to chase him away, to run from the room, etc.

Once we admit the existence of a communicative context, or a community of communication, the norm to prohibit lies has an absolute value, since a lie is an infraction against the moral virtue of veracity. On the other hand, it would not have an absolute value for those who maintain that a lie is simply an *unjustified* false assertion, that a false assertion is only a “non-moral” evil such that the *only possible* meaningful formulation of the norm would be, “one ought not to make a false assertion unjustly, that is, without a sufficiently good motive”. This would imply, in effect, that communication is itself a non-moral good that can be violated for good enough reasons. But this would mean that in certain conditions it is just to violate the communicative basis of human society, whenever one could not expect a sufficient amount of good consequences to result from telling the truth.

We would have to maintain, on the contrary, that the basis for the wrongness of a lie is not the bad intention of the speaker nor the presumably negative consequences of the lie in question, but rather, and only, the context of an existing communicative community, *a context that exists or not, independently of intentions and other consequences*. Inside this ethical context there is, therefore, no contingency of the matter of actions; but the context itself is contingent, which is to say, it does not always exist. An absolute prohibition, however, as with every moral norm and every human action, can only be defined in relation to an ethical context.

Conclusions — So much, then, for Rhonheimer’s clarifications. It seems to us, considering what is actually licit or illicit, that the context or concrete ethical realization of which he speaks is not very different from the objective situation which gives rise to what Günthor calls the “*restrictio realis*”, or which, according to Vermeersch, makes it evident that it is not a question of a “*locutio*” in the strict sense. Nevertheless, it does propose a different ethical argument and one that appears to us to be more adequate, because more appropriate for a virtue ethics.

Everything depends on the right understanding of the moral virtue of veracity. It does not simply consist in always manifesting one’s own thoughts, but in manifesting them when, where, and in what way it is appropriate to do so.²¹² The expression of what we think is true ought also to be in conformity with other virtues as well: with prudence, justice, charity, etc., and in order to the well-being of individuals and the common good. Consequently, everything we have said does not mean that in certain contexts one can freely make any kind of false assertion, nor that any aggression justifies false speech, nor that we can spare ourselves the trouble that telling the truth so often brings. Otherwise, the witness of those who have given their lives in order not to deny their faith would have no reason to exist. It happens that there are certain contexts or relationships with their own peculiar rules, and that someone who acts according to those rules – known and shared by all – does not injure veracity. But veracity is harmed whenever false affirmations are knowingly pronounced that attack the communication that takes place according to the rules of that context and those relations. As Rhonheimer explains, “... warriors fighting each other are still in a fundamental sense “fellow human beings”. War is an exceptional situation and the corresponding actions of war are only justified – presuming that the war itself can be morally justified –until the normal situation of “peace” can be restored. Such persons are potentially partners of a shared social order, and thereby as well potential members of a communicative community. Thus in war there are also actions that serve to restore the community of communication, e.g. offers of peace through a white flag, etc.; to use these as means of deception is an especially grievous violation of

^{212a} *Virtus inclinans ad dicendum verum, quando, ubi, et quomodo oportet* (D.M. Prümmer, *Manuale Theologiae Moralis*, vol. II, no. 165).

communicative justice and is equivalent to lying. This would apply to the misuse of all other actions or communicative measures in a similar way”.²¹³ In other situations -- in soccer, for example -- it is not a deception to fool the goalie while making a penalty kick, but it *is* a lie to tell the referee that one has suffered a foul when it is not the case. In the same way, communication between a doctor and a patient and the patient’s family has very precise rules. A doctor is not obliged to tell a minor the whole truth of his condition, but must tell the parents.

To sum it all up then, it is crucial to understand that, just as there exist a variety of literary genres, and in some of them, for example, hyperbole is not lying, there also exists a variety of contexts for interpersonal and social relations, and it is necessary to follow the ethical rules proper to communication in each one of them. Granted the diversity of ethical contexts, a lie is still an intrinsically evil action, and the prohibition of lying has an absolute value.

3.6.3 *Keeping and Breaking of Secrecy*

By “secrets” we understand the knowledge of hidden things or events which, by their very nature or for the damage to persons or the common good that their divulgation would cause, ought to remain hidden. A secret can be *natural*, *promised*, or *entrusted* (“*commisum*”). The natural secret is the simple awareness of things or events that ought to remain hidden for the reasons just indicated. A promised secret is when someone who comes to know of something hidden, afterwards promises the person whom the secret concerns not to reveal anything. The entrusted secret (“*secretum comisum*”) is a knowledge that has been confided to someone by another under the condition (explicit or tacit) that it not be revealed. If the tacit agreement to keep a secret is linked to one’s employment or position (as a doctor, public official, attorney, or priest), the secret is an official or professional secret. An official secret is even stronger if there was an oath to keep secrets taken at the assumption of office. Sacramental secrecy, that is, the obligation not to reveal the knowledge acquired during the administration of the sacrament of penance, has an absolute character. It cannot be revealed in any circumstance or for any

²¹³M. Rhonheimer, *The Perspective of Morality*, p. 365.

reason.²¹⁴

In the ethical reflections we have been developing here,²¹⁵ it should be clear that *the preservation of one's privacy is a good that is of fundamental importance for the moral and social well-being of the human person*. One's own privacy is, in the strict sense, the object of a fundamental right of the human person. As the Second Vatican Council recalled, among the other rights of the human person must be re-asserted the right "to a good reputation, to respect, to appropriate information, to activity in accord with the upright norm of one's own conscience, to protection of privacy and rightful freedom even in matters religious."²¹⁶ This is a right that is recognized by both Church and State. The *Code of Canon Law* establishes that "it is not licit to injure illegitimately the good reputation that someone enjoys, nor to violate the right of any person to preserve his own privacy."²¹⁷ In the area of civil life, it is also universally accepted that the juridical order of the State should recognize the right of every citizen to be protected from aggression against his or her own moral personality, whether for reason of important private interests or in virtue of the public interest in civil society. It follows from this, on the one hand, that every single citizen has the subjective right to obtain from the State concrete and effective protection against injury and defamation, and on the other hand, that the State has the right and the duty to provide such security, also under the form of an adequate administration of criminal justice.

Nevertheless, it not infrequently happens that certain facts of a private nature, the diffusion of which into public knowledge is not justified by the common good and whose reserved nature is even guaranteed by civil or ecclesiastical laws, can become a valued commodity to be bought and sold for the purposes of political or economic competition, or to be spread scandalously about by the mass media for the purpose of monetary profit or celebrity. Sometimes this extends to the fabrication of lies²¹⁸ against one's neighbor, slanderous machinations with no basis in

²¹⁴Cf. *CIC*, c. 1388, 1; *Corpus Canonum Ecclesiarum Orientalium*, c. 1456.

²¹⁵Cf. section a) above.

²¹⁶*Gaudium et spes*, no. 26.

²¹⁷*CIC*, c. 220.

²¹⁸Cf. *Sir* 7: 12.

reality, which are an abomination before God.²¹⁹ In the face of the aggressiveness caused by a more or less morbid curiosity, there must be a strengthening of the right not to be exhibited, to keep a proper reserve concerning the vicissitudes in the lives of one's own friends and family.

Moral Principles for the Keeping of Secrets — Descending now to more concrete applications, the following moral principles should be kept in mind:

1. Interference into the secrets and privacy of another person without a just cause must be considered unjust.
2. The obligation to keep natural secrets is serious in itself, insofar as it derives from the genuine right of one's neighbor. But there can also be a "triviality of matter" (*parvitas materiae*).
3. The obligation not to reveal a secret that has been *merely promised* to be kept is generally less serious. If the secrecy that was promised is also a natural secret, then principle 2) applies. If it was promised not to reveal something that in itself would not have been a natural secret, but rather something that would cause serious harm by being revealed, the obligation to keep the promise is then a serious one.
4. The duty to keep the entrusted ("*commisum*") secret is serious, and still more serious than the obligation to keep a natural secret.
5. Except for sacramental secrecy, the obligation not to reveal a secret is not absolute. An *urgent necessity* of the common good or of the well-being of the one who originally confided the secret or of the one to whom it was confided, or of a third party, can justify revealing a secret under certain conditions.²²⁰

²¹⁹ Cf. *Prov* 6: 16-19.

²²⁰ "Professional secrets – for example, those of political office holders, physicians, and lawyers—or confidential information given under the seal of secrecy must be kept, save in exceptional cases where keeping the secret is bound to cause very grave harm to the one who confided it, to the one who received it, or to a third party, and where the very grave harm can be avoided only by divulging the truth. Even if not confided under the seal of secrecy, private information prejudicial to another is not to be divulged without a grave and proportionate reason" (*Catechism of the Catholic Church*, no. 2477).

The application of these principles requires intelligence. It is clear, for example, that if someone hires the services of a law partnership, and discusses confidential matters with one of the lawyers, for the sake of winning his case, the person is implicitly consenting to the lawyer talking the matter over with one of his colleagues who may be more expert than he in the particular field of law. The same goes for physicians and other professionals. Professional secrecy would be violated if the private matters of the client were discussed with other colleagues merely for the sake of levity or idle curiosity. In evaluating the causes that would justify the revelation of secrets, it must be held in mind that, when the common good requires the revelation, the person who confided the secret does not have the right, in the strict sense, to require the professional's silence. In any case, the need that is seen to justify the revelation of the secret must be both urgent and concrete, as well as proportionate to the damage that the manifestation of what was hidden will possibly cause.

3.6.4 *Hasty Judgment*

*Hasty (or rash or temerarious) judgment is an internal assent, even only a tacit one, with which a moral error of one's neighbor is considered, without sufficient foundation, to have really occurred.*²²¹ Justice and charity lead faithful Christians to the conservation of unity and reciprocal love. On the practical level, the positive norm of behavior is: "Anticipate one another in showing honor".²²² Such mutual respect begins with thoughtfulness, with an effort to overcome the tendency to think of what is evil before all else, a tendency that is not absent even among those who consider themselves followers of Christ.²²³ Equally important to overcome is the attitude of those who believe that it is almost impossible for others to be right. To this end it is necessary, in the first place, not to allow suspicions to arise easily when met with good deeds: "When they clearly discover something good, they set about investigating it to see if there is not some evil hidden within it."²²⁴ It

²²¹Cf. *Catechism of the Catholic Church*, no. 2477.

²²²*Rom* 12:10.

²²³Cf. *Jn* 9:2.

²²⁴St. Gregory the Great, *Moralia in Iob*, 6, 22: *Corpus Christianorum*, Series Latina, 143, 311).

is likewise important to master the desire to judge uncertain things. As St. Augustine says, “What does peace do? Peace does not judge about uncertain things, it does not insist that it knows what it does not know; it is more inclined to think well about others than to raise suspicions about them. Peace is not chagrined when it mistakenly thought well about someone who turns out evil, but thinks it a ruinous wrong when it happens to attribute evil to someone good. ‘I do not know what this person is like; what do I lose, in thinking him good?’ When uncertain, you can be cautious, in case he does not turn out good, but this does not allow you to condemn him without appeal, as if you possessed the truth.”²²⁵

Even if a deed cannot be justified, one must avoid judging the intentions and the privacy of the person. “Even if you find yourself faced with an evil action of your neighbor, do not judge him, but excuse him instead. Excuse the intention, if you cannot excuse the action; it might be ignorance, or something that slipped his mind, it may have happened by chance. If you have certainty about his responsibility for the action, and cannot excuse him, try to be persuaded otherwise by thinking to yourself: ‘It was too strong a temptation for him; what would have happened if I had been in his shoes?’”²²⁶

Holy Scripture teaches that if we must judge, we must keep this rule in mind: “Before investigating, do not find fault; examine first, then criticize.”²²⁷ And in more general terms still, before believing what is said about another, prudence, and almost always justice, require, usually, granting persons who are not present the chance to clarify, contradict the accusation, or defend themselves. “Admonish your friend – he may not have done it; and if he did, that he not do it again. Admonish your neighbor – he may not have said it; and if he did, that he may not say it again. Admonish your friend – often it may be slander; do not believe every story. Then, too, a person can slip and not mean it; who has not sinned with his tongue? Admonish your neighbor, before you break with him; and give due place to the Law of the Most High”.²²⁸ Finally, there

²²⁵St. Augustine, *Enarrationes in Psalmos*, 147, 16: *PL* 36 (NBA online; our translation).

²²⁶St. Bernard, *Sermones super Cantica Canticorum*, 40, III, 5 (*Opera*, Editiones Cistercienses, Roma, 1958; vol. II, p. 27).

²²⁷*Sir* 11: 7.

²²⁸*Sir* 19: 13-17.

is the clear teaching of the Gospel: “Stop judging, that you may not be judged. For as you judge, so will you be judged, and the measure with which you measure will be measured out to you”.²²⁹

Conscious and deliberate hasty judgment, judgment that is altogether hasty and attributes serious sin to one’s neighbor, constitutes a serious sin “ex genere suo” [by its very nature] against justice. It is an internal act that attacks the right of one’s neighbor to enjoy a good reputation, and is frequently the source of external sins as well.

3.6.5 *Defamation or Slander and Calumny*

*By defamation or slander is meant the revelation, without an objectively valid reason, of defects and shortcomings of a person to others who do not know the person in question. Someone commits the sin of calumny who “by remarks contrary to the truth, harms the reputation of others and gives occasion for false judgments concerning them”.*²³⁰ Both are sins against the reputation of another, and that means against the knowledge of, and appreciation for, a person on the part of others. The difference between the two sins consists in the fact that defamation brings to public knowledge real flaws that were hidden, whereas calumny attributes wrongs falsely, so that it acquires in addition the malice of the injurious lie.²³¹

It is not difficult to understand the illicitness of defamation and calumny. When there is an intention to harm, or even simply carelessness, defamatory words can easily escape the lips, but can give rise to incalculable injury. When Joseph was calumniated by Potiphar’s wife, he lost his prestigious position and ended up in prison;²³² Susanna, falsely

²²⁹Mt 7: 1-2.

²³⁰*Catechism of the Catholic Church*, no. 2477.

²³¹On reputation, defamation and calumny, see: G. B. Guzzetti, s.v. “Fama”, in *Enciclopedia Cattolica*, (Florence: Sansoni, 1950), vol. V, cols. 976-977; G. Sette, s.v. “Detrazione”, in *Enciclopedia Cattolica*, vol. IV, cols. 1494-1497; J. Farragher, “Detractio et ius in famam”, *Periodica*, 41 (1952) 6 – 35; J. Étienne, “Les fondements du droit à l’honneur et à la réputation”, *Revue Dioc. Namur*, XI (1957) 251-260. M. Huftier, “Les méthodes d’investigation de la conscience et les principes de la morale, II. Respect de la réputation et de l’honneur d’autrui”, *Ami du Clergé* 75 (1965) 390-392; W. Korff, “De l’honneur au prestige”, *Concilium* 45 (1969) 107-114; P. Fernandez Presa, *La fama y su respeto en la literatura teológica moderna. Valoración y perspectivas* (Rome: Pontificia Università della Santa Croce, 2002).

²³²Cf. *Gen* 39: 7-20.

accused by two treacherous old men, was about to be condemned to death when she was rescued by the prophet Daniel.²³³ As the Son of Sirach so effectively states: “A meddlesome tongue subverts many, and makes them refugees among peoples. It destroys strong cities, and overthrows the houses of the great. A meddlesome tongue drives virtuous women from their houses, and robs them of the fruit of their toil. Whoever heed it will find no rest, nor will they dwell in peace. A blow from a whip raises a welt, but a blow from the tongue will break bones. Many have fallen by the edge of the sword, but not as many as by the tongue”.²³⁴

*Defamation and calumny are grave sins “ex genere suo” against justice and against charity.*²³⁵ The fact that defamation and calumny can reach a huge number of persons, as when happens for example through the media of social communication, constitutes by itself a circumstance that makes the sin even more serious. Other circumstances, such as the standing of the person who defames or is defamed, or of those who are audience to the defamation, can increase or decrease the seriousness of the sin, which can admit of *parvitas materiae*. Particular attention needs to be paid to cooperation in defamation and calumny: those who incite others to calumny, or who listen to it with approval, or do not stop it when they can and should, also commit serious sin.²³⁶

An urgent and manifest necessity of the common good or of some private good can justify the revelation of hidden defects or misdeeds. But nothing can justify calumny. *The Catechism of the Catholic Church* justly notes that “Those in charge of communications should maintain a fair balance between the requirements of the common good and respect for individual rights. Interference by the media in the private lives of persons engaged in political or public activity is to be condemned to the extent that it infringes upon their privacy and freedom”.²³⁷

Someone who has damaged the reputation of another by way of slander or calumny is seriously obliged to restore that reputation and replace the material losses that were consequent upon the defamation and which

²³³ Cf. Dan 13: 1-64.

²³⁴ Sir 28: 14-18.

²³⁵ Cf. 1 Cor 6:10; S. Th. II-II, q. 73, a. 2.

²³⁶ Cf. S. Th., II-II, q. 73, a. 4.

²³⁷ CCC no. 2492.

could have been foreseen, at least in a general way. Injury to reputation is, in effect, unjust damage. Someone who has calumniated is obligated to re-establish the truth, privately or publicly, depending on the mode of the calumny. Someone who has simply defamed another is certainly not able to say that he lied, but he ought to excuse the defamed person and bring out the person's good deeds and qualities. Reparation of a damaged reputation can be omitted if nobody believed the defamatory words in the first place, or if the defamation took place so long ago that it has been forgotten by everyone, if the person defamed legitimately dispenses the other from the obligation, or has already defamed the first one in revenge, or finally, if the repair of the damage is physically or morally impossible, as can happen, for example, when it would bring greater harm to the person making up for the damage than the harm he had originally caused.

The divulgation of defects or notorious misdeeds – with a notoriety in law or fact – does not constitute a sin against justice, but can nevertheless be a sin against charity if it is done without a just cause, for example through simple loquacity or through a morbid pleasure in recounting history. With regard to persons who work in the fields of social communication and media, the *Catechism of the Catholic Church* says that they “have an obligation to serve the truth and not offend against charity in disseminating information. They should strive to respect, with equal care, the nature of the facts and the limits of critical judgment concerning individuals. They should not stoop to defamation”.²³⁸ A certain kind of reporting of historical events can cause no little damage to public morality just because it can stir up perverse patterns of incitement and imitation. Even when unedifying facts have to be mentioned, this can be carried out in a constructive or destructive way. It is completely reasonable that a person of upright conscience would be ready and willing to employ his skills and talents to accomplish something socially positive.²³⁹

²³⁸ CCC, no. 2497.

²³⁹ Cf. P. Palazzini, *Cronaca e vita Cristiana*, in Id., *Morale di attualità*, (Rome: Ares, 1963); C. J. Pinto de Oliveira, “Diritto alla verità e comunicazione sociale”, in T. Goffi (ed.), *Problemi e prospettive di teologia morale* (Brescia: Morcelliana, 1976), pp. 363-390; P. Barroso Asenjo, *Relación ética-derecho y límites al derecho de la información*, in (Various Authors), *Información y derecho a la información* (Madrid: Fragua, 1987); A. Azurmendi Adarraga, *El derecho a la propia imagen: su identidad y aproximación al derecho*

3.6.6 *Contumely*

While defamation and calumny do damage to reputation, *contumely* is injury done to honor. Honor is the recognition of the dignity and virtue of one's neighbor supplied through exterior manifestations of respect.²⁴⁰

Honor is given to a person in the presence of the person being honored, while reputation is respected or damaged in the person's absence. *Contumely* is therefore the injury done to someone's honor when the person is present, through words, gestures, or other signs.²⁴¹ Outrage, insults, seriously rude gestures are all contumely.

Contumely is a grave misdeed "*ex genere suo*".²⁴² The words of Our Lord state this clearly: "You have heard that it was said to your ancestors, 'You shall not kill, and whoever kills will be liable to judgment', but I say to you, whoever is angry with his brother will be liable to judgment, and whoever says to his brother, 'Raqa', will be answerable to the Sanhedrin, and whoever says, 'You fool', will be liable to fiery Gehenna".²⁴³ Outrage and insult often arise from anger, which not only denies the dignity of one's neighbor, but tends to constitute a denial of the person himself. Insult is very close to physical violence. In every case, it injures the right of a person to witness the recognition of his own dignity. Sometimes contumely can even injure the virtue of piety or religion (insults to a father or mother, blasphemy, etc.).

As mentioned with regard to reputation, *there also exists an obligation to repair damage done to honor*, in a public or private manner, depending on whether the original offense was a public or private one. The Gospel provides clear testimony of the importance and priority that should be given to this obligation: "Therefore, if you bring your gift to the altar, and there recall that your brother has anything against you, leave your gift there at the altar, go first and be reconciled with your brother, and then come and offer your gift".²⁴⁴

It is proper to the Christian to suffer insults with patience.²⁴⁵ Some-

a la información, (Madrid: Civitas, 1997).

²⁴⁰ Cf. *S. Th.* II-II, q. 103, a. 1; q. 129, a. 1.

²⁴¹ Cf. *S. Th.* II-II, q. 72, a. 1.

²⁴² Cf. *S. Th.* II-II, q. 72, a. 2.

²⁴³ *Mt* 5: 21-22.

²⁴⁴ *Mt* 5: 23-24.

²⁴⁵ Cf. for example *Mt* 5:39.

times, however, either the good of the person making the insult or the good of the community as a whole makes it necessary to react to an insult in a mild, but still a decisive way.

3.6.7 *Justice in the Legal Environment*

The unjust damage associated with lying statements has a particular importance in the field of the administration of justice. A lie of a witness who speaks after taking an oath to tell the truth, or the false and slanderous statement by someone acting in the name of the government corrupts justice and causes very severe damage, sometimes irreparable damage, to persons and institutions. Norms and teachings intended to guaranteed justice in the courts and the impartiality of the judges are already present in the Law of Moses,²⁴⁶ and they will be taken up again with great vigor in the sapiential and prophetic literature:²⁴⁷ the partiality of judges who deny rights to victims is abominable in the eyes of God. Even today there is a lively sensitivity about this, on the part of both believers and non-believers. The complexity of our judicial systems and the norms of conducting trials have lent a highly technical and specialized character to legal ethics. It is nevertheless possible to highlight some of the more important aspects.²⁴⁸

Lying by Witnesses — Giving false testimony in a court of law is a sin expressly prohibited by the Eighth Commandment of the Decalogue.²⁴⁹ *It constitutes a serious sin* against legal justice and against communicative justice in general (if the false testimony is the cause of damages) and against truthfulness or veracity, with which perjury is almost always combined. *Anybody who has given false testimony in a court of law has the obligation to repair all the damages that follow from it,* and such a person cannot be absolved in the Sacrament of Penance if he has not accepted such an obligation. In regard to the duty to give

²⁴⁶ Cf. for example *Ex* 21: 12- 22, 5 (various norms of criminal law); *Lev* 19: 15; *Deut* 1:6 and 10: 8 on the impartiality of judges; *Deut* 17: 1-13 on penal law; 19: 15-21 on giving testimonies and on false testimony in courts.

²⁴⁷ Cf. *Prov* 29: 14; *Sir* 20: 29; *Isa* 5: 23 and 10: 1-4; *Mic* 7: 3 on the partiality of judges.

²⁴⁸ Cf. (Various Authors), *Ética de las profesiones jurídicas. Estudios sobre Deontología*, 2 vols., (Murcia: UCAM-AEDOS, 2003).

²⁴⁹ Cf. *Ex* 20: 16.

testimony, one must in general follow the laws of the country one lives in, except in the case where such laws are manifestly unjust. From a moral perspective, such an obligation can be derived from charity, and from commutative and legal justice. It flows from charity when one's testimony is spontaneous and necessary for preventing a serious loss to one's neighbor or to the common good; from commutative justice, when one must give witness as part of one's profession (police, watchmen, forest rangers, medical lawyers, etc.) ; finally, from legal justice when the witness has been legitimately called by the judge. Even so, there are certain circumstances that impede or disallow the giving of testimony. The sacramental seal is one of these. Indeed, even the laws of many countries recognize the right of priests not to testify about things that are known to them because of their ministry. Professional secrecy can in some cases – but not always – exempt someone from the obligation to give testimony, if not always, because as has been said above, serious exigencies for the good of the community or an individual can require the manifestation of events or circumstances that have become known through the exercise of one's profession. One is not compelled to give testimony if grave loss either to oneself or to one's close family members (parents, children, siblings) will follow from it; civil laws normally recognize this kind of exemption. There is no obligation to give testimony if the judge or the trial itself is not legitimate.

The Function of the Judge — The function of the judge is extremely important. Judicial sentencing is one of the principal modes of peacefully and justly resolving conflicts between physical or moral persons. The fundamental task of a judge is to “speak the law” [Latin *iudex* “judge”, from *ius* “law, right” + *dicere* “speak”], that is, to give a sentence that is true and just, in full respect for just laws and principles, for courtroom regulations, and by following the rules of evidence in relation to the arguments that have emerged in the course of the trial. All this requires that the judge be independent and impartial before, during, and after the trial. *A judge gravely sins if he or she receives money, gifts, or other kinds of personal advantage from one of the parties to the trial, whether the purpose is to get a just sentence or for knowingly delivering an unjust sentence.* In the former case, one has to restore the gift or money received, and in the second case, one must also repair the dam-

ages caused by the unjust sentence. What has just been said applies equally to the sentences of juries as to that of judges.

Judges and Unjust Laws — An especially delicate problem arises when a judge finds himself in the position of having to apply a law that is manifestly unjust. As a general principle, a judge cannot shift his responsibilities onto the laws or legislative bodies. In applying the laws in force, the judge cannot require the performance of actions that are intrinsically evil. It is not morally permissible to apply laws which force persons into apostasy or sterilization or which impose sanctions for motives that are racial, religious, or in some way unjust or seriously discriminatory. It is not even licit to behave in such a way as to imply an approval of such laws. In some cases, such as cases of civil divorce, especially when there is no other juridical means available for one of the parties to the trial to obtain important civil effects to which he is entitled, and considering that normally a judge is not allowed to obey his conscience or to recuse himself, a judge is able to co-operate materially in the application of the law, so long as the conditions that allow material co-operation are, indeed, in place. It would be necessary for the judge to make some discrete gesture to make it clear that he does not approve the unjust law. When the law grants to the judge the task of evaluation and deciding on the law, for example in the case of laws that authorize a judge to decree or reverse the sterility of persons suffering from a mental handicap, we believe that the judge ought to seek the best interests of the person with the handicap, in conformity with the moral law.

Sentencing to Prison — Judges who have the task of evaluating and applying provisions for putting persons in prison have a moral obligation to obey scrupulously the laws that are in force, by maintaining their independence and impartiality with respect to the public prosecutor or defender. They must absolutely avoid deconstructing the institution of incarceration. It should not become a means of pressuring the defendant into making a confession or securing his collaboration. It is the prosecutor's task to discover and establish proofs for his case through the use of licit methods. The defendant is not morally obliged to confess, and a confession cannot be extorted from him through physical or moral coercion. The penalty, whether it is incarceration or some other kind, is undergone after -- and not before -- guilt has been established beyond

doubt through a regular trial procedure.

Attorneys — An attorney works at the service of a client, but only as a collaborator with the administration of justice. He can never defend his client through the use of unjust means, such as the corruption of a witness, the falsification of documents, etc. Nor is it licit for an attorney to take on cases of civil law that he knows are unjust (i.e. cases based on false documentation, non-existent rights, etc.). On the other hand, he can accept any criminal case, except when manifestly brought forward unjustly by a plaintiff. In other criminal cases, the defendant always has the fullest right to defense. The defense attorney can and should try to prevent his client from being condemned if guilt has not been established in accordance with the correct procedure of a criminal trial. In the case of guilt being established, it is the defense attorney's duty to clarify the truth about any extenuating circumstances that could bring about a reduction of the sentence. Since a lawyer has a free choice of which cases to take on, he incurs the guilt of formal cooperation if he had agreed to perform his services in accordance with manifestly unjust laws (i.e. laws permitting abortion, divorce, sterilization, euthanasia, etc.). There can be an exception in the case of civil divorces in countries where there is no other legal recourse available for obtaining the civil effects that follow upon a morally necessary separation. Finally, the attorney must observe the deontological principles of his profession with regard to the fees he is to receive, the obligation to inform the client about the truth of the proceedings, diligence in following through with the case, etc.

3.7 Restitution and Reparation of Damages

3.7.1 *Restitution of the Goods of Another*

By restitution, moral theology intends the act proper to commutative justice which consists in returning the goods which have been taken by someone or in repairing damage that has been unjustly caused. ²⁵⁰The

²⁵⁰*Cf. S. Th.*, II-II, q. 62, a. 1. A question discussed by theologians is, whether the obligation to make restitution can also follow from an injury to distributive or legal justice.

right to one's own possessions, whether economic, corporeal or spiritual (reputation, honor), remains a right as such, even when it has been trampled upon, and continues to suffer injury so long as the goods have not yet been restored to their legitimate owner or until the damages unjustly caused have been restored or repaired.

Effective restitution, or at least a firm and sincere undertaking to realize it as closely as possible, is fully necessary for the remission of sin against justice. Consequently it has been affirmed that in the case of grave injustices, restitution is necessary for salvation.²⁵¹ The necessity for restitution has been witnessed by the Sacred Scriptures.²⁵²

Theological moral tradition has given a great deal of attention to the practical criteria that govern restitution.²⁵³ In the present day, the material is for the most part regulated in civil law, which must be respected except in the cases where it is manifestly unjust. Therefore we will limit our treatment here to the essential moral aspects.

The possessor of the good of another can be a possessor in good, bad, or uncertain faith. A possessor in good faith is someone who was invincibly ignorant that the thing he possesses was the property of another, and has found out otherwise only by chance. A possessor in bad

Günthör has written concerning this point that "it is of course possible that an authority is obliged to make restitution when he has acted unjustly in the distribution of common goods. Thomas Aquinas was already aware of the duty to make restitution in the arena of distributive justice; nevertheless, such reparation enters the field of commutative justice, since that which has been unjustly held back to begin with must be determined with precision and requires the application of a kind of "reified" measurement (*rei ad rem*) that is proper to commutative justice" (A. Günthor, *Chiamata e risposta*, cit., vol. III, no. 100). To our view, it seems that the obligations of distributive and legal justice, when they suffer an injury which brings about the duty to make restitution, do have aspects of commutative justice, at least in the sense that such injuries can positively cause a concrete and quantifiable loss, and when it is inconceivable that justice can be re-established without such restitution.

²⁵¹Cf. *S. Th.* II-II, q. 62, a. 2. St. Thomas cites Saint Augustine on this: "Si enim res aliena propter quam peccatum est, cum reddi possit, non redditur, non agitur poenitentia, sed fingitur; si autem veraciter agitur, non remittetur peccatum, nisi restituatur ablatum; sed, ut dixi, cum restitui potest" ["If the possession belonging to another which was the reason for the sin is not returned, when it could be, penitence is not really done, but only feigned; if penance has truly been done, the sin will not be forgiven unless the thing is returned; but, as I said, only if it can be returned"] *Letter* 153, 6, 20; NBA 22, 546 (our translation).

²⁵² Cf. *Ex* 22:5; *Ezek* 33:14-16; *Lk* 19:8-9.

²⁵³See, for example, D. M. Prümmer, *Manuale Theologiae Moralis*, (cited above) vol. III, nos. 207-247. For a much more highly synthesized view, see A. Günthör, *Chiamata e risposta*, vol. III, no. 697.

faith is someone who has culpably taken or keeps a thing that he knows belongs to another (and is therefore a thief). A possessor in uncertain faith is someone who has serious reasons to be uncertain whether the thing belongs to him or not. If we consider the thing with respect to its legitimate owner, the following principles apply:²⁵⁴

1. The thing owned ‘calls out’ to its owner (*res clamat ad dominum*).
2. It fructifies for the owner, that is to say, the fruits produced by the thing naturally (and not by the possessor’s skill) belong to the owner and should be restored to him (*res fructificat domino*).
3. When the thing is naturally lost or destroyed, the loss is the owner’s (*res perit domino*).
4. Nobody may unjustly profit through the help of the property of another (*nemo ex aliena re iniuste locupletari potest*).

With regard to the actual possessor, the following principles are observed:

1. When there is uncertainty about who owns something, the actual possessor is in a more advantageous position (*melior est conditio possidentis*).
2. After a certain time has passed, the thing can be ascribed in favor of the actual possessor in good faith, who will now be considered the legitimate owner (*possessor bonae fidei potest praescribere rem et fructus*).
3. The possessor in good faith is not obliged to suffer damages by reason of possession of something belonging to another (*possessor bonae fidei non meretur ut damnum patiatur, et potest damni compensationem postulare*).

If the thing is still in the hands of the possessor, it must be returned as soon as he knows who the owner is, except in the case of a judicially ordered stay. Further, the possessor in bad faith must restore all the

²⁵⁴We primarily follow the synthesis of Günthör here.

damages that the legitimate owner suffered through being deprived of his property, which can be regarded as the natural fruits of the thing in question, such as lost revenue and other evils comprised in the technical categories of *damnum emergens* and *lucrum cessans* (“loss that begins” and “gain that ceases”). If certainty has been reached that something belongs to another, but this owner cannot be located, the possessor in good faith can keep the thing; the possessor in bad faith must give it to the poor or devote it to pious works.

When the thing has been lost or has been found in the hands of a third party, the one who first possessed it in good faith must restore to the legitimate owner all the wealth obtained through the possession of the thing, as well as its natural fruits. The possessor in bad faith must give the owner the price of the thing that has been lost (at least the price that would otherwise and with certainty have been obtained if the thing had remained in the hands of the owner), as well as the natural fruits the thing would have realized. On the other hand, he would be able to deduct the necessary costs that the legitimate owner would have had to have spent on maintaining the thing in his possession.

If, in the mind of a possessor in good faith, a doubt should arise about the legitimacy of his possession, he is obliged to resolve the doubt, since if he does not do so, he would become a possessor in bad faith as a result of his negligence. If the doubt is shown to be unresolvable, he can be considered a possessor in good faith. The position, however, of someone who has come into the possession of something that was already in doubtful ownership (antecedent doubt), varies, depending on his mode of entering into possession of the thing in question. If he has taken possession on his own initiative from a possessor in good faith on the basis of a doubtful title, he has committed a culpable action, since the principle of *in dubio melior est conditio possidentis* (“when in doubt, the possessor’s condition is the better”) favors the former possessor. If he has taken possession of the thing through legal means, such as a purchase, but is in doubt about the right-to-possess of the one who sold it to him, he is obliged to resolve his doubt before taking possession.

3.7.2 *The Obligation of Restoration as a Consequence of Unjust Damage*

The fundamental principle here has already been explained :²⁵⁵ *losses must be restored if the action has been truly, formally, and effectively unjust, or if the restitution has been imposed by a judicial sentence or by a previously settled contract.* What remains is to specify more exactly what kind of restitution is owed for damage done to certain items of particular value.

For an injury to someone's right to life and bodily integrity, there cannot be any restitution in the strict sense. But damages done to a person normally bring as a consequence some material damages, which can, nevertheless, be compensated. For someone who has been unjustly wounded, he must be paid back all the expenses necessarily incurred in the healing and tending of his wound, as well as the losses he has sustained in his work. Even if, in general, the judge will determine the sum that must be paid, it should be kept in mind that such restoration is morally required independently of any judge's intervention. When someone has been unjustly killed, all the expenses directly connected to the crime must be reimbursed to his heirs. When there is a loss of income and reduction of inheritance, reparation (generally determined by a judge) is owed to the wife and children.

Sins against the sixth commandment, which likewise constitute an injury to justice, produce the moral obligation to make restitution. When there has been mutual consent, there is no obligation other than the natural one of supporting any offspring. Sexual relations perpetrated through deceit, violence, threats or the abuse of a relationship of dependency constitute gravely unjust actions, out of which proceed the obligation to make restitution of the losses the other has been forced to undergo with respect to his or her possessions or situation in life. If there has been a serious promise of matrimony on the part of the man, there is a maximum degree of obligation to fulfill it, even if such a principle does admit of various exceptions, and then there will still exist the obligation to make restitution as in the previous case.

²⁵⁵See above, 5 a).

We have already treated co-operation in unjust damage.²⁵⁶ With regard to restitution of the damage caused in this way, the following moral principles are to be observed:

1. Someone who, even though being assisted by others, is the principal cause of the damage as a whole (the one who ordered the doing of the action, for example), is morally held to a restitution in full of all goods, without being able to recover anything from those who acted as instruments. Those who act as instruments will only be obliged to make restitution when it is not forthcoming from the principal person.
2. All those who collaborate with each other in effectively causing the entire damage are held to a conditional restitution in full of all the damages. They are effective causes of the damage as a whole if the injury could not have taken place without their agreement, or if they conspired to accomplish it. The loss must be restored by all of them, but if any one of them cannot make the restitution the others are required to supply the missing part.
3. Those who are partial causes of damage without any conspiracy must make restitution according to the extent of their real influence on the loss.

3.7.3 *Satisfaction and Cessation of the Duty to Restore*

Restore to Whom? — The object of the restoration is the one whose right has been injured and, if he is no longer alive, then his heirs. If the owner is not known, research must be undertaken to determine who is. If the research does not reach any results, the possessor in good faith can be considered to own the thing in question; the possessor in bad faith must give it to the poor or donate it to a charitable or pious cause. If there is uncertainty or doubt concerning the rightful owner, one must research this question as well. If doubt still remains, and the possibilities are reduced to two or three persons, the value of the thing must be divided

²⁵⁶See above, 5 b).

up among them; if the possible owners are many, restitution must be made to the poor or to some work to benefit the poor.

When to Make Restitution? — Restitution ought to be made as soon as possible. To procrastinate it for a long period of time without just cause constitutes a serious sin if the matter is grave, and so long as the delay has caused loss to the owner. The possessor in good faith can return the item to the owner by leaving it in the same place where it was found. The possessor in bad faith and someone who has caused damage must assume the expenses incurred by transporting the possession to the place where it would have been if it had not been unjustly taken or removed. It is licit to deduct the expense that the owner would have incurred anyway for transporting the thing to where it is supposed to be at present.

Mode of Restitution — With regard to the mode of restitution, it is generally sufficient if the injured right has been effectively restored. Restitution can take place secretly, without any self-defamation on the part of the restorer.

Reasons for Exemption from the Duty of Restitution — The duty of restitution can be removed by the express or tacit consent of the creditor, by the arrangement of reciprocal rights, by legal prescription, by remission of debts concerning ecclesiastical property on the part of the Roman Pontiff, and by extreme or quasi-extreme indigence on the part of the debtor. The obligation to make restitution is also canceled by temporary physical or moral impossibility, or by judicial or extra-judicial cession of the possessions of an insolvent debtor. If civil law determines that such cession extinguishes the debt, and does not merely amount to a delaying tactic, it is morally acceptable, provided that such insolvency is not fraudulently pretended.

3.8 Contracts

Classical treatises customarily contain a long and especially detailed treatment of contracts under the heading of the virtue of justice.²⁵⁷

²⁵⁷ Cf. for example H. Noldin, A. Schmitt, *Summa Theologiae Moralis*, 27th ed. (Leipzig: F. Rauch, 1941), vol. II, nos. 523-623; D. M. Prümmer, *Manuale Theologiae Moralis*, cited

That was reasonable, since contracts are one of the principal sources for ownership (buying-and-selling, donations, etc) and for obligations of justice (employment contracts, rentals, etc.). The more recent treatises no longer include this topic, and this is for a variety of reasons. The matter is exhaustively treated by civil law, and, except in cases of manifest injustice, such regulation obliges us in conscience, on the foundation of the moral virtue of justice. For the resolution of concrete problems, then, it is necessary to follow the prescriptions of the civil law in every country, and thus in order to be truly useful, the moral-theological study would have to become a duplicate of the civil law. On the other hand, the material is so technically complex that in practice the resolution of the majority of the problems requires the advice or the intervention of an attorney. Finally, some of the more important questions such as labor contracts, usury, etc., will be studied in volume IV of this manual. Here we will limit ourselves to emphasizing the seriousness of the material and to enumerate the principal kinds of contracts.

Every legitimate contract, that is to say, every contract dealing with appropriate matter, agreed upon by juridically capable subjects, with free and conscious consent, and having the required form, generates a true moral obligation of justice, which according to the matter it concerns, can be serious and even very serious. Contracts are not therefore to be considered something ‘merely legal’, or of a bureaucratic or punitive nature. Demands derived from contracts fully engage the human and Christian moral conscience.

Unilateral contracts are those in which only one party gives something, while the other merely accepts or receives it. In contrast, *bilateral* contracts are those in which both parties give some effective service. These can be gratuitous or onerous. In *gratuitous* contracts there is a double service in a juridical sense, but the gain or economic advantage goes only in one direction. In *onerous* contracts both parties share the gains and losses, both give and both receive. Gratuitous contracts are donations, grants, promises, contracts of deposit or loans. Onerous contracts are buying-selling contracts, labor or service contracts, co-signatory contracts, leases, share-agreements, insurance contracts, etc.

above, vol. II, nos. 248-322; J. Mausbach, *Teologia Morale*, pp. 1018-1059.

Chapter 4

Justice in Relation to Human Life (I)

4.1 Teachings on the Value of Human Life as Found in the Sacred Scriptures

A complete study of life in the Sacred Scriptures would have to include certain themes that go beyond the purpose of this manual, such as life in Christ or eternal life. Here we are limiting our discussion to a synthetic presentation of the aspects that are relevant to our present object of study, and these will be treated in this and the following chapter one by one, according to the order in which they arise.¹

4.1.1 *The Old Testament*

Faith in the Living God -- For Old Testament Hebraic thought, life is not primarily a biological or anthropological concept, but rather a *theological*

¹For a comprehensive overview cf. R. Cavedo, s.v. “Vita”, in P. Rossano, G. Ravisi, A. Girlanda, eds., *Nuovo dizionario di teologia biblica*, cit., pp. 1660-1680; H. G. Link, s.v. “Vita”, in L. Coenen, E. Bayreuther, H. Bietenhard, eds., *Dizionario dei concetti biblici del Nuovo Testamento*, cit., pp. 1994-2001. With regard to the themes that more closely interest us here, cf. E. Schockenhoff, *Etica della vita. Un compendio teologico* (Brescia: Queriniana, 1997) [orig.: *Ethik des Lebens. Ein theologischer Grundriss*, 1993], ch. III. With regard to the Magisterium of the Church, the fullest exposition of Biblical teachings on the value of human life is certainly to be found in the Encyclical *Evangelium vitae* by John-Paul II (March 25, 1995); on which see: E. Sgreccia, R. Lucas Lucas, eds. *Commento interdisciplinare alla “Evangelium vitae”* (Vatican City: Libreria Editrice Vaticana, 1997) ; L. Melina, *Corso di bioetica. Il Vangelo della vita* (Piemme: Casale Monferrato, 1996).

one.² A perception of life as a divine prerogative lies at the foundation of the distinction of Jahveh, the living God, from the pagan deities who lack the breath of life.³ Life belongs properly to Jahveh, since he has not received it from anyone. He always has been and is the Living One, the principle of life, the one who loves life.⁴ The life of man is understood as a good that God gives to him, and something over which He has absolute power.⁵

According to *Genesis* 2:7 (the Yahwist tradition), Jahveh forms man from the dust of the ground and blows the divine spirit into his inanimate body, and thus man becomes a living being. If God should withdraw the breath of life, man would return to dust.⁶ Divine creation is viewed as a permanent dependence on the creative force of God. The priestly text emphasizes the idea of creation by way of the divine Word.⁷ God calls man into existence, and creation is the divine summons, a dialogue that bestows life. The book of Deuteronomy sets life in relation to the Covenant. The word and the commandments of Jahveh present the community with a choice between life and death.⁸ By remaining bound in faithfulness to the Covenant, life is a duty, and not only a gift. The living human being is the carrier of a divine plan.

Created in the Image of God — It is extremely important to affirm that the human being, man and woman, has been created according to the image and likeness of God,⁹ both for the reason that the Sacred Scripture has put this as the foundation of the commandment, “Thou shalt not kill”,¹⁰ and also because it will later take on a central role in Christian anthropology, which sees in such an affirmation the ultimate foundation of human dignity. Only of man can it be said that he is created in the image of God, and this distinguishes him from things, plants, and animals. There have been, and continue to be, many discussions about the image: in what it consists, why man is the image,

²Cf. E. Schockenhoff, *Etica della vita. Un compendio teologico*, cit., p. 110.

³Cf. *Ps* 113.

⁴Cf. *Wis* 11: 26.

⁵Cf. *Deut* 30: 1- 20.

⁶Cf. *Job* 34: 14-15.

⁷Cf. *Gen* 1:26.

⁸Cf. *Deut* 30:1-20.

⁹Cf. *Gen* 1: 26-27.

¹⁰Cf. for example *Gen* 9:6.

etc. In any case it seems clear that the assertion is intended to explain how the human being is capable of entering into a dialogue with Jahveh and that, like Jahveh, man ought to address himself to the world with intelligence and love. The idea is undoubtedly present that being in the image and likeness of God is a permanent good in man, a guarantee that protects human life, and renders it sacred and inviolable.

Abuses Against Life — The book of Genesis shows that God has made all things good. He placed Adam and Eve in Paradise, and they act as the images and likenesses of God, his representatives, as it were, who would be capable of maintaining and transforming that same paradise with their labor, as well as rule over the animals to whom they give their appropriate names. But after the first sin, evil spread to the point that God repented that he had created man. One of the principal faces of evil is homicide. Cain killed Abel and the sons of Cain killed each other. The murder of Abel brings to light an aspect that, in a very profound theological sense, is present in every murder: violence against a brother. When a brother takes a brother's life, he takes the life of someone who is equally the son of the same divine Father. Jahveh appears at every moment as the protector of life. He is even the protector of the life of Cain: nobody is permitted to carry out justice for himself. No one can dispose of the life of a neighbor.

After the flood, Jahveh renews the covenant with Noah, and respect for life is one of the major points of the new alliance. Taking account of the conditions created by sin, human beings have animals at their disposal. But this power of disposition has its limits: they must respect the lifeblood ("only meat with its lifeblood still in it you shall not eat") and they must respect the image of God: "Indeed, for your own lifeblood I will demand an accounting: from every animal I will demand it, and from a human being, each one for the blood of another, I will demand an accounting for human life. Anyone who sheds the blood of a human being, by a human being shall that one's blood be shed; for in the image of God have human beings been made."¹¹ This passage suggests that crimes against human life are crimes against God himself, the profanation of his own image, even if the passage also implies that God as the holder of supreme dominion over life authorizes the carrying out of

¹¹ *Gen* 9: 4-6.

capital punishment upon those who have, through murder, violated the divine image in man; private vengeance, however, is not permitted.

The Commandment, “Thou Shalt not Kill” — The Decalogue is the normative nucleus of the Sinai Covenant. The fifth commandment of the Decalogue is “Do not kill”.¹² The formula lacks a direct object, and consequently would appear to be very broad in scope. But the verb *rasah* limits its import. *Rasah* does not indicate killing of animals, nor killing in war (*harag*) or in violent conflicts with strangers. Also, the death penalty (*hemit*) and death sent by God is referred to with other words. *Rasah* could be translated as “assassination”. It implies an act of violence that is particularly traitorous and disloyal, and affects an innocent victim. The word *rasah* means that innocent blood must not be shed, in a sense similar to *Exodus* 23:7: “The innocent and the just you shall not put to death”. *The commandment represents a divine protection of human life against every form of voluntary homicide, which is absolutely excluded.*

4.1.2 *The New Testament*

Earthly Life and Eternal Life — in the New Testament, eternal life is clearly and fully revealed: the human being is called to an eternal life in communion with God and in the image of the resurrected Christ. Christ came both to announce this life and bring it to us.¹³ Earthly life is not the only life, nor is it the supreme good for man. He must even be ready to lose his earthly life in view of the eternal life. But nothing of all this diminishes in any way the inviolability of human life or the moral responsibility it involves.

Renewal and Perfecting of the Commandment “Thou Shalt not Kill” — the commandment not to kill is repeated in the New Testament.¹⁴ Christ re-affirms it, presents it as an indispensable condition for anyone to “enter into life”¹⁵, and brings it to perfection. The prohibition of killing is relocated at the roots of homicidal violence that exist

¹² Cf. *Ex* 20:13, 21:12; *Lev* 24:17; *Deut* 5:17, 17:8.

¹³ Cf. *Jn* 10:10.

¹⁴ Cf. *Mt* 5:21; *Mk* 10:19; *Rom* 13:9; *Jas* 2:11.

¹⁵ Cf. *Mt* 19:16-19.

in the human heart, and at the first exterior manifestations of hatred and aversion. “You have heard that it was said to your ancestors, ‘You shall not kill; and whoever kills will be liable to judgment’. But I say to you, whoever is angry with his brother will be liable to judgment, and whoever says to his brother, ‘raqa’ will be answerable to the Sanhedrin, and whoever says, ‘you fool’ will be liable to fiery Gehenna.”¹⁶ Jesus calls his disciples to build relationships with others that make any discord intolerable.¹⁷

The Commandment to Love — in the New Testament the commandment is developed in a positive sense: love for all, even for strangers (the Good Samaritan) and even for enemies, who persecute us: “You have heard that it was said, ‘You shall love your neighbor and hate your enemy’. But I say to you, love your enemies, and pray for those who persecute you, that you may be children of your heavenly Father; for he makes his sun rise on the bad and the good, and causes rain to fall on the just and the unjust. For if you love those who love you, what recompense will you have? Do not the tax collectors do the same?”¹⁸ In the context of the antithesis between the children of God who live in love and the world that lives in hatred, and recalling the episode of Cain and Abel in the Bible, John affirms the identification of a total lack of charity, such as hatred, with homicide.¹⁹ This assimilation of the fifth commandment (along with the rest of the Decalogue) to the law of charity was likewise proclaimed by St. Paul.²⁰

The Image of God and the Image of Christ — The New Testament repeats without any dispute the Old Testament teaching according to which man is the image of God.²¹ But something very important has been added: Jesus Christ is the true and unique image of God.²² In Jesus Christ, God has placed his own image before the eyes of mankind, in order that we recognize the dignity to which we have been called. In Christ becomes visible the meaning of a life that is free and full of love

¹⁶ *Mt* 5:21-22.

¹⁷ *Cf. Mt* 5:23-24.

¹⁸ *Mt* 5: 43-46.

¹⁹ *Cf. 1 Jn* 3: 11- 15.

²⁰ *Cf. Rm* 13: 8-10.

²¹ *Cf. 1 Cor* 11: 7; *Jas* 3: 9.

²² *Cf. Col* 1: 15; *Rom* 8:29; *1 Cor* 15: 45-49; *2 Cor* 3:18.

toward human life. Christ teaches what solidarity is, and what justice is with regard to the human being. In reality, man is the image of the Image, and in Christ we have a perfectly clear idea of the image that we must reproduce in our own life: “I give you a new commandment: love one another. As I have loved you, so also you should love one another. This is how all will know that you are my disciples, if you have love for one another.”²³ The idea of the image of God, and of similarity to God, expresses in this way God’s double relationship with man by way of both creation and the incarnation/redemption.

The manner of Christ, and the way of following Christ in one’s encounters with every human being presupposes a profoundly moral vision, a vision with a power Jesus himself made clear through an explicit contrast with some Pharisaical interpretations of the Law of Moses. These are the antitheses Jesus formulates: “You have heard that it was said, ‘You shall love your neighbor and hate your enemy.’ But I say to you, love your enemies, and pray for those who persecute you ...”²⁴ No sooner had the apostolic and sub-apostolic communities entered into close contact with the Greco-Roman world, than this vision would have to develop explicitly the entire gamut of its peculiar ethical values from beginning to end. We need to consider the Fathers’ reaction to abortion, homosexuality, and so forth; we will return to this point below.

The Christian Contribution to the Birth of the Concept of the Person — Limiting our discussion at present to only the most fundamental aspects, it is necessary to point out that man now starts to be understood as called by God in his most essential existence. In virtue of his direct relationship with God, man cannot be possessed by any human power, since he transcends all the human and worldly relationships in which he finds himself involved. Man as such is not constituted by horizontal relations, nor does he owe his nature to them. He cannot be reduced to roles or functions. He possesses his own existence *per se*, received from God, and beloved by God in his unrepeatable uniqueness. One human cannot dispose of another, one cannot be completely functional toward another similar to himself, nor can he be treated instrumentally by him. Man is the only creature that God has willed for

²³*Jn* 13: 34-35.

²⁴*Mt* 5: 43.

its own sake.²⁵ *We see here the ideas that constitute the Christian contribution to the concept of the person: ideas that will have a decisive influence on the history of humanity.* On this peculiar and direct relationship existing between God and the human creature that is made manifest in Christ, depends the radical non-disposability of man, which obliges us to respect each other in an unconditional way, with the respect that is contained in the idea of the person. This principle says that I meet in the other one who owes his or her own existence to the creative (and redemptive) love of God, exactly as I do.

4.2 Philosophical and Theological Foundations of the Principle of the Inviolability of Human Life

The first foundations of the ethics of life, in the last analysis, are referred to justice, which the theologian also sees in relation to charity (*caritas*). It is concerned by definition with giving to each person that which is proper to each, respecting the person's possessions and rights, even in highly conflicted situations. Nevertheless, it is necessary to formulate some normative orientations of a more concrete nature, in order to show the requirements of justice and charity both in ordinary situations and in extraordinary situations of conflict. Otherwise, we run the risk of staying at the formal level, which is liable to the most varied subjective interpretations.

At this point we will focus on a fundamental and minimum requirement of justice, which is the principle of the inviolability of human life. According to this principle, *every action that is deliberately and directly intended to suppress innocent human existence, or the intentional abandonment of human lives whose subsistence depends on our responsibility and who are the subjects of our own care, objectively constitutes a grave moral disorder.* Such a principle is absolute and does not admit of exceptions: it excludes absolutely any intentional killing, every form of voluntary homicide.

²⁵ Cf. *Gaudium et Spes*, no. 24.

We will study these matters here using a moral-theological approach. By treating the subject matter as a question of justice, we move in an atmosphere of argumentation that is fundamentally rational and comprehensible to all, while finding in faith confirmation and further dimensions of depth. It is assumed here that the Gospel of Life can be known in its essential lines by human reason.²⁶

4.2.1 *The Dignity of Man*

The foundation for the principle of the inviolability of human life is the dignity of the human being. The concept of *dignity* expresses the value of the human being in a comprehensive way. Such a conception is the fruit of a long process of the maturation, through history, of the human conscience, and it is rich in anthropological, ethical, political and religious aspects. The encyclical *Evangelium vitae* speaks of a “Gospel of the dignity of the person”, which constitutes a message that is unique and inseparable from the “Gospel of Life” or from the “Gospel of the love of God for Man”.²⁷

From the point of view of historical origins, *the idea of human dignity owes much to Christianity, but it can have a sufficient foundation already in rational motives of a reflective character.* In fact, Christian thought concerning human dignity has taken two simultaneous but complementary paths.²⁸ On the one hand, there is the way of rational reflection that moves within the sphere of justice and of what traditionally is known as natural law. On the other hand, there is a more specifically theological path connected with the theology of creation and salvation history, such as we find, for example, in the Pastoral Constitution *Gaudium et Spes*²⁹ and in the Encyclical *Evangelium vitae*.

²⁶ Cf. *Evangelium vitae*, no. 29.

²⁷ *Evangelium vitae*, no. 2.

²⁸ Cf. International Theological Commission, “Propositions on the Dignity and Rights of the Human Person” (1983). See also E. Schockenhoff, *Etica della vita. Un compendio teologico* (see note above) pp. 172 -186; J. Vial Correa, E. Sgreccia, eds., *Natura e dignità della persona umana a fondamento del diritto alla vita. Le sfide nel contesto cultural contemporaneo* (Atti dell’VIII Assemblea Generale della Pontificia Accademia per la Vita, February 25- 27, 2002, Vatican City: Libreria Editrice Vaticana, 2003); J. M. Haas, *Dignità umana e bioetica*, in G. Russo, ed., *Enciclopedia di bioetica e sessuologia* (Turin: Elledici, Leumann, 2004) pp. 22 – 32.

²⁹ Cf. *Gaudium et spes*, nos. 12 –17 and 22 – 32.

From the perspective of the first way, Christian thought takes up the *philosophical-ethical evidence that the human being transcends being merely the individual of a species*. The human being possesses an interiority which permits him to develop a life and a special communion with the world, with other human persons and with God, in virtue of which he is a subject, an entity that is full of significance in itself. The life that fulfills this interiority of the human being is characterized by self-consciousness, self-determination and self-dominion, a manner of being that is incommunicable in the sense of being “inalienable” and “unsubstitutable”.³⁰

*In the theological perspective, however, the dignity of the human being is presented as enhanced by the fact of being created according to the image and likeness of God.*³¹ This dignity is made more powerful by redemption³² and by the vocation to participate in the eternal divine life, as sons and daughters of God in Christ.³³ The existence of every single human being refers back to God, and in such referencing consists the deepest truth of that being, from which flows what in the last analysis is one’s own “highest dignity”.³⁴

It seems necessary here to mention briefly the theology of the image. The image is a kind of analogy, an “imprint”³⁵ which the act of creation leaves on every single human being and in all human beings. For St. Bonaventure, “*dicitur imago quod alterum exprimit et imitatur*”.³⁶ The substance of the concept of image consists in the following: in creating man, God not only imparted being and life; he also imparted and expressed something of himself. That is to say: by way of a special direct intervention,³⁷ he communicates and brings to expression something of what he is, even though this communication is imperfect, since God com-

³⁰For a fuller treatment, cf. A. Rodríguez-Luño, R. López Mondéjar, *La fecondazione “in vitro”*. *Aspetti medici e morali* (Rome: Città Nuova, 1986), pp. 55 – 66.

³¹Cf. *Gen* 1: 26-27.

³²Cf. *Eph* 1:7; *1 Tim* 2: 5-6.

³³Cf. *Rom* 8: 14-17; *Eph* 1: 4-5.

³⁴*Evangelium vitae*, no. 34.

³⁵*Evangelium vitae*, no. 39.

³⁶“An image is said to be that which expresses and imitates another”, S. Bonaventure, *In 1 Sententiarum*, 31, 2, 1, 1, Conclusio [ed. Quarracchi] vol. 1, p. 540. Cf. also St. Thomas Aquinas, *Summa Theologiae* I, q. 35, a. 1, ad 1, and q. 93.

³⁷Cf. *Evangelium vitae*, no. 53; Athenagoras, *Apologia*, PG VI, p. 970.

municates and expresses himself perfectly only in the intra-Trinitarian processions. In the human being, therefore, there is an expressive image of God, and consequently something much more than a simple vestige or distant shadow. In creating the human being, God leaves something of his own, and this divine “something” present in each one of us is a holy and divine³⁸ good, in the sense that the image is an image of God.

The idea of dignity, in the same way as the idea of the person, signifies excellence and a value superior to objects and superior to utility – a non-negotiable value. Everyone is familiar with the observation of Kant, according to whom, “What has a price can be replaced by something else as its equivalent; what on the other hand is raised above all price and therefore admits of no equivalent has a dignity.”³⁹ Dignity is an intrinsic value, which is neither relative nor instrumental. And it would not be possible, with regard to such a value, to assign it a determinate weight in categories of useful, burdensome, desirable, undesirable, etc. The human being is comparable only to other beings of the same condition, and such a condition renders them all equal, and does not justify any natural privilege of superiority for someone over the others.

This concept of human dignity has been understood in the Catholic theological tradition as a supremely normative point of reference. In activities that relate to persons it is not possible to deny that they cannot be treated in merely instrumental mode, as subordinated to an order of the satisfaction of desires, or to economic necessities, to the progress of research or therapeutic technologies, etc. With respect to persons, the only just attitudes are love and respect.

4.2.2 *Dignity as the Value of Every Living Human Individual*

There is also another kind of dignity that certainly exists: dignity in the moral sense, which is acquired with the good that each person does, and is lost with the evil each one does, but *the basic human dignity*,

³⁸Cf. *Evangelium vitae*, nos. 34-39.

³⁹I. Kant, *Groundwork of the Metaphysics of Morals*, [orig. 1785] trans. Mary Gregor (New York: Cambridge University Press, 1998) p. 42. For an analysis of the context of Kant’s reflections, cf. A. Rodríguez Luño, *I. Kant: Fundamentación de la metafísica de las costumbres* (Madrid: Ed. Magisterio Español, 1977).

of which we are now speaking, is ontological in nature. It depends on one's nature, and not on what one actually does or what one is capable of actually doing. This dignity belongs equally to every single individual with the following two characteristics: being human and being alive. In virtue of this, each one is the image of God, a brother or sister of Christ, and is called to eternal life. Consequently, the dignity of human beings does not depend on their social condition, on their cultural formation, on their physical and spiritual development, on their exterior appearance, their age, or their philosophical and religious convictions. The concept of human dignity excludes any attempt to establish hidden fundamental distinctions between human persons based on an assessment of their achievements, just as it excludes every proposal to subordinate the value of any living human individual whatsoever to a utilitarian calculus of the difference between happiness and misery, or to a comparison of relative usefulness or loss to the community.

From what has been said it follows that it is an offense to human dignity to put any living human being in a situation of having to prove his own humanity, or of having to justify his own value according to criteria established through scientific or social consensus. The rights that are founded on human dignity imply a criterion of humanity in and of themselves. As Robert Spaemann has written, "As long as it has been possible to speak in absolute terms about human rights, no one has ever been authorized to define the characteristics that the holders of such rights must possess."⁴⁰ If any human institution is granted the competence to establish who among those now living are persons and who are not, human rights will no longer be rights necessarily bound up with the human condition, but will become, instead, a concession granted by those who are able to decide who is or is not a human being in the legal sense. *The idea of dignity consists precisely in affirming that it is not possible to establish relevant distinctions between human beings with regard to the fundamental value of such beings.* In this sense, it can be affirmed that the way an embryo becomes a fetus, then a baby, child, and adult, already implies that this kind of being should not be treated as if it were merely a thing, but as something that exists: a human being.

⁴⁰R. Spaemann, *Discussioni sulla vita "degnata di essere vissuta"*, *Cultura & Libri*, IV/27 (1987) 509.

If it were to be treated as a thing when the first signs of rationality are still absent, or by some other conventional criterion of humanity, such criteria would never manifest themselves at all. The very idea of human rights requires that that which has been conceived by a human mother has a right to be considered as human.⁴¹

4.2.3 *The Principle of Equality*

Human dignity, in its basic meaning, has its foundation in humanity as an ontological condition which is common to all human beings, and not in the empirical manifestation of single signs of personality. All living individual human beings have the same dignity. Here lies the source from which flows the ethical requirement to treat all human beings as equals in a fundamental sense, independently of their many empirical inequalities, and therefore only because they are all equally human. This is the ethical principle of equality, which can be expressed also in this way: *the recognition of the rights of equality (equal respect, equal freedom, etc.) is not bound up with any other distinctiveness than that of the human condition of a living individual, a condition or nature in which all human individuals are already at one, antecedently to any biological, social, political or cultural difference whatsoever.*

Justice requires the recognition of the principle of equality as an insuperable ethical limit: All human beings, in pursuing their purposes, cannot fundamentally violate the fundamental rights of others, just as the others have to respect the goods and rights that are connected with the human condition of each one of us. In this sense, the principle of the quality of life, understood as a complex set of parameters that would enable an assessment of the real value of every single human life, is not compatible with the principle of the fundamental equal dignity of all human beings. The value of the person would depend, in that case, on criteria established by others, and not by the human condition. Furthermore, on the basis of such criteria qualitative differences are established between human beings according to which the lives of some are supported while the lives of others are abandoned or interrupted. Equality with respect to life then becomes negated, and that is a fundamental

⁴¹Cf. *ibid.*, p. 510.

good essentially bound up with human dignity.

4.2.4 *Inviolability of Human Life as a Minimum Requirement of the Dignity of the Human Being*

Human dignity also possesses a moral dimension, and that means a dimension that is bound up not with the fact of being human as such, but with the moral rectitude of one's actions. Someone who acts well morally has worth or dignity in the moral sense. Someone who acts badly, and only to the extent that he acts badly, is not worthy in this sense, and offends against human dignity. In this sense, human dignity is a very extensive reality: the avoidance of stealing, lying, committing adultery, etc. required for human dignity, as taken in the totality of its content, and thereby in the maximum sense. *The inviolability of life and of the physical integrity of others is, on the other hand, a minimum requirement for human dignity.*⁴² This signifies that the respect for the life of another is an absolutely necessary minimum to be demanded of all without exception, even with reference to legal coercion, and is not founded on any other criterion but that of our common human condition.

When we speak of a minimal requirement, it can clearly be seen that life is being viewed as a fundamental kind of good, presupposed by almost any other human good (freedom, etc.). If respect for life is not guaranteed, neither is guaranteed the space in which the person can grow, expand his possibilities and freely decide to be one thing rather than another, etc. To have dignity and not "price", implies at the least that no one can be sacrificed as a means to an extraneous end, not even out of love for a great good, such as the survival of future generations. Therefore, *respect for the life of another must be recognized as the boundary that cannot be trespassed by any individual or state action.* Guardini was right in saying that personhood gives the human being dignity, distinguishes him from other beings, and makes him a subject. When someone is treated as a thing, to that extent is the person owned, made use of, and finally destroyed. The prohibition of killing a human being is the

⁴²Cf. E. Schockenhoff, *Etica della vita. Un compendio teologico* (see note) pp. 182-186.

highest realization of the prohibition of treating a person as a thing.⁴³ Not to be treated as a thing is certainly the minimum requirement of human dignity.

As regards this fundamental requirement of human dignity, no discrimination is permissible, including one based on the different periods of life. We are born human in virtue of what we are. We are not called to become human through the will of a political majority. Consequently, even in situations of conflict, the deciding factor is our natural membership in the human biological species, the uniquely distinguishing sign of human descent, or, in case the boundary line for biomedical intervention has to be pushed forward, the distinctive mark of procreation from a human being. The prohibition of killing, as a minimal requirement of human dignity, is equally valid for the earliest stages of human life, when the personal being of the child begins to take form. This does not impose any limitation on biomedical research that differs from what the dignity of the person would require to be imposed on any responsible human action in any other field of human activity. It is universally recognized that the principle, “Thou shalt not kill” is to be respected in the resolution and civilized management of any conflict.

4.2.5 *Life as the Object of a Fundamental Right*

Our intention here is to emphasize that *respect for human life is a fundamental question of justice*. It is why we cannot decide not to protect life by invoking tolerance, freedom of opinion, or the pluralism of conceptions of the good, etc. When there exist in a society various conceptions of man and the world that are in conflict with each other in some way, it is possible to think that the state does not have the competence to resolve such a conflict, and that general conditions for living in peace must be guaranteed, leaving to the individual citizens the freedom to promote the conceptions that they think should justly be promoted. Each person can have his or her own ideas of happiness, at least up to a certain point. However, ethical conflicts regarding questions of justice cannot be resolved by referring to a position that will differ from one

⁴³Cf. R. Guardini, *Il diritto alla vita prima della nascita* (Vicenza: La Locusta, 1985) p. 20.

person to another. Here there is not only a conflict of ideals, but the definite rights of third parties are in question, which cannot be protected by tolerance alone. Such questions can only be resolved on a basis that pre-exists the cultural preferences of individuals, and which is valid for all. The prohibition of murder, based on the elementary criterion of justice, is precisely the oldest and most universal way to resolve conflicts concerning the body and physical life.⁴⁴

It may be fitting to add that freedom is a degree of life, the highest degree of the life of the spirit. Freedom expresses the mode in which the spirit lives. To call on freedom (freedom of thought, freedom of opinion, etc.) to the end of destroying the life of a free being is a contradiction that cannot be sustained. My freedom ends where the right to life of other human beings begins, for the same reason that the freedom of others must end where my own right to life begins. Someone who attacks the life of others cannot invoke on his own behalf either freedom or tolerance or pluralistic conceptions of the good.

4.2.6 *The Sacredness of Life*

The Encyclical *Evangelium vitae* (*The Gospel of Life*), in conformity with the traditional manner of enunciating Church doctrine, catechesis and theology, states that “human life is sacred”.⁴⁵ This affirmation has a clear Biblical foundation, even though there is theological debate about the exact meaning and implications of the principle of the sanctity of life.⁴⁶ In our view, the idea is intended as a response to the following question: “Why is human life always an intrinsic good of great importance, even when appearances can lead us to think the opposite?” The essential answer to such a question is not, “Because life is pleasant, be-

⁴⁴A synthesizing exposition of this argument can be found in The Sacred Congregation for the Doctrine of the Faith, *Declaration on Procured Abortion* (September 18, 1974), no. 2. For a fuller development see E. Schockenhoff, *Etica della vita. Un compendio teologico* (see note 2 above), pp. 186-188.

⁴⁵Cf. *Evangelium vitae*, nos. 2, 22, 53, 61, 62, 81, 87. See also the *Catechism of the Catholic Church*, nos. 2258 and 2319.

⁴⁶Cf. B. Schuller, *La fondazione dei giudizi morali. Tipi di argomentazione etica nella teologia morale cattolica* (Assisi: Cittadella Editrice, 1975), pp. 167 – 189. Schuller is very critical of the way in which the principle of the sanctity of life has been applied in moral theology. For a more constructive interpretation of the absolute value of the commandment, see M. Rhonheimer, *The Perspective of Morality*, pp. 389 – 397.

cause all living beings want to live and none wants to die, because they are so full of energy and have so many good plans”, etc. The ultimate answer is something else: *human life is always a good because it is a very special gift of the Creator, a sign of his presence and a trace of his glory*. “In man – says *The Gospel of Life* -- shines forth a reflection of God Himself”.⁴⁷

This explains, in our view, why the idea of sacredness has been invoked by the Catholic theological tradition *to exclude voluntary homicide absolutely*, that is, every intentional willing that corresponds to a practical judgment according to which “it is good that such and such a person be done away with”, because that person’s life is an evil, whether considered in itself or because it is something that impedes one’s own plans, or imposes burdens or responsibilities. The idea of sacredness is not generally called on for support with reference to other actions – howsoever just or erroneous they may be – which in their intentional structure are directed toward defending the life of a person or a collectivity, even if the death of someone should follow as a collateral or *praeter intentionem* effect (in the case of legitimate defense, for example). In other words: *what the idea of the sacredness of human life excludes absolutely, is the thought that, in certain circumstances, the life of a concrete human being is an evil that should legitimately be eliminated from the world*. And whenever a human being has been eliminated, the idea of sacredness indicates the particular seriousness of such an act.⁴⁸ Voluntary homicide is not only directed against a good of great importance, and thereby commits a serious injustice, in addition, it is directed against a sacred good, a divine good, in which “the inviolability of the Creator himself is reflected”.⁴⁹

Some Objections — There are some writers who present as criticism a caricatured interpretation of the principle of the sacredness of life, as if it implied the affirmation of a divine prerogative excluding the intervention of any human intelligence whatsoever in the promotion of life and its foreseeable quality. Such authors tend to identify this principle with a kind of harsh opposition to any application of scientific progress

⁴⁷ *Evangelium vitae*, no. 34.

⁴⁸ Cf. *Evangelium vitae*, no. 55.

⁴⁹ *Evangelium vitae*, no. 53.

to the area of human life. A useful example here would be a passage from the essay by David Hume *On Suicide*: “Shall we assert that the Almighty has reserved to himself in any peculiar manner the disposal of the lives of men, and has not submitted that event, in common with others, to the general laws by which the universe is governed? . . . Were the disposal of human life so much reserved as the peculiar province of the Almighty, that it were an encroachment on his right, for men to dispose of their own lives; it would be equally criminal to act for the preservation of life as for its destruction. If I turn aside a stone which is falling upon my head, I disturb the course of nature, and I invade the peculiar province of the Almighty, by lengthening out my life beyond the period which by the general laws of matter and motion he had assigned it”.⁵⁰

This objection misunderstands the meaning of the principle of the sacredness of human life. *The principle affirms that life is always a good, which has been entrusted to human beings, and which implies therefore a duty and a responsibility.* It is not supposed to mean that God and man are two opposed or rival powers, and that God’s supremacy would exclude any intervention of human intelligence on behalf of human life or the quality of that life (as if God and man were two motorists trying to get the same parking space: either one gets it or the other). This would be a completely inadequate way to express in general terms the relationship between God and human beings: we are children of God, but no less are we children of our own parents; we owe our lives to our parents, and it is not thereby any less true that we also owe our lives to God. We are not children of God in the same way, or on the same level, as we are children of our parents. Parents generate us as collaborators with God. God creates, human parents procreate. With respect to the end of life as well: it is true, for example, that a tumor kills us, but at the same time it is equally true that God is calling us to pass on to the definitive life.

The sacredness of life means, therefore, that human life is a sacred good, but also a sacred good that God has entrusted to human responsibility. God entrusts to each person his or her own life, and in certain circumstances the life of others too, particularly when the other is weak

⁵⁰David Hume, “Of Suicide”: 11.

or incapable of providing for himself. The entrusting of human life to the human being implies in itself a human power of disposition, which is interpreted as a collaboration with God, and thereby requires an attitude of service and love, and not of arbitrary domination or mere power of production. The encyclical expresses this by saying that man has a ministerial but not absolute dominion over his own life: “a real reflection of the unique and infinite lordship of God. Hence man must exercise it with wisdom and love, sharing in the boundless wisdom and love of God.”⁵¹ In so far as the principle affirms that life is always a good -- even though it may not always appear to be -- it also affirms that the direct and deliberate destruction of life is always a moral error. Only God can determine what is the right moment for leaving this world and for passing on to the definitive life. This does not mean that only God can kill. God does not kill. It is human beings that have to die. But it is not the business of human beings to determine the moment when death should arrive for each of us, since only God can know the best moment for each and every person to pass from this world to the next. In what concerns the decision-making power of human beings, life is always a good.

4.2.7 *The Ethical and Political Role of the Principle of the Inviolability of Human Life*

Modern political culture presupposes an ethos of peace and security, and of freedom and justice, which secures its moral legitimacy. With regard to peace and security, modern political culture requires that the monopolization of physical force be reserved to the state, and that violence within human relationships be prohibited. Individuals renounce the use of force, and their security is fully guaranteed by the state.⁵² In other words: *the modern state comes into existence to the extent to which it*

⁵¹*Evangelium vitae*, no. 52.

⁵²The rootedness of the modern state in the ethical-political values of peace, freedom, and justice, has been vigorously illuminated by Martin Kriele, *Einführung in die Staatslehre. Die geschichtlichen Legitimitätsgrundlagen des demokratischen Verfassungsstaates*, 4th ed. (Opladen: Westdeutscher Verlag, 1990). On this theme as a whole, cf. Martin Rhonheimer, “Why is Political Philosophy Necessary?” , in William F. Murphy, Jr., ed., *The Common Good of Constitutional Democracy* (Washington, D. C.: Catholic University of America Press, 2013), pp. 1-35.

disarms its citizens and succeeds in enforcing the prohibition of murder in the most effective way. This kind of organization of human social life is considered by everyone to be an achievement that should not be abandoned.

A relaxation of this principle would set off the phenomenon known as a “slippery slope”, and bring us to barbarism in the end. *The prohibition of murder can exercise a pacifying influence toward the elimination of violence in human relations only if it is effectively observed and guaranteed even in problematic borderline situations.* In that way, life is protected by the state. It is a question of justice which stands at the foundation of life in society, which the state cannot delegate to the variety of individual convictions. As N. Bobbio rightly said in response to someone who once invoked the social contract to support the right of abortion: “Thomas Hobbes, the first great political thinker to formulate the social contract, held that the only right *never* renounced by those entering into a social contract was the right to life”.⁵³

*The respect for fundamental human rights – among which the right to life has the first place – is the condition that truly distinguishes a constitutional democracy from a state that is not constitutional.*⁵⁴ Some totalitarian regimes of the past had written constitutions, but they were not constitutional, since the power of certain organs of the State (or Party) were not limited, at least in practice, by the rights of the person. In other words, in a democratic and constitutional state, life cannot *not* be protected. If it were not protected, in the long run the State would not be able to fulfill its peace-making function, and private violence would once again become a part of human interactions.

⁵³Interview of Norbert Bobbio with *La Stampa*, on May 15, 1981; quoted by A. Palini, *Aborto. Dibattito sempre aperto da Ippocrate ai nostri giorni* (Roma: Città Nuova Editrice, 1992), p. 74.

⁵⁴Cf. P. Häberle, *Die Wesensgehaltgarantie des Art. 19 Abs. 2, Grundgesetz. Zugleich ein Beitrag zum institutionellen Verständnis der Grundrechte und zur Lehre vom Gesetzvorbehalt* 3rd enlarged ed. (Heidelberg: C. F. Müller, 1983); N. Matteucci, *Organizzazione del potere e libertà. Storia del costituzionalismo democratico* (Torino: UTET, 1976).

4.3 Normative Implications of the Principle of the Inviolability of Human Life

From this principle of the inviolability of human life there flows immediately a negative norm, which has been formulated very solemnly in the encyclical *Evangelium vitae*: “By the authority which Christ conferred upon Peter and his Successors, and in communion with the Bishops of the Catholic Church, *I confirm that the direct and voluntary killing of an innocent human being is always gravely immoral*. This doctrine, based upon that unwritten law which man, in the light of reason, finds in his own heart (*cf. Rom 2: 14-15*), is reaffirmed by Sacred Scripture, transmitted by the tradition of the Church and taught by the ordinary and universal Magisterium”.⁵⁵

*The explicit reference to the ordinary and universal Magisterium is meant to indicate that the Church is drawing on the charism of infallibility in this moral teaching.*⁵⁶ The formula that has been employed also contains the refinement that the killing that is always and without exception gravely immoral, is one that follows upon a deliberate choice and concerns an innocent person. The legitimate defense and capital punishment do not enter into an absolute formula like this, and are the object of special treatment in the encyclical.⁵⁷ It should, furthermore, also be clarified that the meaning of the adjective *innocent* here is not “the common meaning, that is, ‘someone who is without blame’. According to the traditional theological and canonical language, the meaning of the word here is substantially its etymological sense, that is, *non nocens* (= ‘not harming’ as, for example, ‘incredible’ means ‘not credible’, and ‘unwise’ means ‘not wise’, etc.), and has the meaning therefore of ‘not being an aggressor’, with the implied indication of the object of such aggression, namely, the ‘life of another’.”⁵⁸ A person who is completely insane, who, without any moral responsibility, attacks another person,

⁵⁵*Evangelium vitae*, no. 57.

⁵⁶On the theological import of this pronouncement see A. Rodriguez Luño, “La legge divina del ‘Non uccidere’”, *Studi Cattolici*, 413/414 (1995) 435 – 444.

⁵⁷*Cf. Evangelium vitae*, nos. 55 – 56.

⁵⁸L. Ciccone, *La vita umana* (Milan: Ares, 2000), p. 42.

would not be *innocent* in this sense.

*The moral principle of the inviolability of human life excludes every form of intentional killing of an innocent human being; this does not exclude, on the other hand, the power- to-dispose that *Evangelium vitae* calls “ministerial”.*⁵⁹ If God entrusts to the person the gift of his own life, and in certain circumstances, even the gift of the life of another (of children, elderly parents, or the infirm), life represents a moral duty for the one to whom it has been entrusted. Such a duty comprehends love (hatred is never licit) and respect, and in particular circumstances even a positive act of promotion, protection or support (by the mother with respect to the child in her womb, or by children with respect to elderly or infirm parents). In any case, the carrying out of the ethical duty comprised in every human life can sometimes require the making of decisions concerning oneself or others, which nevertheless put one’s own life at risk. This occurs, for example, in the case of doctors or priests who have dedicated themselves to the care of persons with highly infectious diseases, and with respect to the legitimate authority which the care of such persons lends to the doctor or priest. Such personal sacrifice can be accepted or legitimately requested for others, since it is in accord with, or even coincides with, the highest realization and the fullest expression of the ethical personhood of the human being (charity). For that, such a sacrifice is perfectly congruent with the sacredness of human life. In his capacity to sacrifice himself on behalf of a neighbor in need, the human being is the image of God who took on human nature in order to offer his own life for us. But it is one thing to dispose of one’s own life or the life of another – in the sense we have just indicated – in order to realize moral excellence with which man supremely imitates God; it is another thing to deny or destroy one’s own life or the life of another out of a refusal of the ethical duty that our life presents to us, or that has been entrusted to us in the lives of others (a diseased child, an abortion, euthanasia, etc.).

What *Evangelium vitae* is saying, then, with respect to the principle of the sacredness of human life, is the following:

1. That there are no circumstances in which the decision to kill an

⁵⁹ *Evangelium vitae*, no. 52.

innocent person is appropriate for what a person is, according to the divine image that is present in the person;

2. That there are no circumstances in which the ethical duty that every life entails, either for oneself or for others, can be realized through preventing the moral subject from living or, if it is the case, from being born, even when it is foreseen that the person in question will have a life full of suffering or limited by a handicap or disability of some kind.

From the principle of the sacredness of human life there is also derived a general positive obligation to promote and sustain life. As in the case of other positive norms, this norm obliges *semper sed non pro semper*. It is necessary to take account of many circumstances (a doctor is obliged to do certain things that are not required of non-doctors). And in every case, an inevitable death must be accepted (impermissibility of futile therapeutic measures).

In what follows we will be concerned with concrete behaviors that are studied in the light of this principle.

4.4 Responsibility for One's Own Life

4.4.1 *Care of the Body and Health*

*Responsibility for the life entrusted to us by God brings with it a reasonable amount of care for one's own health.*⁶⁰ Above all, it is a responsibility toward God, and secondarily, a responsibility toward others: parents, children, husband, wife, etc. With regard for oneself, the care of one's own health is an obligation of *caritas*, and not one of justice in the strict sense, since justice presupposes reciprocation, and that is absent in this case.

Taking care of oneself is a natural tendency. Nevertheless, for the Christian it is something more."This natural love for one's own person

⁶⁰For the present discussion it is not necessary to study the various concepts of health that are in such wide circulation today. The interested reader will find a good summary in L. Ciccone, *Salute e malattia. Questioni di morale della vita fisica, II* (Milan: Ares, 1986) pp. 32-38, and the extensive bibliography on pp. 72-74.

has been recognized by Christianity, which elevates it to a supernatural Christian virtue, and places it in an internal and necessary relation with the divine will, as revealed in Christ, and as something that befits his disciple. Love for oneself has been located by Jesus, in his first and greatest commandment, in an intimate relation with love for one's neighbor, "You shall love your neighbor as yourself" (*Mt* 22:39), and from this derives its inclusion within the love of God. In the same way that love for one's neighbor in a Christian sense leads us to discover a creature made after the image of God in every human being, just so, love of oneself, in the Christian sense, becomes the object of a real relationship with God".⁶¹

In this matter it is important to understand very well the meaning and purpose of the care for one's own health. The body is an integral part of our being in this life, and after the resurrection it will also be that, but forever. And health is ordinarily a necessary condition for the development of our attributes, even of those that are more spiritual in nature. *The human body has its own importance and significance in the divine economy of salvation.* The teaching of St. Paul is clear: the body is for the Lord, the body is a member of Christ, and we are called to glorify God in our own bodies.⁶² For this reason, in the Christian care of the body there is, on the one hand, a sentiment of respect for the divine creative work and for Christ himself, and for this reason alone the Christian becomes indebted to his own body. On the other hand, *concern for health is no longer reasonable when it becomes an end in itself, as a worship of the body and an idolatry of health, and still less so when it becomes an instrument of destruction.*⁶³ When submitting ourselves to

⁶¹F. Tillmann, *Il maestro chiama. Compendio di morale Cristiana*, 4th ed. (Brescia: Morcelliana, 1953) p. 219. See also *Eph* 5:29.

⁶²*Cf.* *1 Cor* 6:13, 15, 20.

⁶³"If morality requires respect for the life of body, it does not make it an absolute value. It rejects a neo-pagan notion that tends to promote the *cult of the body*, to sacrifice everything for its sake, to idolize physical perfection and success at sports. By its selective preference of the strong over the weak, such a conception can lead to the perversion of human relationships" (*CCC*, 2289). Defining more precisely the nature of the serious moral importance of caring for one's health, Ciccone justly maintains that "*bodily health is a good to be carefully invested, more than to be preserved [...] Every damage or decrease of health that is inseparable from the fulfillment of definite duties, is nothing other than a true valorization of health itself, in a correct hierarchy of values. But also, and correlatively, any damage or decrease of health that is not a consequence of carrying out one's duties, is morally reprehensible, and such damage would be all the more serious and impermissible, the more serious and foreseeable the damage to one's health is*", (L. Ciccone, *Salute e malattia*, p. 49).

the particular duties that God entrusts to each of us, as Christians we should keep a noble freedom with respect to our bodies and our health: "For whoever wishes to save his life, will lose it, but whoever loses his life for my sake will save it. What profit is there for one to gain the whole world yet lose or forfeit himself?"⁶⁴ "Therefore I tell you, do not worry about your life, what you will eat or drink, or about your body, what you will wear. Is not life more than food and the body more than clothing?"⁶⁵ Nor can it be forgotten that the body can easily become "a sinful body" to "be done away with".⁶⁶ All our bodily concerns should be governed by the well-known admonition of Paul: "Consequently you too must think of yourselves as being dead to sin and living for God in Christ Jesus. Therefore sin must not reign over your mortal bodies so that you obey their desires. And do not present the parts of your bodies to sin as weapons for wickedness, but present yourselves to God as raised from the dead to life and the parts of your bodies to God as weapons of righteousness. For sin is not to have any power over you, since you are not under the law but under grace."⁶⁷

The moral responsibility for the body and health comprises also the responsibility for adequate nourishment; for clothing that is used for protective, expressive and social purposes; the duty to have a suitable dwelling, normal hygiene, sufficient sleep and enough rest, not to mention suitable medical care that is also proportionate from the therapeutical point of view.⁶⁸ Irrational negligence and devaluation of the body are sins against the work of God, and a sin in this matter can be serious.

It would not seem out of place here to repeat an observation made by Tillmann: "In the Christian concept of the body as the temple of the Holy Spirit, to which therefore respect and health are appropriate, is also to be found the deep root of the duty for neatness and cleanliness, and their relationship to virtue. *The body ought to be the image of the soul*, and experience teaches that someone who does not exhibit cleanliness and order on the outside, does not possess them on the inside

⁶⁴Lk 9:24-25

⁶⁵Mt 6:25.

⁶⁶Cf. Rom 6:6.

⁶⁷Rom 6:11-14.

⁶⁸In Chapter Five we will clarify the distinction between proportionate and disproportionate therapy.

either. *The necessity for cleanliness is not, therefore, only a question of 'good breeding', of education, of the respect owed to others, but is rather an expression of respect for oneself and for one's own person, which is a Christian duty.* The “unkempt saints” do not have to be considered exemplary for us: the reports of such phenomena should be taken in the spirit of the ancient culture, as demonstrating an appreciation of sincerity of intention, even if to our way of thinking it may appear repugnant. And it must also be remembered that the well-intended care for the body and for health is the product of modern times, and hygiene, as a science, is relatively young! The dignity of the Christian requires that one have neither an *exaggerated* concern for one's health, nor let it decline through neglect; it ought to be considered a gift of God, an instrument for good actions, a gift and an instrument for which, one day, we will have to give an account. But still less should a Christian make himself into a slave to his body, and allow all his time and attention to be absorbed in its care!”⁶⁹

The Church teaches that the public authorities also have a responsibility in this area: “Concern for the health of its citizens requires that society help in the attainment of living conditions that allow them to grow and reach maturity: food and clothing, housing, health care, basic education, employment, and social assistance.”⁷⁰ Each person, of course, has the primary responsibility for his or her own life and health. God has entrusted life and health to each individual, not to the state. Consequently in medical as in other kinds of care, the principle of informed consent must always be respected. Only an emergency that is serious and clearly affects the common good or third parties can justify a coerced intervention.

A very special kind of negative influence belongs to the substances which when abused can endanger health and even life, such as drugs of all varieties, medicines, alcohol, tobacco, and other stimulants. We will discuss these matters in our study of the virtue of temperance.

⁶⁹F. Tillmann, *Il maestro chiama*, (see note 61), pp. 230-231.

⁷⁰*Catechism of the Catholic Church*, no. 2288.

4.4.2 *Suicide*

Definition and Typology of Suicide — By suicide we understand *the intentional taking of one's own life by way of an action or omission on the part of the subject or requested by the subject* (traditionally, moral theology has called this “direct suicide”).⁷¹ Suicide is a serious and troubling phenomenon, well known since antiquity, and in the modern world has acquired new dimensions of importance, whether with regard to its frequency,⁷² or in regard to the danger of its increasing acceptance, especially under the form of euthanasia.⁷³ Its forms and causes are studied by the sciences of psychology and sociology, from their respective points of view.⁷⁴ Durkheim, in his famous sociological study using a functionalist method, distinguished three fundamental forms of suicide: egoistic, altruistic, and anomic. It has frequently been connected with a depressive or pathological mentality, or with situations of extreme existential distress. In these cases it can often be assumed that the action has been carried out by a subject with fairly limited responsibility, sometimes with no responsibility at all. Nevertheless, there have also been philosophical

⁷¹On the problem of the definition of suicide, see M. Van Vyve, “La notion de suicide”, *Revue philosophique de Louvain* 52 (1954) 593-618.

⁷²For an initial overview cf. M. Garzia, s. v. “*Suicidio*”, in F. Demarchi, A. Ellena, B. Cattarinussi (eds.), *Nuovo dizionario di sociologia* (Cinisello Balsamo: Paoline, 1987), pp. 2135 – 2149; L. Pavan, D. De Leo, (eds.), *Il suicidio nel mondo contemporaneo* (Padua: Liviana, 1988).

⁷³ We will treat the topic of euthanasia in Chapter Five.

⁷⁴Cf. E. Ringel, *Selbstmord. Abschluss einer krankhaften psychischen Entwicklung* (Vienna: Maudrich, 1953); Various authors, *Il suicidio: follia o delirio di libertà?* (Milan: Paoline, 1989); L. Tomasi, *Suicidio e società. Il fenomeno della morte volontaria nei sistemi sociali contemporanei* (Milan: Angeli, 1989); E. Pavesi, “Tentativi di suicidio e la loro prevenzione. La sindrome presuicidaria”, *Renovatio* 25 (1990) 110 – 125; E. Fizzotti, A. Gismondi, *Il suicidio. Valore esistenziale e ricerca di senso* (Turin: Sei, 1991); D. De Leo, L. Pavan (eds.), *Suicidio: verso nuove strategie preventive* (Padua: Kendall, 1994); M. L. Di Pietro, A. Lucattini, “Condotte suicidarie e adolescenza nel dibattito attuale”, *Medicina e Morale* 44 (1994) 667 – 690; Various authors, *Suicidio adolescenziale. Complessità sociale e prevenzione* (Milan: Angeli, 1996). For sociological research, see E. Durkheim, *On Suicide*, trans. R. Buss (London: Penguin, 2006 [orig. 1897]); E. A. Powell, “Occupation, Status and Suicide. Toward a Redefinition of Anomie”, *American Sociological Review*, 1 (1958) 131- 139. L. I. Dublin, *Suicide: A Sociological and Statistical Study* (New York: Ronald Press, 1963); R. W. Maris, *Pathways to Suicide* (Baltimore: The Johns Hopkins University Press, 1981). From the philosophical perspective, the essay of F. D’Agostino is very illuminating, “La riduzione moderna della persona: l’esempio del suicidio”, in F. D’Agostino, *Bioetica. Nella prospettiva della filosofia del diritto* (Turin: G. Giappichelli, 1996) pp. 207-219.

defenses of suicide (Seneca, Hume, etc.).

The Church's Tradition and the Magisterium — *Christian tradition has always considered suicide morally inadmissible.* Lactantius, St. Ambrose, St. Augustine, and many others are witnesses to this. St. Augustine in particular explained how it is impossible to preserve one's own virginity by suicide: "Certainly, someone who has killed himself is a murderer, and a more culpable one, the more innocent he was of the offense for which he decided he should have to kill himself," not even when he does this to expiate his own guilt: "We rightly detest the deed of Judas, and truthful reasoning judges that when he hung himself, he only increased rather than diminished the guilt of his act of betrayal, because by fatally despairing of the mercy of God, the penitent person leaves no room for the repentance that would save him".⁷⁵

Various Councils have prohibited prayers of intercession and an ecclesiastical burial rite for suicides,⁷⁶ a teaching that remained substantially unchanged until the 1983 Code of Canon Law came into force. The latter does not explicitly mention suicides among public sinners who cannot receive ecclesiastical burial,⁷⁷ and therefore full imputability to someone who has taken his own life is not to be assumed as a general rule.⁷⁸

For the recent magisterium, it should suffice to recall the firm commandment not to commit suicide by the Second Vatican Council,⁷⁹ and

⁷⁵St. Augustine, *City of God*, 1. 17. And he adds the following a little later in the passage: "And it is not without reason that nowhere in the Holy Canonical Books can it be found that it is commanded or permitted to kill oneself for the purpose of gaining immortality or for avoiding or removing some evil. For it must be understood to be prohibited for us, when the law says, 'Thou shalt not kill', particularly because the words 'thy neighbor' are not included, as in the commandment, 'Thou shalt not give false judgment against thy neighbor' [Ex 20: 13. 16] ... in the commandment, 'Thou shalt not kill', with nothing being added, nobody is excluded, not even the one to whom the commandment is addressed!" (*City of God*, 1: 20; our translation).

⁷⁶For example, Canon 15 of the Second Council of Orleans (a. 533), and Chapter 16 of the Council of Braga (a. 563); Mansi 8: 837 and 9: 779.

⁷⁷ *CIC* c. 1184.

⁷⁸On this question, the Decree of the Congregation for the Doctrine of the Faith of September 20, 1973 should be kept in mind (AAS 65 [1973] 500) which treats of the importance of carrying out an adequate catechesis to avoid any possible scandal for the faithful. On the same theme, see L. Ciccone, *La vita humana* (see note 58 above) pp. 91-93. The *Catachism* has this to say: "We should not despair of the eternal salvation of persons who have taken their own lives. By ways known to him alone, God can provide the opportunity for salutary repentance. The Church prays for persons who have taken their own lives" (no. 2283).

⁷⁹*Gaudium et spes*, no. 27.

to cite the synthesis of Church teaching presented in the Encyclical *Evangelium vitae* : “Suicide is always as morally objectionable as murder. The Church’s tradition has always rejected it as a gravely evil choice (*cf.* St. Augustine, *De Civitate Dei*, 1, 20; St. Thomas Aquinas, *Summa Theologiae* II-II, q. 6, a. 5). Even though a certain psychological, social and cultural conditioning may induce a person to carry out an action which so radically contradicts the innate inclination to life, thus lessening or removing subjective responsibility, suicide, when viewed objectively, is a gravely immoral act. In fact, it involves the rejection of love of self and the renunciation of the obligation of justice and charity towards one’s neighbor, towards the communities to which one belongs, and towards society as a whole (Congregation for the Doctrine of the Faith, Declaration on Euthanasia *Iura et bona* [May 5, 1980], I: AAS 72 (1980), 545; *Catechism of the Catholic Church*, nos. 2281-2283). In its deepest reality, suicide represents a rejection of God’s absolute sovereignty over life and death, as proclaimed in the prayer of the ancient sage of Israel: “You have power over life and death: you lead men down to the gates of Hades and back again (*Wis* 16: 13; *cf.* *Tob* 13: 2).⁸⁰

Theological Consideration — In the light of what we have just maintained with respect to the principle of the inviolability of human life,⁸¹ an understanding of the immorality of suicide on the objective level should not present much difficulty. Even in the most extreme case of a person who has been abandoned by everyone, someone whose own life appears to be more a burden on society than a benefit to it, the intentional killing of oneself is still the negation of the moral subject as such, the image of the living God, an act through which one removes oneself in a radical way from any ethical challenge that life brings (sickness and sadness, loneliness, disability, the repenting of past mistakes, facing up to the consequences of past failures, etc.). The entire moral order is negated with the elimination of the moral subject. Nevertheless, at the level of subjective responsibility, there are conditions and situations that are so complex that only God can judge them.

Indirect Suicide – This is the rather unfortunate term that moral theological tradition has applied to certain forms of behavior that, while

⁸⁰ *Evangelium vitae*, no. 66.

⁸¹ See sections 2 and 3 of the present chapter.

intending to accomplish some important or necessary good, bring grave danger to one's life. The risk of dying (or as the case may be, dying itself) is not sought or willed in any way, either as an end or as a means to an end, but is only tolerated insofar as it is bound up with actions that need to be done for other, important motives. Soldiers, police officers, medical doctors and priests who are attending to persons with seriously infectious diseases, etc. are obliged sometimes to face serious risks in their line of work. Such behavior is morally licit and sometimes obligatory when no other way exists to obtain or defend essential goods, or at least when the goods to be defended or obtained are proportionate to the risk that is being run. The common good, the physical and spiritual life of others, etc. can render highly risky actions morally just.

4.4.3 *Dangerous Actions*

A separate heading is deserved by actions that by their nature, or by the way they are done by a certain person, endanger that person's own life or the life of others, most frequently for banal motivations. To this category belong certain car-driving behaviors (especially driving while inebriated or partly inebriated, or when excessively fatigued), extreme sports, sports played by someone who does not possess the requisite skill or equipment, unnecessary diets undertaken without proper medical supervision, surgical interventions that are frivolous or lack necessary safeguards, serious neglect in maintaining vehicles, airplanes, elevators, home equipment, etc.

Even when the risk is not purposely sought out, *such actions constitute moral culpability*, which can also be very serious. According to the situations and circumstances, such actions are the cause of a statistically significant number of deaths, bring about serious family tragedies, and contribute a remarkable financial cost to society. Institutions and persons who work in emergency assistance, systems of sanitation and safety, are obliged to solve grave ills that most of the time are caused by nothing other than imprudence, superficiality, or the vanity of doing something in fashion. On the social and political level, we should note, condoning irresponsible behavior which has serious consequences in the end for others and for the community, has nothing to do with respect for personal freedom.

4.5 Responsibility for the Life of Others

In our study of the inviolability of human life, we have explained in their general lines the theological principles and the ecclesiastical doctrines that provide the basis for the right approach to take with regard to human life, whether this is one's own life or the life of one's neighbor. The normative expression of this justice-inspired attitude is the commandment, "Thou shalt not kill". We have pointed out that this absolutely excludes every form of intentional killing of an innocent human being. It does not exclude, however, or at least does not absolutely exclude, other actions from which the death of a human being might result in various ways. On the basis of the theological principles already studied, we can now distinguish the various types and morally evaluate them.

4.5.1 *Intentional Killing of the Innocent*

We know that the Encyclical *Evangelium vitae* once more declared, but in a very solemn way, the doctrine according to which "*direct and intentional killing of an innocent human being is always gravely immoral*".⁸² But we still need to explain just what is the direct and voluntary killing of an innocent.

We have already said that in the technical language of morality "innocent" in this context does not mean "somebody who is not guilty of something" but rather "*someone who does not injure*", that is, "*someone who is not being aggressive*", except in the case where one has a positive and valid right to do so. In this way, for example, a man who is completely bereft of reason because of a serious mental illness and violently attacks another person, while not capable of being morally culpable, is not an "innocent" in this sense, but rather someone who is attacking the right to life, against which act it is licit to make a defense. On the other hand, a policeman whose job is to arrest a delinquent person by order of a judge, is an "innocent" and not an "unjust aggressor" against whom it would be licit to defend oneself.

"*Direct and voluntary killing*" means *intentional killing*, that is, every form of actualizing a deliberate and conscious choice to deprive an inno-

⁸²*Evangelium vitae*, no. 57. See also section 3. above.

cent human being of his life, just as much if the taking of the life of the other person is willed as an end as when it is willed as a means to an end, no matter how good.⁸³ Someone who acts, wills consciously to kill, and carries out the action by that will. The expression “whether as a means or an end” is intended to comprise the two modes of direct willing,⁸⁴ in this case direct killing. To deliberately kill Jones is the same thing as “removing Jones from the world”, because from some point of view it appears that Jones’ existence is an evil. This can mean two things: 1) that taking Jones’ life is willed as an end in itself, and this comes about when the ultimate intention of the action is simply to keep Jones from existing any longer; 2) that the taking of Jones’ life is willed as a means to some further end: in order to remove an obstacle (Jones) to one’s own plans; because Jones has been an eye-witness of a deed one wants to keep hidden; to prevent a risk to one’s own life, etc.⁸⁵

The pronouncement of *Evangelium vitae* no. 57 applies to killing as understood in this sense, as does the absolute prohibition of killing in the moral tradition of the Church. A deliberate choice to kill someone is never in conformity with justice. *Intentional killing of an innocent is always a serious moral evil*, one of the sins that cries out to heaven for vengeance,⁸⁶ and has always been considered by common moral sensibility, by civil laws, and by the Church as one of the most serious sins.⁸⁷ It still carries canonical penalties with it today.⁸⁸ The moral negativity of homicide can be aggravated still more when the person who kills breaks by that act natural bonds that are particularly important: this is the case with abortion, infanticide, fratricide, parricide and the murder of one’s spouse.

The killing of an innocent person by another person can also occur as the *non-willed* collateral effect of an action whose *immediate and willed effect is something else*. Within this category two different types should be distinguished.

⁸³ Cf. *Evangelium vitae*, no. 57.

⁸⁴ Cf. *Chosen in Christ to be Saints*, vol. I, ch. 6, section 2 a)

⁸⁵ Cf. the analysis of M. Rhonheimer, *The Perspective of Morality* (cited above), pp. 350-363.

⁸⁶ Cf. Gen 4:10; *Catechism of the Catholic Church*, no. 2268.

⁸⁷ Cf. *Evangelium vitae*, no. 54.

⁸⁸ Cf. *CIC*, c. 1397.

1) In the first type, the death of an innocent happens as a collateral effect, foreseen but willed in any way, of a good action, whether that action is considered in itself or in its effect as immediately willed by an agent. The death of the innocent person is then an *indirect effect* of the action posited by the agent.⁸⁹ We find ourselves here in the presence of an action with a double effect,⁹⁰ and is to be morally judged as such. If the action is good as regards its immediate effect and the intention which inspires it, and if the need to accomplish it is proportionate to the importance of the indirect negative effect (in this case, the death of an innocent person), the action is morally licit, and cannot be judged as a homicide. For example, a young person can have a serious illness that will certainly lead to death within a few months if a certain surgical intervention is not made. But the intervention is a risky one. The organism will either be able to handle the surgery well, and our young man will be definitively healed of his illness, or the organism will not be able, and the patient will not leave the operating room alive. If the death occurred even though the doctor was operating skillfully, it will be a collateral effect, of a necessary therapeutical intervention, foreseen but not willed. It is not a homicide. In such cases, given the extremely serious possibility of a negative collateral effect, it is clear that great care and accuracy should be exercised in determining the necessity or proportionality of the intervention.

It is worthwhile to consider an observation made by Günthör: “We must be very cautious with certain definitions of direct and indirect killing. These can be very remote from the traditional interpretation and can have ruinous consequences. For example, the action of direct homicide has been identified with an action that brings death *per se*, while we are faced with an indirect killing when the death occurs *motivated by a particular circumstance of an extrinsic nature* (per accidens).

⁸⁹Cf. *Chosen in Christ to be Saints* I, ch. 6, section 2 b)

⁹⁰Cf. *Chosen in Christ to be Saints* I, Ch. 6, section 5 b). It is emphasized there in particular how important it is to distinguish an indirect effect from an effect directly willed as a means. The fundamental, distinctive criterion is the following: *because the foreseen effect of an action can be considered the indirect object of the will, such an effect cannot be willed as a means (as the cause, in reality) that permits the desired result or the realization of what is proposed*. Every effect which is understood and willed as a causal link between the subject and the subject's goal is directly willed as a means, and cannot be considered or evaluated as an indirect effect.

This is an erroneous way to explain the matter, as a pair of concrete examples will show: to remain on an airplane that is surely going to crash is an action that brings death *per se*; however, it is a case of an indirect suicide on the part of the pilot if, by doing it, he is trying to prevent damage to buildings and people and not aiming at his own death. Vice versa, an action with mortal consequences that occurs only through particular circumstances, i.e. *per accidens*, can be a direct killing, as is shown in the following case: a certain injection is not *per se* deadly, and can cause death only if there are certain conditions, for example, when the patient is already extraordinarily weak; or, when someone gives someone an injection that is not deadly in itself but the person receiving the injection is gravely ill, so that the injection becomes deadly because of the condition of the patient, it would be a case, nevertheless, of a direct killing, when the one who performed the action was intending the death of the other.⁹¹

2) A case different from the preceding one would occur when a death happens as an effect that is not willed, but still not foreseen, of a morally negative action that injures a person who then dies, or as an effect of marked negligence that is neither willed nor foreseen. The first case is called *un-intentional homicide (involuntary manslaughter)* in law, and would be committed, for example, by someone who is picking someone's pocket, but the person being robbed falls down, hits his head on the sidewalk and dies. The other is called *culpable homicide (criminally negligent manslaughter)*, and occurs when a patient dies in the operating room through serious negligence on the part of the surgeon. The law recognizes a penal responsibility in both cases, and they are punished with a lesser sentence than intentional homicide.

From the moral perspective, the unintentional homicide of the first example is not a directly willed homicide: it was neither foreseen nor willed, not even as a means to some end, since the intention was to rob, not to kill. Death does not generally follow such an action, although sometimes by chance. Nevertheless the agent is morally responsible for causing the death, even if to a lesser degree than someone who kills intentionally. The reasoning has been studied in general moral theory with regard to the moral responsibility for events that follow upon voluntary

⁹¹A. Günthör, *Chiamata e risposta* ... III, no. 462.

actions: “We are responsible for the negative consequences of our evil actions, even if these consequences were not foreseen, because they were foreseeable. We would have had to have avoided doing them if we had done what was good or if we had not carried out the evil action,”⁹² an action we had the obligation not to do. The same reasoning holds for criminally negligent manslaughter, even if it usually in a milder form. It all depends upon the nature and the culpability of the negligence in each particular case.

Finally, someone’s death can be caused in a completely involuntary and inculpable way. This would happen, for example, when someone is practicing at a firing range and following all the safety precautions, kills someone who has (inexplicably and quite unforeseeably) found himself in a place where no one should be. A death of this kind is not morally imputable.

4.5.2 *Legitimate Defense*

The recent teaching of the Church on legitimate defense is given in the *Catechism of the Catholic Church* and the Encyclical *Evangelium vitae*. *Legitimate defense is an intentional act of self-defense, but the wounding or the death of the unjust aggressor is not intended.*⁹³ A fatal outcome is attributable to the aggressor whose action brought it about, even though he may not be morally responsible because of a lack of the use of reason”.⁹⁴ Respect for the life of oneself and of others is a fundamental principle of morality, and “someone who defends his own life is not guilty of murder,”⁹⁵ provided that no more violence than is necessary is used in the self-defense. “Legitimate defense can be not only a right but a grave duty for one who is responsible for the lives of others”,⁹⁶ for the common good of the family and the civil community. The right of self-defense can be renounced “in virtue of a heroic love which deepens and transfigures

⁹² *Chosen in Christ*, I, p. 208.

⁹³ Cf. *Catechism of the Catholic Church*, no. 2263, where the words of St. Thomas are quoted: *S. Th.*, II-II, q. 64, a. 7.

⁹⁴ *Evangelium vitae*, no. 55. The Encyclical refers to St. Thomas, *S. Th.*, II-II, q. 64, a.7, and to St. Alphonsus De’ Liguori, *Theologia moralis*, lib. III, tract. 4, cap. 1, dub. 3.

⁹⁵ *Catechism*, no. 2264.

⁹⁶ *Catechism*, no. 2265.

the love of self into a radical self-offering, according to the spirit of the Gospel Beatitudes” (cf. Mt 5: 38-48).⁹⁷

*There are some authors who raise doubts about the permissibility of legitimate defense and its compatibility with the spirit of the Gospel.*⁹⁸ It seems to us that these doubts proceed largely from an inexact understanding of the nature of the act of self-defense. It is not an intentional choice to kill or to commit some kind of violence in self-defense or to prevent an aggressive act. If it were that, self-defense would be direct and voluntary killing of an aggressor, and therefore a choice to carry out justice by oneself, which is certainly not licit. It is the task of the public authorities to carry out justice. St. Thomas decisively affirms that it is illicit for a private citizen “to intend directly to kill in order to defend himself”.⁹⁹

In self-defense there is lacking an intention to kill the aggressor. Self-defense is directed against the act of homicide brought into existence by the aggressor, and not against the aggressor’s life. If the death of the aggressor should occur, a death which was avoided and certainly not desired, it is a collateral and unintended consequence of a licit and even obligatory action of self-defense.¹⁰⁰ The conditions normally required by moralists for a licit act of self-defense are the following: it must involve an unjust act of aggression, the minimum of violence must be used to ward off the aggression (*moderamen inculpatae tutelae*), and the evil that is done must be proportional to the good that is being defended. In reality, these are nothing other than the criteria that allow us to determine whether a certain act has been rightly judged an act of self-defense, and that the death of the aggressor – if it happens – has been

⁹⁷*Evangelium vitae*, no. 55.

⁹⁸E.g., Karl Barth, in *Kirchliche Dogmatik*, III/4, pp. 488-499. A more balanced treatment of the problem is found in F. D’Agostino, *Omicidio e legittima difesa*, in F. Compagnoni, G. Piana, S. Privitera, (eds.) *Nuovo dizionario di teologia morale* (see note above), pp. 826-830; L. Ciccone, *La vita umana* (see above, note), pp. 51-61 (with bibliography). The recent and excellent study by M. Faggioni, *La vita nelle nostre mani* (Torino: Edizioni Camilliane, 2004), pp. 123 – 136, is correct in its operative conclusions, but still somewhat off-balance, in my view, in its approach.

⁹⁹*S. Th.*, II-II, q. 64, a. 7.

¹⁰⁰For an detailed analysis of the structure of the act of self-defense, see M. Rhonheimer, *The Perspective of Morality*, pp. 362-3;395-6. A fuller analysis, with a discussion of disagreements, is found in M. Rhonheimer, *Natural Law and Practical Reason* (cited above), pp. 458-490.

verified to be the collateral and unintended consequence of the act of self-defense. Self-defense is something very different from punishment, from vengeance, and from a rush of passionate hatred or anger against the aggressor. Legitimate defense is not a “permissible homicide”, because it is not a choice to kill, but a choice to defend oneself. In this sense, it must be affirmed that “the legitimate defense of persons and societies is not an exception to the prohibition against the murder of the innocent that constitutes intentional killing.”¹⁰¹

As stated before, in some particular circumstances a person can think he is being called to exercise charity and peacefulness in an heroic manner by refusing to defend his own life from aggression. But such a refusal cannot be represented as a general moral obligation. In any event, we must avoid putting the Gospel – with its demand for charity, mildness and forgiveness – into conflict with the fundamental demands of justice. The Gospel calls us to peacefulness and forgiveness, but neither, on the other hand, does it support aggression nor can it be called upon to incriminate someone who has defended himself moderately and without hatred.

4.5.3 *Penal Justice and Capital Punishment*

Penal justice is a potential part of the virtue of justice, and that is to say, it is a species of justice.

Some consider it a part of distributive justice; for others, in contrast, it lies in the realm of general or legal justice or commutative justice. The just punishment, according to the case at hand and the perspective from which it is considered, has some aspects which make it akin to each of the three types of justice just referred to.¹⁰² However, what interests us here is to emphasize that it pertains to justice that the public authorities punish the crimes committed by citizens with adequate punishments. And this is the context in which the sensitive issue of capital punishment must be addressed.

In Sacred Scripture — The permissibility or non-permissibility of the death penalty is an argument that excites great controversies today,

¹⁰¹ *Catechism*, no. 2263.

¹⁰² Cf. D. M. Prümmer, *Manuale Theologiae Moralis* (cited above) II, no. 17.

and these also have long histories, to which we will refer in summary fashion.¹⁰³ The fifth commandment of the Decalogue, “Thou shall not kill”, is part of the law of Moses that assigns the death penalty for various crimes. Some special studies have attempted to re-conceive or re-frame this fact,¹⁰⁴ nevertheless the fact does quite clearly exist. In the New Testament, there is no text that offers an explicit legitimatization of the death penalty; a clear justification cannot be derived from *Romans* 13:4. But neither are there any condemnations of capital punishment in principle, even if the spirit of the Gospel implies the passing away of the *lex talionis* and seems to point in other directions in its campaign against evil.

Christian Authors — The Fathers and the ante-Nicene ecclesiastical writers are generally opposed to the death penalty, as they are toward military service and other manifestations of violence. The texts of St. Augustine are susceptible of various interpretations.¹⁰⁵ In fact, during the Middle Ages the thesis of the legitimacy of the death penalty was affirmed, little by little. At the beginning of the thirteenth century the *Professio fidei* established for the conversion of the Waldensians in-

¹⁰³On the death penalty see: A. Günthör, *Chiamata e risposta* (see note 91), III, nos. 479-490; L. Ciccone, *La vita umana*, (see note 58), pp. 63-82 (with a full bibliography); M. Faggioni, *La vita nelle nostre mani* (see note 98) pp. 137-158; C. Caffarra, “Riflessione teologica sui diritto penale dello Stato”, *Ius*, 26 (1979) 367 – 371; A. Bondolfi, *Pena e pena di morte*, (Bologna: Dehoniane, 1985); L. Eusebi, “Cristianesimo e retribuzione penale”, in L. Eusebi, ed., *La funzione della pena: il commiato da Kant e da Hegel* (Milan: Giuffrè, 1989), pp. 173-213; S. Cotta, *La sanzione nell’esperienza giuridica* (Torino: 1989); G. Concetti, *Pena di morte* (Casale Monferrato: Piemme, 1993); N. Blázquez, *Pena de muerte* (Madrid: San Pablo, 1994); M.A. Cattaneo, ed., *Pena di morte e civiltà del diritto* (Milan: Giuffrè, 1997); S. Feminis, “La pena di morte oggi nel mondo”, *Aggiornamenti Sociali* 49 (1998) 421-432; A. Acerbi, L. Eusebi, eds., *Colpa e pena? La teologia di fronte alla questione criminale* (Milan: Vita e Pensiero, 1998). For a detailed examination of the arguments for and against the death penalty, cf. I. Campos Fernández-Figueras, *La argumentación sobre la pena de muerte en Niceto Blázquez y en Ernst van den Haag* (Rome: Pontificia Università della Santa Croce, 2006).

¹⁰⁴Cf. P. Rémy, “Peine de mort et vengeance dans la Bible”, *Science et esprit* 19 (1967) 323-350; E. Wiesnet, *Pena e retribuzione: la reconciliazione tradita. Sul rapporto tra cristianesimo e pena* (Milan: Giuffrè, 1987).

¹⁰⁵N. Blázquez, *La pena de muerte según San Agustín* (Madrid: 1977), holds that St. Augustine denies that the death penalty is ethical. But there are some texts of the Bishop of Hippo that make us think otherwise. Cf. for example M. Faggioni, *La vita nelle nostre mani* (see note 103), p. 142.

cluded the legitimacy of the death penalty.¹⁰⁶ St. Thomas Aquinas, Blessed John Duns Scotus and many other medieval Doctors were of the same opinion.¹⁰⁷ Luther, Zwingli, and Calvin followed medieval opinion, with a variety of interpretative shadings. The preferred doctrine -- of legitimacy -- would be calmly accepted into the manual traditions, both Catholic and Protestant, with a few exceptions. K. Barth was decisively opposed to capital punishment for a Christological motive: capital punishment no longer has any purpose after Christ on the Cross has carried out the expiation of all crimes and all public disturbances. Nevertheless, even Barth thought it was necessary in cases of extraordinary seriousness (i.e., war or betrayal of one's country).¹⁰⁸

The Magisterium of the Church — The *Catechism of the Council of Trent* still held the death penalty as legitimate.¹⁰⁹ Some popes, treating the question as something incidental, maintained the same doctrine.¹¹⁰ More recently, the *Catechism of the Catholic Church* and the encyclical *Evangelium vitae* have made the theme an object of attentive reflection.¹¹¹ The first edition of the *Catechism* (1992) spoke of the

¹⁰⁶“As far as regards the secular power, we declare that it can exercise a judgment of blood without mortal sin, as long as the penalty is carried out not in hatred but as an act of justice, and not in a hasty manner, but after deliberation.” (DH 795).

¹⁰⁷Cf. *Summa Theologiae*, II-II, q. 11, a. 3; q. 64, articles 2 – 3; *Summa contra gentiles*, III, 146. N. Blázquez, in his typical manner, holds that St. Thomas “was gravely mistaken”: N. Blázquez, “La pena di morte”, in E. Sgreccia, R. Lucas, eds., *Commento interdisciplinare alla “Evangelium vitae”* (note 1 above), p. 415. See also N. Blázquez, *La pena de muerte* (Madrid: 1994), pp. 57-76; 125-162. The matter does not seem so clear or simple to us. L. Dewan defends the Thomist argument in L. Dewan, “Thomas Aquinas, Gerard Bradley, and the Death Penalty: Some Observations”, *Gregorianum* 82 (2001), 149 – 165. See also the full critical evaluation of the arguments of Blázquez in I. Campos Fernández-Figueras, *La argumentación sobre la pena de muerte . . .*, (note 103), pp. 11 – 168.

¹⁰⁸Cf. K. Barth, *Kirchliche Dogmatik*, III/4, pp. 506 and following; pp. 510 – 515.

¹⁰⁹Cf. *Catechismus ad Parochos ex ss. Conc. Trid. decreto Pii Vi iussu editus . . .* Pars III, cap. Vi., 4 [Madrid: 1791] p. 326.

¹¹⁰Cf. Pius XI, Encyclical *Casti connubii*, Dec. 31, 1930: DH 3720; Pius XII, *Allocuzione*, September 13, 1952: AAS 44 (1952) 787: “Even when it is a question of the execution of someone who has been condemned to death, the State does not dispose of the individual's right to life. In such a case, the public power is limited to depriving the convicted person of the *good* of life in expiation of the crime, after he has already deprived himself of only the *right* to life by his crime.”

¹¹¹Cf. in addition to the contribution of N. Blázquez already cited, F. Compagnoni, “La pena di morte nel Catechismo della Chiesa Cattolica”, *Rivista di Teologia Morale* 25 (1993) 263-267; L. Eusebi, “Il nuovo Catechismo e il problema della pena” *Humanitas* 48 (1993) 285-296; P. Ferrari da Passano, “La pena di morte nella Chiesa cattolica”, *La Civiltà Cattolica*,

matter from the perspective of legitimate defense. Following “the traditional teaching of the Church”, the Catechism affirmed that the death penalty was licit in extremely grave cases,¹¹² adding, however, that “if non-violent means are sufficient to defend human lives from an aggressor and to protect public order and the security of persons, public authority will limit itself to such means, since they better correspond to the concrete conditions of the common good and are more in conformity with the dignity of the human person.”¹¹³ The encyclical *Evangelium vitae* acknowledges that “on this matter there is a growing tendency, both in the Church and in civil society, to demand that it be applied in a very limited way or even that it be abolished completely.”¹¹⁴ The encyclical clarifies that the problem is to be understood within the perspective of a penal justice that is ever more in conformity with the dignity of the human person and God’s plan for man and human society.¹¹⁵ And then it adds: “the primary purpose of the punishment which society inflicts is ‘to redress the disorder caused by the offense’”(*Catechism*, no. 2266). Public authority must redress the violation of personal and social rights by imposing on the offender an adequate punishment for the crime, as a condition for the offender to regain the exercise of his freedom. In this way authority also fulfills the purpose of defending public order and ensuring people’s safety, while at the same time offering the offender an incentive and help to change his behavior and be rehabilitated (*cf.* *Catechism*, *ibidem*). It is clear that, for these purposes to be achieved, *the nature and extent of the punishment* must be carefully evaluated and decided upon, and ought not to go to the extreme of executing the offender except in cases of absolute necessity, when it would not be possible otherwise to defend society. Today, however, as a result of the steady improvements in the organization of the penal system, such cases are very rare, if not practically non-existent.”¹¹⁶ The Latin *editio typica* of the *Catechism of the Catholic Church* was published in 1997 and introduced

144/4 (1993) 14-26; M. Hendrickx, “Le magistère et la peine de mort. Réflexions sur le Catéchisme et *Evangelium vitae*”, *Nouvelle Revue Théologique*, 118 (1996) 3 – 22.

¹¹² *Cf.* *Catechism of the Catholic Church* (1992 ed.) no. 2266.

¹¹³ *Catechism of the Catholic Church* (1992 ed.) no. 2267.

¹¹⁴ *Evangelium vitae*, no. 56.

¹¹⁵ *Cf.* *Evangelium vitae*, no. 56.

¹¹⁶ *Evangelium vitae*, no. 56.

some modifications in the treatment of the death penalty, in order to have the Catechism better conform to the encyclical *Evangelium vitae*. Number 2267 was now expanded to recognize the licitness, in principle, of the death penalty in conformity with the “*traditionalis doctrina Ecclesiae*”, always provided that the identity and culpability of the offender have been absolutely verified with certainty, and that there is no other way to defend human lives effectively.¹¹⁷ The section concludes as follows: “In fact, in our day, as a consequence of the possibilities available to the state for the effective reduction of crime, by making the person who committed the crime harmless in the future, without definitively removing any chance to redeem himself, cases where it is absolutely necessary to execute the convicted person are “very rare, if not practically non-existent” (*Evangelium vitae*, 56).¹¹⁸ John Paul II wrote that he saw a sign of hope in the growing recognition that the dignity of human life should never be denied, not even to someone who has done evil, renewing his appeal “for a consensus to end the death penalty, which is both cruel and unnecessary”.¹¹⁹

An Ongoing Debate — Arguments for and against the death penalty have been carefully weighed and examined on the level of law and political ethics ever since Beccaria wrote his book opposing the death penalty, *Dei delitti e delle pene* (Livorno, 1764). In light of this discussion, Günthör wrote: “In modern times, the advances made in our sense of the dignity of the human person and of the profound and complex motivations behind human behavior, the means at the disposal of the

¹¹⁷As Ciccone rightly notes, the fact that the Latin edition of the *Catechism* still speaks of a traditional doctrine of the Church concerning the licitness in principle of the death penalty, demands rigorous caution before we consider the thesis of Blázquez as incontestable, according to which there would exist a true apostolic tradition of the impermissibility of the death penalty, and only a later ecclesiastical tradition about its permissibility, which latter tradition would then have little in common with the spirit of the original apostolic tradition. For references to the works of Blázquez, see L. Ciccone, *La vita humana*, pp. 72-73. The approach Blázquez takes seems theologically problematic to us; the solution to the problem should be sought along other paths.

¹¹⁸*Catechismus Catholicae Ecclesiae*, Editio typica (Città del Vaticano: Libreria Editrice Vaticana, 1996) no. 2267: *revera nostris diebus, consequenter ad possibilitates quae Statui praesto sunt ut crimen efficaciter reprimatur, illum qui hoc commisit, innoxium efficiendo quin illi definitive possibilitas subtrahatur ut sese redimat, casus in quibus absolute necessarium sit ut reus supprimatur, “admodum raro huius modi intercidunt casus, si qui omnino iam reapse accident”* (*Evangelium vitae*, 56).

¹¹⁹John Paul II, *Homily* (in St. Louis, USA; January 27, 1999), 5.

state for protecting public order, the necessity for public opinion – as long as it is justified, of course – to be in agreement with the criminal justice system and still other reasons, create a great deal of perplexity when it comes to the death penalty. Furthermore, we must keep in mind that the spirit of the Gospel encourages us to treat with mildness even an individual who has become seriously culpable. Nevertheless, it is not possible to prove definitively that the death penalty must in every case be dismissed as immoral.”¹²⁰

Discussion and Statement of our Position — We must now express our own view of the matter. In the first place, it is essential to clarify that the problem of the death penalty should not be connected to the commandment “Thou shalt not kill”, since this commandment does not refer to it. This follows clearly from the fact that, in the moral and legal culture of the Hebraic people and of many other peoples, the conscious willingness to respect in full the fifth commandment peacefully co-existed with recourse to the death penalty. The choice made by a private person to kill a human being intentionally is a type of moral action essentially different from choosing to apply the death penalty to re-establish justice that has been violated, when it is believed that capital punishment is necessary to attain that end. The latter is an act of penal justice. The question to decide therefore, is not whether the death penalty is compatible with the fifth commandment of the Decalogue,¹²¹ but instead, whether, in the area of penal justice, which the state, by divine dispensation, has the responsibility to administer, the death penalty is a punishment that is suitable for certain crimes.¹²² And the suitability of such a cruel penalty depends either on necessity or a high degree of convenience: is the death penalty necessary or highly convenient for re-establishing justice or for preserving the common good? Is the application of the death penalty truly an action of criminal justice?

¹²⁰A. Günthör, *Chiamata e risposte*, III, n. 490. It should be recalled that this work appeared before the *Catchism of the Catholic Church* and *Evangelium vitae*.

¹²¹Not even Karl Barth’s argument is conclusive, since it confuses two very different levels. See Günthör’s refutation in *Chiamata e risposte*, III, n. 482.

¹²²It should be noted that if *Romans* 13, 1-7 cannot very likely be invoked as an irrefutable proof of the licitness of the death penalty in principle, it certainly shows that the power of the secular authorities “in the field of criminal justice and public security has been granted to them by God” (cf. H. Schlier, *La lettera ai Romani*, [Brescia: Paideia Editrice, 1982], p. 631).

To our thinking, *criminal justice cannot provide a valid answer in all historical periods*. The circumstances can be quite various. The approach proposed by the encyclical *Evangelium vitae* applies to today's situation, and depends, even if only in part, upon a question of fact: "Today however, as a result of steady improvements in the organization of the penal system, such cases are very rare, if not practically non-existent".¹²³ Today, nevertheless, there are more differentiated situations, and in some countries the organization of the penal system is not so well developed; in others, organized crime is so powerful that the state is not able to control its territory (one thinks here of some groups of drug-traffickers); in still other countries the corruption of the public administration makes some crimes unpunishable in practice, and finally, the growing terrorism of today makes for a very subtle distinction between crime-fighting and war.

We are nevertheless of the opinion that the current evolution of the moral and juridical conscience that would reduce (if not absolutely eliminate) the death penalty, is a positive evolution, even though it needs to be freed from a certain ambiguity. In the first place, this is because the value of the life of someone culpable for a serious crime cannot be placed on the same level with the respect to be held for the life of the innocent person; furthermore, and above all, for the reason that, if the ambiguities are not corrected, we end up in patently unjust situations where the State fails at one of its most fundamental tasks, that of promoting the common good. In fact, a State that would punish the embezzlement of millions of euros from the public treasury with a fine of a thousand euros would be a state that is not invested in protecting the common good, and practically encourages the commission of such a crime. By the same reasoning, a State which punishes serious crimes of violence such as terrorist massacres with mere incarcerations that are so reduced that they become completely eliminated, and that commits such errors of judgment as to allow convicts to leave prison every time, a circumstance which the convict then uses as an opportunity to commit further criminal acts, even to kill again, is a State that fails in its fundamental duty of protecting life and providing security. That in itself is a very grave injustice. The State abandons an essential part of its reason for

¹²³ *Evangelium vitae*, no. 56.

existing – the protection of life, security, freedom and justice – and the judicial system becomes a kind of system for protecting the delinquent.

Some persons defend, or are unsure about, the abolition of the death penalty not from a depreciation of life, nor out of insensitivity toward such a cruel penalty, but because, in certain situations, they are not convinced that human life would otherwise be able to secure adequate or real protection. They do not pretend that the existence of the death penalty will reduce the number of criminals (that is something which has not been demonstrated), but they think that, even apart from any preventative efficacy, a penal system that did not succeed in expressing the value and dignity of innocent life would be unjust. Further, the objection that it is contradictory to take a life in the name of the dignity of life, is not convincing. It would be applicable to any punishment: in the name of freedom of law-abiding citizens, the convicted criminal who is put in prison is deprived of his freedom; in the name of the property belonging to the innocent, the property of the guilty is diminished through a fine or by repossession, etc. The great value of a good justifies a differentiation of responses to those who respect that good as opposed to those who attack it.

In the light of these reflections, the prescriptions of Evangelium vitae can be considered a challenge that has been laid before us. The encyclical does not declare the impermissibility of the death penalty in every circumstance. In conformity with the progress of our sensibilities with regard to human dignity, it stirs us to work to create juridical systems and penal institutions that succeed in expressing adequately, and from all points of view, the respect and the value of goods that are worthy of being protected. That is what will make it possible for us to reach the wished-for consensus needed to abolish the death penalty definitively in all nations.

4.5.4 War

If harmonious relationships between individuals and nations are to be counted among life's fundamental goods, war constitutes one of the most cruel and devastating evils. Peace and war have been the object of reflection and debate by moralists and leaders in past years and are even more so today. The Catholic theological tradition has a moral

doctrine on war (St. Augustine, St. Thomas Aquinas, F. De Vitoria, and others), which the recent magisterium of the Church has taken up and updated according to the light of experience and of contemporary political and military realities. In this respect one can understand the great importance of documents like *Pacem in terris* by John XXIII (Nov. 11, 1963), the Pastoral Constitution *Gaudium et Spes* (nos. 77 – 82) and the synthesis presented in the *Catechism of the Catholic Church* (nos. 2302-2317) .

Catholic theologians, following St. Augustine, have never lost sight of the fact that peace is the great human and Christian good to seek for and to retain, once found. The Bishop of Hippo abhorred war and defended peace continually: “Peace should be willed, and war only a necessity, so that God frees us from necessity and keeps us at peace . . . only let necessity, and not will, be the motive for removing an enemy of ours who is fighting against us.”¹²⁴ Nevertheless, it must be acknowledged that, because of sin, there are in existence unjust and violent human beings from whom one must wrest the possibility of harming others; but this cannot be done in an immoral way. Accordingly, in various writings Augustine indicates some criteria for carrying this out in a licit manner:¹²⁵ it was not St. Augustine’s achievement to propose the “theory of the just war”, but it was on the basis of his ideas that later theologians would build the theory.

The great medieval masters, in the shadow of St. Augustine and understanding with a realistic sense that it was not always possible to avoid war, occupied themselves with formulating the conditions under which it is just to enter into an armed conflict, as well as the way it would have to be waged in order to remain licit. *This is the doctrine of the “just war”.* With regard to entering into war, there are substantially three conditions: 1) that it be declared by the supreme authority of the state, 2) that it be in response to a serious and just cause, and 3) that it

¹²⁴Saint Augustine, *Letter* 189 (to Bonifacius), 6; NBA 23, 199. In another letter he writes: “The most deserving glory is precisely that of killing war with one’s words, rather than kill a man with a sword, and to procure or maintain peace by means of peace and not through war.” (*Letter* 229 [to Darius], 2: NBA 23, 709.711)

¹²⁵Cf. *City of God*, 19, 7: NBA 5/3, 37; *Questions on the Heptateuch*, 6,10: NBA 11/2, 1141; *Contra Faustum*, 22, 74-75: CSEL 25, 671-674; *Letter* 138 (to Marcellinus), 2, 14: NBA 22, 185.187; *Letter* 153 (to Macedonius) 6, 16: NBA 22, 541.

be motivated by an upright intention.¹²⁶ By a serious and just cause is meant the defense of a state that sees its very existence and its peculiar goods threatened by the aggression of another state (defensive war), or an aggressive war if that is the only way to acquire fundamental and serious rights or to re-establish justice after suffering a serious injury. But it must in every case be a matter of serious issues, since war was always considered the last resort for freeing the community from an extreme state of emergency. To act with an upright intention means to seek peace and the common good, or to avoid a great evil that threatens. With regard to the mode of conducting the war, it must be free from the thirst for vengeance, free from cruelty and implacability, respect non-combatant citizens and obey the established norms of the *ius gentium* ("law of nations" or, in modern parlance, international conventions).

The tragic experience of modern wars, the increase in the destructive power of weapons, the development of diplomatic relationships and international right, as well as the existence of international organizations even with all their limitations, explain the new way -- the partly new way -- the Church uses today to express her doctrine on war. It is, above all, not so much a matter of limiting the conditions of a just war, as expounding and encouraging the serious moral need to avoid war. In order to guarantee the conditions of peace it is necessary in the first place to struggle against the causes of war: injustice, misery, frustration, etc., and to promote as far as possible whatever favors harmony among peoples: respect for freedom and territorial integrity, protection of minority rights, securing disarmament, abiding by pacts, the preservation of religious freedom, the determination to resolve disputes through arbitration, etc.

Such points having been made, both documents also recognize that war is not always and absolutely immoral. "Certainly, war has not been rooted out of human affairs. As long as the danger of war remains and there is no competent and sufficiently powerful authority at the international level, governments cannot be denied the right to legitimate defense once every means of peaceful settlement has been exhausted."¹²⁷ We hasten to add that only the permissibility of a defensive war is in question

¹²⁶ Cf. *Summa Theologiae*, II-II, q. 40, a. 1.

¹²⁷ *Gaudium et spes*, no. 79.

here, that is, a military action by which the state legitimately defends itself after having made every attempt to reach a peaceful solution. From this perspective, a war will occasionally not only be permitted but even obligatory: “State authorities and others who share public responsibility have the duty to conduct such grave matters soberly and to protect the welfare of the people entrusted to their care.”¹²⁸ A war of aggression is excluded: “But it is one thing to undertake military action for the just defense of the people, and something else again to seek the subjugation of other nations. Nor, by the same token, does the mere fact that war has unhappily begun mean that all is fair between the warring parties.”¹²⁹ A war of aggression without just cause is simply immoral, but it also appears to be excluded as a means to undo injustices. Dialogue, negotiation, discussion among international organizations is called for.

The *Catechism*, too, recognizes only the defensive war, and notes the conditions for its moral permissibility as follows: “The strict conditions for legitimate defense by military force require rigorous consideration. The gravity of such a decision makes it subject to rigorous conditions of moral legitimacy. At one and the same time:

- the damage inflicted by the aggressor on the nation or community of nations must be lasting, grave, and certain;
- all other means of putting an end to it must have been shown to be impractical or ineffective;
- there must be serious prospects of success;
- the use of arms must not produce evils and disorders graver than the evil to be eliminated; the power of modern means of destruction weighs very heavily in the evaluation of this condition.

These are the traditional elements enumerated in what is called the “just war” doctrine.”¹³⁰ The *Catechism* adds that “The evaluation of these conditions for moral legitimacy belongs to the prudential judgment of those who have responsibility for the common good,”¹³¹ who also “have

¹²⁸ *Ibidem*.

¹²⁹ *Ibidem*.

¹³⁰ *Catechism of the Catholic Church*, no. 2309

¹³¹ *Ibidem*.

the right and duty to impose on citizens *the obligations necessary for national defense.*"¹³²

In regard to the carrying out of armed conflicts, the perennial moral law is valid, as well as the norms with respect to non-combatants, the wounded, and prisoners of war. Actions manifestly contrary to human rights are crimes. "Blind obedience does not suffice to excuse those who carry them out. Thus the extermination of a people, nation, or ethnic minority must be condemned as a mortal sin. One is morally bound to resist orders that command genocide."¹³³ *Gaudium et spes* formulates an explicit condemnation of total war: "Every act of war directed to the indiscriminate destruction of whole cities or vast areas with their inhabitants is a crime against God and man, which merits firm and unequivocal condemnation."¹³⁴ Grave moral reservations are also formulated with regard to the accumulation of weapons¹³⁵ and their uncontrolled production and sale.¹³⁶

The licitness of defensive war is generally accepted in international law. The United Nations Charter prohibits the use of force in international relations (article 2. 4). Nevertheless, article 51 states that "Nothing in the present charter shall impair the inherent individual or collective right of self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security."¹³⁷ There is a variety of opinions among jurists on how far to extend the principle of legitimate defense. It seems clear to us that from the moral point of view the aggressor is not always the one who strikes the first blow, just as he

¹³² *Catechism of the Catholic Church*, no. 2310.

¹³³ *Catechism of the Catholic Church*, no. 2313.

¹³⁴ *Gaudium et spes*, no. 80. Quoted also by the *Catechism*, no. 2314.

¹³⁵ Cf. *Catechism*, no. 2315; see also *Gaudium et spes*, no. 81.

¹³⁶ Cf. *Catechism*, no. 2316. See also the Pontifical Commission on Justice and Peace, *Il commercio internazionale delle armi* [The International Arms Trade]. *Una riflessione etica*. (Rome: Libreria Editrice Vaticana, 1994); various authors, *Il problema degli armamenti. Aspetti economici e aspetti etico-morali* (Milan: Vita e Pensiero, 1980); various authors, *Armi e disarmo oggi. Problemi morali, economici ed strategici* (Milan: Vita e Pensiero, 1983).

¹³⁷ An example of the application of the natural right of legitimate collective defense that was recognized by the Charter of the United Nations can be seen in the resolution of the Security Council, no. 661/1990, on the occasion of the invasion of Kuwait on the part of the Iraqi military forces on August 2, 1990.

who strikes the second blow is not always the same as the legitimate self-defender. The defender is one who responds with force to a serious aggression that immediately threatens. The aggressor is one who causes a long-lasting and definite injury serious enough to bring an entire people to destruction and put their very survival in jeopardy.

Modern wars are so devastating that it is difficult not to think that serious moral blame must be assigned to one or to both of the parties, and also to whoever arms and encourages the hostile parties to go to war. *There is a serious obligation to employ all the means at one's disposal to reach a peaceful solution to conflicts and unjust situations.* It is a most seriously culpable act for someone with commercial interests or hopes of economic gain, for motives of exercising dominion via a geopolitical strategy, etc. to incite and nourish conflicts that cause destruction and death on a large scale. The same thing can be said for those who would justify violence with religious motives.

Terrorism deserves special mention. *Gaudium et spes* justly holds that “the complexity of the modern world and the intricacy of international relations allow guerrilla warfare to be drawn out by new methods of deceit and subversion. In many causes the use of terrorism is regarded as a new way to wage war.”¹³⁸ Terrorism deserves the most severe and unconditional moral condemnation,¹³⁹ just as it is completely immoral that wide sectors of the international community tacitly accept it, according to their various political or ideological sympathies, as a legitimate method of contentious self-promotion and defense. There is obviously a moral abyss dividing defensive war from terrorism. In order to defeat it, it must be kept in mind that in the perspective of those who practice it, terrorism makes sense *if it works*. The first, unconditional duty of the international community when it comes to confronting terrorism is to make sure that it does not profit those who have recourse to it, no matter what their point of view and independently of how well-founded their demands might be. The absolute renunciation of terrorism ought to be the condition, not the result, of receiving political support or economic aid from the international community. To act any differently, despite condemnatory declarations, only confirms the political usefulness

¹³⁸ *Gaudium et spes*, no. 79.

¹³⁹ Cf. *Catechism of the Catholic Church*, no. 2297.

of terrorism, and in a certain way legitimates it as an effective method of fighting.

4.5.5 *Pacifism and Conscientious Objection*

By pacifism, we mean love for, and commitment to peace and its promotion and maintenance. In general, there is not any doubt that peace is a good that is binding upon all, especially Christians.¹⁴⁰

There is an *absolute and radical pacifism* that opposes any war on principle, even those carried out in the legitimate defense of a nation, and which sees in peace the one and only absolutely binding imperative. *Gaudium et spes* considers praiseworthy those who renounce the use of violence in the vindication of their rights and interests, but adds that this is only just when it “can be done without injury to the rights and duties of others or of the community itself.”¹⁴¹ Peace is linked to justice and to the sum total of substantive goods through which human dignity finds expression.¹⁴² Absolute and extreme pacifism can sometimes amount to an approval of injustice and oppression, as well as a failure of the State to carry out its responsibilities for safeguarding the common good.

There exists also an *apparent pacifism*, that advertises itself as a promotion of peace, but in reality responds to many other motivations, by which it can even become violent, thus exposing its true nature. As soon as there came to be fewer unjust structures in the occidental world than in the past had been the object of global challenges to the social and political system, peace, for such movements, became the most suitable

¹⁴⁰The current bibliography on peace and pacifism is boundless. We can indicate only a few titles here: M. Scheler, *L'idea di pace e il pacifismo*, (published posthumously in 1931; Milan: Franco Angeli, 1994); V. Possenti, *Frontiere delle pace* (Milan: Massimo, 1973); N. Bobbio, *Il problema della Guerra e le vie della pace*, (Bologna: Il Mulino, 1979); A. Cavagna, G. Mattai, *Il disarmo e la pace. Documenti del magisterio, riflessioni teologiche, problem attuali* (Bologna: Dehoniane, 1982); A. Vögtle, *La pace. Le fonti nel NT* (Brescia: Morcelliana, 1984); G. Gallizzi (ed.), *Lo sviluppo dei popoli è il nuovo nome della pace* (Milano: Angeli, 1984); *Teoria politica tra pace e guerra* (separately-bound monograph of *La Nottola* 1.2, 1986; G. Bianchi, R. Diodato, *Per un' educazione alla pace* (Casale Monferrato, 1987). For our discussion of pacifism in the following pages we follow in general the approach of A. Günthör, *Chiamata e risposta*, III, nos. 506-507.

¹⁴¹*Gaudium et spes*, no. 78.

¹⁴²Pope John Paul II was concerned with the variety of goods and ethical requirements presupposed by peace in his messages to the yearly World Day of Peace.

utopian method upon which to base programs of social criticism, cultural rebellion and political struggle, programs that intend the construction of a social system that would eliminate those who had any legitimate disagreements with that program. The great good of peace then becomes suppressed by a brutal political and ideological instrumentalization.

There is, finally, an *ethical pacifism with a realistic approach*, which promotes the search for the good of peace by every means, but in conjunction with justice, freedom, and the other goods in which human dignity and a just social and political order are expressed. It does not exclude in principle the possibility of legitimate defense, even when it enquires with an extreme rigor into the conditions that render licit the use of arms, and values highly the obligation of seeking every legitimate means to the peaceful solution of any conflict that occurs. This is the only form of pacifism that is legitimate and in fact obligatory from an ethical point of view.

Conscientious objection takes place when a behavior made obligatory by the civil laws is considered gravely immoral by the person who is obliged to carry it out. The objector intends to omit performing the action, and requests that such an omission be allowed in his case.¹⁴³ Conscientious objection, understood in the strict sense, does not challenge the law as such, even if it implies a denunciation of its immorality, nor does it constitute an articulated program of resistance or challenge to law; conscientious objection differs from civil disobedience, from passive resistance, from active resistance and from positive actions carried out for the purpose of improving the legal order currently in force.

Conscientious objection is increasingly considered to be a subjective

¹⁴³According to Navarro Valls and Martínez Torrón, “. . . the objection consists in a refusal of an individual, for reasons of conscience, to become the performer of an action that in principle is juridically required (whether the obligation proceeds directly from the norm, or from a contract). And in fuller terms, it can be affirmed that the concept of conscientious objection includes every presumption contrary to the norm (or contrary to a contract based on that norm) that has been motivated by axiological reasons – not merely psychological ones – of primarily religious or ideological content, which would have for its object: sometimes, the less harmful alternative of the choices presented to the conscience by the norm; sometimes, the avoidance of the action contemplated by the legal command or by the sanction to be applied in the case of its failure to be carried out; sometimes (in case the repressive mechanism is accepted) to provoke a modification of a law that is contrary to one’s own moral conscience.” (R. Navarro Valls, J. Martínez Torrón, *Le obiezioni di coscienza: profili di diritto comparato* (Torino: G. Giappichelli, 1995), pp. 21-22.

right of the person. According to some authors it would be a fundamental right and requirement of the common good. If a person has the right not to be constrained to act against his own conscience, it is fitting that a just society not have such constraints. It is widely agreed today that the idea of conscientious objection is protected by constitutional means, wherever such documents recognize freedom of conscience, religious freedom or even ideological freedom, even though these three freedoms are not the same thing in reality.¹⁴⁴

In some countries conscientious objection is recognized in the laws that pertain to the particular actions involved. In other countries, conscientious objection is directly protected by the constitution or by the fundamental law, and is referred to the courts that are designated for the resolution of conflicts (such as between a physician and the administrators of a hospital, etc.). If regulation according to specific laws seems to offer more security to the objector, it is also the case that the specific regulation of conscientious objection comes at a price: the positive fields of action for the objector are sometimes unjustly limited, and the validity of testimony for the objection is to some extent reduced.¹⁴⁵

Even if the Sacred Scriptures do not support the contemporary technical concept of conscientious objection, there is no doubt that the idea

¹⁴⁴Cf. J. Hervada, "Libertad de conciencia y error sobre la moralidad de una terapéutica", in *Persona y Derecho*, 11 (1984) 13 – 53. For the various aspects of conscientious objection, cf. G. Giannini, *L'obiezione di coscienza al servizio militare: saggio storico-giuridico* (Napoli: Edizioni Dehoniane, 1987); L. Vannicelli, *Obiezione di coscienza al servizio militare: normativa, fondamenti e carenze, analisi, prospettive* (Roma: Euroma, 1988); R. Botta (ed.), *L'obiezione di coscienza tra tutela della libertà e disgregazione dello Stato democratico* (Atti del Convegno di Studi, Modena, Nov. 30 – Dec. 1, 1990; Milano: Giuffrè, 1991); B. Perrone (ed.) *Realtà e prospettive dell' obiezione di coscienza. I conflitti degli ordinamenti* (Atti del Seminario nazionale di studio, Milan, April 9-11, 1992; Milano: Giuffrè, 1992); S. Cotta, "Coscienza e obiezione di coscienza (di fronte all-anthropologica philosophica)", *Iustitia* XLV (1992) 109 – 122; R. P. Palomino, *Las objeciones de conciencia: conflictos entre conciencia y ley en el derecho norteamericano* (Madrid: Montecorvo 1994); R. Bertolino, *L'obiezione di coscienza moderna* (Torino: Giappichelli, 1994); R. Venditti, *L'obiezione di coscienza al servizio militare*, 2nd ed. (Milano: Giuffrè, 1994); J. T. Martín de Agar, "Problemas jurídicos de la objeción de conciencia", *Scripta Theologica*, 27 (1995) 483-504; R. Navarro-Valls, J. Martínez-Torrón, *Le obiezioni di coscienza: profili di diritto comparato* (cit. note 143 above).

¹⁴⁵Cf. the interesting reflections of F. D'Agostino, "L'obiezione di coscienza nelle dinamiche postmoderne", in V. Guitarte Izquierdo, J. Escrivá Ivars (eds.), *La objeción de conciencia: actas del IV Congreso internacional de derecho eclesiástico del Estado* (Valencia, May 28-30, 1992; Generalitat valenciana. Valencia: Conselleria d'Administración Publica, 1993) pp. 23-26.

is found there.¹⁴⁶ The Magisterium of the Church has been concerned with conscientious objection in regard to actions that constitute, or collaborate with, the intentional taking of human life.¹⁴⁷ With regard to military service, *Gaudium et spes* prudently states that “it seems right that laws make humane provisions for the case of those who for reasons of conscience refuse to bear arms; provided, however, that they agree to serve the human community in some other way.”¹⁴⁸

The concrete evaluation of situations which give rise to a conscientious objection to military service can be a very complex matter. In some cases there are no particular problems to the extent that the army is composed only of volunteers or where the civil laws provide the practical possibility of carrying out an alternative civilian duty for those who desire it. But where military service is obligatory, the *absolute and general refusal* to undertake it in a time of peace seems to us to be an objection of conscience that is *objectively* unsupported from the perspective of catholic morality.¹⁴⁹ If such objection were *objectively* supported, one could not affirm, as does *Gaudium et spes*, that those who “devote themselves to the military service of their country should regard themselves as the agents of the security and freedom of peoples. As long as they fulfill this role properly, they are making a genuine contribution to the establishment of peace.”¹⁵⁰ Nevertheless, if the objector finds himself in a situation of serious internal conviction that cannot be overcome *hic et nunc* (invincible error), he must follow his conscience, and the State must respect his decision, at least if it is possible to do so (and

¹⁴⁶One needs only to think of *Ex* 1: 16-17; *2 Macc* 6: 27-30; *Acts* 4: 19; 5: 29. See also: R. Petraglio, *Obiezione di coscienza; Il Nuovo Testamento provoca I cristiani* (Bologna: EDB, 1984); G. Theissen, *Sociologia del cristianesimo primitivo* (Genova: Marietti, 1987); G. Mattai, “Obiezione e dissension”, in F. Compagnoni, G. Piana, S. Privitera, (eds.), *Nuovo dizionario di teologia morale* (cited above) pp. 815-822.

¹⁴⁷Cf. for example John Paul II, *Discorso all Federazione Internazionale dei Farmacisti Cattolici* (November 3, 1990): *Insegnamenti* 13.2 (1990) 990 – 993; *Evangelium vitae*, no. 73.

¹⁴⁸*Gaudium et spes*, no. 79.

¹⁴⁹Conscientious objection is unsupported in the sense that it is not true that accepting military service puts one objectively into a sinful situation. The political and social ideas that each person may have on the convenience or usefulness of such service is something else. The objection of the conscience in the strict sense applies to behavior that is legally obligatory but which an individual person thinks cannot be carried out by him without acting in an immoral way.

¹⁵⁰*Gaudium et spes*, no. 79.

it normally is possible) without serious and manifest injury to the common good. If such a conviction of conscience arises during a time when the State must defend itself from an aggressor, we think that, if possible, the State should exempt the objector from the carrying and use of arms, and the objector should collaborate in the defense of his own country in other ways (administrative service, tending to the wounded, etc.).¹⁵¹ The objector is obliged to examine his convictions critically and carefully, since it is not easy to be convinced for ethical motives *not* to defend one's own country.

On the other hand, it is both objectively supported and morally obligatory to have a conscientious objection when given orders to carry out actions during wartime that are manifestly unjust, and contrary to moral laws and international conventions. Gaudium et spes in this sense affirms that actions “which deliberately conflict with these same principles, as well as orders commanding such actions, are criminal, and blind obedience cannot excuse those who yield to them. The most infamous among these are actions designed for the methodical extermination of an entire people, nation or ethnic minority. Such actions must be vehemently condemned as horrendous crimes. The courage of those who fearlessly and openly resist those who issue such commands merits supreme commendation”.¹⁵²

Finally, it can happen that a war declared by one's own country may seem to be unjust in its entirety. Whoever thinks that the total immorality of an armed conflict is beyond any reasonable doubt, does not have a moral obligation to take part, and this will easily become the moral obligation not to participate actively. If it is merely a question of an opinion or doubt, means must be taken to remove such doubts. Nevertheless, it is often very difficult for a civic community to have the information and the view of the whole situation that is necessary to evaluate properly the decisions of those who govern. If, after adequate reflection the matter seems fully questionable, one can, and generally, one must, accept the recruitment to arms conducted by the public authorities. The latter

¹⁵¹It should be recalled that the *Catechism* clarifies that in the case of defensive war, public authorities “have the right and duty to impose on citizens the *obligations necessary for national defense*” (2310).

¹⁵²*Gaudium et spes*, no. 79. See also *Catechism*, no. 2313, quoted in the previous section (note 133).

are responsible for evaluating situations and for making suitable choices about how to resolve conflicts in the interest of the common good, and it is upon them as well that the -- very serious -- responsibility falls of making the right choices. In practice, such situations and evaluations can be quite various, making it difficult to formulate a single criterion of action.

Chapter 5

Justice in Relation to Human Life (II): Problems in Bioethics

5.1 The Moral Theological Study of Problems Regarding Human Life

Traditional Moral Theology — Traditionally, Catholic moral theology studied the ethical issues bound up with life and physical integrity as being within the domain of the virtue of justice, or the fifth commandment of the Decalogue. The problems studied were those of abortion, suicide, amputation of limbs for medical reasons, the medical treatment of “difficult pregnancies”, etc. For many centuries there was a widely shared moral vision of such questions, and for this reason moral theology could limit itself to a short and essential treatment for the purpose of defining what was licit and what was not.

Pastoral Medicine — Little by little, and for various scientific, cultural, and social reasons, a more detailed study of these questions has become necessary. Pastors, and particularly moralists, are being increasingly called upon to give precise answers to the ethical dilemmas that the progress of medicine has posed for the faithful and for doctors. The first way sought for providing an answer to these problems was the introduction of “pastoral medicine” as a subject in the curriculum of ecclesiastical studies. It was a course of study that intended to give candidates for the priesthood some practical and fundamental knowledge of anatomy, physiology, hygiene, psychology, etc. that would help them understand and properly resolve the questions that occurred most frequently in their

pastoral activity.¹

Medical Ethics — In the first half of the twentieth century theologians felt the need to write manuals that would not be addressed to priests, but to physicians. Books on medical ethics appeared. Notable successes were the books by H. Bon² and P. Tiberghien³. In the nineteen-fifties excellent books of this kind were published⁴.

Bioethics — By the beginning of the 1960's a variety of circumstances stimulated the birth of a more comprehensive kind of reflection. The necessity was vividly seen for establishing clear rules for the biomedical sciences that were now facing new problems raised by the more modern technologies: artificial procreation, genetic engineering, resuscitation, transplants, etc. These new techniques raised numerous ethical questions with disturbing repercussions for the relationship between doctor and patient, challenging administrators with the need to formulate rules for the control of health-care expenses and for a fair distribution of the limited resources available. At the same time, issues such as contraception and abortion were having a forceful social impact, and this set off a heated public debate about the legal regulation of such actions. This is how bioethics came into being. At the end of the sixties and the beginning of the seventies the first Centers for Bioethics were founded (the Hastings Center of New York, the Kennedy Institute of Ethics in Washington, etc.) and gradually the bibliography became quite extensive. Ethical committees were established in hospitals, and in many countries National Bioethics boards were beginning to function. Nevertheless, the scientific status of Bioethics is still much under discussion, and we are perhaps still far from reaching a peaceful resolution that all can share⁵.

¹The first successful textbook of Pastoral Medicine was that of C. Capellmann, *Pastoral-Medizin* (orig. ed., 1878: by 1920 it was in its 18th edition). The last classic work on pastoral medicine was the book by A. Niedermeyer, *Handbuch der speziellen Pastoralmedizin* (Vienna, 1949 – 1952).

²*Précis de Médecine Catholique* (Paris: Alcan, 1936).

³*Médecine et Morale* (Paris: Desclée, no date).

⁴For example: Ch. McFadden, *Medical Ethics* (Philadelphia, 1953); J. Paquin, *Morale et Médecine* (Montréal: 1955); G. Kelly, *Medico-Moral Problems* (St. Louis, 1958).

⁵For a comprehensive view see E. Sgreccia, *Personalist Bioethics: Foundations and Applications*, trans. by John A. Di Camillo and Michael J. Miller, (Philadelphia: National Catholic Bioethics Center, 2012); I. Carrasco de Paula, "Bioética", in L. Melina, ed., *El ac-*

Our Approach — In this chapter, our intention is to approach the study of the problems regarding human life with the method proper to moral theology. Moral theology today can and must take from bioethics the *status quaestionis* of its various problems, as well as a good number of philosophical elements that permit a first moral discernment. But moral theology must evaluate and integrate all these elements in the light of revelation as interpreted and transmitted by ecclesiastical tradition. This does not mean -- as has been said before -- that everything that we consider here can be accepted only on the basis of faith. As John Paul II wrote, “In Christ, the Gospel of life is definitively proclaimed and fully given. This is the Gospel which, already present in the Revelation of the Old Testament, and indeed written in the heart of every man and woman, has echoed in every conscience ‘from the beginning’, from the time of creation itself, in such a way that, despite the negative consequences of sin, it can also be known in its essential traits by human reason”⁶.

5.2 The Debate on the Identity and Status of the Human Embryo

5.2.1 *The Variety of Approaches to the Study*

Bioethical problems – such as abortion and artificial procreation – have acquired so much social and cultural importance in our day that they have inspired a lively debate on the status of the human embryo.⁷ By

tuar moral del hombre. Moral especial (Valencia: Edicep, 2001) pp. 89 – 162; A. Vendemiatti, *La specificità bio-etica* (Soveria Mannelli: Rubbettino Editore, 2002); L. Ciccone, *Bioetica. Storia, principi, questioni* (Milano: Ares, 2003) pp. 9-50.

⁶*Evangelium vitae*, no. 29.

⁷For an introductory orientation on this debate, cf. J. Gallagher, *Is the Human Embryo a Person? A Philosophical Investigation* (Toronto: Human Life Research Institute, 1985); I. Carrasco de Paula, *Personalità dell’embrione e aborto*, in Various authors, *Persona, Verità e Morale* (Rome: Città Nuova, 1986); N. Ford, *When Did I Begin? Conception of the Human Individual in History, Philosophy and Science* (Cambridge: Cambridge University Press, 1988); see the critical analysis of the last-mentioned by A. Serra, “Quando è iniziata la mia vita?”, *La Civiltà Cattolica*, 140/4 (1989) 575-585; E. Blechschmidt, “Daten der menschlichen Frühentwicklung. Menschliches Leben beginnt im Augenblick der Befruchtung.”, in Various authors, *Auf Leben und Tod*, 5th ed., (Bonn: Bastei-Lübbe, 1991), pp. 26-47; P. Caspar, *Penser l’embryon – d’Hippocrate à nos jours* (Paris: Éditions Universitaires, 1991); S. Biolo (ed.), *Nascita e morte dell’uomo. Problemi filosofici e scientifici della bioetica*, (Genoa:

the expression “embryonic state” we refer to the sum total of the characteristics that determine the position of the embryo. The question can be approached from a variety of points of view: *at the scientific level* (the knowledge that science supplies on the formation and development of the embryo); *at the level of being* (the ontological status: “what is it?”: a mass of cells?, a living thing?, a human being?); *with respect to the obligation and responsibility of the human person in relation to it* (the ethical status: how can we or how ought we treat it, what can we licitly make of it); *with respect to the law* (juridical status: how human society ought to regulate the behavior of citizens with respect to human embryos). Each perspective has its proper methodological requirements and limits: for example, embryology cannot demonstrate the presence or absence of a person, even if it does provide information on the basis of which a philosopher can discern the presence of a person.

Of course, there are close connections among the various perspectives of research. It might be assumed that our actions with regard to an embryo should depend on what science tells us about the embryo. But in reality, things are more complex than that, and the ethical approach ought always have a *relative* autonomy with regard to scientific knowledge. It is sufficient here to recall how, in the earliest centuries of Christianity, scientific knowledge of the embryo was scanty, but it was equally scanty for both Christians and pagans. Nevertheless, in the pagan world abortion was widely accepted and practiced, while Christians did not accept it. Today, everybody is equally furnished with very profound scientific knowledge of the embryo, and the same two views are found as in antiquity with regard to abortion. It is not a scientific issue, but an ethical one. It is true that the development of modern science has only confirmed the Christian view, but reasoning about it is suffocated

Marietti, 1993); A. Serra, “Per un’analisi integrata dello ‘status’ dell’embrione umano. Alcuni dati della genetica e dell’embriologia”, in S. Biolo (ed.), *Nascita e morte ... etc.* (just cited), pp. 55 – 105; A. Suarez, “Sono l’embrione umano, il bambino con anencefalia ed il paziente in stato vegetativo persistente delle persone umane? Una dimostrazione razionale a partire dai movimenti spontanei”, *Acta Philosophica*, 2/1 (1993) 105 – 125; J. Val Correa, E. Sgreccia (eds.) *Identità e statuto dell’embrione umano* (Vatican City: Lib. Ed. Vaticana, 1998); N. Lopez Moratalla, M. J. Iraburu Elizalde, *Los quince primeros días de una vida humana* (Pamplona: EUNSA, 2004): the last mentioned is an excellent study – very technical, with a full and updated scientific bibliography; M. Faggioni, *La vita nelle nostre mani. Manuale di bioetica teologica* (cited Ch. 4, note 98) pp. 219 – 259.

by personal and social motivations, by economic interests, by the demand for scientific prestige, by militant political positions, etc.⁸ In any case, it is neither the presence nor the absence of scientific knowledge about the embryo that *always* determines the ethical positions regarding the respect owed to the human embryo.

5.2.2 *The Scientific Perspective*

In the Greco-Roman world, empirical observations of embryos were not lacking. P. Caspar cites a Greek text describing the visible structure of an embryo that had been aborted after 6 days.⁹ This text can serve as the biological foundation for those who maintained during Greco-Roman antiquity that the embryo is a living being from the first moment of its existence. Nevertheless, in the customary thinking of the Greco-Roman world, the Stoic conception was dominant that held that the fetus was a part of the mother, and that animation only occurred at birth. Before birth, the fetus was “not yet existing among human affairs” (*nondum est in rebus humanis*)¹⁰.

In terms of historical influence, the Aristotelian theory of generation is still the most important. For Aristotle, generation is the fruit of the action of the paternal seed upon the maternal blood. Aristotle maintains (*Generation of Animals*) that the paternal seed naturally contains a principle or impulse that transmits the specific form. By reason of the resistance of the (maternal) matter, the formation is gradual, and such a beginning takes forty days for the embryo to develop into an organized body. Before the forty days are completed, the nutritive soul is functioning, which was only in potency in the seed, and the animal soul is in potency. Even the rational soul is in potency, since otherwise it could not pass into act.¹¹ On this basis, and in accord with his own ethical

⁸On this point see A. Rodríguez-Luño, “El concepto de respeto en la instrucción *Donum vitae*”, *Anthropotes. Rivista di studi sulla persona e la famiglia*. IV/2 (1988) 261–272.

⁹Cf. P. Caspar, *Penser l’embryon -- d’Hippocrate à nos jours* (cited), p. 15.

¹⁰For a good historical view of the whole matter, cf. E. Nardi, *Procurato aborto nel mondo Greco romano* (Milan: Giuffrè, 1971); P. Sardi, *L’aborto ieri e oggi* (Brescia: Paideia, 1975).

¹¹Cf. Aristotle, *De generatione animalium*, II, 3: 736 a32 – b 29 (English translation in: Jonathan Barnes, ed. *The Complete Works of Aristotle* The Revised Oxford Translation, Bollingen Series LXXI.2 [Princeton, NJ: Princeton University Press, 1984], vol. 1. pp. 1142–1143).

conceptions, Aristotle held that, in certain cases, “it is necessary to cause an abortion before the fetus has sensibility and life, since the admissibility of that action depends precisely on the condition of sensibility and life of the fetus”¹².

Aristotle’s ideas on abortion had no influence on the moral evaluation of abortion by Christian philosophers and theologians. But they allowed for a distinction between a formed and unformed fetus, which was erroneously introduced by the Greek Septuagint translation of *Exodus* 21: 22 – 25¹³, and it was accepted by some Fathers and many scholastic theologians such as Thomas Aquinas, by moral theologians such as St. Alfonsus, and by the canonistic tradition of the Church in the period between the *Decretum* of Gratian (ca. 1140) and the collection of St. Raymond of Pennyafort (1234) and the constitution *Apostolicae Sedis* of Pius IX (1869), with the exception of the years between the Bull *Effrenatam* (1588) of Sixtus IV and the Constitution *Sedes Apostolica* of Gregory XIV (1591).

According to this theory, known as the “epigenetic theory”, the rational soul is infused by God at forty days for male embryos, and at 80 or 90 days for female. This did not promote any doubt among Christians about the grave immorality of abortion, however, which was considered by all of them as a grave sin, but *in some cases it did bring about a distinction between the moral species of the sin of abortion and its penal consequences*: excommunication was only for the abortion of a formed fetus. Nevertheless, for the entire first millennium of Christianity, abortion of any kind carried the same penalties and penitence as homicide.

The development of scientific embryology gradually brought the epigenetic theory into difficulties. At the end of the seventeenth century the medical scientist William Harvey discovered that the unborn em-

¹²Aristotle, *Politics* VII, 16: 1335 b 24-26.

¹³The New American Bible Revised ed. translation is as follows: “When men have a fight and hurt a pregnant woman, so that she suffers a miscarriage, but no further injury, the guilty one shall be fined as much as the woman’s husband demands of him, and he shall pay in the presence of the judges. But if injury ensues, you shall give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, stripe for stripe.” This is also the meaning of the Vulgate. But the Septuagint makes the reparation pertain not to the injury sustained by the mother, but to the injury sustained by the fetus, and so in place of “but no further injury” is “if the fetus is not formed”, and in place of “but if injury ensues”, it reads, “if the fetus is formed.”

bryo has its own blood circulation system and lives its own life within the mother's womb. In 1827 Karl Ernst von Baer discovered the existence of the female ovum ("egg", in Latin), and this gave a profound shock to the epigenetic theory. It was becoming ever clearer that the determinative moment of generation was the meeting of two gametes, and it was this that brought about the new being, rather than the action of the male seed upon maternal blood. In 1953 James D. Watson and Francis H. Crick succeeded in deciphering the genetic code, and this was the death blow to the notion that the premature embryo was merely an amorphous mass of cells. *It became clear that at fertilization, when there occurs a fusion of the paternal and maternal genetic information, a new individual comes into being, genetically different from both mother and father.* From the beginning, the human embryo does not merely develop *towards being human*, but rather develops – from the beginning – *as a human being*. From that point forward, successive studies have shown that there is a subjective identity, absolute continuity, and a centrally-programmed directionality. As J. Lejeune said, "to accept the fact that after fertilization a new human being has come into existence is no longer a question of taste or opinion. . . it is not metaphysical hypothesis, but experimental evidence"¹⁴.

The continuity of embryonic development is such that it is quite off-base to think of the second, or fourth, or eighth week of gestation as the beginning of a new individual life. The subject that each one of us is begins to exist at conception. Not before conception – since Aristotle noted long ago the profound difference between the gamete and the embryo: the seed has need of another principle for it to begin to develop¹⁵.

The Church's magisterium, canon law practice, and theology have taken account of this scientific reality: *from its conception the embryo is an individual living being of the human species, different from the mother, and therefore the distinction between the formed and the unformed fetus is not valid, nor can bring any penal effects* (from the point of view of moral judgment, such a distinction has always been irrelevant in Christian tradition).

¹⁴Complete text available in *Sí alla vita*, 6/3 (1983) 4.

¹⁵Cf. Aristotle, *Metaphysics* IX, 7 (1049a 14-16).

We must consider some of the principal objections that have been made to what we have just asserted, especially concerning the debate about abortion.

A “Human Being in Potency” — Some persons have taken up Aristotelian and Scholastic terminology in order to affirm that, if the human embryo is a potential human being, it must be recognized as well that the premature fetus is not yet an actual human. When someone destroys an embryo or brings about an abortion he or she is not killing a living human being, but only something that can become one, but is not one yet.

Various observations must be made on this point. Above all, it is difficult to see what possible use objections about premature infants have today. Abortion laws authorize the voluntary abortion of fetuses at three months, and often of much older fetuses, which by all evidence are already fully formed babies. Clearly, if the law denies any protection to fetuses of three months, it will likewise deny it to premature babies. The argument probably runs like this: the law authorizes the abortion of a fetus three or more months old on the basis of a serious conflict with the rights of the mother (i.e. her rights to self-determination and to health). If there is a need to liberalize the use of immature babies for the purposes of scientific experimentation, which is a less pressing need than the immediately presumed rights of the mother, it is right to affirm that such embryos cannot in any way be considered living human beings.

Let us now inspect the merits of the argument. Aristotle’s theory needs some clarification with regard to the concept of potentiality.¹⁶ The *De anima*, to which the *De generatione* refers, states that the higher soul includes the powers of the lower souls, but not vice versa. Aristotle holds that in the human embryo the intellective soul is already present in the “first act”, even if it is not yet exercising its faculties in the “second act” (we should recall that for Aristotle, the soul is “the first act of a natural body that has potentiality for life”¹⁷). Hence, according to Berti’s

¹⁶For what follows cf. E. Berti, “Quando esiste l’uomo in potenza? La tesi di Aristotele”, in S. Biolo, ed., *Nascita e morte dell’uomo. Problemi filosofici e scientifici della bioetica* (cited in note 7 above), pp. 109 - 113.

¹⁷Aristotle, *De anima* II, 3: 412 a 23 - 29.

analysis, the intellective soul is present in the human embryo as a “first act”, but without the “second act”, that is, without the effective exercise of the higher faculties. Only the vegetative faculties are immediately in act. It is not true that Aristotle thinks that only the vegetative soul is present in the premature embryo, and has the sensitive and intellective souls in potency. Rather, his understanding was that the intellective soul is already there in the first act, which in the beginning stages has only vegetative faculties in its second act.

This point is fully confirmed in Book IX of the *Metaphysics*. The embryo can be called a “human being in potency” only in the sense that it is in the process of becoming a human being by its own proper power. The embryo possesses, in its first act, a soul proper to a human being. This means that it is truly human, even though many of its potentialities have yet to develop. The seed is something completely different. Aristotle points out that the latter “is not yet a human being in potency, since it has to be deposited into another being and undergo change . . . it is in need of another principle”¹⁸. It is necessary to understand very well the difference between the possible and the potential: What is potential is that which can become something by its own proper power and becomes it with certainty, at least at long as there are no hindrances. Possibility, on the other hand, is abstract possibility, or what is simply not impossible. This wall can become green, if someone paints it; on the other hand, to be potentially green means that it can only become green, since green is already on the wall, and has only to display its effects. In everyday language, and not using metaphysical terminology, it should be said not that the human embryo is a potential human being, but that it is a human being with many potentialities that have not yet developed.

Monozygotic Twins — Another objection takes its rise from the phenomenon of monozygotic twins. It is maintained that, up until the completion of the time when the formation of twins is still possible, one cannot speak of the existence of an individual human being.

We do not yet have an exhaustive understanding of monozygotic twinning, but in recent years great progress has been made, and in the current state of our knowledge it can be affirmed that the objection does not hold. In fact, it is now known with certainty that not all monozy-

¹⁸Aristotle, *Metaphysics*, IX, 7: 1049 a 14 – 16.

gotic twins proceed from the division of an embryo, and that even when they do proceed from the same embryo, the capacity of a premature embryo to divide does not imply that the embryo that divides does not possess an individual organization (and therefore does not presuppose a state of non-definition). We know, in fact, that two zygotes – that is, two embryos – can develop from a single fertilization. A change in the diffusion of a calcium ion can bring about the first division before the phenotype of the zygote has reached its own first cellular organization. The temporal order of the intracellular processes of fertilization is changed, and two zygotes are derived from the division that are still in their constitutional phase. These monozygotic twins do not proceed from a preceding zygote, but from a single fertilization. It is also known that fertilization can lead to a triploid structure (XXY). This can either die or become two zygotes: XX and XY. This also explains the documented phenomenon of monozygotic twins of different sex. In these cases, the existence of a unique chorion and/or amnion is caused by a phenomenon of fusion¹⁹. On the other hand, some experiments in the vivisection of human embryos, which have unfortunately been carried out (J. Hall and R. Stillman of George Washington University, October 1993), have shown that certain concepts concerning the totipotentiality of human blastomeres that have long been commonly accepted are in need of adjustment²⁰.

The phenomenon of monozygotic twins, since it does not imply any rupture of continuity in embryonic development nor any negation of individuality, can only mean, from an ethical point of view, that the suppression of a premature embryo can impede the development and the birth not of one person, but of two.

Equivalencies Between the Beginning and End of Life — Other writers have wanted to erect a hypothetical parallelism between the initial moment and the final moment of human life. It is maintained that if a human being is considered dead at the moment of irreversible cessation of the functions of the entire brain, the beginning of life could not take place before the functioning of the brain, or of whatever struc-

¹⁹For all of this see N. López Moratalla, M. J. Iraburu Elizalde, *Los quince primeros días de una vida humana* (cited in note 7), pp. 148 – 161.

²⁰Cf. J. Lejeune, “L’impossibile clonazione”, *Studi Cattolici*, 396 (1994) 129 – 130.

ture is the equivalent of a primitive cerebellum. There is no human life where there is no cerebral activity²¹. Such a parallelism is illegitimate. A flat encephalogram as a diagnosis of death²², demonstrates an irreversible process of necrosis. A person in this state is in the final phase of a descending process in which all the potentialities are exhausted. The absence of cerebral activity in an early embryo, by contrast, reveals a being in the initial phase of an ascending process (which is coordinated and guided, naturally, not by the brain yet but by the genome), in which all the potentialities are open. The two situations are not comparable²³. It is biologically natural and normal for the early embryo not to have a functioning brain, since everything is still under the control of the genome. For the adult, by contrast, the irreversible absence of function of the entire brain is biologically a sign of death.

5.2.3 *The ontological Perspective*

The Moment of the Infusion of the Spiritual Soul — Within the ambit of Catholic theology, the question is discussed in connection with the Aristotelian theory, whether the human spiritual soul is infused by God at the moment of conception or when the embryo has been formed (40 days for males and 80 – 90 days for females)²⁴. The Apostolic Fathers and the Apologists did not enter into this question. They limited themselves to a firm condemnation of abortion. Among the Eastern Fathers, almost all supported immediate animation (St. Basil the Great, St. Gregory of Nyssa, Maximus the Confessor). Theodoret of Cyrus, by

²¹This objection was formulated, for example, by M. Mori, “Aborto e trapianto: un’analisi filosofica degli argomenti addotti nell’etica medica cattolica recente sull’inizio e sulla fine della vita umana”, in M. Mori, ed., *Questioni di bioetica* (Rome: Editori Riuniti, 1988), pp. 103 – 148.

²²One must add that the EEG is not the sole diagnostic criterion of death for a patient undergoing revivification, among other reasons because “cerebral death” is not only the cessation of the activity of the cerebral cortex; the activity of the entire brain has to cease irreversibly. On this theme cf. A. Rodriguez-Luño, “Rapporti tra il concetto filosofico e il concetto clinico di morte”, *Acta Philosophica*, 1/1 (1992) 54 – 68; J. Colomo, *Muerte cerebral. Biología y ética* (Pamplona: EUNSA, 1993).

²³Cf. M. L. Di Pietro, R. Minacori, “La teoria della ‘brain birth’ versus la teoria della ‘brain death’: una symmetria impossibile”, *Medicina e Morale*, 49/2 (1999) 321- 336.

²⁴For an overview of the question see P. Sardi, *L’aborto ieri e oggi* (cited in note 7); M. Chiodi, *Il figlio come sé e come altro. La questione dell’aborto nella storia della teologia morale e nel dibattito bioetico contemporaneo* (Milan: Glossa, 2001).

contrast, held that animation took place later. And as we have already noted, the penitential practice of the Church for the first twelve centuries presupposed that every abortion was a homicide.

Among the Scholastics, such as St. Thomas, it was more usual to think that the infusion of the soul took place somewhat later than conception. This position responded to the desire to avoid the traducianism of Tertullian and to maintain the doctrine of the uniqueness of the substantial form. Nevertheless, it presupposes that the embryonic development includes moments of strong discontinuity, a notion that is no longer scientifically acceptable. In any case, such a position was never intended to cast any doubt on the immorality of abortion.

The Church has never made a formal pronouncement on the theoretical question of the moment of the infusion of the soul, which the Church does not consider determinative for the moral evaluation of abortion or for the respect that is due to human embryos²⁵. And yet the position of the Church is not neutral. Its own teaching presupposes that the immature embryo is a living human being.

In our view, it is irrelevant and a distraction to pose the problem of the moment of the infusion of the human spiritual soul in order to determine the ethical status of the human embryo. Whoever has even a minimal knowledge of the history of Western metaphysics knows that the concepts of act and potency were coined in order to think about motion, not to measure it. Analogously, the concept of the soul responds to the philosophical necessity of thinking about and understanding the reality we call “life”, and “living”, and not to the need to determine its end or beginning. Just as it would be absurd to have recourse to the concepts of act and potency when talking with the police about whether or not you exceeded the speed limit, since speed is measured by other means, in the same way, there is no sense in using the concept of the soul to know whether the person lying before us on the ground is alive, and should be taken to the hospital, or is dead, and should be buried. From the inductive point of view, that is, from the point of view of the possibilities of our knowledge, we take our point of departure from life

²⁵ Cf. Congregation for the Doctrine of the Faith, *Declaration on Procured Abortion* (Nov. 18, 1974), n. 13, and note 19; *Donum vitae*, (Feb, 22, 1987) I, 1 ; *Evangelium vitae* (Mar. 25, 1995), no. 60.

or death, as empirically knowable realities, in order to make affirmations about the presence or absence of the soul, and not vice versa. We have to reason in this way: “this is a living human person, therefore the soul is present”. It is not possible for us to reason the other way: “the soul is present, therefore there is a living human being here”. It is not that this second affirmation is not true in what it affirms. The problem is that we are not, nor ever will be, in a position to determine this, since we do not have direct perception of the spiritual soul.

The Ontological Status of the Human Embryo — The important point to which certainty has reached today, is that the human embryo, even if premature, is an individual living human being. To undermine this certainty, recourse has been made to the concept of the pre-embryo, which would apply to embryos less than fourteen days old, or in general to embryos that have not yet become implanted in the uterus. The concept of the pre-embryo, still used in some laws, is arbitrary. The fourteenth day is no more decisive than the other days, when equally important developments take place. And from the ethical point of view it is inadmissible for reasons that we have explained in the preceding chapter and to which we will return: whoever is born from a human mother is human, so long as the contrary has not been established, and nobody is competent to call the human condition into doubt, or establish the criteria to be imposed for recognizing human beings as such.

Other writers take refuge in the concept of person. They concede that the embryo is an individual human life, but they deny that it is a person. Here, everything depends on what is meant by a person. The following criteria have been proposed:

1) *The sensist requirement* (proposed by P. Singer²⁶): this view holds that the concept of person is empty. Only a being that has the possibility for feeling pleasure or pain is deserving of respect, and has therefore developed a central nervous system. An adult animal is more deserving of respect than a premature embryo.

2) *The non-naturalist or anti-naturalist requirement*: this view holds that empirical or biological data is irrelevant for determining the ethical

²⁶ Cf. P. Singer, *Practical Ethics* (Cambridge & New York: Cambridge University Press, 1980)

status. The meaning of personal life is founded on human relationships. The other exists as a person only in relation, and therefore his personal existence depends on me, and on my relationship with him (R. McCormick²⁷, J. F. Malherbe²⁸). The response must be that, in reality, precisely the opposite is the case. The biological individuality of the embryo testifies that the embryo is a being other than I, and to that extent turns into a plea that I recognize its intrinsic value, its own reality as a subject. As a person, I exist in virtue of my own being, and not in virtue of what others give me. If the being of a person depended on others, any discrimination would be legitimate.

3) *A functionalist-actualist basis* (Engelhardt²⁹): a person is defined on the basis of the actual presence of certain characteristics or signs: self-knowledge, autonomy, rationality, etc. This means that not all living humans are persons. The theory reduces substance (in the metaphysical sense) to active functioning. It implies the injustice of the stronger over the weaker, that is, of the one who in virtue of his advantageous position can define the criteria of personhood to be applied to others. The very idea of human rights presupposes – as it was explained in the previous chapter – that such rights are rooted in the human condition, without any further actual characteristic being required. On the other hand, it is inadmissible to use a controversial concept of person as a principle for making fundamental discriminations or distinctions between living human beings.

In our view, the fundamental point with reference to this issue, is that the embryo is a living individual having a human nature. It is impossible for such an individual not to be a person. There is no other modality of existence of living human beings but the modality of being human persons.

²⁷Cf. R. McCormick, *Salute medicina nella tradizione cattolica* (Turin: Camilliane, 1986), pp. 194-195.

²⁸Cf. J. F. Malherbe, “L’embryon est-il une personne humaine?”, *Lumière et vie* 172/34 (1985) 30.

²⁹Cf. H. T. Engelhardt, *Manuale di bioetica* (Milan: Il Saggiatore, 1991), p. 126.

5.2.4 *The Ethical Status of the Human Embryo*

It is now time to examine in the light of the preceding discussion, the nature of an ethically sound attitude with respect to the human being in an embryonic state. For many centuries, this problem was identical with the question of abortion, since there did not yet exist other modes of intervening with the embryo or fetus. The problem has expanded today, since the development of techniques of artificial fertilization has created the possibilities for other forms of intervention with human embryos *in vitro*.

Ever since the first contacts of Christianity with the Greco-Roman culture, the early Christians maintained a decisive “no” to the practice of abortion, as can be seen beginning with the Apostolic Fathers. Abortion was viewed as a crime against human life which grew out of disregard for the Creator. Recently, by taking up the entire tradition of Catholic teaching, the Magisterium has expressed the doctrine of the Church in a definitive and solemn manner. Even without making a formal and theoretical pronouncement on questions such as the moment of the infusion of the spiritual soul and the concept of the person, but also by no means assuming a neutral position, the teaching of the Church presupposes that the human embryo, at whatever stage of development, is a living individual of human condition, to whom the principle of the “inviolability” of human nature can be fully applied. Consequently, it is clearly affirmed that “The human being must be respected - as a person - from the very first instant of its existence . . . Thus the fruit of human generation, from the first moment of its existence, that is to say from the moment the zygote has formed, demands the unconditional respect that is morally due to the human being in its bodily and spiritual totality”³⁰. Such a position can be considered the definitive ethical teaching

³⁰ Cf. *Donum vitae* (cited above) I, 1. The same teaching is propounded again in *Evangelium vitae*. *Donum vitae* adds: “This teaching remains valid and is further confirmed, if confirmation were needed, by recent findings of human biological science which recognize that the biological identity of a new human individual is already constituted in the zygote resulting from fertilization. Certainly no experimental datum can be in itself sufficient to bring us to the recognition of a spiritual soul; nevertheless, the conclusions of science regarding the human embryo provide a valuable indication for discerning, by the use of reason, a personal presence at the moment of this first appearance of a human life: how could a human individual not be a human person? The Magisterium has not expressly committed itself to an affirmation of a philosophical nature, but it constantly reaffirms the moral condemnation

of the Church, whether established by reason (everything that has been said up to this point on human dignity and on the ontological status of the embryo) or by faith: we must imitate Christ, who accepts and heals everyone, especially the weak, who gave his life for all his brothers and sisters, even those who do not accept him. A disciple of Christ, a child of the God who gives Himself to us in Christ, cannot extinguish the life of a child who has been called (with all its own actions) into existence, just because that life was not desired or because it would interfere with one's own plans or present serious difficulties. This is a fundamental ethical intuition that cannot be overcome by any argumentation.

5.3 Voluntary Abortion

5.3.1 *The Concept of Abortion*

The Encyclical *Evangelium vitae* defines voluntary abortion as “*the deliberate and direct killing, by whatever means it is carried out, of a human being in the initial phase of his or her existence, extending from conception to birth*”³¹. This concept of abortion represents a certain change with respect to the concept long utilized in the manualistic era, which characterized as abortion every action that proposed to expel or extract from the mother's womb a premature living fetus³². The interventions that caused the death of an embryo or fetus that were not included

of any kind of procured abortion. This teaching has not been changed and is unchangeable”. The Instruction *Dignitas personae* further clarified the meaning and the importance of what was affirmed in *Donum vitae*: “If *Donum vitae*, in order to avoid a statement of an explicitly philosophical nature, did not define the embryo as a person, it nonetheless did indicate that there is an intrinsic connection between the ontological dimension and the specific value of every human life . . . Indeed, the reality of the human being for the entire span of life, both before and after birth, does not allow us to posit either a change in nature or a gradation in moral value, since it possesses *full anthropological and ethical status*. The human embryo has, therefore, from the very beginning, the dignity proper to a person.” (Congregation for the Doctrine of the Faith, “Instruction *Dignitas Personae* on Certain Bioethical Questions”, no. 5; September 8, 2008; henceforth to be cited simply as *Dignitas personae*).

³¹*Evangelium vitae*, no. 58.

³²“Abortus est eiection immaturi foetus viventis ex utero materno”, (D. M. Prümmer, *Manuale Theologiae Moralis*, [cited above in ch. 3, note 132]; vol II, no. 137). “Abortus est eiection foetus immaturi ex utero matris”, (H. Noldin, *Summa Theologiae Moralis* [cited above in ch. 3, note 257]; vol II, no. 342).

in this definition were given other names, such as craniotomy, feticide, embryotomy, etc., and were equally considered profoundly illicit³³.

According to *Evangelium vitae*, procured abortion is every form of the intentional suppression of a human life in the period between conception and birth:

- wherever the embryo or fetus is located, whether in the fallopian tube before innidation, or in the uterus;
- however much time has passed since fertilization;
- whatever the means by which the abortion has been realized (surgical procedures, intra- uterine devices (IUDs), interception, the RU 486 pill, the day-after pill, methotrexate, etc.
- and whatever the motivation directly responsible for it (therapeutic, social, criminological, eugenic, etc.).

Evangelium vitae clarifies that *this evaluation of the morality of abortion is to be applied also to the recent forms of intervention on human embryos which inevitably involve the killing of those embryos, and the same moral condemnation also regards procedures that exploit living human embryos and fetuses - sometimes specifically "produced" for this purpose by in vitro fertilization - either to be used as "biological material" or as providers of organs or tissue for transplants*³⁴.

³³On this question and the following discussion, see A. Rodriguez-Luño, "La valutazione teologico-morale dell' aborto", in E. Sgreccia, R. Lucas, (eds.) *Commento interdisciplinare alla "Evangelium vitae"*, (cited above in ch. 4, note 107), pp. 419-434 (the studies contained in this volume are very useful for the study of the various aspects of abortion). See also: G. Grisez, *Abortion: the Myths, the Realities, and the Arguments* (1970); J. Connery, *Abortion: The Development of the Roman Catholic Perspective* (Chicago, 1977); L. Ciccone, "Il confessore e l'aborto", *La rivista del clero italiano* 60 (1979) 886-896; *idem*, "Non uccidere". *Questioni di morale della vita fisica* (Milan: Ares, 1984), pp. 144-256; P. Donate, "Riflessioni sociologiche sulla recente fenomenologia dell' aborto", *La Famiglia* 121 (1987) 5 – 27; J. Ratzinger, "Dignità della vita nascente", *Medicina e Morale* 38 (1988) 297-304; M. L. Di Pietro, E. Sgreccia, "La contragestazione ovvero l'aborto nascosto" *Medicina e Morale* 38/1 (1988) 5 – 34; E. Gius, D. Cavanna, *Maternità negata. Ricerca sui vissuti e sugli atteggiamenti nell' interruzione volontaria della gravidanza*, (Milan: Giuffrè, 1988); A. Palini, *Aborto. Dibattito sempre aperto da Ippocrate ai nostri giorni* [cited above in ch. 4, note 53]; J. and B. Willke, *Che ne sai dell' aborto?* (Rome: Cic Edizioni Internazionali, 1995); M. Palmaro, *Ma questo è un uomo. Indagine storica, politica, etica, giuridica sul concepito* (Milan: San Paolo, 1996).

³⁴Cf. *Evangelium vitae*, no. 63.

Historical studies show that procured abortion is not a phenomenon peculiar to our own times. Nevertheless, it reveals certain characteristics today that are new when compared to the past. The first novelty is the quantitative dimension: there is a very high number of abortions on the global level. Even according to the most conservative estimates, every year about ten million “legal” abortions are carried out³⁵. The *Encyclopedia Britannica 1996 Book of the Year*, which presents the data for 1994, supplied by 61 countries, and accounting for 3,378,000,000 inhabitants (60% of the world population), states that there were more than 23 million abortions. One of the more astounding figures was that of Russia (339 abortions for every 100 live births), of Romania (265 for every 100) and Ukraine (159 for every 100). In Italy there were 26 abortions for every 100 live births and in the USA the ratio was 35 to 100³⁶.

There are also some new circumstances that characterize abortion from the qualitative perspective:

- it is seen to be a right that the state is obliged to recognize and guarantee, and is being legalized as such;
- it is being performed by health workers, who are supposed to be the professionals who are in charge of health and the promotion of life;
- finally, there is the grave circumstance that such aggressions often occur within the family: in 1982, 71.1% of the women who had abortions were married. In 1991 the married women were 62.2% of those who had abortions. On the worldwide level, abortions “in the family” were carried out by couples who wanted to delay the arrival of their first child or who did not want to have a third child.

³⁵One can consult the *Demographic Yearbook* published annually by the United Nations. And further, see: S. K. Henshaw, “Induced Abortion: A Worldwide Perspective”, *International Family Planning Perspectives*, 1 (1987) 13; L. Iffy, G. Frisoli, A. Jakobovits, “Perinatal Statistics: The Effect Internationally of Legalized Abortion”, in *New Perspectives on Human Abortion* (Frederick, Maryland: UPA:, 1981), p. 92.

³⁶Cf. L. Ciccone, *La vita umana*, (cited above), pp. 103-104. SE also : E. Spaziente, “L’aborto provocato: dimensioni planetarie del fenomeno”, *Medicina e Morale*, 46 (1996) 1083 – 1134 and *idem*, “L’aborto nel mondo. Aggiornamento statistico-epidemiologico in tema di aborto legalmente registrato”, *Medicina e Morale* 48 (1998) 313-368. For Italy: ISTAT, *L’interruzione volontaria della gravidanza in Italia. Un quadro socio-demografico e sanitario della legge 194 ad oggi* (Rome, 1997).

- In the context of the family, such abortions are sometimes a way to cover up the shame of sexual abuse.

These very significant and novel elements have been made possible through the establishment, in practice, of powerful structures of cultural and economic “support”, often of an international character, and including sophisticated procedures of linguistic and symbolic manipulation, political and legal argumentation, etc., which have succeeded remarkably well in obscuring the personal and collective perception of the value of human life³⁷.

5.3.2 *Procedures for Carrying out Abortions*

The particular technique chosen to carry out an abortion depends to a large extent on the time that has passed since conception. Before the fourteenth day, interceptive techniques are used which impede the innidation of the embryo in the uterus (a coil or IUD, a mini-pill of pure progesterone, a day-after pill). Before the thirtieth day has passed, use can be made of anti-gestatives (such as RU 486).

Within the first trimester, two techniques are used: *intrauterine aspiration* through the vaginal passage with flexible tubes: the external orifice of the uterine neck is enlarged, and a tube is inserted for the purpose of extracting the conception by way of a vacuum produced by an apparatus that is similar to a household vacuum cleaner, but much more powerful. The fetus’s death is brought about through the dismemberment of arms and legs. The fetal remains become a kind of bloody jelly. Alternatively, *dilatation and curettage of the cervical canal* can be employed: a long instrument, whose end is shaped like a sharpened spoon, is introduced into the uterus to scrape its walls, and thereby eliminate whatever is inside.

After the first trimester, one of the following techniques is necessary: *Cervical dilatation and emptying of the uterus with forceps and rings* (cutting the fetus into pieces): this requires a major dilatation of

³⁷Cf. Rodríguez-Luño, “La cultura della vita come compito sociale e comunicativo”, in Rodríguez-Luño, *Cittadini degni del Vangelo* (Phil. 1:27). *Saggi di etica politica*, (Rome: Edizioni Università della Santa Croce, 2005) pp. 61 – 74 (Spanish version: *Cultura politica y conciencia cristiana* (Madrid: Rialp, 2007).

the uterine neck, and the use of forceps to dismember the fetus (first the legs and arms, then the spine), the smashing of the cranium (by vacuuming the head), and the extraction of the fetal remains through a forceps and ring. Alternatively there is the *administration of high transvaginal dosages of prostaglandin E₂*: these are hormones that provoke contractions of the fetus, which are injected into the amniotic fluid or introduced through vaginal compresses. After the sixteenth week the emptying must be preceded by the administration of drugs that can stimulate uterine contractions and cervical dilations (for example, a hypertonic solution of intra-amniotic salts). The saline solution burns off the skin, the throat and the intestines of the fetus. Eventually the fetus is expelled. Finally, there is *hysterotomy*, the surgical opening of the abdomen and uterus and extraction of the fetus.

5.3.3 *The Attitude of the Early Church Toward Abortion*

It is necessary above all to point out that there has been discussion about the meaning of the Greek word *pharmakeia* (*venificia* in the Nova Vulgata) used by St. Paul at *Galatians* 5, 20 as an object of condemnation. Some authorities hold that the Pauline use of such a word does not refer solely to abortive drugs used at the time, but would certainly include them³⁸.

*The primitive Church looked on abortion as a crime against human life, which had its origins in a disregard for the Creator. The condemnation of abortion was absolute and without any qualifications*³⁹. Numerous testimonies exist for this doctrine. The *Didaché* counts the “killers of children” and the “destroyers of the creation of God” among those who follow the way of death⁴⁰. The *Letter of Barnabas* sees abortion as a grave transgression of the commandment to love⁴¹. In Athenagoras the

³⁸ Cf. J. T. Noonan, “An Almost Absolute Value in History”, in J. T. Noonan, ed., *The Morality of Abortion. Legal and Historical Perspectives* (Cambridge, Mass.: Harvard University Press, 1970), pp. 8-9; G. Palazzini, *Ius foetus ad vitam eiusque tutela in fontibus ac doctrina canonica usque ad saeculum XVI* (Urbaniae: 1943), p. 39, nota 3^a; B. Honings, *Aborto e animazione umana* (Rome: 1973), pp. 59 ff.

³⁹ Cf. the studies referred to above by J. Connery, P. Sardi and J. T. Noonan.

⁴⁰ *Didaché*, 2:2 and 5:2.

⁴¹ *Letter of Barnabas* 19:5.

condemnation of abortion is located within the context of the struggle of Christianity against the many expressions of the disregard for life in the Roman world. He affirms that Christians considered that women who had recourse to abortive medications were homicides, since the children in their wombs were already “an object of God’s care”⁴². Minucius Felix in *Octavius* equates abortion with “parricide”⁴³. Clement of Alexandria in his *Paedagogus* denounces abortion as the death of a sense of humanity⁴⁴. Tertullian affirms that “. . . to forbid birth is only quicker murder. It makes no difference whether one takes away the life once born or destroys it as it comes to birth. That one is a man, who is going to be a man”⁴⁵. No less absolute is the position of Basil the Great: “Among us, there does not exist a distinction between a fully formed offspring and a formless offspring”⁴⁶. Abortion is always homicide. Even the penitential discipline of the primitive Church was clear and unambiguous. It sentenced excommunication for lifetime, although attenuated to a graduated ten-year penitential period beginning with the Synod of Ancyra (A. D. 314).

We shall have to conclude with Sardi that the ancient Church saw in the fetus “a human being already in act, and therefore viewed procured abortion as homicide. The insistence of the fathers of the Church on this understanding is striking: the fruit of conception is a divine “handiwork” (Greek *plasma*); to eliminate it constituted aggravated homicide (“parricide”), considering the bond of blood uniting the mother and child”⁴⁷.

5.3.4 *The Church’s Teaching on Abortion*

With regard to everything said up to this point, it is pertinent to note that the prestigious *Lexikon für Theologie und Kirche* affirms that *the tradition is so clear and unanimous that the condemnation of abortion*

⁴²Athenagoras, *A Plea regarding Christians*, 35: 6 (trans. C. C. Richardson) in Richardson, ed., *Early Church Fathers* (New York: Macmillan, 1970), pp. 338 – 339.

⁴³Minucius Felix, *Octavius*, 30 (trans. G. H. Rendall) in Loeb Classical Library, vol. 250 (Cambridge, Mass.: Harvard University Press, 1931), p. 407.

⁴⁴Clement of Alexandria, *Paedagogus*, 2:10. *Patrologia Graeca*, vol. 8, p. 511.

⁴⁵Tertullian, *Apologeticus* 9: 8 (trans. T. R. Glover) in Loeb Classical Library, vol. 250 (Cambridge, Mass.: Harvard University Press, 1931), p. 49.

⁴⁶St. Basil the Great, *Letter* 188, 2, in *Patrologia Graeca* vol. 323, p. 671.

⁴⁷P. Sardi, *L’aborto ieri e oggi* (cited above), p. 98.

can be considered a truth of faith⁴⁸. The Second Vatican Council condemned abortion as an unspeakable crime⁴⁹. In a speech in 1972, Paul VI affirmed that the teaching of the Church on abortion has not been changed and cannot be changed⁵⁰. The unanimity of ecclesiastical doctrine on abortion is illustrated comprehensively in the *Declaration on Procured Abortion* issued by the Congregation for the Doctrine of the Faith of November 18, 1974: a document which explains the Church's teaching on the matter in a very precise and orderly way, along with its theological and rational foundations, and provides a clear response to the principal objections.

The moral condemnation of abortion was reinforced and re-affirmed in very solemn way by the Encyclical Evangelium vitae (March 25, 1995). In this encyclical John Paul II recalls that the texts of Sacred Scripture never speak explicitly about procured abortion (a phenomenon that was not present in the Biblical world), but they “show such great respect for the human being in the mother's womb that they require as a logical consequence that God's commandment “You shall not kill” be extended to the unborn child as well”⁵¹. He adds that Christian tradition “is clear and unanimous, from the beginning up to our own day, in describing abortion as a particularly grave moral disorder . . . Throughout Christianity's two thousand year history, this same doctrine has been constantly taught by the Fathers of the Church and by her Pastors and Doctors. Even scientific and philosophical discussions about the precise moment of the infusion of the spiritual soul have never given rise to any hesitation about the moral condemnation of abortion”⁵². On this basis, and taking account not only of the repeated and unanimous judgments of the most recent Magisterium but also of the consultation with all the Bishops of the Catholic Church on Pentecost in 1991, John Paul declared that “direct abortion, that is, abortion willed as an end or as a means, always constitutes a grave moral disorder, since it is the deliber-

⁴⁸ Cf. vol. I, p. 98.

⁴⁹ *Gaudium et spes*, no. 51.

⁵⁰ Cf. Paul VI, *Discorso ai Giuristi Cattolici Italiani* (December 9, 1972), *AAS* 64 (1972) 777.

⁵¹ *Evangelium vitae*, no. 61. A footnote cites the following texts: *Jer* 1: 4-5; *Ps* 71/70: 6; *Isa* 46; *Job* 10: 8-12; *Ps* 22/21: 10 – 11; *Lk* 1: 39-45.

⁵² *Evangelium vitae*, no. 61

ate killing of an innocent human being”⁵³, noting in addition that this moral judgement is ascribed to the ordinary and universal Magisterium of the Church. And that means, as we are now aware, that it is a doctrine in which the Church has expressed its infallibility⁵⁴, and that it belongs to the second clause of the concluding formula of the *Professio fidei* ⁵⁵.

The basis of this moral judgement is the principle of the inviolability of human life, which we have already studied. At present we need to add that there are certain circumstances involved with abortion that cause it to be a particularly serious attack on human life. The human being in the womb of the mother is such that “no one more innocent could be imagined”⁵⁶. The unborn child is “totally entrusted to the protection and care of the woman carrying him or her in the womb”⁵⁷. On the other hand, fatherhood and motherhood are human and social relations of a fundamental kind. They are, furthermore, another important aspect of the divine image in man: through them, a man and a woman participate in the creative love of God⁵⁸, which establishes a delicate and reciprocal relationship of trust between God and the parents. God entrusts a new life to the care of the parents, and the parents trust that God will help them bear the burden of the new person’s frailty and its total dependence upon them. In view of considerations like these, procured abortion represents objectively the corruption of both paternity and maternity in its human as well as theological sense. The image of divine love that is stamped upon the human procreative capacity is violated. The trust of God in human beings is betrayed by them. And the natural dependence and frailty of new life, which has no voice to protest, is misinterpreted and made subject to abuses.

It is true that parents, especially the mother, encounter grave difficulties from time to time and very strong pressures that can obscure – for a short time and to a partial extent – the seriousness of one’s actions. But

⁵³ *Evangelium vitae*, no. 62.

⁵⁴ See the discussion in A. Rodriguez Luño, “La legge divina del ‘non uccidere’”, *Studi Cattolici* 413/414 (1995) 436 – 438.

⁵⁵ Cf. Congregation for the Doctrine of the Faith, *Nota illustrativa della formula conclusiva della Professio Fidei*, June 29, 1998.

⁵⁶ *Evangelium vitae*, no. 58.

⁵⁷ *Evangelium vitae*, no. 58.

⁵⁸ Cf. *Evangelium vitae*, no. 43.

in an objective sense, it is always the case that in a procured abortion the divine image, inscribed in the humanity of the parents as well as in that of the victim, is trampled upon, and the latter is denied a condition of equality with respect to us, which he or she possesses ontologically and which must be recognized.

It must be observed, finally, that *the problem of procured abortion brings into the light a crisis about a certain conception of freedom as complete autonomy*. The problem is that the existence of a human person is so closely intertwined with the existence of another – the mother – that for the time being, it absolutely can only survive through its bodily connection with her, and in a physical unity with her, which nevertheless does not eliminate its own, different existence, an existence which does not permit of itself being open for discussion. In any event, the existence of the new person is “a being-from-another”, the mother, and requires of her this “being-for” the new conception, and putting herself at its disposal. When this requirement made of the mother (to “be-for” another) contradicts the will of the mother, such a requirement comes to be looked upon as an opposition to her own freedom, which overcomes every “being-for” and every “being-from”. There is a desire for a pure autonomy, and independence from every bond. This model of human freedom does not correspond to the truth of man, created in the image of God. God is by his essence a “being-for” (the Father) a “being-from” (the Son) and a “being- with” (the Holy Spirit).⁵⁹

5.3.5 Some Objections

In studying the status of the human embryo from the scientific point of view, we have already considered some of the objections that have often been directed against the Church’s teaching⁶⁰. We now can consider two others, which are more specifically made with reference to abortion.

1) The argument made by K. Rahner is sufficiently well known: if, knowing that a not insignificant percentage of zygotes die spontaneously, it is nevertheless maintained that the individual formation of the human

⁵⁹ Cf. J. Ratzinger, *Truth and Tolerance: Christian Belief and World Religions*, trans. Henry Taylor (San Francisco : St. Ignatius Press, 2004) pp. 245-249.

⁶⁰ Cf. above, section 2 b).

person occurs at conception, “will a moralist be capable of admitting that 50% of the ‘human beings’ – human beings endowed with an immortal soul and an eternal destiny – do not pass the first stage of being human?”⁶¹ God could not deprive so many human souls the possibility of expressing themselves and consign them to limbo.

Leaving aside for the moment that the percentage of spontaneously dying embryos is not so high, it must above all be observed, that it is not clear why the infusion of the human soul by God must be understood in such a mechanical fashion. Why is it taken for granted that God would be required to infuse a human soul into a fertilized ovum which, owing to major genetic aberrations (such as polyspermia, etc.), He knows not to be properly human, and to be destined to self-destruction? The infusion of the human soul, like all Creation, is an act of the wisdom and love of God, and not the blind result of an automatic process, to which God’s loving action would be held prisoner. On the other hand, there is no logical or ethical connection between the proposition “this embryo will possibly spontaneously miscarry”, and the proposition “it is licit to interrupt directly its present development”, just as there is no connection between the proposition “this person will shortly or even immediately die”, and the proposition “it is licit to kill him or her”. By means of an abortion, an embryo is intentionally suppressed that is considered capable of reaching its goal of survival, not one that, it is thought, will die on its own anyway.

2) Writers who invoke the right of the mother to self-determination are very numerous. This does not make much sense when what is at stake is the life of a human person (even theft and rape are acts of auto-determination on the part of the person committing such acts). Nevertheless, let us consider the objection.

It is maintained that, even if the embryo has its own autonomous life, it cannot be asserted against that of the mother, because the latter cannot be obligated to place her own body at the disposal of the embryo for nine months, and to provide a great deal of care for some years afterward. If the embryo is treated like an uninvited guest, whose acceptance – since it would be particularly onerous – can be a generous

⁶¹K. Rahner, “Zum Problem der genetischen Manipulation”, in K. Rahner, *Schriften zur theologie*, Bd. VIII (Einsiedeln-Zürich-Cologne: 1967) p. 287.

act if taken on voluntarily, but cannot be *imposed* on someone, either at the moral or political level, abortion is being presented as a choice to deny the giving of service to an uninvited guest⁶². But that is not what it is. A human being is being killed, and no one can uphold a right to kill an uninvited guest. On the other hand, the baby does not appear in the mother's womb on its own initiative (i.e., it is not an *unexpected* guest). This baby is her child, which she and its father have procreated and conceived together. They were the ones who called it into existence, and they thereby established an obligation to feed and protect it. It is for them to assume the consequences of their own actions, even if it is a question, in this case, of undesired consequences.

It is a different situation if the conception was the consequence of the mother undergoing a violent act. The objection then allows the child to be qualified as an aggressor and abortion as the negation of an aggressor's positive imposition. But the only "aggressor" is the one who committed the act of violence. And abortion is not the negation of something positive, but an act of killing which violates the right of the child not to be killed. What remains unacceptable in any case is that the one whom the parents conceived, willingly or unwillingly, has a value and a right to life only if that child is desired and accepted. The principle of the sacredness of human life consists precisely in the affirmation that the value of a human life never resides only, or even primarily, in being desired by other human beings.

5.3.6 *Political Problems Connected to Abortion*

Since in many countries today procured abortion has become legal in the civil law, it has also become an ethical and political problem. The essence of the problem consists in the fact that in various countries the political will has succeeded in introducing into the legal order a principle of unjust and fatal discrimination. History shows us that it is possible for there to be a coexistence of a juridical and political system which is rather highly developed with regard to the definition of civil rights,

⁶²This argument has been developed fully by J. J. Thompson, "A Defense of Abortion", *Philosophy and Public Affairs*, 1 (1971) 47 – 66. For a critique of the argument, see E. Schockenhoff, *Etica della vita. Un compendio teologico* (Brescia: Queriniana, 1997), pp. 333-337.

along with slavery and racial segregation. The laws specify in an unexceptional way the rights of persons and citizens, but the same laws establish that a large group of human beings, inhabitants of the country, are excluded from the category of citizens or persons. Along with racial discrimination there has emerged today another type of discrimination, which is equally founded upon an unjust dissociation between the condition of being human and the condition of being a person in a legal sense⁶³. It must be added that this new type of discrimination denies to the subjects concerned not so much the rights of freedom as the right of existence itself, and that, with respect to the number of victims, it can without any exaggeration be considered the Third World War⁶⁴. *Ethical responsibility, when confronted with human life, requires the most firm and total opposition to this serious form of discrimination.*

The Encyclical *Evangelium vitae* took into consideration the political dimensions of abortion. The civil law is not considered as an instrument of oppression *against* the mother, but as an ordering of justice⁶⁵ whose important symbolic and cultural⁶⁶ dimensions need to be placed at the service of the good of the human being, his development and fundamental rights. On the other hand, it is essential to note that the relationship of the civil law to the moral law is not considered in the Encyclical as a relationship to an external instance of control, but as a perspective that one would not hesitate to call “constitutionalist”, since what is being brought to light is the intrinsic and unavoidable relationship of the choices of the typical legislator to the fundamental human rights proclaimed and guaranteed by the constitutional documents of all the civilized nations of the world. They are the rights that, as essential

⁶³On these juridical and political aspects, a very useful source is M. Rhonheimer, *Ethics of Procreation and the Defense of Human Life*, ed. William J. Murphy (Washington, D.C.: Catholic University of America Press, 2010). On the legal protection of human life see also: C. Casini, F. Cieri, *La nuova disciplina dell'aborto* (Padua: Cedam, 1978); C. Casini, *Diritto alla vita: la vicenda costituzionale* (Naples-Rome: Dehoniane, 1982); M. A. Glendon, *Abortion and Divorce in Western Law* (Cambridge, Mass.: Harvard University Press, 1987); A. Rodríguez-Luño, “Cittadini degni del Vangelo” (Fil. 1, 27)”, in *Saggi di etica politica*, (cited above, note 37)pp. 75-89.

⁶⁴We do not intend to enter a debate here on the number of abortions in the world *per annum*. But no one can deny that even according to the lowest estimates, the victims add up to several million per year.

⁶⁵ Cf. *Evangelium vitae*, no. 70.

⁶⁶ Cf. *Evangelium vitae*, no. 73.

values at the basis of the modern constitutionalist tradition, have in fact been the leading drivers of the humanistic and democratic concept of politics and law.

We can now summarize the content of the encyclical as a whole. In the first place, there is a review of the principal legal and political arguments that have been proposed in favor of laws that do not respect the absolute value of human life⁶⁷, followed immediately by a study of the relationship between the civil and the moral law⁶⁸, which concludes with the following statement: “*Laws which authorize and promote abortion and euthanasia are therefore radically opposed not only to the good of the individual but also to the common good; as such they are completely lacking in authentic juridical validity.* Disregard for the right to life, precisely because it leads to the killing of the person whom society exists to serve, is what most directly conflicts with the possibility of achieving the common good. Consequently, a civil law authorizing abortion or euthanasia ceases by that very fact to be a true, morally binding civil law”⁶⁹.

From this is derived “a grave and clear obligation to oppose [such laws] by conscientious objection”⁷⁰, and the moral impossibility of supporting them with one’s vote⁷¹ or of cooperating with their application. “Indeed, from the moral standpoint, it is never licit to cooperate formally in evil. Such cooperation occurs when an action, either by its very nature or by the form it takes in a concrete situation, can be defined as a direct participation in an act against innocent human life or a sharing in the immoral intention of the person committing it. This cooperation can never be justified”⁷².

There is also consideration of the particular problem of conscience

⁶⁷ Cf. *Evangelium vitae*, nos. 68 – 70.

⁶⁸ Cf. *Evangelium vitae*, nos. 71 - 72.

⁶⁹ *Evangelium vitae*, no. 72 (our emphasis).

⁷⁰ *Evangelium vitae*, no. 73. On this point cf. also: C. Caffarra, “Aborto e obiezione di coscienza”, *Medicina e Morale* 28/3 (1978) 101-109; G. Spaziente, “La legge 194/1978 quattro anni dopo. Obiezione di coscienza e possibilità di prevenzione dell’interruzione volontaria della gravidanza”, *Medicina e Morale* 33/1 (1983) 25 – 41; F. Stella, “la situazione legislativa in merito alla obiezione sanitaria in Europa”. *Medicina e Morale* 35/2 (1985) 281-302.

⁷¹ Cf. *Evangelium vitae*, no. 73.

⁷² *Evangelium vitae*, no. 74. Cf. L. Melina, *Corso di Bioetica. Il Vangelo della vita*, (cited in note 5 above), pp. 239 – 255.

that arises when making a vote in parliament that would result decisively in favor of a more restrictive law as an alternative to a more permissive law that is already in force or is being proposed. “In a case like the one just mentioned, when it is not possible to overturn or completely abrogate a pro-abortion law, an elected official, whose absolute personal opposition to procured abortion was well known, could licitly support proposals aimed at limiting the harm done by such a law and at *lessening its negative consequences* at the level of general opinion and public morality. This does not in fact represent an illicit cooperation with an unjust law, but rather a legitimate and proper attempt to limit its evil aspects”⁷³.

The solution offered for this problem of conscience is seen in the context of our ethical obligations in the face of unjust laws. In substance, nothing is being affirmed other than, when it is not possible to abrogate an unjust law totally, it is nevertheless licit and obligatory to proceed with its partial abrogation, because this can be done without causing scandal or confusion of conscience and without being responsible for the actual evil that remains in force⁷⁴.

When the legislative situation described in *Evangelium vitae* no. 73 occurs, the moral object of the action undertaken by a legislator is *the elimination of all the unjust aspects of the present law that can here and now be eliminated*, without thereby becoming the cause for the maintenance of other unjust aspects that the legislator is not willing to accept, but which he or she is not in a position to eliminate. An example can clarify the matter. We can imagine a nation or state with a very permissive abortion law. The legislature of this country has 100 members, divided into three groups. Group A, consisting of forty members, accepts

⁷³*Evangelium vitae*. No. 73.

⁷⁴See A. Rodríguez Luño, “Il parlamentare cattolico di fronte ad una legge gravemente ingiusta. Una riflessione sul no. 73 del *Evangelium vitae*”, *L'Osservatore Romano*, September 6, 2002, pp. 8-9 (also published in other languages in the weekly editions of the same journal at the same time). Also published in *Medicina e Morale* 52/5 (2002) 952 – 964. Available in English at: [textstyleInternetlinkwww.priestforlife.org/articles/02-09-18evangeliumvitae73.html](http://www.priestforlife.org/articles/02-09-18evangeliumvitae73.html). Translations have also been published in the Polish and German languages: “Katolicki prawodawca wobec problemu głęboko niesprawiedliwego prawa”, *Ethos*, 61/62 (2003) 143 - 158; “Der katholische Gesetzgeber und das Problem eines Gesetzes, das schwerwiegendes Unrecht enthält”, in John-Paul II Institute of the Catholic University of Lublin, *Unvollkommene oder ungerechte Gesetze?* (Lublin, 2005), pp. 76 – 90. An Italian version of this article, with a few modifications, is available in A. Rodríguez-Luño, “*Cittadini degni del Vangelo*” (Phil. 1: 27). *Saggi di etica politica* (cited above), pp. 91 – 108.

the current law and does not want any change. Group B, consisting of thirty members, wants to pass a more restrictive law, but to a certain extent would also accept a law that completely prohibits abortion. Group C, also with thirty members, is opposed to any and every type of abortion and wants total prohibition. A group of Catholic politicians who are part of Group C, could licitly propose a new law with all the prohibitions of abortion that the legislators of group B are in a position to accept, after intense negotiations. Once this new law has been approved, voted by Groups B and C, but opposed by A, the actual situation that follows is that 1) a legislative majority that really supports the cases of abortion that are still legal is composed of groups A and B (70 members); 2) the legislative majority that has prohibited some instances of abortion that were previously legal is formed by Groups B and C (60 members); the third group, to which the Catholics belong, is alone responsible for removing all the legal status of some cases of abortion that were legal until the passage of the new law.

What makes for the licitness of the action of Group C is not simply that the new law is “more restrictive” than the earlier one. The basis is that the moral object of their action consists in abrogating all the kinds of abortion that it is possible to abrogate, without their becoming substantially and actually responsible for the fact that some abortions are still going to be legal. The legalizing of these abortions was supported in the legislature by Groups A and B, not by Group C. Group C is not responsible for the negative aspects of the more restrictive law, even if they may seem to be, formally. *The fundamental point to keep in view is that the new law, by declaring some forms of abortion legal, does not permit anything that formerly was prohibited, but prohibits much that was permitted before.* A final condition is required. Not only must the opposition of Group C to all types of abortion be made known to all; the real significance of their action in the legislative process must also be clear. They have brought about a substantial partial abrogation of an unjust law, and they should clearly state that the new law continues to be unjust. They cannot collaborate in its application and conscientious objection continues to be necessary for their personal integrity.

The arguments being proposed here against abortionist law are congruent with better modern constitutional doctrine, which has advanced

from a proto-liberal understanding of fundamental rights as mere freedoms of the individual with respect to the state to a more “institutional” understanding of such rights: they are not only freedoms warranted to an individual from interventions of the state, but also express an order of values to be realized by the political community⁷⁵. Fundamental rights are not only freedoms *from* the state, but also freedoms *within* the state⁷⁶. Fundamental rights, especially the right to life, not only guarantee immunity in confrontation with the state, but also confer on the individual the right to be protected through legal arrangements from interventions carried out by other persons⁷⁷. P. Häberle has rightly noted that “if the freedom of the individual were not protected punitively against the threats that come from the abuse of freedom by another, there would no longer be any reason to speak of the meaning of freedom of social life as a whole. The stronger would prevail. The final goal to which fundamental rights are tending would become subject to debate, because even the individual realization of freedoms would be seriously

⁷⁵Cf. M. Rhonheimer, “The Legal Defense of Prenatal Life in Constitutional Democracies” , *Ethics of Procreation and the Defense of Human Life*, (Washington, D.C.: Catholic University of America Press, 2010), pp. 228 – 284.

⁷⁶Cf. P. Häberle, *Die Wesensgehaltgarantie des Art. 19 Abs. 2, Grundgesetz. Zugleich ein Beitrag zum institutionellen Verständnis der Grundrechte und zur Lehre vom Gesetzesvorbehalt* (cited). There is also a partial Italian translation: *Le libertà fondamentali nello Stato costituzionale* (Rome: La Nuova Italia Scientifica, 1993), p. 51. Häberle refers to the well-known studies of K. Hesse, “Die verfassungsrechtliche Stellung der politischen Parteien in modernen Staat”, *VVStRL* 17 (1959) 11 ff. ; R. Smend, “Bürger und Bourgeois im deutschen Staatsrecht”, in *Staatsrechtliche Abhandlungen und andere Aufsätze*, 2nd ed., (1968), pp. 309 ff. ; W. Hamel, *Die Bedeutung der Grundrechte im sozialen Rechtsstaat*, (1957), p. 40. See also the important studies of J. Isensee, *Das Grundrecht auf Sicherheit. Zu den Schutzpflichten des freiheitlichen Verfassungsstaates* (Berlin-New York: Walter de Gruyter, 1983) and E. Klein, “Grundrechtliche Schutzpflicht des Staates”, *Neue Juristische Wochenschrift* 42 (1989) 1633-1640.

⁷⁷This principle has been fully recognized by the Constitutional Tribunal of Reunified Germany in the noted Statement of May 28, 1993. It is particularly clear in the first and third *Leitsätze* [Theme Statements]: “The Constitution imposes on the state the obligation to protect human life, even prenatal life . . . Human dignity appertains already to prenatal human life. The juridical system ought to secure the juridical presuppositions of its development in the sense of an autonomous right to life of the pre-born. This right to life finds its own justification, independently of its being accepted by the mother . . . Legal protection pertains to the pre-born even in respect toward its own mother. Such protection is possible only if the legislature prohibits a woman from having an abortion in principle, and imposes upon her at the same time the legal obligation, in principle, to carry the pregnancy to term”. We cite here the Italian translation of the Statement in the volume by M. D’Amico, *Donna e aborto nella Germania riunificata* (Milan: Giuffrè, 1994).

threatened”⁷⁸.

On the other hand, it is necessary to point out that the need for protection for fundamental rights is not founded solely on the value that the interests protected by them might have for a hypothetical, non-political individual. The private sphere of individual life is not a non-political area, but is presupposed by political life. With fundamental rights a process of freedom is realized that constitutes an essential element of democracy. Fundamental rights are the “functional foundation” of democratic life. They are guarantees granted to the community, elements of public order and principles that structure our life together. Fundamental rights fulfill a social function and their protection also represents a public interest⁷⁹. We must conclude therefore that when it is maintained that the laws that authorize or favor abortion are in conflict *as well* with the needs of the common good⁸⁰, *Evangelium vitae* is placed at a level of ethical and legal reasoning that is perfectly congruent with the fundamental principles that stand at the basis of the modern conception of the state.

In light of the foregoing, it is evident that current abortionist legislation, which is presented formally as if it were a question of laws protecting the mother and which introduce a kind of regulation of abortion, cannot be considered as protection of new-born life that is compatible with the fundamental right to life. This is what *Evangelium vitae* emphasizes: the laws on abortion “are in complete opposition to the inviolable right to life proper to every individual; they thus deny the equality of everyone before the law”⁸¹. This means that they are laws which violate one of the fundamental conditions of an ordered collective life in a state.

⁷⁸P. Häberle, *Le libertà fondamentali nello Stato costituzionale* (cited above), p. 47. However, to avoid any misunderstanding, we should clarify that an argument is not being made here for the incarceration of women. Rather, the intention is to emphasize that it is not reasonable to automatically disqualify as “repressive” the idea that fundamental rights are in need of legal protection.

⁷⁹*Cf. ibid.* pp. 51-59. See the “Statement of the German constitutional Tribunal” of May 28, 1993 D. I. 1, b) and 2, cited above, and in the volume *Donna e aborto . . .* cited above, pp. 165- 166.

⁸⁰*Cf. Evangelium vitae*, no. 72.

⁸¹*Evangelium vitae*, no. 72.

5.3.7 Canonical and Pastoral Aspects

We have already emphasized that procured abortion is punished with excommunication. *In the Latin Church, “whoever procures an abortion incurs excommunication latae sententiae”, that is to say, automatically*⁸². *In the Eastern Churches abortion is punished with greater excommunication, but without latae sententiae effect*⁸³. In 1988 the Pontifical Commission for the Authentic Interpretation of the CIC [*Codex Iuris Canonici*] clarified that by abortion was meant not only the expulsion of an immature fetus (in accordance with the 1588 definition of Sixtus V), but also “the procured killing of the fetus in any way and at any time after the moment of conception”⁸⁴. In this way, the same (updated) concept of abortion which a few years later would be given in the Encyclical *Evangelium vitae*, has been definitively applied in a penal sanction⁸⁵. Excommunication is a serious medicinal (“healing”) sanction, which deprives a person of certain rights and spiritual goods, such as the reception of the sacraments. Someone automatically incurs it in the Latin Church if there is certainty that the abortion was procured (*effecto secuto*) and if the delict is seriously imputable⁸⁶. In particular cases, however, it is necessary to take account of any extenuating legal circumstances that may be in question, such as being under sixteen years of age, experiencing serious apprehension and invincible ignorance of the penal law that has been violated⁸⁷, and also when there are extenuating circumstances as specified in Canon 1324⁸⁸, which in case of automatic penalties become

⁸²CIC, c. 1398.

⁸³Cf. CCEO, c. 1450 § 2.

⁸⁴Cf. *Acta Apostolicae Sedis* 80 (1988) 1818.

⁸⁵Cf. *Evangelium vitae*, no. 58, and see above, section 3 a).

⁸⁶Cf. CIC c. 1321 § 1.

⁸⁷Cf. CIC c. 1323.

⁸⁸“The doer of the violation is not exempt from the penalty decreed by the law or by the commandment, but the penalty can be mitigated or substituted with penitence, if the delict was committed: 1) by someone who has only an imperfect ability to reason; 2) by a person who lacks the use of reason because of inebriation or similar blameworthy mental disturbance; 3) through a great storm of passion, which has nevertheless not removed all the mind’s deliberation, but has preceded and impeded the consent of the will, provided the passion itself was not willfully incited and sustained; 4) by a minor of sixteen years of age; 5) by a person who has been compelled, even relatively so, by great fear, or by some necessity or serious predicament, if the action is intrinsically evil or tends to the destruction of souls; 6) by someone who to make a legitimate defense has acted against an unjust aggressor toward himself or another person, and has not duly restrained himself; 7) against someone seriously

causes for exemption⁸⁹.

The excommunication that is consequent upon abortion, not being reserved to the Holy See, and not ordinarily declared, can be remitted by the Ordinary (i.e. Bishop) of the place to the individuals under his jurisdiction and to those who are found in his territory or have committed the delict there; it can also be remitted by any Bishop in the exercise of the sacrament of confession⁹⁰, by a canonical penitentiary or other priests appointed to this by the Bishop⁹¹, by hospital chaplains or chaplains of prisons or ships⁹², by any priest in case of mortal emergency⁹³, and in urgent situations, by any confessor in the internal sacramental forum, under the conditions specified by law⁹⁴. In the Eastern Churches absolution from the sin of abortion is reserved to the Eparchial Bishop⁹⁵.

With regard to the subjects affected by the excommunication, those who incur it are the mother who has consented to it, the perpetrator and co-operators in the act of abortion⁹⁶, not to speak of the necessary accomplices (those who order it to be done, or who instigate it) – in other words, those without whose aid the act would not have been perpetrated⁹⁷.

and unjustly provoking him; 8) by someone, who, by an error for which he is to blame, thinks that one of the circumstances mentioned in Canon 1323, nos. 4 or 5 is present [i.e., those circumstances just named in this Canon, nos. 5 and 6]; 9) by someone who without his fault does not know the punishment attached to the law or commandment; 10) by someone who has acted without full responsibility, as long as the latter remains very serious” (CIC no. 1324 § 1).

⁸⁹ Cf. CIC c. 1324 § 3.

⁹⁰ Cf. CIC c. 1355 § 2.

⁹¹ Cf. CIC c. 508.

⁹² Cf. CIC c. 566 § 2.

⁹³ Cf. CIC c. 976.

⁹⁴ Cf. CIC c. 1357. One must keep in mind especially Canon 1357 § 2: “In granting remission, let the confessor require of the penitent the duty of recurring within one month’s time (at the cost of falling subject again to the sentence) to the competent Superior or to a priest with the proper faculty, and [the duty of] remaining faithful to the decision; in the meanwhile, let [the confessor] impose a fitting penitence and, as far as is possible, a repair of the damage and the scandal. The recourse can be made to the same confessor, without mention of the person’s name.”

⁹⁵ Cf. CCEO, c. 728 § 2.

⁹⁶ Cf. CIC c. 1329 § 1: “Those who cooperate in the delict with shared criminal deliberation”.

⁹⁷ Cf. CIC no. 1329 § 2. For all of this material see J. Herranz, “Aborto e scomunica”, in Pontificia Academia Pro Vita, *Evangelium vitae. Enciclica e commenti* (Vatican City: Libreria Editrice Vaticana, 1995) pp. 209 – 214.

From the pastoral perspective, it is necessary to emphasize that consultation with, and help given to persons who have been involved in the sin of abortion requires the utmost prudence. It is essential to discern the variety of situations. It is important to keep in mind what John-Paul II said about women who have had recourse to abortion: “The Church is aware of the many factors which may have influenced your decision, and she does not doubt that in many cases it was a painful and even shattering decision. The wound in your heart may not yet have healed. Certainly what happened was and remains terribly wrong. But do not give in to discouragement and do not lose hope. Try rather to understand what happened and face it honestly. If you have not already done so, give yourselves over with humility and trust to repentance. The Father of mercies is ready to give you his forgiveness and his peace in the Sacrament of Reconciliation. To the same Father and his mercy you can with sure hope entrust your child. With the friendly and expert help and advice of other people, and as a result of your own painful experience, you can be among the most eloquent defenders of everyone’s right to life”⁹⁸. Quite different, surely, can be the moral state of instigators and perpetrators, or those who have acted with banal motives, cold deliberation or shocking injustice. In any case, it is a question of a serious wound, that cannot be cured in a superficial way. To disregard its importance would be only a momentary solution. Nevertheless, the truth must be presented in the perspective of mercy and divine forgiveness, and in such a way that the persons involved not be overwhelmed by the weight of their misdeeds nor fall into desperation. It is a question neither of pastoral severity nor kindness, but of seeking – in a way that is individualized for each case – the suitable paths for facilitating the grace of God to work a complete and profound healing of the soul.

5.3.8 *Indirect Abortion*

The death of the embryo or the fetus in the maternal womb can also occur as a collateral (“indirect”) effect, foreseen but not in any way willed, of a therapeutic action made necessary and urgent for the mother by reason of some pathology, and not because of the pregnancy itself. We

⁹⁸*Evangelium vitae*, no. 99.

are considering here an action of double effect, which must be judged as such. After having carefully weighed all the circumstances, and in particular the possibility of alternative therapies or of even procrastinating the start of the therapeutic procedure, and keeping in mind that the acceptance and sacrifices and risks is part of the mother's mission, according to the moral principles that regulate the actions of double effect *such a therapeutic intervention can be morally licit*. This is how Pius X expressed himself on the matter: "If, for example, the safety of the life of the future mother, regardless of her pregnant condition, urgently requires a surgical procedure or other therapeutic action that would have as an accessory consequence (in no way intended, but still inevitable) the death of the fetus, such an action could not be called a *direct* aggression on the innocent life. Under such conditions the operation can be considered licit, just like other similar medical interventions, as long as it is a question of the highest significance, such as life, and as long as it is not possible to postpone the operation until after the birth of the child, nor have recourse to some other remedy"⁹⁹. This type of intervention is traditionally known as *indirect abortion*. The name is not a fortunate one, since viewed from the moral perspective, an abortion has not been chosen: what is being chosen is not the procuring of an abortion, but saving the life of the mother by the only intervention that is possible in the circumstances, an intervention that is therapeutic and not lethal. Of course, the seriousness of the collateral effect (i.e. the greater or lesser probability of the death of the child) requires a very careful evaluation of the proportionality and other circumstances.

There are other types of clinical situation that arise, such as ectopic pregnancies. Here the pathology is not independent of the pregnancy, but is in fact constituted by the pathological way that the pregnancy develops. If the ectopic pregnancy is not spontaneously resolved, a situation occurs in which the life of the child is irreversibly condemned by nature, and it is then the obligation of the attending doctor to initiate a therapeutic act or actions of intervention that are intended to save the only life it is possible to save, always with the maximum respect shown

⁹⁹Pius XII, "Discorso al 'Fronte della Famiglia" e all'Associazione Famiglie numerose", November 27, 1951, in *Discorsi e radiomessaggi di Sua Santità Pio XII*, w2.vatican.va/content/pius-xii/it/speeches/1951. Our translation.

toward the life that necessarily must perish. The fact that the “choice” between one life and another has already been taken by nature does not authorize the physician to complete a choice to kill, but only to carry out the procedures that are necessary here and now to avoid grave risks for the mother, risks which in this case would be completely without any good effect¹⁰⁰.

These situations, and others like them, are very different from *therapeutic abortion*, which is, by contrast, a direct abortion willed as means to the end of securing the physical or psychological health of the mother.

5.3.9 *Interception and Contra-gestation*

“Contraception” is the term for every moral action that intentionally renders conjugal relations infertile – that is to say, prevents a conception from occurring. *Today drugs or health products are presented as “contraceptives” whose principal or most certain effect is not to prevent conception from occurring but to prevent the implantation of the zygote in the uterus after conception (“interception”, “interceptive method”) or to destroy the embryo after it has been implanted (“contragestation”, “contragestative or “antigestative methods”).* They are methods which provoke an early abortion, and are thus abortive or, in some cases, primarily abortive¹⁰¹. Nevertheless, the methods are presented as “emergency con-

¹⁰⁰All are not in agreement on the translation of these ethical principles into the operative medical terms. Here we can do nothing more than refer the reader in need of more information to the more profound works of specialist literature. The following can be consulted: T. Lincoln Bouscaren, *The Ethics of Ectopic Operations*, 2nd rev. ed. (Milwaukee, Bruce Publishing Co., 1944); J. Connery, *Abortion: The Development of the Roman Catholic Perspective* (cited above, note 33), pp. 302-303; W. May, “The Management of Ectopic Pregnancies: A Moral Analysis”, in P. J. Cataldo, A. S. Moraczewsky (eds.), *The Fetal Tissue Issue. Medical and Ethical Aspects*. (Braintree, Mass.: The Pope John XXIII Medical-Ethics Research and Education Center, 1994), 121- 147). A. G. Spagnolo, M.L. di Pietro, “Bioetica clinica. Quale decisione per l’embrione in una gravidanza tubarica?”, *Medicina e Morale* 45/2 (1995) 285 – 310. E. F. Diamond, “Moral and Medical Considerations in the Management of Extrauterine Pregnancy”, *Linacre Quarterly*, 66 (1999) 5 – 15; M. Rhonheimer, *Vital Conflicts in Medical Ethics: A Virtue Approach to Craniotomy and Tubal Pregnancies*, ed. William J. Murphy (Washington, D.C.: Catholic University of America Press, 2009).

¹⁰¹There is an ongoing debate about the manner in which these products operate. In many health-care environments “abortion” is only the elimination of an embryo after it has been implanted, and thus these methods can be presented as if they were contraceptives. In reality, these drugs make possible a complete liberalization of early abortion, which thereby eludes abortion-limiting laws. Relevant researches have shown that they do not always inhibit

traception” or “post-coital contraception”, etc., since they are used *after* a sexual encounter that is thought to have been fertile. They are given this label for the purpose of being more or less freely marketed at the pharmacy, to change public opinion, and to secure their distribution by getting around the obstacles placed by various abortion laws.

The most common interceptive methods are: intra-uterine device (IUD); various hormonal products generically known as “morning-after pills”; progestins in the form of pills, injections or subcutaneous implants. All of these have negative collateral effects for the health of the woman, on which we will not take extra time in this context. ¹⁰²

The principal methods of contragestation are: corionic anti-gonadotropin vaccine (anti-hCG vaccine); the RU486 pill or mifepristone; prostaglandins. These methods, sometimes presented as means of “menstrual regulation”, are used to put an end to pregnancies before the forty-ninth

ovulation, even when administered in the pre-ovulatory phase. The contraceptive effect is secondary. The principal effect (in 80% of all cases) occurs *after* conception, and prevents the implantation of the embryo in the uterus: it is therefore abortive.

¹⁰²On the scientific aspects in general, see: J. Florez, J. A. Armijo, A. Mediavilla, *Far-macologia humana* (3rd ed.; Barcelona: Masson, 2000). For some of the more specialized literature, cf. A. A. Yuzpe, J. J. Turlow, I. Ramzy, “Post-coital contraception. A pilot study”, *Journal of Reproductive Medicine*, 13 (1974) 53 – 58; X. O. Bilian, Z. Xueling, F. Deuden, “Pharmacokinetic and pharmacodynamic studies of vaginal rings releasing low dose levonorgestres”, *Contraception* 32 (1985) 445 – 471; E.E. Balieu, “Contragestation by antipro-gestina: a new approach to human fertility control”, in: Various authors, *Abortion: medical progress and social implications* (London: Pitman, 1985), pp. 192- 210; Y. Shi, S. Zheng, Y. Zhu, Ch. He, P. Yu, K. Fotherby, “Pharmokinetic study of levonorgestrel used as a postcoital agent”, *Contraception* 37 (1988) 359 – 369; D. T. Baird, M. Rodger, I. T. Cameron, “Prostog-landins and the interruption of the early pregnancy”, *Journal of Reproduction and Fertility* 36 (1988) (suppl.) 173 – 179; B.M. Landgren, E. Johannisson, A. R. Aedo, “The effects of levonorgestrel administered in large doses at different stages of the cycle on ovarian function and endometrial morphology”, *Contraception* 39 (1989) 275 – 289; R. Peyron, E. Aubeny, V. Targosz, “Early termination of pregnancy with mifespristone (RU 486) and the orally ac-tive prostaglandine misoprostol”, *The New England Journal of Medicine* 328 (1993) 1509 – 1513; R. J. Aitken, M. Paterson, P. Thillai Koothan, “Contraceptive vaccines”, *British Med-ical Bulletin* 49 (1993) 88 – 99; B. Bayle, “L’activité antinidatoire des contraceptifs oraux”, *Contraception Fertilité Sexualité* 22 (1994) 391 – 395; A. A. Haspels, “Emergency contracep-tion: a review”, *Contraception* 50 (1994) 101- 108; L. Marions, K. Gemzell, M. Swahn, M. Bygdeman, “Contraceptive efficacy of low doses of mifepristone”, *Fertility and Sterility* 70 ((1998) 813 – 816; D. Tremblay, E. Gainer, A. Ullmann, “The pharmacokinetics of 750 mg levonrgestrel following administration of one single dose or two doses at 12 or 24 h interval”, *Contraception* 64 (2001) 327 – 331; C. Kahlenborn, J. B. Stanford, W. Larimore, “Postfertil-ization effect of hormonal emergency contraception”, *Annals of Pharmacotherapy* 36 (2002) 465- 470.

day. Some products are used up until the fifty-sixth day. Drugs that belong to this category are Mifepristone (RU 486), Misoprostolo, Gemeprost, etc., Methotrexate is also used (which inhibits the development of the trophoblast).

These products reveal a further dimension of the connection between contraception and abortion. The moral attitude that instrumentalizes sexuality gives birth to a readiness to destroy its fruits. From the moral point of view contragestational methods are manifestly abortive in nature, and in using them there is certainty that they will obtain their effect, and that is relevant for the effects of excommunication. Interceptive methods are primarily abortive, and their use by someone who knows what their mechanism is, involves the acceptance of the possibility of carrying out an early abortion, even if there is generally no certainty that they will obtain their effect¹⁰³. In any case, the abortive nature of these methods is important with regard to the ethical problems of cooperation in their production, prescription and dispensing, and with regard to the legitimacy of conscientious objection¹⁰⁴.

¹⁰³This is the meaning of the statement made in the Instruction *Dignitas personae*: “The use of means of interception and contragestation fall within the *sin of abortion*, and are gravely immoral” (*Dignitas personae*, 23).

¹⁰⁴On the ethical and bioethical aspects of these methods, see: M. L. Di Pietro, E. Sgreccia, “La contragestazione ovvero l’aborto nascosto”, *Medicina e Morale* 38/1 (1988) 5 – 34; E. Sgreccia, “Dispensazione al pubblico di mezzi contraccettivi e/o abortivi”, *Medicina e Morale* 39/4 (1989) 744-746; K. M. Severkyn, “Abortifacient drugs and devices: medical and moral dilemmas”, *Linacre Quarterly* 8 (1990) 50 – 67; M. L. Di Pietro, R. Minacori, “Sull’abortività della pillola estroprogestinica e di altri ‘contraccettivi’”, *Medicina e Morale* 46/5 (1996) 863-900; A. C. Marcuello, “Contracepción hormonal y tratamiento hormonal”, *Cuadernos de Bioética*, 23 (1997) 662 – 673; M. L. Di Pietro, R. Minacori, “‘Contraccezione d’emergenza’: problema medico, etico e giuridico”, *Vita e Pensiero* 5 (1997) 353- 361; J. Suaudeau, “Contraception and Abortion. Foes or Friends?”, *Linacre Quarterly* 5 (2000) 68 – 69; R. L. Pineda, “‘Contracepción de emergencia’, un mal llamado método contraceptivo”, *Cuadernos de Bioética* 45 (2001) 179 – 193; M. L. di Pietro, R. Minacori, “La contraccezione d’emergenza”, *Medicina e Morale* 51/1 (2001) 11- 39; J. López Guzmán, A. Aparisi Miralles, *La pildora del día siguiente* (Madrid: Sekotia, 2002); M. L. di Pietro, M. Casini, A. Fiori, R. Minacori, L. Romano, A. Bompiani, “Norlevo e obiezione di coscienza”, *Medicina e Morale* 53/3 (2003) 411 – 455; P. A. Talavera, V. Bellver Capella, “La objeción de conciencia farmacéutica a la pildora postcoital”, *Medicina e Morale* 53/1 (2003) 111-133.

5.4 Prenatal Diagnosis

“Prenatal diagnosis” refers to a group of technologies (echography, fetoscopy, placentocentesis, removal of corial villi, amniocentesis) which make possible a knowledge of the future presence of malformations or genetic diseases in the fetus¹⁰⁵. It is a diagnostic technique that simply furnishes knowledge about the state of the fetus. This has become problematic because of the present-day diffusion of the abortionist mentality, and certain ideas about the quality of life, through which it happens that an unfavorable diagnosis is followed by a voluntary abortion. Can a health worker who is aware that every human being has a right to life regardless of the quality of its health, carry out a prenatal diagnosis, when that same worker knows that an abortion will be chosen as the result of an unfavorable diagnosis?

The instruction *Donum vitae* explains very clearly what the Church teaches on the matter: *prenatal diagnosis is morally licit if it respects the life and the integrity of the embryo and the human fetus, and if it is oriented toward the preservation or healing of the [pre-born] individual*¹⁰⁶. It is recognized that pre-natal diagnosis is not only directed toward voluntary abortion, since some successful interventions – in reality, only a few – have been made on genetic diseases, just as it has been possible to make certain medical and surgical interventions on the fetus¹⁰⁷. Of course, given that some diagnostic techniques are very invasive and involve certain types of risk, their use should be justified by the data that emerge from genetic research and a study of the couple’s history¹⁰⁸.

¹⁰⁵Cf. E. Sgreccia, *Personalist Bioethics* (cited above, in note 5) pp. 344-364; 368-9 (summary); A. Serra, “Problemi etici della diagnosi prenatale”, *Medicina e Morale* 32/1 (1982) 52 – 61; C. Caffarra, “Aspetti etici della diagnostica prenatale”, *Medicina e Morale* 34/4 (1984) 449 – 457; L. Leuzzi, “Indicazioni etiche per la diagnosi prenatale”, *Medicina e Morale* 34/4 (1984) 458 – 463; E. Sgreccia, “La diagnosi prenatale”, in: Various authors, *Persona, verità e morale* (Roma: Città Nuova Editrice, 1987) pp. 315- 331; D. Tettamanzi, *Nuova bioetica Cristiana* (Casale Monferrato: Piemme, 2000) pp. 295 – 308.

¹⁰⁶Cf. *Donum vitae*, I, 2.

¹⁰⁷Cf. A. Calisti, “Il feto, paziente chirurgico”, *Medicina e morale* 33/1 (1983) 49 – 58; *Idem*, “Diagnosi prenatale e possibilità terapeutiche chirurgiche”, *Medicina e morale* 34/4 (1984) 493 – 497.

¹⁰⁸The physician “above all ... must carefully evaluate the possible negative consequences which the necessary use of a particular exploratory technique may have upon the unborn child and avoid recourse to diagnostic procedures which do not offer sufficient guarantees of their honest purpose and substantial harmlessness. And if, as often happens in human choices, a

But things are different when this is carried out in a context that lacks respect for life. *Donum vitae* affirms, in fact, that prenatal diagnosis “*is gravely opposed to the moral law when it is done with the thought of possibly inducing an abortion depending upon the results: a diagnosis which shows the existence of a malformation or a hereditary illness must not be the equivalent of a death-sentence*”¹⁰⁹. Thus both parties are in the wrong: the woman who requests the diagnosis with the intention of aborting, should the result be unfavorable, and the husband or parents who recommend or themselves impose the diagnosis with the same intention¹¹⁰. “So too the specialist” – *Donum vitae* continues – “would be guilty of illicit collaboration if, in conducting the diagnosis and in communicating its results, he were deliberately to contribute to establishing or favoring a link between prenatal diagnosis and abortion. In conclusion, any directive or program of the civil and health authorities or of scientific organizations which in any way were to favor a link between prenatal diagnosis and abortion, or which were to go as far as directly to induce expectant mothers to submit to prenatal diagnosis planned for the purpose of eliminating fetuses which are affected by malformations or which are carriers of hereditary illness, is to be condemned as a violation of the unborn child’s right to life and as an abuse of the prior rights and duties of the spouses”¹¹¹.

A particular problem arises when the physician does not succeed in finding out before the examination, just what would be the intention of the woman, in case of an unfavorable diagnosis. Our view, with Sgrecchia, is that “the specialist, aware and convinced of the need to protect the soon-to-be-born baby, can carry out the diagnosis with the proper attention and provide all the support he can, to the end that there is agreement with these terms on the part of the woman and the couple in case the diagnosis is unfavorable”¹¹². Naturally, in these cases the doctor cannot limit himself to communicating the result of the examination in a

degree of risk must be undertaken, he will take care to assure that it is justified by a truly urgent need for the diagnosis and by the importance of the results that can be achieved by it for the benefit of the unborn child itself” (John Paul II, *Discourse to Participants in the Pro-Life Movement Congress*, 3 December 1982; cited in note 27 of *Donum vitae*, I, 2.)

¹⁰⁹*Donum vitae*, I, 2.

¹¹⁰*Cf. ibidem.*

¹¹¹*Ibidem.*

¹¹²E. Sgrecchia, “La diagnosi prenatale “ (cited note 105 above), p. 331; our translation.

“neutral” way, since the decision of the mother that will soon follow will greatly depend on the extent of help and solidarity forthcoming from the doctor.

5.5 Artificial Procreation

5.5.1 *Overview of the Techniques of Artificial Procreation*

At first, techniques of artificial procreation were proposed as a way to overcome problems of sterility¹¹³. Among these, the techniques of extra-corporeal fertilization or *in vitro* fertilization were designed to overcome problems of definitive tubal sterility, and they were presented as an alternative to techniques of surgery and microsurgery, in which remarkable progress was achieved, especially since 1974 when intra-abdominal laser surgery began to be applied¹¹⁴. Currently the recourse to techniques of extra-corporeal fertilization is more extensive. It is being used by non-sterile couples who want to select the sex of their child, or by couples who want to be sure that they are not transmitting a disease, or by those who want to be able to use fetal tissues to help another child with medical problems.

Techniques of artificial procreation can be divided into two large groups: intra-corporeal and extra-corporeal. In the former, the two gametes meet within the body of the woman; in the latter, this meeting takes place outside, and the embryo or embryos are then transferred to the mother's body. Both procedures can be homologous or heterologous. Homologous procedures use the gametes of the couple; in the heterologous, at least one of the gametes belongs to a male or female donor other

¹¹³For a preliminary acquaintance of these techniques, cf. A. Rodriguez-Luño, R. López Mandéjar, *La fecondazione “in vitro”: aspetti medici e morali*, (Rome: Città nuova, 1986; Spanish translation: *La fecundación “in vitro”* Madrid: Palabra, 1986); E. Sgreccia, ed., *Il dono della vita* (Milan: Vita e Pensiero, 1987); M. L. di Pietro, E. Sgreccia, *Procreazione assistita e fecondazione artificiale tra scienza, bioetica e diritto* (Brescia: La Scuola, 1999); J. Vial Correa, E. Sgreccia, eds., *La dignità della procreazione umana e le tecnologie riproduttive. Aspetti antropologici ed etici*, (Città del Vaticano: Lib. Ed. Vaticana, 2005).

¹¹⁴Cf. J. F. Daniell, “The role of lasers in infertility surgery”, *Fertility and Sterility*, 42/6 (1984) 815-822.

than the couple.

Techniques of Intra-corporeal Fertilization — The principal methods are: artificial insemination, GIFT (gamete intrafallopian transfer), and LTOT (low tube oocyte transfer). In the present section we will discuss only the first. The second and third will occupy us later, in section 6.

Artificial insemination is a technique designed to attain conception through the transference of masculine sperm into the feminine genital tracts. It is indicated for cases of a pathological uterine cervix, malformation of the feminine genital apparatus, or in cases of masculine impotence or oligospermia. In cases of aspermia or severe oligospermia, recourse is had to artificial heterologous insemination (IAD), both by single women or by couples composed of women.

The fundamental elements of this technique are the following: induction and monitoring of the woman's ovulation (with or without stimulation of the ovaries), the collection of sperm, its preliminary preparation if needed (capacitation), and its transfer into the female genitalia (in the vagina, the uterine cervix, the fallopian tube or peritoneal seat).

In addition to the distinction between artificial homologous insemination (AIH) and artificial heterologous insemination (AID), there is, from the ethical point of view, a very important distinction between artificial insemination *in the strict sense* and artificial insemination *so-called*. In the former, the medical intervention is a substitute for conjugal relations, and the masculine sperm is collected from outside the conjugal relationship. In the latter, the conjugal relationship is not replaced, but is assisted in reaching its natural effects. The sperm is collected after an act of conjugal relation.

In cases where it is indicated, artificial insemination attains to conception from 40% to 50% of the time. This means that 40% - 50% of the women who begin the treatment will become pregnant, but generally only after many repetitions of the process. If pregnancy is achieved, there are often problems: mainly spontaneous abortion or multiple pregnancies.

Techniques of Extracorporeal Fertilization — The two leading ones are IVF-ET (*in vitro* fertilization followed by embryo-transfer) and ICSI (Intra cytoplasmic sperm injection). These are complex procedures,

with several variants, and they can be homologous or heterologous (also including embryo donation).

The principal elements of IVF-ET are:¹¹⁵

- Obtaining one or more oocytes: generally this requires stimulation of the ovaries, and several oocytes are obtained at one time. There are several methods of obtaining them, but in every case a medical intervention of a certain consistency is presupposed, in order to avoid having to repeat the process.
- Collection and preparation of the male sperm. Here too there are various methods. Frequently recourse is had to masturbation.
- Fertilization itself, which takes place in a test tube, outside of the mother's body. Usually plural oocytes are fertilized.
- Transfer of the embryo, or usually embryos, to the mother's body.
- Freezing of the embryos that have not been transferred, to be used in subsequent attempts (like replacement parts), or remain frozen for years. Laws in various nations determine that after a certain period of time (5 or 10 years) frozen embryo deposits are discarded. In all countries where IVF-ET is practiced there are tens of thousands – even hundreds of thousands – of frozen embryos.
- Monitoring the progress of the pregnancy.

ICSI (intracytoplasmic sperm injection) differs from IVF-ET only by the fact that the masculine sperm is not left in the test tube juxtaposed to the oocyte, in order that the oocyte be fertilized by a spermatozoon, but instead the physician selects a spermatozoon and injects it into the oocyte¹¹⁶.

¹¹⁵We will limit ourselves here to a synthesis of fundamental elements, without entering into a description of the actual methods used, which is a highly specialized matter. The reader interested in the particulars should consult the bibliography provided above, in note 112.

¹¹⁶On this technique see P. J. Sanchez Abad, L. M. Pastor García, *La inyección intracitoplasmática de espermatozoides. ¿Avance o imprudencia científica?* (Murcia: UCAM, 2005); there is an extensive bibliography.

With regard to the results obtained through these techniques, in the 1980's a great deal of attention was paid to the International Congress at Helsinki of 1983¹¹⁷. The composite figures presented in this study amounted to a total of 9,641 procedures, in which 24,000 oocytes were collected, and transfers were made to 7,733 women, from which 590 babies were born. The percentage of destroyed embryos was very high. Furthermore, the medical groups that obtained better results – such as the team of the Australian C. Wood – lost 90.6% of the transferred embryos¹¹⁸. Today, techniques have been remarkably improved, but the results still leave a lot to be desired. A detailed study carried out by Adriano Bompiani in 2004 and published early in 2005¹¹⁹ presents the data for 1999 in 22 European countries who belong to the European society for Human Reproduction: 343,162 transferred embryos led to 44,026 pregnancies; that is equivalent to losing 87 out of 100¹²⁰. To use a round figure, it can be said that out of a hundred women who begin the process, after one or more tries, only twenty succeed in having a baby. Keeping in mind that in every attempt three or more embryos are transferred, it becomes apparent that the numbers of lost embryos is very high. The percentage of lost embryos is elevated still more when you add in the embryos that are formed *in vitro* but do not get transferred to the mother, the so-called super-advanced embryos that are frozen or set aside for other purposes that usually leads to their destruction¹²¹.

¹¹⁷Cf. *Proceedings of the III World Congress of In Vitro Fertilization and Embryo Transfer*, (Helsinki: May, 1984). See the study by J. Freire Jorge, V. Martínez de Artola, “Fecondación artificial: aspectos médicos y cuestiones éticas”, in *Revista de Medicina de la Universidad de Navarra* XXIX (1984) 203-204.

¹¹⁸Cf. C. Wood and colleagues, “Clinical Implications of Developments in ‘*in vitro*’ fertilization”, *British Medical Journal*, 289 (1984) 978 – 980.

¹¹⁹Cf. A. Bompiani, “Lo sviluppo storico delle tecnologie ed il loro impatto nei processi di procreazione umana”, in J. Vial Correa, E. Sgreccia, eds., *La dignità della procreazione umana e le tecnologie riproduttive. Aspetti antropologici ed etici I*, (cited above, note 113), pp. 42 – 113.

¹²⁰Cf. A. Bompainai, “Lo sviluppo storico . . .”, p. 45. Other authors provide different quantities, but the percentages are analogous.

¹²¹We will shortly be discussing (in section 9 of the present chapter) the ethical problems posed by the freezing of embryos.

5.5.2 *Artificial Extra-corporeal Procreation and the Value of Human Life*

When approaching the scientific literature on extra-corporeal fertilization, one is immediately impressed with the fact that *these methods involve the destruction of human embryos in a very high numbers*. What is striking in second place is the direction being taken by the most advanced science. It is the desire to improve the results of the technique in terms of the percentage of births *vis à vis* women who undergo the treatment, but no significant interest is registered in diminishing the loss of human beings in the embryonic state. Nor is great enthusiasm to be found for strategies of preventing sterility, nor for acquiring better resources for improving the techniques of micro-surgery on fallopian tubes.

From the outset there has been open support of the need to subject human embryos to experimentation, whether such experimentation be of a fundamental nature or for the purpose of improving *in vitro* fertilization techniques. In a 1984 publication, Edwards asserted that “to dedicate oneself to *in vitro* fertilization without preventing as far as possible the birth of handicapped infants is an indefensible position. The clinical application of *in vitro* fertilization requires all types of research upon embryos¹²².” And in reference to fundamental research, the same author affirmed in another publication that “In some laboratories, pre-ovulated eggs are collected from consenting women who are not sterile. These eggs are collected and fertilized *in vitro* without any intention of transferring them as embryos into a uterus. They are used only for the purposes of research, for observational studies or experiments. These embryos are not the embryos in reserve that are kept in clinics that use *in vitro* conception to treat infertility, since they are being used in a way similar to animals used in research”¹²³. J. Bernard, the former President of the Ethical Committee of France, expressed himself no less clearly: “Certain

¹²²R.G. Edwards, M. Puxon, “Parental Consent over Embryos”, *Nature* 310 (1984) 179. See also L. R. Mohr, A. Trounson, “Freezing and Donation of Human Embryos”, *Journal of In Vitro Fertilization and Embryo Transfer* 1 (1984) 127.

¹²³R. G. Edwards, “The Ethical, Scientific, and Medical Implications of Human Conception *in vitro*”, in c. Chagas, *Modern Biological Experimentation*, Pontifical Academy of the Sciences (Vatican City: Lib. Ed. Vaticana, 1984); Cited in A. Serra, “Interrogativi etici dell’ingegneria genetica”, *Medicina e Morale* 34/3 (1984) 316.

experiments are morally necessary and necessarily immoral”¹²⁴.

At present, for the birth of some thousands of babies, an additional price is being paid in terms of frozen embryos -- tens of thousands or hundreds of thousands of them -- and the tendency is becoming ever more strongly solidified of subjecting the “super-advanced” embryos to stem-cell research or other scientific and industrial uses. Surgical techniques of tubal repair, even though receiving less financial support, continue to have better results than *in vitro* fertilization¹²⁵. Nevertheless, the persons with sterility problems are immediately invited to *in vitro* fertility clinics. Moreover, practices of eugenic selection are becoming widespread, since non-sterile couples who can possibly pass on diseases to their children are also visiting fertility clinics. Many countries are approving these practices through legislation, without restraining themselves from a logic of discrimination to which no limits can be set. Will the prediction of diabetes or myopia, once it becomes possible, be considered a sufficient reason to eliminate an embryo? There is also growing commercialization, with aggressive publicity, not to mention the fact that the work of ethical committees, even at the national level, is often affected by an evident and loudly-broadcast conflict of interests. Without any doubt, something is quite apparent today that already began to be glimpsed indistinctly in the 1980’s: the techniques of extra-corporeal fertilization are only possible on the presupposition that embryos are a kind of biological preliminary structure, a type of “pre-thing” that is completely subject to the hands of a physician, whether as replacement items to be used for future reproductions, or as objects of research, as mines of stem-cells, or finally, as a material to be discarded when no use can be seen for it.

It is necessary to point out that the destruction of embryos involved in *in vitro* fertilization is not brought about through evil intention. It is the inevitable consequence of moving the origin of human life away from the intimacy of conjugal love and into the technical context of the laboratory. Technology has its own logic – a logic governed by the

¹²⁴The declaration was cited by J. Schmitt, “Biologie: jusqu’ou peut-on aller?”, *Le Point* (December 3, 1984), p. 52.

¹²⁵*Cf.* R. Marana, “Le terapie chirurgiche della sterilità femminile”, in J. Vial Correa, E. Sgreccia, eds., *La dignità della procreazione umana e le tecnologie riproduttive. Aspetti antropologici ed etici* (cited above), pp. 225 – 236.

principles of efficiency, utility and profitability – which cannot be set aside without contradiction or falling into indefensible positions.

When bioethics and moral theology begin to concentrate on these methodologies, a simple analysis of the facts and the scientific literature shows the emergence – with full evidence – of a new dimension of what the encyclical *Humane vitae* named the inseparability of the unitive and procreative meanings of sexuality. Up until that time, the inseparability was intended in such a way that the requirements of loving union open themselves up to the requirements of procreation, so that openness to the transmission of life – or at least not positively excluding it – constituted the best defense of the true, dynamic nature of love between man and woman. It is now possible to see the other side of the coin: conjugal communion, even the intimate sexuality of the spouses, is the only environment in which human life can receive the protection and the care that human dignity requires. There is no better protection for new life than that guaranteed by the intimacy of conjugal love. Love is the only just attitude with which to approach a human being called into existence, since to love is to recognize, accept, and respect the other for its own sake. Only an action that is also an act of love can worthily set into motion the process of the procreation of a human life.

Ethical analysis thus arrives at the conclusion that the inseparability of procreative activity from the effusion of disinterested love in the conjugal context is a requirement of the dignity of the person who is to be born, and therefore, an intrinsic good, and not a simple biological fact that can be replaced by a technical procedure when there is some reason to do so. The co-presence of the procreative and unitive meanings that specifically characterize human sexuality appear, in sum, as a profound *structure* within which reside two co-values of the greatest importance. The union of the two dimensions (unitive and procreative) in sexuality is not a simple fact without any other foundation than that it is simply there, but instead possesses a meaning that is easy to understand: such a union guarantees and strengthens the specifically personal goods involved in human sexuality, which is to say, the two goods brought into play by the fact that both the “generators” and the “generated” are human persons.

‘Structure’ is used here, and not simply ‘union’, because the two di-

mensions of sexuality mutually protect and strengthen each other, in such a way that their dissociation involves an injury not only to the dimension that in any case is excluded, but also of the dimension that it is desired to preserve and promote. We stand before an anthropological structure of fundamental character, in which there is no call for invoking the love of the spouses who desire a child or other subjective circumstances. The intention of the spouses who have sterility problems cannot play any intrinsic role in the techniques of artificial procreation. Such an intention, which is not under discussion here, remains on the external level, and does not determine the technical procedure, which is governed by the logic of efficacy, utility and efficiency. The technical procedure is the same whether the spouses are moved by a truly noble intention or when such an intention is entirely lacking. In both cases the subjective motivations cannot reduce the lack of equivalence between the technical procedure and the personal goods that are in play.

*In conclusion: techniques of extra-corporeal artificial procreation are not congruent with the dignity of the human person, because, independently of subjective intentions, they treat the person being born as an object, with all the consequences that follow. The first of these is the repeated violation of the principle of the inviolability of human life*¹²⁶.

Only the simplest types of artificial procreation that are intra-corporeal (in practice, this means artificial homologous insemination) do not involve the destruction of embryos. Other more complicated techniques, such as GIFT, raise certain perplexities from this perspective as well, as will be seen shortly. In every case there is a dissociation of conjugal union and procreation, which attacks the axiological structure of human sexuality. We will discuss the anthropological foundation and ethical requirements that this structure involves in Section 3 of Chapter VIII.

¹²⁶This aspect has been placed clearly in relief by *Dignitas personae*, nos. 14 – 16. For a fuller treatment we can refer the reader to A. Rodríguez-Luño, R. López Mondejar, *La fecondazione ‘in vitro’. Aspetti medici e morali*, (cited above, note 113), pp. 67 – 116; See also C. Caffarra, “La fecondazione ‘in vitro’. Problemi etici”, *Medicina e Morale* 35/1 (1985) 68 – 71; J. Testart, *L’uovo trasparente* (Milan: Bompiani, 1988). Two documents by the Bishops of the United Kingdom are also of interest: The Bishops’ Joint Committee on Bio-Ethical Issues, “Fertilizzazione ‘in vitro’: Moralità e politica sociale”, *Medicina e Morale* 33/4 (1983) 435 – 448; *Idem*, “Commenti sul Rapporto Warnock”, *Medicina e Morale*, 35/1 (1985) 138 – 180 (in both cases, the English version has been published along with the Italian translation).

5.5.3 *The Church's Teaching on Artificial Procreation*

The instruction *Donum vitae*, published by the Congregation for the Doctrine of the Faith on February 22, 1987, contains the most organic and complete exposition of the Church's doctrine on this matter. The moral principles it expounds are the following:

1. Medical intervention in human procreation requires, more than anything else, respect for the human life being born. The embryo is to be treated as a person from the first moment of its existence¹²⁷.
2. Human procreation ought to take place in matrimony between a man and a woman. The spouses can become parents only by way of each other¹²⁸.
3. Human procreation is rightly carried out when it is willed as the result of a conjugal act, which is the special expression of the spouses own corporeal and spiritual union¹²⁹.
4. A medical intervention is respectful of the dignity of the persons when it is intended to assist the conjugal act, either by facilitating its completion or by allowing it to fulfill its purpose once it has been completed in a normal way¹³⁰.
5. There is an increasing degree of seriousness in the prohibition of such medical interventions as do not respect these principles corresponding to the greater degree of substitution of the conjugal act and the personal presence of the spouses during procreation, which implies a differentiation of ethical judgment and also – particularly at the legislative and political levels – a differing evaluation of the contradiction of such actions with the common good¹³¹.

¹²⁷ Cf. *Donum vitae*, I, 1.

¹²⁸ Cf. *ibid.*, II, A. 1.

¹²⁹ Cf. *ibid.*, II, B, 4.

¹³⁰ Cf. *ibid.*, II, B, 7.

¹³¹ Cf. *ibid.*, III. For some special problems that can occur in the political arean, see A. Rodríguez-Luño, "I legislatori cattolici di fronte alle proposte migliorative delle leggi ingiuste in tema di procreazione artificiale", in J. Vial Correa, E. Sgreccia, *La dignità della procreazione umana e le tecnologie riproduttive. Aspetti antropologici ed etici* (cited above) pp. 199 – 208.

According to these principles, *all techniques of heterologous artificial insemination are illicit*, since they are contrary to matrimonial union, and *also techniques of homologous artificial insemination in the strict sense*, since in these techniques procreation is dissociated from the conjugal relation. *On the other hand, techniques of homologous artificial insemination in the broad sense are permissible which, without replacing the conjugal act, constitute a means of assisting it to realize its proper end, after it has been normally completed.* As for the techniques of artificial extra-corporeal fertilization, they are morally illicit because they exclude the conjugal act and, in practice, all foresee the loss of embryos in a various ways, and they do this intentionally. Whenever they are heterologous they are also contrary to the unity of matrimony. In sum, it is immoral to form human embryos *in vitro* to transfer them to the mother, and it is *a fortiori* even more immoral to form embryos *in vitro* with the intention or the foreknowledge of not transferring them to the mother, whether it be to another woman, or for freezing, to the ultimate end of experimentation, research or other uses¹³².

One of the principal fundamentals at the foundation of a moral judgement on these techniques is the absolute illicitness of every manner of realizing generation that excludes the conjugal act. Consequently, these judgements apply to techniques of fertilization *in vitro* and of artificial insemination in itself and in the strict sense, even with the possibility of carrying them out without the inconveniences and abuses that generally accompany them (loss or freezing of embryos, eugenic selection, surrogate motherhood, destruction of embryos, procedures carried out *post mortem* on one of the spouses, or involving homosexual couples, etc.). The reasoning we have developed in this section was intended to show in an inductive way that the connection between procreation and the conjugal relation constitutes an intrinsic good of incalculable anthropological and ethical importance, the violation of which is always illicit, even in the hypothetical case, as yet to be verified, that such a violation could take place without causing any other negative effects. We are, nevertheless, convinced (and experience confirms it) that the insertion of human

¹³²For more detail on the particular techniques see E. Sgreccia, *Personalit Bioethics*, pp. 475- 547; L. Ciccone, *Bioetica. Storia, principi, questioni* (cited above), pp. 81 – 142 (both works have ample bibliographies).

procreation into a technological context cannot but have consequences that would be contrary to the dignity of the person and to human life.

5.6 Techniques for Assisting Human Procreation

The Instruction *Donum vitae*, while recalling the teaching of Pius XII, affirms that the negative moral judgement on artificial homologous insemination (in the strict sense) “does not necessarily proscribe the use of certain artificial means destined solely either to the facilitating of the natural act or to ensuring that the natural act normally performed achieves its proper end”¹³³. Among these techniques of assisting, and no substituting the conjugal act, there are three types of procedures that are available today: artificial insemination in the wider sense, LTOT, and GIFT.

Of course, there are also other ways to assist procreation, such as prevention of sterility, hormonal therapy and surgical and microsurgical interventions. One could be assisted in this way, for example, through the hormonal treatment of infertility of gonadic origin, through surgery on a limited endometriosis, or a de-obstruction of the fallopian tubes through selective salpingography, by surgical restoration (*transcervical fallopian tube catheterization*), or by micro-surgery on tubal permeability (salpingostomy or fimbrioplasty). These and other techniques are intended to resolve the underlying problem of sterility, in such a way that the couple are able to have conjugal acts with a procreative outcome, without the physician having to interfere directly in the conjugal act itself. These therapies for sterility and the restoration of fertility by way of a reconstruction of the fallopian tubes are always licit, and should be recommended, except that hormonal therapy which stimulates the ovaries requires particular care to avoid situations that can lead to an erroneous recourse to the elimination of embryos.

¹³³Pius XII, *Discourse to those taking part in the 4th International Congress of Catholic Doctors* (September 29, 1949): AAS 41 (1949) 560; the quotation is cited in *Donum vitae* II, B, 6.

But let us now proceed to discuss the three procedures just mentioned.

5.6.1 *Artificial Insemination in the Wider Sense*

According to the teaching of Pius XII and *Donum vitae*, interventions are admissible in which the spouses try to improve the chances of a procreative outcome by way of a simple relocation of the sperm to a place more favorable for fertilization. It is known as “transfer of the sperm after the conjugal act”. Likewise permissible are the interventions of homologous insemination in an infertile couple, to the extent that the sperm is collected in the context of a conjugal act (*post-coital sperm retrieval*), for example by means of a collector (perforated vaginal cup or a perforated retainer). The problem with these techniques of assistance is the meagerness of their success.

Another kind of medical intervention that has been discovered for improving the procreative results of such insemination which works by bringing the sperm to the uterine cervix (known as ICI, *intracervical insemination*) or directly to the uterus (*intrauterine insemination*, IUI), possibly in association with a perfusion of a suspension of sperm in the tubes (*fallopian tube sperm perfusion*, FSP), or directly into the tubes (*sperm intrafallopian transfer*, SIFT), or into the peritoneal cavity (*intra peritoneal insemination*, IPI, or *direct intraperitoneal insemination*, DPI). These techniques are often associated with ovary-stimulation and generally require certain procedures designed to improve the capacity of the sperm, through separation (“washing out”), concentration and selection (in cases of oligospermia or oligasthenospermia). Homologous intra-uterine insemination, often in combination with ovary-stimulation, is technically simple and obtains good results (increasing pregnancy per cycle from 12.6% to 21.7%, according to some authors). Removal of the sperm can take place during the conjugal act. It is not possible, however, to put fresh sperm into the uterine cavity, because this can increase the risk of accentuated contraction activity in the uterine musculature, flows of prostaglandin contained in the seminal fluid, and the risk of pelvic infection in the woman, once the sperm is no longer sterile. Further, the recently –ejaculated sperm is not capable of fertilizing the egg cell: it must first be capacitated – an operation that occurs with natural fertil-

ization in the feminine genitalia before the spermatozoa reach the third stage of the tube. Finally, granted that IUI is generally indicated in the case of masculine infertility, the seminal liquid must be prepared for the purpose of selecting a population of spermatozoa with a high level of mobility. This requires the intervention of a physician in the hospital or clinic.

Anything that goes beyond simple intra-vaginal insemination raises doubts about when the technology that is applied is still “assistance” and when it begins to be a substitution for the conjugal act. The moralist is challenged to understand the exact meaning of Pius XII’s teaching and its repetition in *Donum vitae*.

In his authoritative commentary on the 1949 *Discorso* of Pius XII, Hürth offered three important clarifications¹³⁴:

1. The discourse of Pius XII does not intend to say concretely what these means of assistance are, but only that such means do not come under a negative moral formulation, and therefore it is not possible to obtain from the words of the Pope any such clarification, since he did not intend to provide one¹³⁵.
2. There is no agreement among moralists concerning the various methods of assisting the conjugal act in reaching its natural end. In the forefront of the discussion are the methods which collect semen in a syringe – a method that would seem to resemble an interruption of a process that was begun in a natural way. Among the various opinions that of Merkelbach is noteworthy: according to him, the crucial condition for licitness is that the semen not be drawn out of the vagina¹³⁶.

¹³⁴Cf. F. Hürth, “Annotationes”, in *Periodica de re morali, canonica e liturgica*, 38 (1949) 282-295.

¹³⁵“Quid de his auxiliis artificialibus accessoriis fecundationis naturalis sentiri debet, *ex ipsa Allocutione erui non potest* -- (quia de his evidenter deliberato consilio agere recusat) – sed aliunde disci et diiudicari debet” (*ibid.*, p. 293; our underlining.)

¹³⁶After giving a decisive negative judgement on artificial insemination, Merkelbach makes the following qualification: “Aliud esset si rite peracta copula et semine non ad ostium quidem sed *in introitu* vaginae deposito, ibi, *quin ex vagina extrahatur*, recolligeretur et ope siphunculi profundius ad uterum traiceretur. Sic enim nullo momento semen ordinatione sua ad finem generationis privaretur; unde id non videtur esse nisi adiuvere naturam.” (*Summa Theologiae Moralis*, n. 938, nota 1).

3. In conclusion, Hürth remarks, given that the question is unsettled among weighty authorities, neither physicians nor spouses ought to be troubled if they use methods that rely on the capacitation of the sperm outside the body of the woman¹³⁷.

But among the weightier authorities a distinction has been accepted between artificial insemination in the strict sense and insemination in a wider sense. “On this, there is *unanimous consensus among theological moralists*: homologous artificial insemination is held to be morally licit with semen that has been collected by methods that presuppose a true and proper conjugal act”¹³⁸. C. Caffarra studies the case in which an intervention is required that consists in the injection of seminal fluid, with intra-uterine semination or even intra-tubal insemination (“high insemination”), or alternatively, with cervico-vaginal or only vaginal insemination (“low insemination”). This second type can take two different forms: the spouses either have normal sexual intercourse or an abnormal one, in which the male either uses a condom or interrupts the coitus and completes the act “*inter femora*”¹³⁹. Caffarra holds that the first form can be accepted, “probably even in the case, it seems to me, of retrograde ejaculation. It consists, essentially, of a pure and simple assistance that is not a substitute for the conjugal intimacy of the spouses. . . . *even if the seminal liquid, before being placed more deeply, has been extracted from the vagina and, if medically necessary, manipulated*. It is much more difficult to give a certain judgment on the second form in which the action can take place. If the condom is perforated and one part of the semen enters the vagina and another part is kept in the condom, I would not consider a positive ethical judgement altogether unlikely¹⁴⁰.” He adds that he considers insemination with the other methods – *coitus interruptus*, *inter femora*, non-perforated condom – to be illicit.

¹³⁷“At cum res controvertatur inter auctores serios, neque medici neque conjuges, stante hac controversia, inquietandi sunt, si hac methodo uti volunt.” F. Hürth, *Annotationes* (cited in note 134), pp. 294-295.

¹³⁸D. Tettamanzi, *Bambini fabbricati*, (Casale Monferrato: Piemme, 1985), p. 27.

¹³⁹Cf. C. Caffarra, “Riflessione etico-teologica sulla inseminazione artificiale”, *Medicina e Morale* 30/2 (1980) 130.

¹⁴⁰*Ibid.* p. 131 (our emphasis). It is commonly accepted today that a conjugal act in which a perforated condom is used – for example, to acquire a clinical analysis of the sperm – is still a true conjugal act.

Donum vitae explains that there must be a link between procreation and the conjugal act. For some authorities, this linkage is being respected as long as the technique presupposes an actual sexual act in the proper sense of the word¹⁴¹. Other authorities appear to require something in addition. C. Caffarra observes that, while allowing that the procreative process is partly a free action of the human person and partly something that is not free, but which simply happens in the human person, “what is not outside of the discussion by anyone, in the mind of the *Instruction*, is the *relationship* that ought to be present between these two moments: must, or must not, the second moment be an *immediate* consequence of the first (or – what comes to the same – should that which provides the conditions for the natural process not be an act of personal love?) Or is it rather that this process can be initiated by an act that is *different* from the conjugal act?”¹⁴². J. Seifert maintains that, in order for a medical intervention to be defined as assistance of the conjugal act, there must be a clear continuity between it and its effects. A total interruption of the process, an “hiatus” between the conjugal act and its effect would imply that the latter depends above all on the medical action, because it would be lacking the requisite continuity. Therefore, if it is possible to speak of assistance, there is a requirement that the medical intervention have the function of performing a relatively moderate service relative to the principal cause, which is the conjugal act. During the intervention, the effect must be kept within the process that flows from the personal act¹⁴³.

In our view, because the medical intervention is an assistance to, and not a substitution for, the conjugal act, it is not sufficient that a

¹⁴¹Cf. for example: E. Sgreccia, M. L. Di Pietro, “Procreazione artificiale”, in F. Compagnoni, G. Piana, S. Privitera (eds.), *Nuovo dizionario di teologia morale* (cited above in Ch. 4, note 98), pp. 994 – 1007. They affirm that “As far as regards the particular type of techniques that constitute assistance and not substitutions for the conjugal act, reference can be made to the procedure known as “artificial insemination in the broad sense”, which consists in the taking of some masculine semen after a conjugal act and accompanying and transporting it in such a way as to overcome the obstacles standing in the way of its complete success” (p. 1004).

¹⁴²C. Caffarra, “Il dono della vita: introduzione antropologica”, in E. Sgreccia (ed.), *Il dono della vita* (cited above), pp. 115 – 116.

¹⁴³Cf. J. Seifert, “Substitution of the conjugal act of assistance to it? IVF, GIFT, and some other medical interventions. Philosophical reflections on the Vatican Declaration “*Donum vitae*”, *Anthropotes* IV/2 (1988) 273 – 286.

normally performed conjugal act be presupposed, but it is also necessary that there be respect for the unity and the logical and temporal continuity of the process that has been initiated by the moral conjugal act. This seems to us to be a thesis that can be affirmed with certainty, as an example should be enough to show. If an insemination is carried out with semen collected from the vaginal cavity after a normal conjugal act that was performed *two years earlier* (before the husband had departed for a tour of military service, from which he has not yet returned), then frozen and unfrozen, we have a case of a medical intervention which, even though presupposing a normal conjugal act, is manifestly contrary to the principles of the Instruction *Donum vitae*, since in this case there is no unity or continuity between the conjugal act and the other phases of the procreative process, which are actually set in motion by the medical intervention. The conjugal act has been reduced to a simple method, or occasion, for collecting seminal fluid.

The really difficult problem, however, consists in formulating in concrete terms just what are the requirements that need absolutely to be respected in order to ensure the unity and continuity of the procreative process. On the one hand, there is the danger that this will create an increasingly casuistic obsession with the minutes, hours or days (is the necessary continuity between the conjugal act and the procreative process preserved if the seminal fluid is collected and prepared for two hours in a laboratory? Or in four hours? Or six? and so on). On the other hand, it being granted that both Pius XII and *Donum vitae* have limited themselves to the statement of a general criterion, without wanting to make judgements on particular methods, a negative response with a more precise meaning would require secure and well-founded criteria. In the absence of a magisterial pronouncement by the Church, my personal judgement would be to say that, the fact that one part of the sperm must be extracted from the body for a short time does not present serious moral problems. Certainly the period of time and the intervention of the physician ought to be such that there is no obvious break in the continuity between the conjugal act and the procreative process, and should not acquire so much importance as to transform the conjugal act into a simple procedure for collecting sperm. My view is that the temporal period between the conjugal act and the act that places the extracted

semen back into the human body can be hours, but not days.

5.6.2 *The Technique of LTOT*

The procedure that was originally known as LOT (*Low Ovum Transfer*) or LTOT (*Low Tubal Ovum Transfer*) was developed at St. Elizabeth's Medical Center in Dayton, Ohio, in the years 1983 to 1985, as an aid for procreation for women affected by an absence, atresia, or permeability blockage of the Fallopian tubes. The aim of the method was limited, in the sense that the technique was only intended to get around the obstacle or defect of the tube by moving a mature oocyte from the ovary – after the conjugal act was performed – into the lower part of the Fallopian tube by laparoscopy. After that the fertilization that took place could develop naturally.

This technique did not succeed, and it is more interesting at the theoretical level of ethical reflection than at the practical. In effect, one may consider LTOT as a technique of “assistance”, and not as a substitution in so far as the conjugal act was directly the cause of fertilizing the oocyte transported in this way, without any manipulation of the masculine gametes. The creators of the LTOT technique have now changed it so that it is practically equivalent to GIFT, which we must now proceed to explain.

5.6.3 *GIFT*

GIFT (*gamete intrafallopian transfer*) was proposed by Asch and his colleagues in 1984¹⁴⁴. In this technique, the two gametes are collected and introduced into a catheter, separated by an air bubble, and then deposited in the ampullar segment of the tube, where fertilization can take place. There is a requirement, of course, that one of the tubes be in good condition. The oocyte or oocytes are taken up through a laparoscopic intervention that requires general anesthetic (as in IVF-ET). The masculine seed can be obtained on the occasion of a conjugal act. GIFT does not involve any manipulation of the embryo, but causes, just

¹⁴⁴ Cf. R. H. Asch, L. R. Ellsworth, J. P. Balmaceda, P. C. Wong, “Pregnancy after translaparoscopic gamete intrafallopian transfer”, *The Lancet*, 8410 (1984) 1034 – 1035; *ibid.*, “Birth following gamete intrafallopian transfer”, *The Lancet*, 8447 (1985) 163.

as IVF-ET, a higher percentage of ectopic pregnancies (on the average of 5.5%, as opposed to 0.8% naturally)¹⁴⁵. There is also a destruction of embryos – certainly not intentionally, but in an ethically questionable way – if several oocytes are made use of.

GIFT has stimulated rather great interest because it offers a remarkable measure of success and, from another perspective, has been presented as very respectful of the life of the embryo and the dignity of sexuality. The initial enthusiasm has cooled off, since the percentage of successes has remained the same, while the IVF-ET success rate has somewhat increased. Many practitioners have moved instead to ICSI (*intracytoplasmic sperm injection*).

The Instruction *Donum vitae* did not make a pronouncement on the morality of GIFT, and as of the present time the Magisterium of the Church has not taken a position. It certainly has the advantage of not manipulating embryos. But it does involve a greater number of ectopic pregnancies, and a not insignificant percentage (15.5% - 39.2%) of spontaneous abortions, a number that does even not include any abortions that were too soon to be clinically recorded¹⁴⁶. It is true, of course, that spontaneous abortions take place naturally, and many of them are very early, but the two situations are not completely equivalent, especially when there is stimulation of the ovaries¹⁴⁷.

From another point of view, *it seems that in GIFT the role of the technical procedure is very determinative, to the point where it is difficult to consider it as a simple "assistance"*. It seems able to do without the conjugal act, and if it does include it, it seems in reality to be an expedient for the collection of sperm, and thereby "the conjugal act would constitute a means of assistance and facilitation of GIFT, while the conceived baby would rather represent the 'fruit' of technical procedures than of conjugal love"¹⁴⁸. The medical doctor acquires a very direct responsibility, and there is always the hypothetical danger of controlling

¹⁴⁵Cf. M. L. Di Pietro, A.G. Spagnolo, E. Sgreccia, "Meta-analisi dei dati scientifici sulla GIFT: un contributo alla riflessione etica", *Medicina e Morale*, 40/1 (1990) 13 – 40.

¹⁴⁶Cf. *ibidem*.

¹⁴⁷For a discussion on the comparability between these spontaneous abortions and those that occur in nature, see A. Rodriguez-Luño, R. López Mondejar, *La fecondazione "in vitro": aspetti medici e morali* (cited above, note 113) pp. 82-89.

¹⁴⁸R. Minconi, A. G. Spagnolo, "È compatibile la GIFT con l'insegnamento della "*Donum vitae*?", *Medicina e Morale*, 48/1 (1998) 204.

the quality of the embryos. Other authors think, however, that if GIFT is applied after conjugal relations in such a way that one portion of the male sperm remains in the body of the spouse, which could then, possibly, succeed in fertilizing the oocyte, the intervention of the doctor would not be doing anything other than an *ad hoc* repositioning of the gametes in the tube, after the conjugal relation, helping it reach its natural end in the place that is also natural to it (the ampullar segment of the Fallopian tube). Repositioning of the gametes would not be a substitute for the conjugal act: it would be helping this act overcome the barriers or limits that keep it from reaching its natural end¹⁴⁹.

The arguments given *pro* and *contra* do not permit us to reach an apodictic moral judgement. *Our opinion, nevertheless, tends to the negative.* The protocols that we have been able to weigh in our examination lead us to think that it is very easy, in practice, to disregard the conditions laid down in *Donum vitae* for the ethical admissibility of a technique of procreative assistance¹⁵⁰. *Therefore, on the pastoral level, our recommendation would be, to not have recourse to this technique and, in any case, it would be necessary for an expert to study the concrete protocol that is being followed in any structure before it could be deserving of trust.*

5.7 Pre-Implantation Diagnosis

Pre-implantation diagnosis, known especially for the role it plays in genetic research (PGD: *pre-implantation genetic diagnosis*), is a preliminary form of prenatal diagnosis that is bound up with the techniques of extra-corporeal fertilization, whereby embryos that have been formed *in vitro* are analyzed for the detection of certain well-defined genetic or chromosomal defects. Only embryos that have been found to be free of such defects are then transferred to the mother. Unlike prenatal diagno-

¹⁴⁹For a discussion of the various arguments pro and con, see J. F. Doerfler, "Is GIFT Compatible with the Teaching of *Donum vitae*?", *The Linacre Quarterly* 64/1 (1997) 16 – 29; *idem*, "Assisting or Replacing the Conjugal Act. Criteria for a Moral Evaluation of Reproductive Technologies", *The Linacre Quarterly* 67/3 (2000) 22 – 66.

¹⁵⁰See the analyses of the protocols carried out by F. Mernes Ruffinelli, *El método GIFT: estudio ético-médico*, Doctoral Thesis presented at the Pontifical University of the Holy Cross (*Santa Croce*), Rome, 1989.

sis, which is essentially a diagnostic method, preimplantation diagnosis combines into one and the same action both diagnosis and the elimination of embryos with undesirable characteristics. If the diagnosis yields a positive result, preimplantation diagnosis becomes *ipso facto* a technique of early abortion¹⁵¹.

The promoters of preimplantation diagnosis rely primarily on the idea that before innidation, the embryo is a kind of cellular life, but not yet an individual human being. The selection of healthy embryos makes it possible to avoid both the interruption of pregnancy for therapeutic reasons and the spread of hereditary diseases in society, not to mention having tissues available for therapeutic purposes. *Nevertheless, preimplantation diagnosis is not ethically acceptable – not only because of the problems with IVF-ET, in which the diagnosis is contained – but also because it constitutes in itself a violation of the respect owed to the human embryo from the very first moment of its existence. The entire procedure corresponds to the immoral logic of selective abortion*¹⁵².

5.8 Reduction of Embryos

Administering drugs to stimulate ovulation and the transfer of more than two embryos in the course of carrying out the procedures of artificial

¹⁵¹The Chicago Center (A. Kuliev, Y. Verlinsky) has proposed to study the two polar globules in place of the embryo itself as a way to carry out preimplantation diagnosis. Cf. Y. Verlinsky, N. Ginsberg, A. Lifchez, J. Valle, J. Moise, C. M. Strom, “Analysis of the first Polar Body: preconception genetic diagnosis”, *Human Reproduction* 5/7 (1990) 826 – 829. A polar globule is a tiny abortive cell produced during the second meiotic maturation of the oocyte. It contains one of the nuclei derived from the first or second meiotic division and is virtually deprived of cytoplasm. The first polar globule is formed after the first meiotic process, before fertilization; the second polar globule is formed after the second meiotic process, which concludes immediately after the penetration of the spermatozoon into the oocyte. Study of the first polar globule really takes place in the oocyte, not the embryo, and is carried out with the idea of eliminating a defective oocyte. This analysis can only gather information about the maternal genotype, to which any possible disorders of paternal origin have not yet arrived. If, in order to get around this inconvenience, one proceeds immediately to the analysis of the second polar globule (i.e., after the fertilization of the oocyte), the issue of the possible elimination of the embryo arises, and not only the elimination of the oocyte. In practice, preimplantation diagnosis is generally done on the embryo during the phase of segmentation, especially on the blastocyst.

¹⁵²Cf. *Donum vitae*, (cited above), 1.2; *Evangelium vitae*, n. 63; *Dignitas personae*, n. 22.

procreation bring about a notable increase in the percentage of multiple pregnancies.

While the natural incidence of multiple pregnancies is about 1% (1.25% for twins, .01% for triplets), the rate grows to about 6% to 8% after stimulation of the ovaries, when clomiphene citrate is used, about 15% - 53% when gonadotropin is used, and about 20% - 40% in women who have recourse to extracorporeal fertilization. The various countries where techniques of artificial fertilization are practiced have seen a progressive increase in the occurrence of multiple pregnancies, especially of twins (30% - 40%) and triplets (3% - 4%). One can speak of an “epidemic” of multiple pregnancies caused by the use of artificial fertilization, and today this has become the most disconcerting element of the growing impact of techniques of artificial procreation. Multiple pregnancies are of concern because the gestation and birth of multiple children are accompanied by complications for both the mother and the babies that are more frequent than in the case of single babies, due essentially to an elevated risk of premature birth (at earlier than 37 weeks of gestation), of low weight (less than 5 lbs.) or extremely low weight (less than 3 lbs.) at birth. Such complications increase when the multiple pregnancy is the result of artificial fertilization.

In view of these possible complications, a “reduction “ of the number of fetuses in the uterus was proposed (MPR: *multiple pregnancy reduction*, also known as *embryo reduction*). This is a reduction of their number in order to limit the risks for the mother and to improve the survival chances of the remaining embryos. Since the mid-1980’s, MPR carried out through the abdomen or the vagina, generally in the first trimester of pregnancy, has become more and more acceptable in practice. The reduction of multiple pregnancies has therefore become a fairly acceptable procedure in the world of artificial procreation. Patients who have been subjected to the experience have exhibited serious psychological discomfort¹⁵³.

¹⁵³H. H. H. Kanhai, M. de Haan, L. A. van Zantem, C. Geerinck-Vercammen, H. M. van der Ploeg, J. B. Gravenhorst, “Follow-up of pregnancies, infants and families after multifetal pregnancy reduction”, *Fertility and Sterility* 62/5 (1994) 955 – 959; P. Schreiner-Engel, V. N. Walther, J. Mindes, L. Lynch, R. L. Berkowitz, “First-Trimester multifetal pregnancy reduction: Acute and persistent psychologic reactions”, *American Journal of Obstetrics and Gynecology*, 172/2 (1995) 541 – 547; M. McKinney, J. Downey, I. Timor-Tritsch, “The Psychological effects of multifetal pregnancy reduction”, *Fertility and Sterility* 64/1 (1995) 51

On the medical level, one must discuss in particular the opportunities of such a technique, taking account of the important rate of loss of the entire pregnancy after the accomplishment of the “reduction”¹⁵⁴. Current medicine is in a position to accompany multiple pregnancies and carry them to term.

Moving to the ethical level, it is clear that *the judgment regarding this practice of so-called “reduction” of multiple pregnancies cannot be anything but negative, since it is a question of direct abortion*¹⁵⁵. Even under the supposition that embryo reduction represents an advantage from the point of view of the healthy gestation of the pregnancy, the saving of the lives of some human beings cannot be justified by eliminating the lives of other human beings, it being granted that the end does not justify the means.

The ethical problems of artificial procreation constitute an insurmountable ethical barrier. Once that barrier is crossed, however, it must be recalled that each person is responsible for the negative consequences of his own morally negative actions, even if such consequences were not foreseen (nor willed, if they could have been foreseen¹⁵⁶). Whoever proceeds to transfer more than one embryo at a time assumes the medical and moral responsibility for the multiple pregnancy that can potentially follow from it: for its complications, for the loss of embryos and fetuses, for possible neonatal mortality and the possibility of handicapped chil-

– 61; C. Bergh, A. Moller, L. Nilsson, M. Wikland, “Obstetric outcome and psychological follow-up of pregnancies after embryo reduction”, *Human Reproduction* 14/8 (1999) 2170 – 2175.

¹⁵⁴ Cf. P. Kadhel, F. Olivennes, H. Fernandez, M. Vial, R. Frydman, “Are there still obstetric and perinatal benefits for selective embryo reduction of triplet pregnancies?”, *Human Reproduction* 13/12 (1998) 3555-3559; R. K. Silver, B. T. Helfand, T. L. Russell, A. Ragin, J. S. Sholl, S. M. MacGregor, “Multifetal reduction increases the risk of preterm delivery and fetal growth restriction in twins: a case-control study”, *Fertility and Sterility* 67/1 (1997) 30 -33; N. J. Sebire, C. Sherod, A. Abbas, R. J. M. Snijders, K. H. Nicolaides, “Preterm delivery and growth restriction in multifetal pregnancies reduced to twins”, *Human Reproduction* 12/1 (1997) 173 – 175; J. Salat-Baroux, J. Aknin, J. M. Antoine, S. Alvarez, D. Cornet, M. Plachot, J. Mandelbaum, “Is there an indication for embryo reduction?”, *Human Reproduction* 7 (1992), suppl. 1, 67 – 72; M. Dommergues, I. Nisand, L. Mandelbrot, E. Isfer, N. Radunovich, Y. Dumez, “Embryo reduction in multifetal pregnancies after infertility therapy: obstetrical risks and perinatal benefits are related to operative strategy,” *Fertility and Sterility* 56/4 (1991) 805 – 811.

¹⁵⁵ Cf. *Dignitas personae*, n. 21.

¹⁵⁶ Cf. *Chosen in Christ I*, ch. VI, section 5a).

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Nor is it possible to invoke the principle of the “lesser evil”, by having the option of respecting the pregnancy and taking care of it to term, trying to delay the reduction as much as possible. On the contrary, since it is a question of abortion, the obstetrician who is confronted with a woman with a multiple pregnancy must be able to raise an objection of conscience against making any intervention to reduce embryos, by putting at the disposition of the patient and her unborn children all the assistance that is necessary for preventing a premature birth and for the adequate treatment of the newborn multiples.

5.9 Cryo-preservation and Associated Ethical Problems

The Motives for Cryo-preservation — In the field of *in vitro* fertilization, hormonal stimulation of the female cycle is very widespread in practice. With this technology it is possible, say, to program the exact moment to initiate the extraction of an oocyte or to harvest many oocytes at one time. This enables the transfer of more than one embryo, and in case the first transfer does not meet with success, it allows a series of transfers without having to repeat the process of harvesting the oocytes. Granted that there still does not exist an effective technique for freezing oocytes, all the oocytes that are harvested are fertilized, and the embryos that are not transferred to the mother are preserved as frozen “replacements” for later attempts to transfer them. At times it is necessary to freeze even the embryos intended for the first transfer, in cases when the hormonal stimulation of the cycle brings about some effects (shortening of the luteal phase, physiological disturbance of the endometrium) that indicate a delay will be needed before going ahead with the transfer. This explains the spread of the cryo-conservation of human embryos and the existence today of large deposits of frozen embryos in all the countries of the world where extra-corporeal fertilization is practiced¹⁵⁷.

¹⁵⁷For the scientific aspects of the issue see A. Rodríguez-Luño, R. López Mondéjar, *La fecondazione “in vitro”: aspetti medici e morali* (cited above, note 113), pp. 32 – 39.

Ethical and Legal Problems of Cryo-preservation – The technique of freezing human embryos and the existence, as a consequence, of “banks” of cryo-conserved human embryos, poses grave ethical and legal problems. The process of freezing and thawing is dangerous for the integrity and survival of the embryos. Between 20% and 30% of the embryos are destroyed or at least rendered inviable after such a process¹⁵⁸. And then there is the problem, confirmed by experience in all the countries where IVF-ET is practiced, that the majority of the embryos not immediately ‘put to use’ become, and remain, orphans. They remain frozen for the period of time granted by law, after which the banks need to be emptied. Therefore arises the problem of, what to do with the unclaimed frozen embryos? Sometimes they have been destroyed: 3,300 of them were destroyed in Great Britain on August 1, 1996. Similar destructions have been carried out in other countries as well. Since that time, the destruction of embryos has been done more discretely, but the reality remains the same. Future destruction of the same kind can be foreseen in years to come¹⁵⁹. In other cases they are set aside for scientific research, or given to infertile couples for artificial heterologous procreation. There have also been proposals to keep the embryos alive indefinitely at the expense of the “parents” or, finally, to put them up for prenatal adoption.

From the ethical perspective, one must recognize that the *freezing of human embryos adds a new argument against the techniques of extra-corporeal fertilization*. The Church’s teaching is clear on this point: “The freezing of embryos, even when carried out in order to preserve the life of an embryo - cryopreservation - constitutes an offence against the respect due to human beings by exposing them to grave risks of death or harm to their physical integrity and depriving them, at least temporar-

¹⁵⁸ Cf. J. Mandelbaum, “Discussion: Cryopreservation of oocytes and embryos”, *Human Reproduction* 13 (1998) suppl. 3, 176; J. Mandelbaum, J. Belaïsch-Allart, A. M. Junca, J. M. Antoine, M. Plachot, M. O. Alnot, J. Salat-Baroux, “Cryopreservation in human assisted reproduction is now routine for embryos, but remains a research procedure for oocytes”, *Human Reproduction* 13 (1998) suppl. 3, 161-174; Federation des biologistes des laboratoires d’étude de la fécondation et de la conservation de l’oeuf, “Congelation d’embryon: statistiques françaises (1985-1993)”, *Contraception, Fertilité, Sexualité* 24/9 (1996) 674 – 677.

¹⁵⁹ Cf. for example D. Hoffman, G. L. Zellman, C.C. Fair, J. F. Mayer, J. G. Zeitz, W. G. Gibbons, and T. G. Turner Jr., “Cryopreserved embryos in the United States and their availability for research”, *Fertility and Sterility* 79.5 (2003) 1063 – 1069.

ily, of maternal shelter and gestation, thus placing them in a situation in which further offences and manipulation are possible”¹⁶⁰. The only valid ethical conclusion that can be drawn from the phenomenon of the cryopreservation of human embryos is that such a practice should be discontinued immediately. John Paul II launched an appeal to the scientific world to stop the production of human embryos “considering that there is no morally licit way out for the human destiny of the thousands and thousands of ‘frozen’ embryos, which always are and remain bearers of essential rights and are therefore to be legally protected as human persons.” And, addressing lawyers and political officials, the Pope asked them to work so that “the natural rights of the coming-into-being of human life be legally respected, and furthermore, that [judicial and political officials] become the champions of the inalienable rights which thousands upon thousands of ‘frozen’ embryos have intrinsically acquired from the moment of their conception”¹⁶¹.

What Should be Done with Orphaned Frozen Embryos? — With regard to dealing with the thousands of cryo-preserved embryos, the only way to restore, to a degree, the injustice that has been committed on them would be to transfer them back to the wombs of their mothers¹⁶². But the overwhelming majority of cryo-preserved embryos have been abandoned. Experience compels one to say that the laws which permit the formation *in vitro* of ‘supernumerary’ or ‘overdeveloped’ embryos, and their subsequent freezing cause these embryos an irreparable injustice. They are irreversibly sentenced to death, but the consummation of that sentence is indefinitely postponed at the moment of their freezing, without any possibility of reversing the sentence. Whatever the eventual destination that is decided on for these embryos, the injustice, instead of being healed, can only be aggravated.

1) The solution of thawing them and ‘letting them die’ adds a further abandonment to the first one. Either affirmation -- that keeping them frozen is an ‘unsuitable means’ or that thawing them and ‘letting them die’ is not the same as ‘killing’ them – is merely rhetorical. Their

¹⁶⁰ *Donum vitae*, I, 6; cf. also *Dignitas personae*, no. 18.

¹⁶¹ *Discourse addressed to the Participants of the Symposium on “Evangelium Vitae and the Law”*: May 24, 1996 (our translation from the Italian).

¹⁶² Cf. G. Herranz, “La destrucción de embriones congelados”, *Persona y bioética* 1 (1997) 57 – 66.

formation *in vitro* and the subsequent freezing constitute an injustice so serious that it deprives of ethical sense any distinction between ‘letting die’ and ‘killing’ or between suitable and unsuitable means. The decision to prolong their cryo-preservation indefinitely is just as unjust as the choice to thaw them and let them die: even frozen embryos die, even though it may take a long time.

2) For the same reason, it is gravely immoral to use these embryos for scientific research as if they were cadavers. From the ethical point of view, these embryos cannot be considered equivalent to normal human cadavers in the adult or the fetal state which have died through disease, old age or accident; nor are they equivalent to the cadavers that are the result of criminal acts of murder that have been condemned and punished as such in conformity with the law of the state. In this way, a gravely unjust medical and scientific context is being created, into which it is not licit to insert oneself by using for one’s own research the ‘victims’ produced by the method. In this case, the criterion of independence between the institutions that supply the embryos and the institutions that perform the research is not sufficient to remove the moral contradiction that states, “I do not approve of what you are doing, because I think it constitutes a grave injustice”, and afterwards adding, “but I agree to accept from you, for the purpose of my own work, the biological material that you obtain through such an injustice”¹⁶³. It is not only illicit to collaborate in the production of counterfeit money, it is also illicit to *use* counterfeit money *knowingly* for one’s own activities (buying things, paying bills, etc.) – even if the person using the money is not the same as the person who made it.

3) Finally, let us examine the possibility of adopting unborn embryos. Some authorities write in favor of the adoption of adoption of the unborn, and consider it as a completely different kind of thing from the donation of embryos that occurs within artificial heterologous procreation¹⁶⁴. In

¹⁶³A good overview of the entire complex of ethical problems connected to biomedical research can be gained from the various contributions in: J. Vial Correa, E. Sgreccia, eds., *Etica della ricerca biomedical. Per una visione Cristiana* (Atti della IX Assemblea Generale della Pontificia Accademia per la Vita, February 24 – 26, 2003; Vatican City: Libreria Editrice Vaticana, 2004).

¹⁶⁴Cf. G. Grisez, *The Way of the Lord Jesus III: Difficult Moral Questions* (Quincy, Illinois: Franciscan Press, 1997), p. 242; W. May, *Catholic Bioethics and the Gift of Human Life* (Huntington, Indiana: Our Sunday Visitor, 2000); H. Watt, “A Brief Defense of Frozen

this case it is not a question of a heterologous technique on the part of an infertile couple for obtaining a child, but rather a generous act on the part of a couple who are acting with one single motivation: to give the chance of being born to a human being who would otherwise be condemned to destruction. Such an action would also be a testimony in favor of the value of life and of the respect that is owed a human embryo. Other writers, while recognizing the noble intention behind the proposal, consider it problematic from an ethical point of view¹⁶⁵. We do not have space in this context for the particular arguments. In substance, the latter writers hold that the good intention of the couple who are ready to undertake such an adoption does not remove the intrinsic evil of a procedure that presupposes the formation of embryos *in vitro* and their subsequent freezing, the dissociation of the genetic mother and the legal and gestational mother, the injury suffered by the matrimonial unity, etc.

In our view it seems that, in theory, the moral species of this type of pre-natal adoption, assuming that it reflects solely the desire to save a human life, is essentially different from the heterologous techniques of artificial procreation and surrogate motherhood. We are not convinced by the opposing argument which accuses the action of intending to render an intrinsically evil action good on the basis of a right intention. Nevertheless, certain crucial remarks need to be made. First, there will be

Embryo Adoption", *The National Catholic Bioethics Quarterly*, 1.2 (2001) 151 – 154; J. Berkman, "The Morality of Adopting Frozen Embryos in Light of Donum Vitae", *Studia Moralia* 40.1 (2002) 115 – 141; J. Berkman, "Gestating the Embryos of Others. Surrogacy? Adoption? Rescue?" *The National Catholic Bioethics Quarterly*, 3.2 (2003) 309 – 329; J. Berkman, "Reply to Tonti-Filippini on 'Gestating the Embryos of Others'", *The National Catholic Bioethics Quarterly*, 3.4 (2003) 660 – 664. The *Comitato Nazionale per la Bioetica dell' Italia* has also issued a favorable opinion on adoption: *L' adozione per la nascita (APN) degli embrioni crio-conservati residuali derivanti da procreazione medicalmente assistita*, (November 18, 2005).

¹⁶⁵Cf. W. B. Smith, "Rescue the Frozen?", *Homiletic and Pastoral Review* 96/1 (1995) 72 – 74; *idem*, "Response", *Homiletic and Pastoral Review*, 96.11 – 12 (1996) 16 – 17; N. Tonti-Filippini "Frozen Embryo 'Rescue'", *Linacre Quarterly*, 64.1 (1997) 3– 4; M. Cozzoli, *L'embrione umano: aspetti etico-normativi*, in J. Vial Correa, E. Sgreccia, eds., *Identità e statuto dell' embrione umano*, (cited above), pp. 237 – 273; M. Geach, "Are There Any Circumstances in which it would be Morally Admirable for a Woman to Seek to have an Orphan Embryo Implanted in her Womb?", in Luke Gormally, *Issues for a Catholic Bioethics* (London: The Linacre Center, 1999) pp. 341 – 346; H. Arkes, "May Embryos be Adopted?", *Crisis*, March 2000, p. 12; T. V. Berg and E. J. Furton, eds., *Human Embryo Adoption: Biotechnology, Marriage, and the Right to Life* (Philadelphia: National Catholic Bioethics Center, 2006).

very few couples who will be ready to make such a generous and heroic action, and therefore their contribution to the problem, beyond its value as testimony, would be irrelevant to an actual solution. Second, adoption would unwillingly contribute to making an unjust situation into a chronic one. That would not be the case, however, if it was a question of a country where at some point in time the freezing of embryos were declared absolutely forbidden. Third, we can see from the point of view of carrying out in practice this kind of adoption that it presents many problems that are difficult to resolve and opens up the possibilities of abuse that are no less difficult to avoid (the need to make a selection among the embryos once they have been thawed, setting up an operation independently of clinics where artificial procreation is practiced, risks of various kinds to the adopting parents, etc.). It appears that the Instruction *Donum vitae* is in fact saying something like this when it affirms: "It has also been proposed, solely in order to allow human beings to be born who are otherwise condemned to destruction, that there could be a form of "*prenatal adoption*". This proposal, praiseworthy with regard to the intention of respecting and defending human life, presents however various problems not dissimilar to those mentioned above"¹⁶⁶. Our personal conclusion is that couples who undertake an adoption inspired solely by the desire to save a human life do not deserve to be an object of moral condemnation, but in general terms prenatal adoption should be discouraged. A better way to save human lives would be to mobilize for a social and political change of direction, so as to achieve an absolute prohibition of the freezing of embryos.

One may be accused thereby of not giving a solution to the problem, through condemning many human lives to destruction. However, in reality, someone who considers the matter carefully would be compelled to conclude that the hundreds of thousands of human embryos now in existence today have been condemned *irremediably* by those who froze them and by those who gave their assent to the freezing. The injustice committed is essentially without a remedy. It is necessary that those responsible publicly recognize that they have committed a very serious injustice, and work to prohibit the freezing of embryos from that time forward.

¹⁶⁶ *Dignitas personae*, no. 19.

5.10 Cloning

A clone can be defined as “a collection of DNA molecules, cells or whole organs which have been derived by a series of duplications from a single progenitor, of which they are substantially the copies”¹⁶⁷. There are in principle two methods for cloning multi-celled organisms: *twin fission* and *transfer of the nucleus of one somatic cell to an egg cell with a removed nucleus*. The experiments reported by Wilmut and others on February 27, 1997 made a huge impression on world opinion. They consisted in the fusion of the nucleus of a cell from the mammary gland of a sheep with the denucleated egg cell of another sheep, followed by the transfer of the embryo thus formed into the uterus of a third sheep, and the eventual birth of a sheep, named “Dolly”. Up until the present time, no one has succeeded in forming a true human embryo through such cloning. The experiments that have been presented to the public as “therapeutic cloning” have obtained, by way of such nuclear transfers, masses of cells which scientists call “blastocysts”, but which, in reality, were not re-reprogrammed and therefore were not able to develop as a true embryo develops. Nevertheless the experiments did manage to procure lines of stem-cells, which was what the authors of the experiments were actually interested in¹⁶⁸.

Recourse to cloning can take place for either a reproductive or therapeutic purpose. Reproductive cloning pushes the negative ethical status of artificial reproduction to the maximum level. It effects a complete dissociation between procreation and sexuality, and constitutes, in addition, an assault on the biological uniqueness of the subject generated by the cloning, when such uniqueness is the foundation of the dignity of every human person. It attacks human dignity “to the extent that it

¹⁶⁷ *Comitato Nazionale per la Bioetica della Repubblica Italiana*, “La clonazione”. *Parere del 17 ottobre 1997*, n.2.

¹⁶⁸ We refer here to the writings published by W. S. Hwang and Collaborators in 2004 (“Evidence of a pluripotent human embryonic stem cell derived from a cloned blastocyst”, *Science express*, doi: 11w26/science. 1094515) and in 2005 (“Patient-specific Embryonic Stem-Cells Deived from human SCNT Blastocysts”, *Science*, May 19, 2005) and by P. Stojkovic and Collaborators in 2005 (“An autogenetic feeder cell system that efficiently supports growth of undifferentiated human embryonic stem cells”). In December 2005 the international press reported the public apology of W. S. Hwang for having distorted the results of his experiments.

puts the right of self-determination at risk. Such a risk can arise from the fear that the person generated by cloning will be biologically and culturally conditioned by the genetic constitution of the adult individual from whose cell the cloning was produced”¹⁶⁹. Cloning, furthermore, is open to execrable, abusive manipulations, and can “endanger the natural equilibria that are founded on biological diversity, provoking unintended consequences in the mid- to long-range foreseeable future that are extremely dangerous for future generations”¹⁷⁰. So-called therapeutic cloning has for its purpose the acquisition of stem cells or tissues to use for therapeutic ends, either for the person from whose cells the clone was made or for other persons. The very idea of forming and then destroying a human being for the sake of others injures in the most radical way possible the dignity of the person, in virtue of which each human being is treated as an end in him- or herself.

*The teaching of the Church also holds that “attempts or plans for obtaining a human being without any connection with sexuality through ‘twin fission’, cloning or parthenogenesis are to be considered contrary to the moral law”*¹⁷¹. Cloning is entirely contrary to the Christian vision of man, created in the image of God, and at the level of human rights it represents “a violation of the two fundamental principles upon which all human rights are based: the principle of the equality between human beings and the principle of non-discrimination”¹⁷². To be exact, *cloning deserves an absolutely negative moral judgment*. In view of its opposition to fundamental human dignity and its negative impact on the common good, it should also become the object of a clear prohibition by the state.

¹⁶⁹Comitato Nazionale per la Bioetica, “Clonazione”, (cited above), no. 4 (our translation).

¹⁷⁰*Ibidem*.

¹⁷¹*Donum vitae*, I, 6. This evaluation is repeated and studied more fully in *Dignitas personae*, nos. 28 – 30.

¹⁷²Pontificia Accademia per la Vita, *Riflessione sulla clonazione* (Città del Vaticano: Libreria Ed. Vaticana, 1997), p. 17. In this brief document the reader will find a careful analysis of the anthropological and ethical ramifications of cloning. One should also consult the interesting reflection by H. Jonas, *Dalla fede antica all’uomo tecnologico. Saggi filosofici* (Bologna: Il Mulino, 1991), pp. 238 ff.

5.11 Euthanasia

5.11.1 *Definition and Types of Euthanasia*

Concept of Euthanasia — Euthanasia evokes the idea of a death that is noble and serene. In contemporary language, the term euthanasia can be used in many different meanings and for various purposes, which range from a claim to have a power to refuse or suspend useless or burdensome treatment of a terminal patient to the justification for the intentional cessation of the life of a person suffering from an incurable disease¹⁷³.

It is therefore necessary to clarify, above all, what moral theology means by euthanasia. It is “an action or omission which, of its own nature, or in its intentions, brings about death for the purpose of eliminating all pain. Euthanasia, consequently, is located at the level of intentions and methods used”¹⁷⁴. This definition of euthanasia is articulated into two phrases: the first provides an analytical description, from which it emerges that euthanasia is a deliberate choice to cause or plan death, which can be realized by actions that either directly cause death (for example, by the administration of a poison) or by actions that on other occasions would be able to have (and in fact do have) a therapeutic or palliative purpose, but which are being consciously chosen in a concrete situation as a means to cause death or bring it about; in both cases the motivation is a desire to put an end to suffering. The second phrase, “Euthanasia, consequently, is located at the level of intentions and methods used”, serves to highlight how euthanasia consists, in every

¹⁷³Cf. D. Tettamanzi, *Eutanasia. L'illusione della buona morte* (Casale Monferrato: Piemme, 1985); E. Sgreccia, *Personalist Bioethics*, pp. 663- 716; E. Schockenhoff, *Etica della vita. Un compendio teologico* (cited in note 62 above), pp. 313-317 and 342 – 353; C. Lega, *Manuale di bioetica e deontologia medica* (Milan: Giuffrè, 1991), pp. 275 – 317; I. Carrasco de Paula, “Suicidio assistito ed eutanasia involontaria”, *Acta Philosophica* 2 (1993) 205 – 216; D. Lamb, *L'etica alle frontiere della vita. Eutanasia e accanimento terapeutico* (Bologna: Il Mulino, 1998). On death and the human response to it, as well as the responsibilities placed upon doctors and relatives, cf. P. Ariès, *L'uomo e la morte dal Medioevo ad oggi*, (Bari: Laterza, 1979); E. Kübler-Ross, *On Death and Dying: What the dying have to teach doctors, nurses, clergy and their own families* (New York: Scribners, 2014 [orig. 1969]); P. Laín Entralgo, *Antropologia medica* (Cinisello Balsamo: Paoline, 1988), pp. 365 – 391.

¹⁷⁴Congregation for the Doctrine of the Faith, *Declaration on Euthanasia* [“Iura et bona”] (May 5, 1980), II. One should also see *Evangelium vitae*, no. 65 and the *Catechism of the Catholic Church*, no. 2277. The definition provided in the Declaration has been accepted without acrimony in the field of moral theology.

case, in the simultaneous presence of the deliberate proposal to cause death *and* the action or omission which is chosen *hic et nunc* to cause it¹⁷⁵. In any case, the concept of euthanasia implies the will to cause death. It is the question of an action or an omission that here and now has the purpose of causing a painless death of a human being by removing the suffering, whether it occurs at the patient's request, or through the consideration that the person's life lacks the minimal quality needed to merit being worthy of existence.

Voluntary, Non-voluntary and Involuntary Euthanasia —

¹⁷⁵It is necessary to point out that the Encyclical *Evangelium vitae* introduces a slight variation in the definition of euthanasia. Whereas the Latin text of *Iura et bona* (see note above) states: “Nomine euthanasiae significatur actio vel omissio quae suapte natura **vel** consilio mentis mortem affert, ut hoc modo omnis dolor removeatur. Euthanasia igitur in voluntatis proposito et procedendi rationibus quae adhibentur continetur.” [By the word euthanasia is signified an action or omission which in its own nature **or** by intention of the mind brings about death, in order that all pain would thereby be removed. Therefore euthanasia consists both in a purpose of the will and in the methods employed in carrying it out].” *Evangelium vitae*, no. 65 states: “Nomine euthanasiae vero proprioque sensu accipitur actio vel omissio quae suapte natura **et** consilio mentis mortem [i.e., in its own nature **and** by intention] affert ut hoc modo omnis dolor removeatur. ‘Euthanasia igitur in voluntatis proposito et procedendi rationibus quae adhibentur continetur’ (*Iura et bona*, II)”. The Latin edition of the *Catechism of the Catholic Church* (August 15, 1997), appearing after *Evangelium vitae*, uses the formula of the Declaration *Iura et bona*: “Sic actio vel omissio quae, ex se **vel** in intentione [i.e., in itself **or** by intention], mortem causat ad dolorem suppressendum, occisionem constituit dignitati personae humanae et observantiae erga Deum viventem, eius Creatorem, contrariam.” In our judgment, it seems that the Encyclical *Evangelium vitae* did not intend to advance a concept of euthanasia different from the one proposed by the Declaration *Iura et bona* and repeated in the *editio typica* (official Latin edition) of the *Catechism*. John Paul II's Encyclical simply retouched the definition in a linguistic way (rather than in a conceptual or substantial way) in order to delimit, in explicit terms, the precise extension of a moral pronouncement of great doctrinal significance (*cf. Evangelium vitae* no. 65, 4) whose exact understanding requires not so much the description of the diverse modalities of carrying out *direct* euthanasia as making explicit the conditions of *personal awareness* under which euthanasia always constitutes a grave moral fault. Therefore, by affirming that the sin of euthanasia consists in an action or omission that “suapte natura **et** consilio mentis [by its own nature **and** by the intention of the mind] mortem affert ut hoc modo omnis dolor removeatur”, the Encyclical *Evangelium vitae* intended only to point out explicitly that *the sin* of euthanasia – like any other formal sin – necessarily implies a deliberate and conscious choice, in this case the conscious and deliberate choice to cause or bring about death, no matter what the mode of realizing that choice. It does not seem in our judgment that the Encyclical *Evangelium vitae* intended to affirm that the sin of euthanasia requires that the causation of the death, other than being deliberately chosen, must also be the end willed by the acting subject out of exasperation or because of economic reasons or through despising human life, etc. The text clearly affirms that euthanasia presupposes that the subjective motivation is that “all pain be removed by it” (“ut hoc modo omnis dolor removeatur”).

With reference to the will of the patient, three types of euthanasia are distinguished: *voluntary, non-voluntary and involuntary*. Voluntary euthanasia is when it is requested by the ill person himself, who wants to be freed from suffering of from a state of infirmity that he considers insupportable. Non-voluntary euthanasia is exercised upon ill persons who are not in a position to express their own will (persons in a coma, neonatal patients, or the mentally impaired). Finally, there is involuntary euthanasia when it is done against the will of the patient.

Neonatal, Terminal, Psychical, Social, and Eugenic Euthanasia — With regard to the status of the ill person one distinguishes *neonatal* euthanasia, performed upon deformed or incurably ill infants; *terminal euthanasia*, for persons terminally ill or in agony; *social or economic euthanasia*, for ill persons who are socially unproductive or burdensome; *eugenic* euthanasia is reserved for persons with inherited diseases or put into effect as part of a program to “purify the race”.

Active Euthanasia or Euthanasia by Omission — From the point of view of the mode of carrying out euthanasia, it is possible to distinguish between euthanasia achieved through an action that causes death or by the omission of necessary life-support. The fact that at the present time death is often excessively “medicalized”, and that there exist technical means for prolonging precarious life, at times makes it difficult to distinguish between euthanasia and the legitimate refusal or suspension of futile or disproportionate therapies, that is to say, the refusal of what is commonly referred to as *therapeutic obstinacy*.

Ordinary and Extraordinary, Proportional and Disproportional Therapeutic Means — The distinction between euthanasia by omission and therapeutic obstinacy is not always easy to make, and this is also caused by the fact that the concepts of ‘ordinary’, ‘extraordinary’, ‘proportional’ and ‘disproportional’ have not always been well defined. M. Calipari has made a proposal that deserves our careful consideration¹⁷⁶. According to this author, the proportionality (or otherwise) of a means of saving a life will indicate the ‘techno-medical’ adequacy or inadequacy of its use, with regard to reaching a determined health-objective

¹⁷⁶ Cf. M. Calipari, *Curarsi e farsi curare: tra abbandono del paziente e accanimento terapeutico. Etica dell’uso dei mezzi terapeutici e di sostegno vitale* (Cinisello Balsamo [Milan]: San Paolo, 2006).

or the survival of the patient¹⁷⁷. The evaluation of the proportionality of a given therapeutic means requires the careful study of various elements, such as the concrete availability or the reasonable hope of acquiring it, the actual possibility of using it successfully, the reasonable expectations of real medical success, the anticipated negative side-effects, the foreseeable risks involved, the actual possibility of turning to alternative therapies of equal or greater efficacy, and all the medical resources needed for carrying out the treatment¹⁷⁸.

The ordinariness or extraordinariness of the means, in contrast, indicates a relationship to the actual patient, and from this point of view, an extraordinary means would be represented “by the fact that the patient will experience – subjectively and in the concrete situation – a certain physical or moral impossibility (*“quaedam impossibilitas”*) in its application. Of course, this *impossibility* for the patient ought to be at such a level as to constitute “an excessive aggravation with respect to the patient’s actual human resources”¹⁷⁹. In this case as well, various elements need to be taken into consideration: the strength of the patient, the pain involved, the economic cost for the patient and family; a high level of fear or a strong repugnance to the treatment. Not to speak of the foreseeable risks of a low level of all-around effectiveness with respect to the likely benefits to be gained for the patient, and the creation of clinical or human conditions that would impede the patient’s ability to make serious moral or non-deferrable decisions¹⁸⁰.

Moral Principles for Using Therapeutic Means — The *Declaration* on euthanasia that we have been citing proposes some useful criteria of judgement, which are nothing other than the application to the issue at hand of the moral principle according to which there is no moral obligation to have recourse to, or to continue with, therapeutic means that are extraordinary or disproportionate. Four criteria have been proposed:

1. “In the absence of other remedies, it is licit to have recourse, with the consent of the patient, to means made available by the most

¹⁷⁷ Cf. *ibid.*, p. 152.

¹⁷⁸ Cf. *ibid.*, p. 154 - 157.

¹⁷⁹ *Ibid.*, p. 159.

¹⁸⁰ Cf. *ibidem*.

advanced medical science, even if they are still at the experimental stage and even if they do not lack risks. By accepting them, the patient can give an example of generosity for the good of humanity.”

2. “It is also licit to interrupt the application of such means when the results disappoint the hopes that were placed in them. But in making a decision of this kind, one must take account of the just desires of the ill person and his family; in addition to this, the opinions of truly competent doctors; they will without a doubt be able to judge better than anyone else if the investment in instruments and personnel is disproportionate to the foreseeable results, and if the techniques put in motion impose sufferings and discomfort greater than the benefits that can be derived from it.”
3. “It is always licit to make use of the normal means offered by medical science. But one is not obliged to have recourse to a type of care which, although already in use, is nevertheless not without risks and is too burdensome. Refusing its use is not equivalent to suicide; rather, it implies either the simple acceptance of the human condition or the desire to avoid setting in motion a medical situation that would be disproportionate to the results that can be hoped for, or it can even mean a wish not to place undue burdens on the family or the society.”
4. “In the case of an imminent death that is inevitable despite any means that could be used, it is licit to make in good conscience the decision to refuse treatments that will only bring about a precarious and painful prolongation of life, although without interrupting the normal care that would be appropriate for any patient in similar circumstances. In this way, the physician will not have reason to be anxious that he had not given any assistance to someone whose life was in danger”¹⁸¹.

According to these criteria, it would not be considered euthanasia by omission to refuse to repeat treatments that have been shown useless

¹⁸¹Congregation for the Doctrine of the Faith, *Declaration “Rights and Duties” (Iura et bona) on Euthanasia*, cited note 174), IV.

from the therapeutic point of view, and that are adopted only to the end of artificially prolonging for a space of time a life that has arrived at its end as the result of an illness or of the condition of extreme old age, for which every therapy has been shown to be without any effect other than bringing additional suffering and taking away the serenity necessary for the moment of passing. The suspension of useless or disproportionate treatments is not euthanasia because the cause of death is the natural course of the disease and not the suspension of the treatment, because death is not intended, and finally because it corresponds to the principle of accepting the inevitability of death, which everyone must undergo. But it must be noted that the refusal of therapeutic obstinacy is something altogether different from abandoning the terminally ill person, to whom ordinary care (food and drink, hygiene, management of pain) is always owed, as well as human company, with psychological, emotional and spiritual support¹⁸².

5.11.2 *The Church's Teaching on Euthanasia*

Ecclesiastical instruction on euthanasia is relatively recent. For many centuries the problem did not emerge, it being granted that, on the one hand, the principle of the inviolability of human life made it obvious to everyone that any form of euthanasia was illicit, and on the other hand, Christian teaching on the meaning and value of suffering was generally accepted and understood. Christian doctrine affirms that every effort to relieve pain is valued as a work of mercy, and at the same time permits suffering to be given a redemptive and purgative meaning, making it possible for a person to accept pain in expiation of his faults, without having to leave out, because of this, applying the means to avoid pain.

The first important intervention of the Magisterium of the Church in direct relation to euthanasia was when Pius XII, in response to questions about the moral problems presented by the use of sedatives which as a secondary effect could shorten a person's life¹⁸³. Pius XII referred to the positive moral principle of charity, indicated the licitness of the use of means that alleviated pain, even if they had the non-desirable secondary

¹⁸²In sections 12 and 13 we will take up the particular problems posed by artificial hydration and alimentation and by the determination of whether or not death has occurred.

¹⁸³Cf. Pius XII, "Discorso del 24. 11. 1957: *AAS* (1957) 147.

effect of shortening the life of the patient. In saying this, he simply recalled the importance of acting in such a way that the ill person not be reduced to a state of unconsciousness that would prevent him from fulfilling his religious, moral, family, social and economic responsibilities. In the last thirty or forty years, the teaching of the Magisterium on the themes connected with euthanasia has become abundant. It is no longer limited to providing a moral evaluation of it, but has taken on the motivation for it as well, and has faced the new problems that have arisen with the evolution of medicine and the culture of the Western world¹⁸⁴.

We have already cited the “Declaration ‘Jura et bona’ on Euthanasia” published by the Congregation for the Doctrine of the Faith in 1980. Confronting the problem of euthanasia, this document also responds to the questions frequently posed on the use or non-use of new medical treatments in the field of resuscitation and intensive care. The second part of the document is concerned with euthanasia, and its intrinsic evil. The motives for this judgement are founded on the commandment about the inviolability of human life and on the dignity of the person, which was our concern in previous chapters.

The Encyclical *Evangelium vitae* is of great importance: it contains an essential doctrinal pronouncement on euthanasia: “In harmony with the Magisterium of my Predecessors and in communion with the Bishops of the Catholic Church, I confirm that euthanasia is a grave violation of the law of God, since it is the deliberate and morally unacceptable killing of a human person. This doctrine is based upon the natural law and upon the written word of God, is transmitted by the Church’s

¹⁸⁴We can cite the following, among the more relevant declarations: Pius XII “Discorso al partecipanti nel Simposio Internazionale su anestesia e persona umana” (Feb. 24, 1957), in *Discorsi e radiomessaggi di Pio XII* (Città del Vaticano, 1957), vol. XVIII, pp. 779-799; Paul VI, “Al Comitato Speciale dell’ ONU” (May 22, 1974), in *Insegnamenti di Paolo VI*, 12 (1974) 460-461; Congregation for the Doctrine of the Faith, “Declaration ‘Jura et bona’ on Euthanasia” (cited above); Pontifical Council *Cor Unum*, “Questioni relative ai malati gravi e ai morenti” (June 27, 1981); Pontifical Academy for Life, “Ethical Considerations on Euthanasia”, (December 9, 2000); John- Paul II, “Ai partecipanti nel 54° corso dell’Università Cattolica”, in *L’Osservatore Romano* (September 6, 1984), p. 3. Various Episcopal conferences have published pastoral letters on the topic: Federal Republic of Germany (1974), Great Britain (1975), Ireland (1975), France (1976 and 1979), the Netherlands (1985), Spain (1993), Belgium (2002).

Tradition and taught by the ordinary and universal Magisterium”¹⁸⁵. The negative moral evaluation of euthanasia is proposed as a definitive and unchangeable truth, guaranteed through the infallibility exercised by the ordinary universal Magisterium of the Church.

5.11.3 *Ethical Reflection*

Our study of the principle of the inviolability of human life and suicide, presented earlier¹⁸⁶, contains all the relevant elements. It would perhaps be convenient to add some reflections on euthanasia as a reply to a question posed by the patient himself: On the objective plane it is necessary to consider that even in the most extreme cases of persons abandoned by all, when one’s own life seems to be more of a burden than a benefit to society, the intentional killing of oneself is the negation of the moral subject as such, the living image of God, from whom every kind of ethical competence is radically removed, and in particular, the ethical responsibilities that illness and the acceptance of death must involve. Along with the moral subject, it is the entire moral order that is being objectively negated, and that constitutes an evil, of which the choosing cannot be justified and with which no cooperation is licit.

The attempts made to justify euthanasia ethically are a reflex of the idea that human life is not an intrinsic good, but rather only an extrinsic one, such as can have value only to the degree that it is experienced as something good and worthy by a person who is basically only interested in his or her own ideas. The foundation of the prohibition to kill would then be the capacity to judge the value of one’s own life, understood as a component of the general right to self-determination. The prohibition of killing would not really exist for someone who thinks that it is not worthwhile to continue living and who values his own death as a good. The pretense of being able to determine one’s own death would be nothing other than the ultimate consequence of a right to determine one’s own life.

We have already been discussing the intrinsic value of human life¹⁸⁷. We can now add, with Schockenhoff, that *the argumentation given in*

¹⁸⁵ *Evangelium vitae*, no. 65.

¹⁸⁶ Cf. Sections 2, 3, and 4b) of Chapter Four.

¹⁸⁷ Cf. Chapter Four, section 2.

*support of euthanasia on request depends on two presuppositions: “to consider a dying person’s desire to die as the ultimate expression of his or her moral self-determination and the possibility that the satisfaction of this desire represents *real* assistance to the person, and, for the most part, the *only* assistance that we can give in the situation. Both assumptions are extremely problematic, however, both in regard to the possibility of any philosophical justification, and when taking account of the experience of doctors and nurses in contact with dying persons”*¹⁸⁸.

Before it can freely express itself, the conscience of the patient ought to be formed about the value of his own suffering life, and this can only take place in a certain context. The idea that a human being has of himself depends on what he is in the eyes of others, and the negative or positive evaluation of his own situation cannot but be in some manner a reaction to the evaluation that he receives in the judgment of others¹⁸⁹. A familiar and sanitary setting, dominated by a hedonistic or utilitarian conception of the value of life, and thus favorable to euthanasia on request, will stir up the patient’s desire to die, if the patient has been led by the environment to think that one’s own sufferings are simply nothing but pain and a nuisance for doctors and relatives¹⁹⁰. Clinical experience shows that in the advanced stage of illness the expression of the desire to die frequently represents a veiled plea not to be abandoned either at the therapeutic level (pain management) or at the level of loving human companionship.

Nor does the idea seem true, that euthanasia is the only and the ultimate assistance that can be given to someone to relieve his or her sufferings and to help a person die with dignity and serenity. Euthanasia has, rather, the flavor of discouragement on the part of individuals and society who decline to finish the course of medical and human assistance for the dying patient, for which palliative medicine offers multiple and efficacious resources today. In reality, the social acceptance of euthanasia brings about a paralysis of research and investment in the field of assistance to the dying and palliative care. Only when effective plans

¹⁸⁸E. Schockenhoff, *Etica della vita. Un compendio teologico* (cited in note 62 above), p. 345.

¹⁸⁹*Cf.* for all of this E. Schockenhoff, *ibidem*, p. 345.

¹⁹⁰Interesting reflections on this point can be found in E. Lamb, *Down the slippery slope: Arguing in Applied Ethics* (London: Routledge, 1987), pp. 48 and 65.

to accompany the person do not exist or are not being offered, can euthanasia appear to the patient and his relatives as the only effective way to reach a worthy death that is free from intolerable suffering.

5.11.4 *Laws on Euthanasia*

The defenders of the legalization or decriminalization of euthanasia argue that the regulation of legal euthanasia is needed today. Independently of the way one handles the disease and death that everyone rightly accepts *per se*, such regulation would guarantee legal protection of every person to a worthy life; defending it from therapeutic obstinacy or from every kind of useless artificial prolongation of life, and including the patient's right of self-determination and freedom at the time of deciding on what interventions and treatments ought to be used. It would further provide an improvement of doctor-patient relations, the moment that renders possible a more open dialogue on these problems and that the doctor be advised that the sufferings of the patient can reach intolerable limits. Finally, the legal regulation avoids sudden and clumsy suicides and gives the authorities instruments for eliminating clandestine practices.

In response to these arguments, it is necessary to consider the 'slippery slope' argument¹⁹¹. The argument maintains, in essence, that once in practice – and especially in legal practice – euthanasia is permitted in certain limited cases, one starts going down a slope that slips more and more steeply until all control is lost and there is no possibility of an effective brake on the abuses. To be sure, the argument has been criticized as exaggerated or as 'catastrophism'¹⁹². But the analysis of what is occurring in the countries where euthanasia has been decriminalized or legalized (The Netherlands, Australia, Belgium, and Oregon in the USA) show that the phenomenon of the 'slippery slope' is real¹⁹³. Once

¹⁹¹Cf. E. Lamb, *Down the Slippery Slope: Arguing in Applied Ethics* (cited in note 190 above).

¹⁹²For an introduction to the various positions, cf. C. Ryan, "Pulling up the Runway: the Effect of New Evidence on Euthanasia's Slippery Slope", *Journal of Medical Ethics* 24 (1998) 341 – 344; R. G. Frey, *El temor a dar un paso hacia el abismo. La euthanasia y el auxilio medico al suicido*, (Madrid: Cambridge University Press, 2000); J. M. Serrano, *Eutanasia y vida dependiente* (Madrid: Ediciones Internacionales Universitarias, 2000).

¹⁹³See the study of I. Ortega, "La 'pendiente resbaladiza' en la euthanasia: ¿illusion o realidad?" *Annales Theologici* 17 (2003) 77 – 124.

euthanasia is permitted, it goes in practice beyond the cases foreseen by the law, the measures of prevention become ineffective, and the judicial and political authorities do not intervene against the infractions. The tendency has been rather to continually expand the permissive legislation (the Netherlands has been remarkable in this respect), until the point is reached of carrying out euthanasia against the will of the patient. Schockenhoff rightly says that “the initial delimitations and distinctions, which were supposed to exclude an abuse on the logical and conceptual plane, have become increasingly difficult, and do not succeed in clearly delimiting the idea of euthanasia *ab interno* whenever they seem authorized to ignore a barrier *ab externo*, and that means no longer to consider the prohibition of murder”¹⁹⁴. The conclusion reached by Ortega seems to us to be equally justified: the negativity of the effects of permitting euthanasia is such as to require from the legislator “the limitation of the exercise of self-determination of the patient with regard to the presumed right to decide how and when to die”¹⁹⁵.

*The Catholic Church holds that the laws that authorize or tolerate euthanasia are contrary to the common good, and therefore are to be considered unjust laws*¹⁹⁶. This judgment has an ethical and ethico-political justification that is more than sufficient, the rational basis of which is expressed very clearly by E. Schockenhoff when he affirms that the intrinsic contradictions of the idea of euthanasia “have led us to see that a liberalization of killing on request would fail of its purpose in two ways. The possibility of euthanasia exposes the dying person to social coercions that provide a new threat to freedom; further, it does not represent any real assistance, nor is it the sole assistance that can be given in a painful situation. To this can be added, finally, the danger of a cultural regression following the possible abuses, as well as the temptation of the social surroundings to take the path of self-dispensation as a way to resolve difficult duties – both possibilities being

¹⁹⁴E. Schockenhoff, *Etica della vita. Un compendio teologico*, (cited above), p. 351.

¹⁹⁵I. Ortega, “La ‘pendiente resbaladiza’ en la euthanasia: ¿illusion o realidad?” (cited above) p. 121.

¹⁹⁶Cf. *Evangelium vitae*, no. 72. See the commentaries by L. Ciccone, “L’eutanasia e il principio dell’inviolabilità assoluta di ogni vita umana innocente”, and by B. Kiely, “Il senso della sofferenza e della morte umana”, in E. Sgreccia, R. Lucas (eds.), *Commento interdisciplinare alla ‘Evangelium vitae’* (cited in note 33 above) pp. 453 – 466 and 683 – 693.

greater in our society than the supporters of the idea of euthanasia care to admit”¹⁹⁷.

5.12 Determination of Death

5.12.1 *The Neurological Criterion for the Determination of Death*

The problem of the determination of the moment of death has important medical, legal, social and religious repercussions. It is very understandable that the movement of the last few decades to bring the concept of clinical death up to date with the most recent advances in medical science has stirred up an interesting debate: not only among physicians, who want to know exactly how long to continue a treatment, or when to make use of an organ for a transplant, but also among philosophers and theologians¹⁹⁸.

The subject of the recent debates is not so much about the philosophical concept of death, according to which death consists in the separation of the soul from the body, as it is about the determination of clinical death. This was traditionally identified with the irreversible interruption of breathing and the circulation of the blood. The progress of medicine, especially in the technology of re-animation, have compelled a relativizing of this concept. For example, if a patient who has suffered cardio-respiratory arrest is able to return to life, it is clear that this arrest cannot always and absolutely be identified with death. These matters have brought about a change of attention from the heart to the brain, and the formulation of a neurological criterion for ascertaining death. There has been, and to a degree still is, a lively debate about it, which

¹⁹⁷E. Schockenhoff, *Etica della vita. Un compendio teologico* (cited) p. 354.

¹⁹⁸I will repeat with modifications and updating, the fundamental elements of my previous study: A. Rodríguez-Luño, “Rapporti tra il concetto filosofico e il concetto clinico di morte”, *Acta Philosophica* 1 (1992) 54 – 68. On the problem see also: C. Manni, “La morte cerebrale. Aspetti scientifici e problemi etici”, *Medicina e Morale*, 36/3 (1986) 495-499; E. Sgreccia, “Aspetti etici connessi con la morte cerebrale”, *Medicina e Morale* 36/3 (1986) 515-526; D. Lamb, *Il confine della vita* (Bologna: Il Mulino, 1987); J. Colomo Gómez, *muerte cerebral. Biología y ética* (Pamplona: Eunsá, 1993); I. Carrasco de Paula, “Il problema filosofico ed epistemologico della morte celebrale”, *Medicina e Morale* 43 (1993) 889 – 902.

is bringing several concepts of death into confrontation with each other. Three fundamental trends can be noted:

1) Some authors understand death as a *process* and not as an *event*, based on the fact that in all tissues of an organism there is a whole series of degenerative and destructive changes that normally follow, but sometimes precede, the irreversible cessation of spontaneous breathing and circulation of the blood; examples of this would be the necrosis of cells of the brain and other vital organs, lowering of temperature, *rigor mortis*, cadaverous purpling, etc. These types of processes can last years, sometimes very many years, until the skeleton deteriorates.

2) Other writers define death as *the irreparable loss of the essential meaning of human nature*¹⁹⁹, or in other words the loss of the superior functions of cognitive, volitional powers and the ability to relate to the environment. Such a thesis appears to contradict common moral sense and the more habitual practices of medicine: it is not normally doubted that comatose patients or those in a so-called persistent vegetative state are still alive: they have suffered some damage to their cerebral cortex, and are incapable of conscious actions, but they are in a stable situation in which their other vital functions are still spontaneously working (without mechanical respiration).

3) Finally, there are still others who hold that death is a fact that must not be confused with the agony that precedes it, nor with the process of disintegration of cells and tissues that follows it (biological death). These thinkers define death as the *permanent cessation of the functioning of the human organism as a whole*²⁰⁰. This does not mean that death is the ceasing to function of the sum total of all the organs. Death is the permanent interruption of the complex functional relations among the various organs. The “functioning of the organism as a whole” means the maintenance of spontaneous and inborn relations among the organs that are present in the body. More concretely, these inter-relations should support the spontaneous actions brought about by the integration of all (or of the majority of) the subsystems (for instance, neuro-endocrine control) as well as some limited responses to the environment (changes of

¹⁹⁹ Cf. R. Veatch, *Death, Dying, and the Biological Revolution. Our Last Quest for Responsibility* (New Haven: Yale University Press, 1976); there is also a 1989 rev. ed.

²⁰⁰ Cf. J. L. Bernat, C. Culver, B. Gert, “On the Definition and Criterion of Death”, *Annals of Internal Medicine*, 94 (1981) 389 – 394.

temperature and reactions to light or sound). Even so, the integration of *all* the subsystems is not necessary, since some of them can be artificially substituted (e.g. by a pacemaker) without impairing the functioning of the organism as a whole.

Those who support position 1) think it is arbitrary to fix a point within a gradual process as the actual moment of death, and thus they do not readily accept the neurological criterion. Without entering into the merits of the question, it can be observed that this position has more regard for biological death than for clinical death, and is therefore impracticable from the medical point of view (how long should we continue therapy?) and the legal point of view (when should someone's will be executed?), let alone the social and religious points of view.

For those who accept position 2), clinical death consists in the irreversible cessation of functioning of the cerebrum alone or of the cerebral cortex (superior functions), since in that case that which is essentially constitutive of human nature has been lost definitively. As has already been emphasized, this position does not seem acceptable.

Among those who take up position 3), there are two positions:

a) The most common one holds that the human being is dead only when an irreversible cessation of the functioning of the entire brain has occurred: cerebrum, cerebellum and the encephalic trunk ("total cerebral death"), because only in this case can we speak of the cessation of functioning of the organism as a whole. This position has been taken by the World Medical Association (Sydney Declaration of 1968, revised in the XXXV Assembly held in Venice in 1983), by the commission convoked by the President of the United States and the Pontifical Academy of the Sciences (October, 1985)²⁰¹. The commission called by the US President made the following statements:

An individual who has suffered:

- i) the irreversible cessation of the circulatory and respiratory functions, or
- ii) the irreversible cessation of the functions of the complete brain is dead.

²⁰¹ Cf. President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, *Defining Death* (Washington, D. C.: US Government Printing Office, 1981). The communication of the Pontifical Academy of the Sciences can be consulted in *L'Osservatore Romano*, October 31, 1985.

Criterion i) applies to patients who are not liable to reanimation. Criterion ii) applies to those who are liable to it. There is a tendency to consider the second criterion as the true criterion of death, since definitive cessation of cardiac and respiratory function leads rapidly to brain death²⁰².

b) In Great Britain, on the contrary, the Conference of the Medical Royal Colleges have concentrated their attention on a criterion based on irreversible cessation of the functioning of the brain stem (encephalic trunk)²⁰³. The supporters of this criterion point out that without the functioning of the ascendant reticular activator system (ARAS) not only is consciousness impossible, but also respiration and the integration of the other vegetative functions, through which, once the reticular system is “dead”, the heart and the cerebral cortex will be deprived of oxygen and will cease to function, bringing about the death of the entire brain. The brain-stem’s ceasing to function is considered to be the “physiological nucleus” of brain death and the determining factor for the whole brain’s ceasing to function.

The Presidential Commission of the USA maintains that the English criterion offers more of a prognosis than a diagnosis, that is, it contemplates a moment in which the process leading to death is irreversible, but not that death has arrived. The criterion of the US Presidential Commission is based on the ascertainment of the “death” of the entire brain; the English criterion based on the ascertainment of the ceasing-to-function of the brain as a whole, since this function cannot be considered

²⁰²From the point of view of anatomy and pathology, the irreversible loss of the functioning of the entire brain (‘encephalic death’) has been considered an aseptic, collative necrosis (cf. R. Lindberg, “Systemic oxygen deficiencies: the respirator brain”, in Various authors, *Pathology of the Nervous System* [New York: McGraw-Hill, 1971] pp. 1583 – 1617), caused by the arrest of encephalous blood circulation, originating either in an abnormal increase of intracranial pressure or through a deficient blood flow (cardiac arrest, shock). But *the diagnosis of brain death* calls attention not to the phenomenon of necrosis, but above all to the irreversibility of encephalous circulatory arrest because of the ‘no-reflow’ phenomenon: a moment arrives when, even after cardiac activity is restored, no new flow of blood is produced in the brain, through non-permeability at the capillary level. So far, medical science has not succeeded in overcoming the “no-reflow” phenomenon” (cf. A. Ames III, R. L. Wright, M. Kowada, J. M. Thurston, G. Majno, “Cerebral ischemia II. The no-reflow phenomenon”, *American Journal of Pathology* 52 (1968) 437 – 453).

²⁰³Cf. Conference of Medical Royal Colleges and their Faculties in the United Kingdom, “Diagnosis of Brain Death”, *British Medical Journal* (1976) no. 2, 1187 – 1188; “Diagnosis of Death”, *British Medical Journal* (1979), no. 1, 3320.

complete if the encephalic trunk is dead. The supporters of the latter opinion think that the criterion of the Presidential Commission is excessively cautious. On the other hand, those who do not accept it will be able to say, for example, that it is difficult to consider as “dead” someone with an irreversibly damaged encephalic trunk whose breathing is being artificially maintained, as long as the person’s cerebral cortex is still able to register some activity in an encephalogram²⁰⁴.

In any case, once a neurological criterion has been accepted for the determination of clinical death, there must then be individual tests to verify whether a particular patient is dead. This is an extremely complicated subject which we are not competent to judge. Nevertheless, we note three cases where the diagnosis is especially difficult, and for which it is necessary to apply very complicated diagnostic considerations and a great deal of caution, since the parameters and the symptoms that in other cases imply irreversibility, are not in fact determinative. These cases are 1) determining the brain death of infants, 2) diagnosing cases of hypothermia, and 3) diagnosing cases of intoxication by sedative or anesthetic drugs (barbiturates, benzodiazepine, etc.). The civil laws of each country normally have certain requisites for the certification of death, especially when organs are being transplanted. It is necessary to point out, finally, that, as in every other medical diagnosis, here too human errors can occur, leading to a judgment that someone is dead when in reality the person is alive (false positive) or that someone is alive when in reality the person is dead (false negative). But a diagnostic error of a physician in a concrete case does not necessarily imply that the criterion for the ascertainment of death is not trustworthy, just as an erroneous diagnosis of hepatitis in a particular case does not mean that the contemporary understanding of hepatitis is not precise enough.

5.12.2 *Anthropological Considerations*

From an anthropological point of view, it can be affirmed that the fact that an individual of the human species is permanently and irreversibly incapacitated from exercising his rational faculties, it is not legitimate to

²⁰⁴Cf. D. Lamb, *Il confine della vita* (cited in note 198 above), pp. 85 – 91. Lamb is a convinced adherent of the English doctrine.

conclude that this individual is not a living human person or that he does not possess a rational soul. The soul was defined, already by Aristotle, as *the first act of an organized natural body*²⁰⁵ or *that through which we primarily live, change place, and understand*²⁰⁶. The terms “first” and “primarily” refer to the distinction between the soul and the operative powers that corresponds to the same created metaphysical condition (i.e. non-identity of being and acting). The soul is the *first act*, the vital operations are the *second act*. What this means is that, when a vital operation is exercised, there is certainly a passage from potency to act, but what passes from potency to act is not the soul, but the operative power (intelligence, will, etc.). The impossibility of knowing implies an impossibility of the intellect passing into act, but does not eliminate any of the soul’s actuality, since the (first) act of the soul is not its operation (second act).

Only when life *in primo actu* disappears – of which the soul is the first principle – are we able to say that the soul is separated from the body. The impossibility of exercising some operations (*actûs secundi*) does not permit the affirmation that the soul has in fact separated from the body. The soul must be seen in relation to life itself (in the first act) through which alone an organic lesion that causes the death of the entire organism (and not merely the end of the operations of a faculty) also causes the separation of the soul. The soul is not a determinate structure of the body, but is the cause of it, and it makes it possible for *this* organized body to function as a whole. It is the property of the soul to animate and unify the whole complex, to act as the unifying principle of its parts. If the presence of the soul causes, and manifests itself in, the functioning of the organism as a whole, it must also be said that *the most characteristic phenomenological manifestation of the separation of the soul is the ceasing-to-function of the organism as a unified totality*.

It must be remembered, however, that when the human soul is separated from the body, the body does not instantaneously disintegrate, but ceases to act as a whole. It does not seem reasonable to speak of the substantial form of a cadaver²⁰⁷, as if the cadaver had its own unity

²⁰⁵ Aristotle, *De Anima* II, 1, 412a 27 and b 5.

²⁰⁶ *Ibid.*, II, 2, 414a 12.

²⁰⁷ Cf. P. Siwek, *Psychologia Metaphysica*, 5th ed., (Rome: PUG: 1956), p. 539.

of living substance. The cadaver, as such, is dead. Life can still be in it in a biological sense (living cells, or collections of cells and tissues), which are governed according to the laws that are proper to this kind of life, but there is in them no life of the human organism. There is nothing strange in saying that if this organ or cell is taking in oxygen and nourishment, that this organ or cell is being preserved from putrefaction for some period of time. It is a question of elemental biology (cytology) or perhaps of biochemistry, but not zoology or anthropology. That is to say, the organic structures that were formed and alive during another time of the human soul, can for a certain period of time, if conditions are adequate, preserve their biological consistency and biochemical properties in accordance with the general laws of lower biology and biochemistry, but this does not mean that the superior organism of which such cells or organs used to form a part, is still alive. Consequently, someone would seem to be holding a position devoid of any clinical effectiveness, if he understood death as a process in which it is not possible to determine any particular moment that would be relevant from the clinical, social or legal points of view.

5.12.3 *Concluding Evaluation*

If our manner of bringing together medical and philosophical considerations is correct, the concept of death as an irreparable loss of what is essentially indicative of human nature and the corresponding clinical criterion (irreversible cessation of the functioning of the cerebellum alone), seems incompatible to us with the philosophical conception that in our best judgement seems adequate for the human being. The concept of death as the permanent cessation of the functioning of the human organism as a whole, on the other hand, seems adequate *from the point of view of its own presuppositions or philosophical implications*. In our view, *the irreversible cessation of the functions of the entire brain can be accepted as a valid neurological criterion for ascertaining clinical death*. It is outside our competence to pass judgements on the value of the tests that are required by the legislation of various nations for reaching a diagnosis of death. It likewise does not seem within our competence to express a definitive judgment on the thesis that adopts as a criterion of death the irreversible cessation of the functions of the brain stem, even

if such a criterion raises strong doubts and it does not seem how such doubts can ever be resolved in practice.

The neurological criterion we do consider acceptable has been widely accepted in the international medical community. Even the ordinary magisterium of the Church has referred to the issue with much prudence, in a cautiously positive sense. It is worthwhile here to quote in full the words of John-Paul II: “It is a well-known fact that for some time certain scientific approaches to ascertaining death have shifted the emphasis from the traditional cardio-respiratory signs to the so-called “*neurological*” criterion. Specifically, this consists in establishing, according to clearly determined parameters commonly held by the international scientific community, the complete and irreversible cessation of all brain activity (in the cerebrum, cerebellum and brain stem). This is then considered the sign that the individual organism has lost its integrative capacity. With regard to the parameters used today for ascertaining death – whether the “encephalic” signs or the more traditional cardio-respiratory signs – the Church does not make technical decisions. She limits herself to the Gospel duty of comparing the data offered by medical science with the Christian understanding of the unity of the person, bringing out the similarities and the possible conflicts capable of endangering respect for human dignity. Here it can be said that the criterion adopted in more recent times for ascertaining the fact of death, namely the *complete* and *irreversible* cessation of all brain activity, if rigorously applied, does not seem to conflict with the essential elements of a sound anthropology. Therefore a health-worker professionally responsible for ascertaining death can use these criteria in each individual case as the basis for arriving at that degree of assurance in ethical judgment which moral teaching describes as “moral certainty”. This moral certainty is considered the necessary and sufficient basis for an ethically correct course of action. Only where such certainty exists, and where informed consent has already been given by the donor or the donor’s legitimate representatives, is it morally right to initiate the technical procedures required for the removal of organs for transplant”²⁰⁸.

²⁰⁸John-Paul II, “Address to the 18th International Congress of the Transplantation Society” (August 29, 2000), no. 5. Cf. in an analogous sense cf. The Pontifical Council for Pastoral Assistance to Health Care Workers, *Charter for Health Care Workers*, (Vatican City, 1995), no. 87.

*We must nevertheless point out that doubts and perplexities have been raised concerning the validity of the neurological criterion for ascertaining clinical death*²⁰⁹. Some writers claim nevertheless that the criterion of brain death is unsuitable or insufficient to guarantee the moral certainty of the real death of the person. The objection has been supported by studies which have presented some cases of patients who were defined as ‘brain dead’ but who still had indubitable signs of life²¹⁰. Such cases, however, after a careful study, turned out to be either not well-documented or cases of an incorrect application of the neurological criteria, with the consequence of an erroneous diagnosis of cerebral death²¹¹.

The most important objection concerns the integrative role of the brain. Although it is true, especially with the aid of mechanical ventilation, that the degradation of some functionalities or sub-systems can be progressive and not punctuated, it is also true that the condition of brain death indicates an absolutely irreversible point of no return²¹². Certainly, we are not competent to judge of all the scientific aspects or to consider the question closed. *Nevertheless, it seems clear that the idea widely shared by the medical community today that the neurological criterion, properly applied, is suitable for the determination of death, can be accepted, at least until the appearance of evidence to the contrary.*

All the same, *criticisms and suspicions can be obviated if respect is given to the more intuitive aspects of the question.* The more serious perplexities, and occasionally scandals, are caused by the implantation of organs from a cadaver with a beating heart. The answer to the objection against “brain death” that arises from this type of transplant does not (as I see it) take into account the intuitive aspect of the problem. In this concrete case, in effect, the new criterion for diagnosing

²⁰⁹Cf. for example S. J. Youngner, “Defining death. A superficial and fragile consensus”, *Archives of Neurology*

49 (1992) 570 – 572; P. A. Byrne, S. O. Reilly, P. M. Quay, “Brain Death: An opposing viewpoint”, *JAMA* 242/18 (1979) 1985 – 1990.

²¹⁰Cf. for example D. A. Shewmon, “Chronic ‘Brain death’. Meta-analysis and Conceptual Consequences”, *Neurology* 51/6 (1998) 1538 – 1545; T. Yoshika, H. Sugimoto, M. Uenishi, et.al. “Prolonged hemodynamic maintenance by the combined administration of vasopressin and epinephrine in brain death: a clinical study”, *Neurology* 18/5 (1986) 565-567.

²¹¹Cf. E. F. M. Wijdevicks, J. L. Bernat, “Chronic ‘brain death’: Meta- analysis and conceptual consequences. To the Editor”, *Neurology* 53/6 (1999) 1369 – 1372.

²¹²One should keep in mind what was said at before at note 202.

death (so called brain or encephalic death) is not only different from, and more advanced with respect to the traditional criterion (definitive cardiac and respiratory arrest), but it is also used in a way to oppose *the traditional criterion*, colliding with a perennial, intuitive ethical proof. By this use of the new criterion, it is not true that someone whose heart is spontaneously beating (although no longer spontaneously breathing) cannot be considered dead. Even if this can be explained plausibly in scientific terms, it is not admissible intuitively by relatives, by some of the medical personnel, etc. And this intuitive aspect has its own human and ethical relevance. Definitively speaking, for those of us who do accept the validity of the neurological criterion for the ascertainment of death, the excessive anxiety of the physicians who want to proceed to the transplant, stirs up real perplexities, and it is understandable why such anxiety would cause a certain scandal and make it difficult to accept the neurological criterion.

5.13 Artificial Feeding and Hydration

5.13.1 *The Ethical Problem*

The problem we must now take up is whether it be permissible or not to suspend artificial feeding and hydration from patients who are in a persistent vegetative state or other analogous situation. These are patients who have irreversibly lost (or appear to have lost) their superior functions, who are in a stable condition which can be prolonged for a long period of time, and who spontaneously maintain their remaining vital functions (without a mechanical breathing apparatus). Such patients cannot feed themselves, and need to be fed food and liquids intravenously or through a gastric tube, etc. Otherwise they will die by starvation or dehydration.

“Persistent vegetative state” or “apallic syndrome” implies the death of the cerebral cortex, but not of the brain itself (or “total cerebral death”). It consists in an alteration caused by structural damage in the cerebral cortex which brings about a serious change in the coordinated functioning of both hemispheres of the brain and the middle cerebellum, while enough activity of the encephalic trunk (or brain stem) remains

that is sufficient to sustain the spontaneous vegetative functions. It is a clinical situation that differs from the coma. The clinical framework for the apallic syndrome is characterized by the permanent absence of consciousness²¹³ and the simultaneous persistence of vegetative functions and reflexes. When nourishment is supplied to the patient, the digestive system operates, the kidneys produce urine, etc. The heart and lungs function normally (there is no need for a mechanical breathing device). Reflexes of the brain stem and spine are still in existence: photomotor activity, swallowing, sight and hearing, eye movement, breathing, etc. When the required care is provided, such patients can remain alive for a long time without needing any respiratory assistance. Even though the experience with this type of patients is still limited, it appears that cases where repair of the neurological damage is impossible can be known with certainty. Nevertheless, experience also shows that much prudence and thorough observation is needed to identify a persistent vegetative state, especially when it concerns damage from hypoxia in younger patients.

Those who equate irreversible loss of the superior functions with the death of a human being, think it permissible to not undertake any feeding and artificial hydration to such persons, or to suspend such a process if it has already begun. In the section above we have shown how this conception of the death of a human person does not seem acceptable. Persons who live in a vegetative state are living human beings and must be treated as such.

Other writers who do not share the above-mentioned conception of death, nevertheless maintain that artificial hydration and feeding are not obligatory and can be suspended, since it is a question of extraordinary or disproportionate means, which constitute an excessive burden for the parents and for society, and can only guarantee the prolongation of a precarious life²¹⁴.

There is a very lively debate on this problem, caused in part by some

²¹³Cf. D. H. Ingvar *et al.*, "Survival after severe cerebral anoxia with destruction of the cerebral cortex: the apallic syndrome", *Annals of the New York Academy of Sciences*, 35 (1978) 184; R. Proietti, "Stato vegetativo e morte cerebrale", in Various authors, *Né accanimento né euthanasia*, Quaderni di Scienza e Vita, I (Rome: 2006), 45 – 53.

²¹⁴A good vision of the whole issue can be found in W. E. May, "Caring for persons in the persistent vegetative state and Pope John Paul II's March 20, 2004 address on life-sustaining treatments and the vegetative state", *Medicina e Morale* 55/3 (2005) 533-553. See also D. Tettamanzi, *Nuova bioetica Cristiana* (Casale Monferrato: Piemme, 2000), pp. 515-523.

cases that have shaken public opinion. The Magisterium of the Church has also intervened many times, in a most explicit manner²¹⁵.

Catholic theologians who hold that artificial feeding and hydration can be interrupted believe that their position is supported by the teaching of Pius XII on the legitimacy of refusing extraordinary means for the preservation of life. In concrete terms, they refer to the Allocution of Pius XII on November 24, 1957, delivered at a Congress of Anesthesiologists²¹⁶. The questions presented to Pius XII were concerned with techniques of re-animation, and more particularly with the use of ventilators that artificially sustain breathing. If it is known, or reasonably supposed, that the afflicted person is not capable of naturally breathing again, once the practices of re-animation have been carried out and a prudent period of time has passed, such a patient can be considered clinically dead, and therefore the question justly arises, how long must he remain attached to the ventilator? But the problem of artificial feeding and hydration is completely different. Feeding is not a “re-animation”. Patients in a persistent vegetative state breathe spontaneously, without the help of a ventilator; they digest food naturally and carry out other metabolic functions. Nevertheless, they cannot feed themselves. They will die if not provided with food and water, and the cause of their death is not any disease or their persistent vegetative state, but only starvation and dehydration.

On the other hand, the reasons for considering artificial feeding and hydration to be an “extraordinary means”, and thereby not obligatory, are not convincing. Let us consider the reasons that have been put forward.

1) “It costs too much.” This does not appear to be true today. Modern methods of artificial feeding are much less expensive, can be supported by almost any mid-level health system, and do not entail canopying the patient.

2) “It puts an excessive burden on the family.” Artificial feeding is not in itself an excessive burden, especially with recourse to mod-

²¹⁵The most recent intervention is : Congregation for the Doctrine of the Faith, “Responses to the questions of the Episcopal Conference of the United States concerning artificial hydration and feeding”, August 1, 2007. The responses are accompanied by an “Illustrative Note” which we have made use of when preparing the present treatment.

²¹⁶*Cf.* AAS 49 (1957), especially 1029 – 1030.

ern methods of enteral feeding (especially PEG: *percutaneous endoscopic gastronomy*²¹⁷). It is, of course, a significant burden to have a family member in a persistent vegetative state for months or even years. But it is similar to the burden of having a family member who is paralytic or paraplegic, with serious mental health problems, etc. There are persons who have a continuous need of assistance. The instruction of Pius XII cannot, for sufficiently obvious reasons, be interpreted in the sense that it is now permissible to let patients die of starvation and hydration whenever they might require constant care on the part of their families. This is not what Pius XII meant when he spoke of extraordinary means.

3) “It is futile.” Not even this objection appears valid. It is in fact a means that is clearly proportional to the end in view: to keep a person who is ill, but in a stable situation, from dying from dehydration or starvation.

4) Because, as Pius XII said, life and health are ordered to spiritual ends, and the feeding and hydration of ill persons in a persistent vegetative state does not enable them to realize any higher activities, and consequently does not reach any spiritual end. According to W. E. May, this is the interpretation behind the thesis of those who maintain that artificial hydration and feeding are not obligatory. But the fact that artificial feeding and hydration do not, in many cases, bring about a recovery of the higher functions does not mean that their use is extraordinary or disproportionate. They are actions perfectly proportionate to their purpose to sustain life and avoid death by dehydration or starving, and they are ordinary because they do not entail excessive burdens in either the physical or economic perspective.

This judgment may be made differently only in *a few special cases*, when the afflicted person cannot assimilate food and liquid – not because of the persistent vegetative state, but through other circumstances or complications that are additionally present – and it is consequently not possible to give them any. Another reason is when the feeding or hydration is injurious in itself, or the procedure of delivery has become too complicated, costly, or painful. It is for doctors to determine whether

²¹⁷Cf. A. Di Vincenzo, *La nutrizione artificiale*, in Various Authors, *Né accanimento né eutanasia* (cited above) 55-61. PEG has become very inexpensive, it can be accomplished fully at home or in institutes of long-term care, it does not cause pain, and its initial set-up is fairly simple, without requiring anesthesia.

such cases are frequent or rare²¹⁸.

5.13.2 *The position of the Magisterium of the Church*

Little by little, it is being affirmed ever more clearly in documents of the Church's Magisterium that artificial feeding and hydration are in principle ordinary measures of care that are owed to every ill person. This appears to be caused by the fact that, in various countries, a practice has gradually been introduced of abandoning patients in a persistent vegetative state or in analogous situations, just for the purpose of removing the burden that the assistance of such patients requires from the caretakers or family members. In this way we have true forms of euthanasia achieved through the omission of ordinary care (death by starvation and thirst).

In the Illustrative Note by the Congregation for the Doctrine of the Faith (August 1, 2008), to which we recently made reference (note 215 above), there is a catalogue of the interventions of the Magisterium that were made on this material from 1980 to the time of publication. Here we will refer only to the three most recent. In a discourse to a group of United States bishops during their *ad limina* visit, John Paul II clarified that feeding and hydration are to be considered an ordinary means of preserving life. It is unacceptable to interrupt them, or not to give them, if such a decision results in the death of the patient. If that is done, it is a case of euthanasia²¹⁹.

²¹⁸See also the interesting and just reflections of the National Committee for Bioethics in Italy (*Comitato Nazionale per la Bioetica della Repubblica Italiana*), "L'alimentazione e l'idratazione dei pazienti in stato vegetativo persistente", September 30, 2005.

²¹⁹"As ecumenical witness in defense of life develops, a great teaching effort is needed to clarify the substantive moral difference between discontinuing medical procedures that may be burdensome, dangerous, or disproportionate to the expected outcome – what the *Catechism of the Catholic Church* calls "the refusal of 'over-zealous' treatment" (no. 2278; cf. *Evangelium vitae*, no. 65) – and taking away the ordinary means of preserving life, such as feeding, hydration and normal medical care. The statement of the United States Bishops' Pro-Life Committee, "Nutrition and Hydration: Moral and Pastoral considerations", rightly emphasizes that the omission of nutrition and hydration intended to cause a patient's death must be rejected and that, while giving careful consideration to all the factors involved, the presumption should be in favor of providing medically assisted nutrition and hydration to all patients who need them. To blur this distinction is to introduce a source of countless injustices and much additional anguish, affecting both those already suffering from ill health

The Position Taken by John Paul II — The problem was confronted in the most extensive fashion by John Paul II in his Discourse of March 20, 2004, delivered to the participants in an International Congress on “Treatments for Life Support and the Persistent Vegetative State. Scientific Advances and Ethical Dilemmas”. After speaking of the necessity for, and the particular difficulties of, a diagnosis of persistent vegetative state, and after noting that the condition “persistent” is itself founded on a prognosis that can also be in error, he emphasized the following points:

1) In response to those who are in doubt about the “human quality” of patients in the persistent vegetative state, John Paul II insists on “the obligation to re-affirm with vigor that the intrinsic value and the personal dignity of every human being do not change, no matter what the concrete circumstances of life. *A human being, even if seriously ill and impaired in the exercise of the most basic functions, will still be a human being, and never will be an ‘animal’ or ‘plant’*”²²⁰. John Paul II clarifies that the underlying problem here is the erroneous idea that the life of a human being is deprived of value when in a persistent vegetative state.

2) An ill person in a vegetative state, who is in suspense between recovery and a natural end, has, therefore, a right to basic medical assistance (nutrition, hydration, hygiene, being kept warm), and to the prevention of complications that are bound up with being bed-ridden. He also has a right to a contemplated rehabilitative intervention and to be monitored for the clinical signs of a recovery. In particular, it should be emphasized that the supplying of water and food, even when it occurs through artificial means, also represents a *natural means* of preserving life, and not a *medical action*. Its adoption therefore is to be considered in principle as *ordinary* and *proportionate*, and as such, morally obligatory to the degree to which and as long as it can be shown to be attaining its proper finality, which by definition consists in procuring nutrition for

or the deterioration which comes with age, and their loved ones.” (John Paul II, “Address to the Bishops of the Episcopal Conference of the United States of America [California, Nevada and Hawaii]”, October 2, 1998, no. 4).

²²⁰John Paul II, “Discorso ai partecipanti al congresso Internazionale su ‘I Trattamenti di sostegno vitale e lo stato vegetativo. Progressi scientifici e dilemmi etici’” (March 20, 2004; no. 3).

a patient and the alleviation of his or her suffering²²¹.

3) Soon after, John Paul II takes up and interprets the preceding documents of the Holy See in the same sense: “The obligation not to omit ‘the normal care owed to an ill person in similar cases’ (Congreg. Doct. Faith, *Iura et bona*, IV) includes, in fact, the provision of food and water (Cf. Pont. Cons. *Cor unum*, “*Dans le cadre*”, 2.4.4; Pont. Cons. Past. Operat. Sanit., *Carta degli Operatori Sanitari*, no. 120). The evaluation of probability, based on the declining hopes for recovery when the vegetative state lasts longer than a year, cannot ethically justify the abandonment or the interruption of *minimal care* of the patient, including hydration and feeding. Death by starvation or thirst, in fact, is the only possible result of their suspension. In such a sense, then, this action would end up taking shape, if it were to be consciously and deliberately carried out, as a true and proper euthanasia by omission”²²². And we are then referred to *Evangelium vitae*, no. 65.

4) “For the rest, the moral principle is to be noted, according to which even the simple suspicion of being in the presence of a living person obliges us to respect that fact fully and to abstain from any action whatsoever that would anticipate the person’s death”²²³.

The meaning of the discourse is quite clear, and also makes good sense: it is contrary to human dignity that a patient in a public hospital of any nation die of hunger or thirst – a patient who, owing to his circumstances, has been entrusted to doctors, nurses and family members. If particular and rare pathological conditions are rendering impossible any assimilation of food and liquids, then the death is being caused by that particular pathology, and not by the voluntary suspension of nourishment and hydration.

The Pronouncement by the Congregation for the Doctrine of the Faith — We can now proceed, in conclusion, to the replies given by the Congregation for the Doctrine of the Faith on August 1, 2007. In answer to the first question, it is affirmed that “the administration of food and water, even through artificial means, is in line of principle an ordinary means that is proportionate to the conservation of life. It is

²²¹ *ibid.*, no. 4.

²²² *Ibidem.*

²²³ *Ibidem.*

consequently obligatory, to the extent that, and for the period of time during which, it is clear that the action is attaining its proper end, which consists in getting nourishment and hydration to the patient. In this way, suffering and death by way of starvation and thirst are avoided.” The second question asks, “if the nourishment and hydration provided by artificial means to a patient in a ‘persistent vegetative state’ may be interrupted if competent physicians judge, with moral certainty, that the patient will never recover consciousness?” The answer is negative, and its justification is the following: “A patient in a ‘persistent vegetative state’ is a person with a fundamental human dignity, to whom, therefore, ordinary and proportionate care is owed, including, in line of principle, the administration of water and food, even through artificial means.”

These responses clearly affirm that artificial hydration and feeding are considered ordinary care (not therapy), proportionate to the support of minimal life, and are thereby obligatory *in line of principle*. The Illustrative Note explains the exact meaning of this phrase “in line of principle”: “In affirming that the administration of food and water is morally obligatory *in line of principle*, the Congregation of the Doctrine of the Faith does not exclude the possibility that in some very isolated region of extreme poverty, the provision of artificial hydration and feeding may not be physically possible, and consequently *ad impossibilia nemo tenetur* (“no one is held to do what is impossible”), while still maintaining nevertheless the obligation to offer the minimal care at one’s disposal and to procure, if possible, the means necessary for adequate life support. Nor is it ruled out that, owing to additional complications, the patient may not be able to assimilate food or liquid at all, so that the providing of them may be completely futile. Finally, there is the possibility that, in a certain rare case, artificial hydration and feeding brings an excessive burden or physical incommmodity, connected, for instance, with the complications involved in using the technical apparatus. But these exceptional cases do not affect the general ethical principle, according to which the administration of water and food, even through artificial techniques, always represents a *natural means* of preserving life and not a *therapeutic treatment*. Its use therefore is to be considered *ordinary* and *proportionate*, even when the vegetative state is prolonged”.

5.14 Conscientious Objection by Health Workers

5.14.1 *General Principles*

For well over a decade, the attention of students has been mainly focused on conscientious objection to military service or to the performing of surgical abortions. The arrival on the scene of abortifacient drugs, the development of biomedical research, and of the techniques of assisted procreation involving the destruction of human embryos, and the diffusion of the practices of sterilization and euthanasia, sometimes even legalized – all this has made a fuller treatment of the issue of the conscientious objection of health workers both necessary and urgent.

Already in the Apostolic Age, various moral problems were posed to the Christian community in connection with the fact that they had to interact with non-Christians. *In Holy Scripture we do not find the technical concept of “conscientious objection”, but we do find the attitude that constitutes it in substance.* There is a clear awareness that “one must obey God rather than men”²²⁴, and that an uncontaminated conscience has an intrinsic and exemplary value²²⁵. One should not be surprised or discouraged if there exists, in fact, a difference and for that matter, an opposition between “those outside” and “those inside” when it comes to moral rectitude²²⁶. The fact that in the apostolic times Christians had to confront a pagan, not-yet Christianized society, whereas today (in some countries), the confrontation is with a society and culture which has been Christian but in stages has distanced itself from Christ – or at least has become very lukewarm – does not change the essence of the problem. “Those inside” do not conform themselves to the mentality of

²²⁴ *Acts* 5:29; cf. also *Acts* 4:19.

²²⁵ Cf. R. Petraglio, *Obiezione di coscienza: Il Nuovo Testamento provoca I cristiani* (Bologna: Dehoniane, 1984); G. Theissen, *Sociologia del primitivo*, (Genoa: Marietti, 1987). The following works also include some references to the Old Testament: G. Mattai, “Obiezione di coscienza e dissenso”, in F. Compagnoni, G. Piana, S. Privitera, eds., *Nuovo dizionario di teologia morale* (cited above), pp. 815 – 822; C. M. Martini, “La Chiesa opera a favore dell’interiorità”, in B. Perrone, ed., *Realtà e prospettive dell’obiezione di coscienza. I conflitti degli ordinamenti*, (Milan: Giuffrè, 1992) pp. 445 ff.; A. Pool, “L’obiezione di coscienza nella Bibbia ebraica”, in A. Cavagna, ed., *I cristiani e l’obiezione di coscienza al servizio militare*, (Bologna: Dehoniane, 1992) pp. 13 ff.

²²⁶ Cf. *1 Cor* 5: 9 – 13.

the age, but they also know how to discern what is good and pleasing to God²²⁷. The behavior of “those outside” can neither in any way justify similar behavior on the part of “those inside”, nor can ever be approved by them. Christians should be “without blemish in the midst of a crooked and perverse generation”²²⁸, in order that their uncontaminated conscience may shine out with the testimony of the truth. They cannot allow themselves to be contaminated, but they cannot depart from the world (like the ascetics of the dead sea scrolls), or remain in a paralyzed state²²⁹. Instead, they must take up an apostolic approach that is active and full of charity, so as to conquer evil with good²³⁰, and help others as much as possible.

From this point of view, it must be noted that *conscientious objection* is an extreme measure, and, in a sense, also a minimal one. Its pursuit would require engaging in a fuller context, avoiding excessive casuistic interpretations (“you can do this, but you cannot do that”) that can cause undue anxiety and paralysis even in health-care workers themselves, who are courageously trying their best within the real possibilities of their situation. The responsibility of health-care workers is not limited, in fact, to making a conscientious objection when one becomes necessary. Above all, they have the responsibility to make their contributions such that their own professional activities are regulated by just laws. Such a duty is not only founded on the obvious reason that, without an adequate legal framework, it becomes more difficult for everyone to keep their own consciences uncontaminated in the exercise of their professional activity, but also from the specific obligation each one of us has to contribute to the common good of society according to our own abilities²³¹. This includes, of course, the preservation and legal promotion of fundamental goods such as life, health, justice, freedom, etc., not to mention the right legal ordering of professional activities that are closely connected to such goods. This need can be understood as being greatly reinforced by the fact that life in a democracy – by its very nature – demands the active participation of all citizens in the formation of public, social,

²²⁷ Cf. Rom 12: 2.

²²⁸ Cf. Phil 2: 14 – 16.

²²⁹ Cf. 1 Cor 5: 9 – 13.

²³⁰ Cf. Rom 12: 21.

²³¹ Cf. Catechism of the Catholic Church, nos. 1915 and 2239.

and professional ideals, and the legislative choices in which those ideals are concretely realized²³². Furthermore, Christian citizens in this way carry out their own peculiar task of infusing the temporal order with a Christian spirit²³³.

The various categories of workers in the world of health care each have their own proper way of intervening with regard to health-care politics. We can think, for example, about an active participation in the elaboration, interpretation, and application of the codes of ethics for each professional order, or about action intending to bring it about that the laws and the administrative rules of the state be respectful of the principles of these ethical codes, or about vigilance taken up by the professional orders themselves to make sure that their codes are actually being followed by the workers. Equally important to mention in this connection would be actions taken by professional organizations to preserve their members from being the object of unjust discrimination resulting from their ethical or religious convictions.

*Ethical codes ought to safeguard the integrity both of the profession and of its professionals, and to anticipate just ways of reaching solutions whenever the legal requirements of the profession and the personal conscience of the professional happen to come into conflict*²³⁴. Professional integrity requires, alongside everything else, that doctors, nurses, pharmacists, etc. are considered in every situation to be moral agents who are conscious, free, and responsible, and who thereby have a right to work according to their knowledge and consciences, and that means with awareness and freedom, competence and deliberation, in accordance with rationally founded principles that are deeply shared²³⁵. The health-care worker cannot be constrained to act against his knowledge and conscience, as a kind of simple executor of the choices of others, with

²³²Cf. *Gaudium et spes*, no. 75; John Paul II, Apostolic Exhortation *Christifideles laici*, no. 42.

²³³Cf. *Apostolicam actuositatem* (cited above), no. 7; *Lumen gentium*, no. 36; *Gaudium et spes*, nos. 31 and 43; Congregation for the Doctrine of the Faith, "Doctrinal Note on some questions regarding the participation of Catholics in political life", November 24, 2002, no. 1; Benedict XVI, Encyclical *Deus caritas est*, December 25, 2005, no. 29.

²³⁴Cf. J. López Guzmán, *Objeción de conciencia farmacéutica* (Barcelona: Ediciones Universitarias Internacionales, 1977), pp. 90 – 93, and the bibliography cited there.

²³⁵Cf. G. Herranz, "La objeción de conciencia de las profesiones sanitarias", in *Scripta Theologica* 27 (1995/2) 545 – 546.

all due respect for the diversity of roles played by the diverse categories of these workers.

On the concrete level of experience, it must be emphasized that the ethical codes of physicians and nursing personnel do include clauses of conscience that are sufficiently wide²³⁶. The same is not true for pharmacists, although there are some exceptions²³⁷. Perhaps the thinking is that the pharmacist, by the very nature of his work, can be involved only in an indirect and remote way in actions that are injurious to the right to life. Nevertheless, the situation has completely changed, whether we consider those who work in a pharmacy as such, or those who work in hospitals or ambulances or laboratories of pharmacological research²³⁸. These changes demand a prompt response, in order for the professional ethical codes to be adequate to the new realities.

It is a fact that in many cases the nations of today, especially in some areas of life, do not concede very much attention to moral criteria that might set limits to a permissive mentality. But this does not mean that citizens cannot make their own ethical allowances. They can do this, while adopting the rules and the language that the state can understand. The state conceives its role as that of a mediator between conflicting interests. Every interest is permitted to make its voice heard, especially when it constitutes an interest that is socially significant enough for the state to make a response to it. In such a context, Saint Paul's motto "to overcome evil with good" also implies that those who consider some point of public health-care law to be mistaken are obliged to make their voices heard in a clear and decisive way, using the licit means that the legal order puts at the disposal of all citizens. This is how the state can understand that there is a socially significant interest that must be heard and satisfied. There is a widely diffused notion that those who do not raise their voices are not very convinced that they have reason on their side, or that they do not have much confidence in their own views.

²³⁶ Cf. for example Article 27 of the Italian Code of Medical Ethics (*Codice di Deontologica Medica Italiano*), approved July 15, 1989.

²³⁷ Cf. J. López Guzmán, *Objeción de conciencia farmacéutica* (cited in note 234 above), pp. 89 – 90.

²³⁸ For a good overview of the whole range of ethical problems connected with the activities of pharmacists, see the work cited in notes 234 and 237 above. See also, by the same author: *Ética en la industria farmacéutica: entre la economía y la salud* (Pamplonad: Eunsa, 2005).

It is also necessary to learn about and take advantage of the margin of action favorable to life that the existing structure of laws does permit, including distinguishing between what is truly required by civil law and what has merely become habitual practice without any legal justification. In some countries, pharmacists are obliged to keep in stock all the medicines approved by the public health system medicines, but are not obliged to have at their disposal certain health products that are not properly medicinal (preservatives, etc.)²³⁹. Further, with regard to medical and health products that are required to be provided to the public, pharmacists are occasionally permitted to behave according to a variety of policies.

5.14.2 *Health -Care Workers and Conscientious Objection*

Presupposing what was said in Chapter Four, Section 5 e, on the exact nature of conscientious objection, it is time now to point out some particular aspects of conscientious objection in the context of the health professions. In some countries and in certain legislative bodies a tendency has emerged of reducing if not outright eliminating conscientious objection, whenever someone intends to remove himself from collaboration in permissive practices which have been ideologically presented as if they were simply the rights of freedom.

The Catholic moral doctrine on conscientious objection with regard to attacks on human life was authoritatively presented once again by John Paul II in the Encyclical *Evangelium vitae*: “*There is no obligation in conscience to obey*” unjust laws, such as those which make abortion and euthanasia legal, “*instead there is a grave and clear obligation to oppose them*”²⁴⁰, since that is demanded by moral principles in general when it comes to cooperating with morally evil actions²⁴¹. “To refuse to take part in committing an injustice is not only a moral duty; it is also a basic human right. Were this not so, the human person would be forced to perform an action intrinsically incompatible with human dignity, and

²³⁹On the distinction between medicinal and health products, cf. J. López Guzmán, *Objección de conciencia farmacéutica* (cited), pp. 93 – 97.

²⁴⁰*Evangelium vitae*, no. 73.

²⁴¹Cf. *ibid.*, no. 73.

in this way human freedom itself, the authentic meaning and purpose of which are found in its orientation to the true and the good, would be radically compromised. What is at stake therefore is an essential right which, precisely as such, should be acknowledged and protected by civil law. In this sense, the opportunity to refuse to take part in the phases of consultation, preparation and execution of these acts against life should be guaranteed to physicians, health-care personnel, and directors of hospitals, clinics and convalescent facilities. Those who have recourse to conscientious objection must be protected not only from legal penalties but also from any negative effects on the legal, disciplinary, financial and professional planes”²⁴².

*This statement from Evangelium vitae can be applied, with certainty, not only to abortion and euthanasia, but also to all actions which directly and immediately attack human life: experimentation or genetic manipulation that involve the destruction of human embryos, techniques of assisted procreation which, in a direct and immediate way, do injury to the principle of respect for human life, pre-natal diagnostic methods whenever they are functionally connected with abortion, etc.*²⁴³.

²⁴² *Ibidem*, no. 74.

²⁴³ Cf. V. Turchi, “L’obiezione di coscienza”, in A. López Trujillo, J. Herranz, E. Sgreccia, eds., *“Evangelium vitae” e Diritto* (Acta Symposii Internationalis in Civitate Vaticana celebrati 23 – 25 Maii 1996), Lib. Ed. Vaticana, 1997, pp. 181-189. For the moral and juridical doctrines, see: A. Fiori, E. Sgreccia, eds., *Obiezione di coscienza e aborto* (Milan: Vita e Pensiero, 1978); L. Melina, “La cooperazione con azioni moralmente cattive contro la vita umana”, in R. Lucas, E. Sgreccia, eds., *Commento interdisciplinare alla “Evangelium vitae”*, (cited in note 33 above), pp. 467-490; S. Sieira Mucientes, *La objeción de conciencia sanitaria* (Madrid: Editorial Dykinson, 2000); R. Botta, ed., *L’obiezione di coscienza tra tutela della libertà e disgregazione dello Stato democratico* (Atti del Convegno di Studi, Modena, November 30 – December 1, 1990; Milan: Giuffrè, 1991); B. Perrone, ed., *Realtà e prospettive dell’obiezione di coscienza. I conflitti degli ordinamenti*, (cited in note 225 above), in which the following are of particular interest for our theme: V. Manfrini, “L’obiezione farmaceutica”, pp. 375 – 378 and L. Mottironi, “L’obiezione farmaceutica”, 379 – 381; G. Dalla Torre, *Bioetica e diritto. Saggi*. (Torino: Giappichelli, 1993); R. Navarro Valls, “La objeción de conciencia al aborto: nuevos datos”, in V. Guitarte Izquierdo, J. Escrivá Ivars, eds., *La objeción de conciencia . . .* (cited in Chapter 4, note 145), pp. 99 – 112; in the same publication, the following articles are also noteworthy: “Las motivaciones de la Ley de reproducción asistida y el espíritu de los Derechos Humanos”, pp. 137 – 146; G. García Cantero, “Reflexiones sobre la objeción de conciencia en la procreación asistida”, pp. 375 – 378; I. M. Briones Martínez, “La objeción de conciencia a la fecundación ‘in vitro’”, pp. 379 – 388, L. Portero Sánchez, “Eutanasia y objeción de conciencia”, pp. 147 – 204; F. Childress, “Civil disobedience, conscientious objection and evasive noncompliance: a framework for the analysis and assessment of illegal actions in health care”, *Journal of Medicine and Philosophy*, 10 (1985) 63 – 83; G.

The availability of pharmaceuticals that are directly abortifacient, such as RU 486, Norievo, and other contraceptives or contraceptive products such as IUDs which can have a serious if not consistently abortifacient effect, poses serious moral problems. Any financing, production or marketing of pharmaceuticals for an exclusive purpose and an abortive effect are morally illicit actions, as is any scientific research that is unambiguously aimed toward the production of such pharmaceuticals. It is not possible to collaborate with such activities. A particular problem is posed for pharmacological researchers who have signed an employment contract with a pharmaceuticals company which subsequently made a decision to produce abortion drugs, since once that decision has been made, the researchers appear to be involved with the research carried out for the production of one of those drugs. Such researchers have the right – and the obligation – to exercise conscientious objection with regard to the production of abortion drugs, and to request transfer to another area of research that is morally acceptable²⁴⁴. It would also be appropriate to ask oneself if it is morally licit to continue working in that industry. The problem would be further complicated, if we consider that the particular researcher staying in the field could have positive effects, as would be the case if the researchers were in any position to influence the course of research in a positive direction.

An analogous problem arises for a researcher who has been asked to participate in a research project that does not respect human life, whether it involves the manipulation of human embryos, or the use of new substances on human subjects without their informed consent or without the guarantees required by law and ethical codes, or because the research regards putting into production bacteriological or chemical weapons of mass destruction. In such situations the objection of conscience is a legal right, to which other obligations may accrue, according to circumstances, such as declaring the fact to the competent authorities, and so on.

A pharmacist who works in a hospital can be asked to procure or prepare abortive substances or products, or lethal substances to be used for euthanasia. An analogous problem is posed for a pharmacist who works

Herranz, “Problèmes éthiques d’un directeur d’hôpital face à l’avortement, l’euthanasie et l’insemination artificielle”, in *Ziekenhuis Management Magazine* 7 (1991) 23 – 28.

²⁴⁴On the juridical aspects of the problem, see J. López Guzmán, *La objeción de conciencia farmacéutica* (cited in note 234), pp. 158 – 161, and the bibliography cited there.

in a pharmacy with direct contact with the public, even though it is limited with regard to the types of substances that can be acquired through a prescription. With respect to abortion, conscientious objection is frequently recognized in specialist literature and legal texts as belonging rather to the physician than the pharmacist, since it is felt that the responsibility of the physician is greater and more direct, since he or she is the one who writes the prescription, while the other only prepares or facilitates the preparation of what was ordered in the prescription. Nevertheless, in our view, *it is not morally licit for the pharmacist to fill prescriptions whose unique effect – either in general or in the case being considered – is abortive or euthanistic.*²⁴⁵ If the procurement or purchase of the drug cannot take place in any other way, the pharmacist has the obligation and the right to make an objection of conscience²⁴⁶.

In theory, it can be asked whether the providing of an abortive or euthanative pharmaceutical on the part of a pharmacist, once a hospital doctor has presented a prescription or formal request, constitutes immediate cooperation with abortion or euthanasia, or alternatively, is only a mediate, proximate cooperation. In any event, *it would be an act that is unambiguously intended to abort or to euthanize, and those are both acts that are so serious as to prohibit any proximate collaboration, either with regard for one's own conscience or because such collaboration would represent a negative witness, an injury to the integrity of the health care profession, to which service to life and health is essential*²⁴⁷. We can therefore agree with Melina when he writes, "As John Paul II has

²⁴⁵On this problem cf. J. López Guzmán, A. Aparisi Miralles, *La píldora del día siguiente* (Madrid: Sekotia, 2002); P. A. Talavera Fernández, V. Bellver Capella, "La objeción de conciencia farmacéutica a la píldora postcoital", *Medicina e Morale* 53/1 (2003) 111 – 133; M. L. Di Pietro, M. Casini, A. Fiori, R. Minacori, L. Romano, A. Bompiani, "Norlevo e obiezione di coscienza", *Medicina e Morale* 53/3 (2003) 411 – 455.

²⁴⁶Manfrini's observation should be kept in mind: "Conscientious Objection on the part of a pharmacist in a pharmacy, seems to be called for only when it legitimizes a refusal to fill a prescription that has been correctly and legally made. When presented with such a prescription, the pharmacist is legally bound to fill it immediately, or, in case the supply of the requested pharmaceutical is exhausted, to procure it as soon as possible. Nevertheless, it appears that all other kinds of conscientious objection can be excluded, since other services can be freely refused, not being legally binding anyway. The exercise of conscientious objection in such cases would be superfluous." (V. Manfrini, "L'obiezione farmaceutica", [cited in note 243 above; our translation] p. 375).

²⁴⁷With regard to the pharmacist in a hospital, cf. V. Manfrini, "L'obiezione farmaceutica", p. 377.

recalled for them (*cf.* “Discourse before the International Federation of Catholic Pharmacists, November 3, 1990), they [i.e. pharmacists] are not merely neutral merchants or distributors of something being requested: the dignity of their professional service requires that they carry out their mediating role between physician and patient responsibly, and in favor of life. They must refuse to provide that which is against life, whether directly or surreptitiously. The sale of products that would be uniquely destined for a purpose contrary to life ought to be matter for conscientious objection. Whereas in the case of medicines with a variety of uses, some of which are permissible, there is no positive right to assure oneself that they will not be used abusively”²⁴⁸.

Manfrini proposes that the conscientious objection clause be expressed as follows: “Whenever a pharmacist, in carrying out the tasks of his profession, is confronted with a request – even in the form of a formally correct medical prescription – of a drug or a medical-surgical prophylaxis which, in itself or through its anticipated use, or, according to the statements of the person requesting it, is presented as a means of aborting, can pose the problem of the objection of conscience and the refusal to fill the prescription [. . .] The same objection of conscience can be extended to whatever involves requests which indicate the use of a drug or other means for the purposes of euthanasia, whether explicitly or camouflaged in some way”²⁴⁹.

The ethics of healthcare requires giving up the objection of conscience in an emergency, when the life of a person is at stake. Such a conflict between the conscience of the health-care worker and the right to life would be difficult of realization in the activity of a pharmacist, since it is a given, in the situations we are contemplating here, that it is not a

²⁴⁸L. Melina, “La cooperazione con azioni moralmente cattive contro la vita umana” (cited in note 243 above), p. 488. In addition to the discourse cited by Melina, one should also see more recent discussion: John Paul II, *Discorso ai Partecipanti al Meeting Internazionale degli Ostetrici e Ginecologi Cattolici* (June 18, 2001), nos. 2 – 3. Among the techniques against which conscientious objection should be raised, John Paul II lists the following: “Availability of contraceptive or abortive substances, new threats to life contained in the legislation of some nations, certain applications of prenatal diagnosis, the diffusion of techniques of *in vitro* fertilization, the resulting production of embryos to combat sterility, but also their destination to scientific research, the use of embryonic stem cells for the development of transplant tissue for the purpose of curing degenerative disease, and projects involving total or partial cloning”.

²⁴⁹V. Manfrini, “L’obiezione farmaceutica” (cited in note 243), p. 378.

question of refusing to distribute life-saving drugs or medications that will have a truly therapeutic effect.

Chapter 6

Fortitude

6.1 Introduction

The *Catechism of the Catholic Church* sums up the essence of fortitude in the following terms: “*Fortitude* is the moral virtue that ensures firmness in difficulties and constancy in the pursuit of the good. It strengthens the resolve to resist temptations and to overcome obstacles in the moral life. The virtue of fortitude enables one to conquer fear, even fear of death, and to face trials and persecutions. It disposes one even to renounce and sacrifice his life in defense of a just cause”¹.

*In Greek philosophy, fortitude was considered a fundamental moral virtue. Aristotle calls it andreia – the virtue of the irascible appetite, or the aggressive impulse – which represents the middle term between fear and over-confidence in the pursuit of difficult goods and in the endurance of pain and difficulties*². As an expression of virile strength, especially that of soldiers in war, the Greek concept of fortitude comes from a very particular context. Men are not guarded by divine providence, and are able to have trust only in their own strength. They have need of self-discipline and a large capacity for endurance before they can achieve the heroic feats that will give them glory, something to compensate them for the evils of a mortal destiny. Greek fortitude does, however, express something true: *in the attitude with which one confronts difficulties and dangers, fate, pains, and death, there is a measure of reasonableness*

¹*Catechism*, no. 1808.

²*Cf.* Aristotle, *Nicomachean Ethics*, III, 6: 1115a 6-7; the Greek word *andreia* means “manliness” (*cf.* Greek *aner*, *andros*, “man, husband”).

which the virtuous person approaches through avoiding the extremes of excess and defect.

6.2 Fortitude in Sacred Scripture and in Catholic Moral Tradition

6.2.1 *Teachings of the Sacred Scriptures.*

The context of the Biblical concept of fortitude is quite different from that of Greek tradition. It underlines the fact that faithfulness to God often requires courage, acceptance of dangers and pain, perseverance and patience: “From the days of John the Baptist until now, the Kingdom of heaven suffers violence, and the violent are taking it by force”³. *But our attention is concentrated on God’s power.* It is from God that the just receive the strength to persevere in doing good and in conquering both their own weaknesses and the obstacles that prevent them from the outside. The just man knows that his fortitude is a gift from God, and he directs his requests for help to God: “For you are my rock and my fortress, for your name’s sake lead me and guide me. Free me from the net they have set for me, for you are my refuge”⁴; “I have the strength for everything through Him who empowers me”⁵. Christ teaches us that without his help we are not in a position to realize what is good: “Without me, you can do nothing”⁶.

Let us point out in a comprehensive way the principal aspects of the virtue of fortitude that are highlighted in Holy Scripture⁷.

1) *Courage and frankness in announcing the Gospel and in the testimony of the truth.* The New Testament uses the word “*parrhēsia*”. The *Acts of the Apostles* shows how St. Peter, St Paul and the other apostles and disciples clearly announce the Gospel to both Jews and pagans⁸,

³ *Mt* 11: 12.

⁴ *Ps.* 31: 4-5.

⁵ *Phil.* 4: 13.

⁶ *John* 15: 5.

⁷ Cf. E. Kaczynski, “Fortezza”, in F. Compagnini, G. Piana, S. Privitera (eds.) *Nuovo Dizionario di Teologia Morale*, (cited above), p. 459 - 468.

⁸ Cf. *Acts* 2: 29; 4: 13; 9: 27.

even if this involves persecution⁹. Freedom and boldness are qualities that must necessarily accompany the evangelical message: “[Pray] . . . that speech may be given me to open my mouth, to make known with boldness the mystery of the Gospel, for which I am an ambassador in chains, so that I may have the courage to speak (*parrhēsiásōmai*) as I must”¹⁰. The frankness of the apostle is a gift granted by God¹¹.

2) *Firmness in faith and in doing good works*. The believer ought to be faithful and brave, as were Aaron, Moses, Saint Paul, etc. Exhortations to remain firm in the faith are frequent: “Be on your guard, stand firm in the faith, be courageous, be strong”¹², and to stay strong in the Lord¹³. Fortitude also goes along with hope and love, and with the doing of good works in general.

3) *Patience or endurance* (Grk *hypomonē*): This is of capital importance for undergoing tribulations and persecutions, with the hope that God will make them fruitful: “Not only that, but we even boast of our afflictions, knowing that affliction produces endurance [or “patience”, *hypomonē*], endurance [produces] proven character, and proven character, hope, and hope does not disappoint, because the love of God has been poured out into our hearts through the Holy Spirit that has been given to us”¹⁴. Patience understands how to wait for the fruits of our own works, even if the time of waiting is long¹⁵. Patience is bound up with hope¹⁶, and it is exercised through fighting temptations and misfortunes. “My son, when you come to serve the Lord, prepare yourself for trials, be sincere of heart and steadfast, and do not be impetuous in time of adversity. Cling to him, do not leave him, that you may prosper in your last days. Accept whatever happens to you; in periods of humiliation be patient. For in fire gold is tested, and the chosen, in the crucible of humiliation¹⁷.”

4) *Longsuffering* (*makrothymía* in Greek, *longanimitas* in Latin).

⁹ Cf. Acts 9: 27.

¹⁰ Eph 6: 19 – 20.

¹¹ Cf. 1 Thes. 2: 2; Philemon 8.

¹² 1 Cor 16: 13; cf. Acts 14: 22.

¹³ Cf. 1 Thes 3: 8; Phil 4: 1.

¹⁴ Rom 5: 3-5.

¹⁵ Cf. James 5:7.

¹⁶ Cf. Rom 12: 12.

¹⁷ Sir 2: 1-5; cf. also 1 Peter 1: 6 – 7.

This is a property of God, who has patience and holds back from punishing us. In a believer, it implies the ability to forgive and to reject any plans to take vengeance¹⁸. Saint Paul considers it one of the fruits of the Holy Spirit¹⁹.

5) *Perseverance* (*kartereō*, *proskartereō*, *proskartérésis*) in following Christ, in prayer and in good works²⁰.

6) *Martyrdom is praised*, both in the Old and New Testaments, as the donation of one's own life to give witness to faith and trust in God and his commandments (Eleazar, the seven brothers in *2 Macc* 7, John the Baptist, Saint Stephen, etc.)

But the most important and most immediate teaching was given by the death of Christ on the Cross. It is not possible to follow Christ without undergoing, in his company, the way of the Cross, in the way the Father wills it for each one of us. Such a journey requires fortitude and overcoming the fear of suffering and death.

6.2.2 *The Fathers of the Church*

In the writers of the first centuries of the Christian era and in the Fathers of the Church there are abundant references to fortitude and the desire for martyrdom, which is considered glorious. Among the most well-known texts we can cite the Letters of Saint Ignatius of Antioch written while he was on his journey to Rome where he would be martyred²¹, the Acts of the Martyrs, and in particular, the Acts of Saint Apollonius, of Saint Sebastian and Saint Polycarp, not to mention the writings of Saint Justin and Saint Cyprian. Both Tertullian and Cyprian wrote treatises on patience. Saint Ambrose in his *De Officiis* offers a more articulated study, and highlights the role of fortitude in the ordinary life of the Christian.

In the works of Saint Augustine there are numerous references to fortitude, a virtue that he sees as being closely connected to charity. "In fact, the love of which we are speaking now, with which we should

¹⁸ Cf. *Matt* 18: 21 – 35.

¹⁹ Cf. *Gal* 5: 22.

²⁰ Cf. *Luke* 11: 1 – 13; *Acts* 1: 14; 2: 42; *Rm* 12: 12; *Eph* 6: 18; *Col* 4: 2; *Heb* 11:12.

²¹ Cf. St. Ignatius of Antioch, *Letter to Polycarp*, 3: 1: PG 5: 721 – 722 B; *Letter to the Romans* 5: PG 5: 689 – 692.

be totally on fire with sanctity in loving God, is known as temperance in not desiring things, and bravery in letting things go. Among all the things that are possessed in this life, the body is the heaviest chain for man, by the most just laws of God, because of original sin, and than which nothing is better known in terms of *talking* about it, but than which nothing is more hidden in terms of *understanding* it. This chain, in order to avoid being disturbed or vexed, makes the soul quake with the fear of pain and hard effort; and to avoid being removed altogether, makes the soul quake with the fear of death. The soul loves it through the force of habit, without realizing that if she uses it well and wisely, it will submit to its mastery without any complaints once the divine power and justice will have resurrected and reformed it. And after it has been completely converted to God by this love, and understands all these things, not only will it despise death, but will even desire it”²².

When the era of persecutions was over, the important role of fortitude in the ordinary life of the Christian continued to be insisted upon. The works of Saint Leo and Saint Gregory contain useful reflections on this theme²³.

6.2.3 *From Medieval Theology to the Present Day*

Just as was mentioned with regard to the other cardinal virtues, *scholastic theology provides us with a systematic analysis of fortitude*. This is particularly the case with Saint Bonaventure’s *De septem donis Spiritus Sancti* and the Second Part of the *Summa Theologiae* of Saint Thomas Aquinas (II-II, q. 123 – 140), to which we will turn our attention shortly.

There is no lack of references to fortitude in the works of theologians and holy doctors, especially in writings by holy women. According to Saint Catherine of Siena, “. . . the three glorious virtues that are founded on charity, and which stand at the top of the tree of charity, are these: patience, fortitude, and perseverance, and it is crowned with the light of the most holy faith, in the company of which these virtues run on the road of truth, free of all shadows”²⁴. Saint Teresa of Avila

²²Saint Augustine, *De Moribus Ecclesiae Catholicae*, 1: 22 (40).

²³*Cf.* for example, Saint Gregory the Great, *Homilies on Ezechiel*, 2, hom. 7, no. 7: PL 76: 1017 B.

²⁴Saint Catherine of Siena, *Il Dialogo della Divina Providential* (Siena: Cantagalli, 1992),

also pointed out the importance of this virtue for beginning and finishing works of service for God and the Church²⁵.

Other than bringing forward new systematic approaches to the virtue, *contemporary reflection has focused its attention on particular areas of application of fortitude to ordinary life*. The complexity and pluralism of today's society accentuate a natural sense of vulnerability²⁶. Realizing what is good and persevering in it often require "running against the current", and facing the provocation and resistance of a culture that is indifferent or even hostile. It is necessary to prepare oneself for enduring criticism and incomprehension, even on the part of parents and colleagues. Fatigue and discouragement seem always to be waiting in ambush for us. Anyone who wants to undertake positive initiatives, not only has to deal with the natural human resistance owing to original sin, but must also encounter structures of society, economy and politics, that are armed with well-organized propaganda that is frequently rather aggressive. And it cannot be denied that even in the modern era, especially in the twentieth century, many believers have undergone discrimination and cruel suffering, even to the extent of giving their lives in witness to their faith in Christ. Anyone who has studied contemporary history should understand that martyrdom did not end with the early centuries of the Christian era.

p. 155. See also her letters, nos. 252 and 294.

²⁵Cf. for example *Camino de Perfección*, 11: 1 and 3; *Fundaciones* 18: 4.

²⁶Cf. for example J. Pieper, *The Four Cardinal Virtues, On Fortitude* (New York: Harcourt, Brace and World, 1965).

6.3 Theological Analysis of the Virtue of Fortitude

6.3.1 *The Nature of Fortitude*

Fortitude is the virtue of the irascible appetite (the aggressive impulse)²⁷. *Its function is to govern aggressiveness and fear, in accordance with the dictates of prudence, to keep these emotions from diverting the person from the good to be realized.* “Fortitude”, says Thomas Aquinas, “primarily is concerned with the fear of difficult things, which are capable of keeping the will from following reason. But it is not only needful to counteract the force of such difficulties by restraining one’s fear; one must also attack them with moderation, in cases where it is necessary to eliminate them for a more secure future. And this is the property of boldness or audacity. Therefore fortitude has for its object both fears and audacity: to restrain the former and moderate the latter”²⁸. Christian fortitude makes it possible to follow Christ, day after day, without letting fear, prolonged exertion, physical and moral suffering and dangers have a weakening effect on our awareness of the will of God, or draw us away from doing it. Sometimes following Christ can lead to putting our own life at risk. The Lord’s warning is clear: “They will expel you from the synagogues; in fact, the hour is coming when everyone who kills

²⁷For fortitude one can usefully consult the following: *Summa Theologiae*, II – II, qq. 123 – 140; M.- A. Janvier, *La vertu de force* (Paris: Lethielleux, 1920); A. Gauthier, *Magnanimité. L’ idéal de la grandeur dans la philosophie païenne et dans la théologie chrétienne* (Paris: J. Vrin, 1950); *Id.*, “La fortezza”, in *Iniziazione teologica*, vol. III (Brescia: Morcelliana, 1955); J. Pieper, *On Fortitude* (cited in previous note); Y. M. Congar, “Le traité de la force dans la *Somme Théologique* de S. Thomas d’Aquin”, *Angelicum* 51 (1974) 331- 348; T. Goffi, G. Piana, “L’uomo forte”, in *Corso di Morale, II: Diakonia* (Brescia: Queriniana, 1983), pp. 28 – 38; R. Fabris, *La virtù del coraggio: la “franchezza” nella Bibbia* (Casale Monferrato: Piemme, 1985); L. H. Yearly, *Mencius and Aquinas: Theories of Virtue and Conceptions of Courage*, SUNY Series “Toward a Comparative Philosophy of Religions” (Albany: State University Press, 1990); S. Hauerwas, “The Difference of Virtue and the Difference it Makes: Courage Exemplified”, *Modern Theology* 9 (1993); G. Angelini, *Le virtù e la fede* (cited in Chapter One, note 2), pp. 123 – 229; J. Aranguren Echevarría, *Resistir en el bien: razones de la virtud de la fortaleza en Santo Tomás de Aquino* (Pamplona: Eunsa, 2000); A. Fuentes Mendiola, *La fortaleza de los débiles: con el poder del espíritu* (Bilbao: Desclée de Brouwer, 2001).

²⁸*Summa Theologiae*, II – II, q. 123, a. 3, *in corpore*.

you will think he is offering worship to God”²⁹.

*The importance of Christian fortitude is rooted in the fact that without it, it would not be possible for anyone to fulfill the will of God. Consequently, without this virtue it would not be possible to last very long without becoming distant from God, through serious sin, at least sins of omission. The role of fortitude is evident in all the areas of the moral life: law, labor, education, marital fidelity, perseverance in one’s vocation, direction, apostolate, etc. “The road taken by the Christian, the road of every man, is not an easy one. Sometimes, for a little while, everything seems to go according to our wishes, but such moments are brief. To live means to face difficulties, to feel both joys and afflictions in the heart, to allow oneself to be shaped by changing events and in this way be able to acquire fortitude, patience, magnanimity and serenity. The one who perseveres in completing that which he has judged in his conscience should be done, is brave; someone who does not think the value of a job consists only in the benefits which he obtains from it, but for the service it provides to others. The brave person suffers sometimes, but also resists; weeps, but also swallows his tears. When difficulties multiply, he still does not bend. Remember the story of old Eleazar in the Book of Maccabees, who preferred to die rather than violate the laws of God: ‘Therefore, by bravely giving up life now, I will prove myself worthy of my old age, and I will leave to the young a noble example of how to die willingly and nobly for the revered and holy laws’. (Macc 6: 27-28).*³⁰

Not all firmness or energetic characteristics pertain to the virtue of fortitude. Firmness is a virtue if it functions in such a way as to realize what is good and to refuse what is bad. Fortitude is virtuous if it is inseparably bound to the other virtues: prudence, justice and charity most of all. Neither the energetic satisfaction of one’s own passions or caprices, nor a strength that tramples upon the rights of others has anything to do with virtue.

The gift of fortitude, which is one of the seven gifts of the Holy Spirit, refers to the same matter and to the virtue of fortitude. By the gift of fortitude, the believer approaches the arduous (or difficult) good, and undergoes dangers by surpassing a human way of acting, since the way

²⁹ John 16: 2.

³⁰ Saint Josemaría, *Friends of God*, no. 77.

of acting has been informed by faith and charity. “This is accomplished in the human being by the Holy Spirit, the one who leads us to eternal life, the end of all good works, and deliverance from every danger. And this is why the Holy Spirit infuses us with a certain security that eliminates every fear involved. And in such a case, fortitude is a gift of the Holy Spirit”³¹. The serene trust that drives out all fear is the most characteristic sign of the gift of fortitude. And when fear disappears, so do anxiety and sadness as well.

Saint Thomas connects the Fourth Beatitude with fortitude: “Blessed are those who hunger and thirst for righteousness, because they shall be satisfied”³². Fortitude refers to the arduous good, and it “is very arduous for someone not only to carry out virtuous actions that are commonly called just deeds, or works of justice, but also to carry them out with an insatiable desire which can be called hunger and thirst for righteousness”³³. Aquinas recalls at this place what Saint Augustine had said, that “fortitude is a characteristic of those who have hunger and thirst. They really are in pain, because they desire the joy of true goods, and aspire to turn their love away from earthly and corporeal goods”³⁴.

6.3.2 Acts of Fortitude

There are two fundamental acts of fortitude: withstanding and conquering fear, on the one hand, and moderating one’s audacity in aggression, on the other. It has to do, by definition, with resistance and aggression in conformity to what is prescribed by right reason, illuminated by faith. To resist seems to be the principal act, since to resist and overcome fear, especially when it is caused by a serious evil, is more difficult than to be aggressive for various reasons. In general, the one who is the aggressor is in a position of power or superiority. Resistance implies a present or imminent danger, while aggression tends to overcome possible dangers. Resistance is often prolonged over time, while aggression is momentary³⁵.

³¹Saint Thomas Aquinas, *Summa Theologiae*, II – II, q. 139, a. 1, *in corpore*.

³²*Matt* 5: 6.

³³*Summa Theologiae*, II- II, q. 139, a. 2, *in corpore*.

³⁴Saint Augustine, *De Sermones Domini in Monte*, (PL 34) 1.4.11.

³⁵*Cf. Summa Theologiae*, II-II, q. 123, a. 6, ad.1.

The most excellent act of the virtue of fortitude is martyrdom. It consists in accepting death as a testimony for Christian truth. Strictly speaking, martyrdom requires three conditions:

a) Verification of the death of the martyr. Only someone who really gives his own life for Christ testifies that he loves Him more than all other things including his own life. The opinion most widely diffused among theologians is that those who have suffered grave wounds that could be fatal but in fact have not caused death, are not martyrs in the strict sense. Some theologians, such as St. Alphonsus, hold the contrary opinion. In fact, Saint John the Evangelist and Saint Tecla, for example, are venerated as martyrs; the Virgin Mother is considered the “Queen of Martyrs” (*Regina martyrum*)³⁶.

b) The death must be caused by an enemy of the Christian truth, who has hatred toward it. Martyrs are witnesses of Christ because the cause of their death is in fact Christian truth: the faith or the morality taught by Christ is lived by a martyr for the love of Christ³⁷. One is not a martyr in the strict sense of the word, for example, if he dies from an infectious disease transmitted by someone he is visiting out of charity, or if someone dies in defense of a truth of nature, etc.

c) The death must be voluntarily accepted. It is even possible for someone to undergo martyrdom without becoming actually aware of it (but only virtually so), as when a person who has already accepted the possibility of martyrdom but is murdered while sleeping, owing to someone else’s hatred of Christian truth.

³⁶Cf. D. M. Prümmer, *Manuale Theologiae moralis*, (cited above) vol. 2, no. 623.

³⁷Here is the explanation given by St. Thomas: “Martyrs are witnesses, because, with their physical sufferings to the point of dying, they render witness to the truth, and not just to any truth, but to the truth revealed by Christ These are in fact martyrs of Christ, and his witnesses, and such truth is the truth of faith. Therefore the cause of the martyrdom is the truth of faith. Now, the truth of faith not only implies the internal belief of the heart, but also an external protestation . . . thus all virtuous actions, in so far as they refer to God, are also a kind of protestation of the faith: of a faith, which is made known through us, that God wants us to perform such actions, and that he rewards us for them. In this sense, such actions can be a cause of martyrdom. The Church celebrates the martyrdom of John the Baptist, who did not suffer martyrdom for refusing to deny the faith, but for reprehending adultery” (*Summa Theologiae*. II-II, q. 124, a. 4, *in corpore*). An analogous situation is to be found in some modern saints, such as Maximilian Kolbe and Edith Stein, whom the Church venerates as martyrs. See J. L. Gutierrez, “La certezza morale nelle Cause di Canonizzazione, specialmente nella dichiarazione del martirio”, *Ius Ecclesiae* 3 (1991) 645-670.

As an act of perfect love (*caritas*), martyrdom justifies a sinner, whether baptized or not, whether an adult or still a baby. It eliminates all temporal punishment, and merits a great increase of grace and glory. The saying of Pope Innocent III is well-known: *Injuriam facit martyri qui orat pro martyre* (“He who prays for a martyr, does an injustice to that martyr”).³⁸

6.3.3 *Sins Against Fortitude*

Three vices are opposed to fortitude: *cowardice*, *indifference*, and *temerity*.

Cowardice — Cowardice consists in omitting to do what right reason commands to be done, or in doing what is prohibited for reason of fear of the evils that can be inflicted, especially the fear of death. Cowardice is an excess of fear and a deficiency of the audacity needed to overcome dangers. It is not a serious fault in itself, but frequently through cowardice the fulfillment of a serious duty can be less complete or omitted altogether, or even something gravely sinful can be done. The teaching of the Gospel is clear on this point: “And do not be afraid of those who kill the body but cannot kill the soul; rather, be afraid of the one who can destroy both body and soul in Gehenna. Are not two sparrows sold for a small coin? And not one of them falls to the ground without your Father’s knowledge”³⁹. Connected to cowardice also is “human respect”, through which either something *is not* done or said that *should be*, or something *is* said or done that *should not be*, owing to the fear of what others will think about us. Nowadays, human respect often assumes the form of “political correctness”. Here again we must recall the words of the Lord: “Everyone who acknowledges me before others, I will acknowledge before my heavenly Father, but whoever denies me before others, I will deny before my heavenly Father”⁴⁰.

Impassiveness — Impassiveness is a kind of indifference which does not fear serious dangers when it would be reasonable to fear them and

³⁸Innocent III, *Epist.* V, 121: *PL* 214, 1122D. The phrase was also cited by other authors of the time, who attributed it –erroneously– to Saint Augustine.

³⁹*Mt* 10: 28 – 29.

⁴⁰*Mt* 10: 32 – 33.

not to run a certain risk. It can arise from depression, pride, or stupidity.

Temerity — Temerity is an exaggerated and irrational courage, which causes us to approach dangers inconsiderately. Both these vices can lead to the commission of grave sins, putting safety at risk in sports or other activities for banal or irrational motives (vainglory, pride, superficiality, unwillingness to obey traffic laws, etc.)

These three vices in some way concern the reasoned control and equilibrium of a very important emotion: fear. In the presence of what threatens one's life or personal integrity, something triggers a tendency toward self-conservation by stirring up a strong emotion, which in extreme cases can affect the use of one's reason and will⁴¹. One's way of dealing with fear has a certain relationship to faith or lack of faith, and also to our attitudes to the help we can receive from others, especially from God.

6.4 The Virtues Connected with Fortitude and the Vices Opposed to it

Fortitude has reference, above all, to the danger of death – something that is very concrete in nature, without having much variety. Consequently, subjective parts or diverse species of fortitude are not in existence⁴². Magnanimity, magnificence, patience and perseverance are integrating elements (integral parts) or virtues connected with fortitude (potential parts), according to the perspective assumed. They are integrating elements if we look at them as virtues that render possible and assist the specific act of fortitude, which is to withstand or attack obstacles that put one's life in danger. They are connected virtues if we look upon them with reference to other regions of human action which can enter secondarily into the object of fortitude. Magnanimity and magnificence are related to the act of attacking; patience and perseverance relate to the act of enduring or resisting.

⁴¹Compare what has been said about these tendencies in *Chosen in Christ* I, ch. 5, section 2 c).

⁴²*Cf. Summa Theologiae*, II-II, q. 128, a. unicus.

6.4.1 *Magnanimity*

*Magnanimity or greatness of soul is promptness in deciding to undertake virtuous actions that are excellent and difficult, and worthy of great honor.*⁴³ It has a component of trust and hope, without which great and virtuous deeds will never be carried out. This virtue is present in the excellent or heroic actions of all the other virtues, which in some way are also always acts of magnanimity. “Magnanimity means greatness of spirit, a largeness of heart wherein many can find refuge. Magnanimity gives us the energy to break out of ourselves and be prepared to undertake generous tasks which will be of benefit to all. Small-mindedness has no place in the magnanimous heart, nor has meanness, nor egoistic calculation, nor self-interested trickery. The magnanimous person devotes all his strength, unstintingly, to what is worthwhile. As a result he is capable of giving himself. He is not content with merely giving. He gives his very self. He thus comes to understand that the greatest expression of magnanimity consists in giving oneself to God”⁴⁴.

It is a property of magnanimity to avoid self-complacency in one’s own achievements or in praises that have already been received; to maintain a ‘level head’ in the ups and downs of fortune; to help others and not abuse the help offered by others; to behave with dignity in the company of powerful persons, without being adulatory, and to be modest in the company of the modest; to express oneself freely when it is required, without giving in to human respect; to not let oneself be dominated by personal ambition; to not dwell on offenses received; to not be over-eager to plan or attempt great exploits.

Greatness of soul is not the opposite of humility. The magnanimous person undertakes great things to seek above all the glory of God, conscious of the talents he has received, and putting his own trust in the help of the Lord⁴⁵.

To magnanimity are opposed three vices of excess: *presumption*, *ambition*, and *vainglory*, and one of defect: *pusillanimity*.

Presumption as considered here is different from the sin against hope which has the same name. *Here we are referring to the vice of taking*

⁴³Saint Thomas studies magnanimity in *Summa Theologiae*, II-II, q. 129.

⁴⁴Saint Josemaría Escrivá, *Friends of God*, no. 80.

⁴⁵*Cf. Dt 3: 21- 22; 31: 7-8; 1 Sam 17: 45; 1 Macc 3: 18 – 22.*

on tasks or labors that are beyond one's own powers. In the case of an action or duty that must be done, presumption consists in not preparing oneself adequately or not arranging for the necessary help. Saint Peter sinned in presuming when he said, "Lord, we are ready to follow you to prison or death"⁴⁶. Behind presumption lies an erroneous perception of one's own strength, which can give rise to not a few other sins equally grave, and can become the hidden cause of a constant interior disquiet. One who thinks he is able to do more than he is really capable of, is never at peace with himself.

Ambition seeks honor and appreciation beyond what is reasonable and proportionate to one's own strength, or seeks to be honored without referring one's own achievements and qualities to God. Ambition closes a man up in himself. Ambition appears to be directed to the realization of things of value on the cultural, artistic, political or religious levels, etc., but in reality, inside the ambitious man there is a bent toward his own ego, while he no longer considers the value of things accomplished, either for their usefulness to others or to society. For an ambitious man, everything is willed as a means to the enhancement of his own glory. Even the personal qualities and accomplishments which in themselves ought to be the vehicles of self-transcendence, are turned into tools for the ego. He only sees others as stepping stones⁴⁷.

Vainglory is very similar to ambition, but does not have to do with honors that are bestowed upon us, but to reputation, to what people say or think about us in our absence. Fame or reputation is a good, which must also be protected. Vainglory is a vice because it wants to build a great image of one's own worth that does not correspond to the truth (notoriety can even be sought through reprehensible acts), or because an appreciation is being looked for that is not deserved, or because the supreme good is sought in fame without referring it ultimately to God. From vainglory easily flow failures in charity, hypocrisy, pretense, disobedience, and so on.

Pusillanimity consists in renouncing the undertaking of great deeds which ought to be done and which can be done with the help of God. The pusillanimous person lets himself be dominated by distrust in himself

⁴⁶ *Lk* 22: 33.

⁴⁷ *Cf.* Saint Josemaría Escrivá, *The Way*, no. 31.

and by a sense of inferiority which does not correspond to the truth. Pusillanimity can sometimes put on the mask of humility. In every case it gives up the struggle to obtain the due return for the gifts received from God. “Then the one who had received the one talent came forward and said, ‘Master, I knew you were a demanding person, harvesting where you did not plant, and gathering where you did not scatter; so out of fear I went off and buried your talent in the ground. Here it is back.’ His master said to him in reply, ‘You wicked lazy servant: so you knew that I harvest where I did not plant, and gather where I did not scatter; you could at least have put my money in the bank so that I could have got it back with interest on my return’”⁴⁸.

6.4.2 *Magnificence*

If magnanimity is the readiness of a mind to decide to do great things, *magnificence indicates the effective realization of them, and in particular, to seek out and apply the economic and material resources needed to complete great actions in the service of God and the common good*⁴⁹. A good example of this would be the preparations David made in order that his son Solomon could build a temple worthy of the Lord⁵⁰.

The vices contrary to magnificence are cheapness or stinginess (on the one hand) and extravagance (on the other), which are far removed, either by defect or excess from the dictates of right reason concerning the use of various resources necessary for completing good works.

6.4.3 *Patience*

*The object of patience is to put up with present evils, even those caused by other persons, without becoming saddened and without giving up on realizing the good*⁵¹. In a circumstance of mortal danger, patience is an integral part of fortitude; if other kinds of evil are in question, it is a virtue associated with fortitude.

⁴⁸Mt 25: 24 – 27.

⁴⁹For magnificence, see *Summa Theologiae*, II – II, q. 134.

⁵⁰Cf. 1 Chron 22: 14 – 16.

⁵¹For patience, see *Summa Theologiae* II – II, q. 136.

Experience teaches that it is a very important virtue. It prevents sadness and discouragement, which are causes of so many other evils. “Do not give in to sadness or torment yourself deliberately. Gladness of heart is the very life of a person, and cheerfulness prolongs his days. Distract yourself and renew your courage, drive resentment far away from you; for grief has killed many, and nothing is to be gained from resentment”⁵². “The man who knows how to be strong will not be in a hurry to receive the reward of his virtue. He is patient. Indeed, it is fortitude that teaches us to appreciate the human and divine virtue of patience. ‘By your patience you will gain possession of your souls’ (Luke 21:19). ‘The possession of the soul is attributed to patience, which in effect is the root and guardian of all the virtues. We secure possession of our souls through patience, for, by learning to have dominion over ourselves, we begin to possess that which we are’ (St. Gregory the Great, *Homiliae in Evangelia*, 35.4). And it is this very patience that moves us to be understanding with others, for we are convinced that souls, like good wine, improve with time”⁵³. Patience produces serenity of mind.

There are two vices opposed to patience: *impatience* and *insensitivity* or *hardness of heart*. *Impatience* is an incapacity for accepting and putting up with opposition, an incapacity that manifests itself as intolerance, complaining, loss of serenity, impolite ways of acting, and violence. Impatience becomes a decisive attitude when it comes to facing everyday events as they unfold, and makes it difficult to endure the waiting that is so often necessary in life. Time passes too slowly for the impatient man, like a burden one is anxious to be freed from as soon as possible. Patience, on the other hand, not only helps us live with difficulties, but also permits a serene constancy under stress until the time finally arrives when a purpose has been accomplished. Impatience creates a space for sins to enter, even serious ones, against justice and charity. *Insensitivity*, or *hardness of heart* never “move”, and such immobility is brought about not through a reasonable adjustment to the course of things, but through a lack of humanity and solidarity. Sometimes an emotional poverty is manifested that is practically pathological (one may recall the character

⁵²*Sir* 30: 21- 23.

⁵³St. Josemaría Escrivá, *Friends of God* (cited above), no. 78.

of Nicolai Stavrogin in Dostoevsky's *Demons*). It can likewise be the cause of grave sins of omission.

6.4.4 *Perseverance*

Perseverance is the virtue by which there is persistence in the exercise of one's tasks and in the doing of virtuous deeds, according to the dictates of right reason illuminated by faith, despite the difficulties and fatigue that come with things taking longer than expected to accomplish⁵⁴. If constancy is what overcomes the temptation to abandon good undertakings when faced with a concrete obstacle, the task of perseverance is to overcome the obstacle that consists in the *lengthening of the time* spent laboring to complete good projects. "The seed that fell on rich soil . . . are the ones who, when they have heard the word, embrace it with a generous and good heart, and bear fruit through perseverance"⁵⁵. Only by way of perseverance can good works and the virtues produce their good fruit. Perseverance is necessary in prayer, in professional activity, in apostolic works, in social commitments. The Gospel, even if in a somewhat different context, presents the person who does not bring something he starts to its accomplishment, as an object of derision⁵⁶. It has been rightly said that "To begin is easy; to persevere is sanctity"⁵⁷.

To perseverance are opposed *inconstancy* and *pertinacity*. The *inconstant* person abandons doing what is good when the prolongation of labor discovers difficulties that had not been clearly seen until that time, and the person decides that such discovery justifies less of a commitment to oneself or others or even in relation to God. The *pertinacious* one finds it difficult to rectify his course or change his opinion or manner of acting when justice, charity or some other reasonable motive requires it.

Different from the moral virtue of perseverance is the gift of final perseverance, which is to say, remaining faithful and in a state of grace

⁵⁴Cf. *Summa Theologiae*, II – II, q. 137.

⁵⁵*Luke* 8: 15.

⁵⁶*Luke* 14: 28-30: "Which of you wishing to construct a tower does not first sit down and calculate the cost to see if there is enough for its completion? Otherwise, after laying the foundation and finding himself unable to finish the work the onlookers should laugh at him and say, "This one began to build but did not have the resources to finish."

⁵⁷Saint Josemaría Escrivá, *The Way*, no. 983.

all the way to death. A divine gift like this is not, strictly speaking, an object of merit on our part, but can be asked for through prayer and good works, which dispose us to receive it from the merciful and fatherly love of God⁵⁸.

Virtues associated with Fortitude	Vices opposed to Fortitude
Magnanimity	Presumption
	Ambition
	Vainglory
	Pusillanimity
Magnificence	Stinginess
	Extravagance
Patience	Impatience
	Insensitivity or Hardness of Heart
Perseverance	Inconstancy
	Pertinacity

⁵⁸Cf. *Summa Theologiae*, II-II, q. 137, a. 4.

Chapter 7

Temperance

7.1 Temperance in Sacred Scripture and in Catholic Moral Tradition

The meaning of temperance in Catholic moral teaching is expressed in summary form by the *Catechism of the Catholic Church*. Temperance is the fundamental moral virtue (cardinal virtue) which “moderates the attraction of pleasures and provides balance in the use of created goods. It ensures the will’s mastery over instincts and keeps desires within the limits of what is honorable. The temperate person directs the sensitive appetites toward what is good and maintains a healthy discretion: ‘Do not follow your inclination and strength, walking according to the desires of your heart’ (*Sir* 5:2; *cf.* *Sir* 37: 27 – 31)”¹.

7.1.1 *Sacred Scripture*

The *Catechism* rightly points out that temperance is often praised both in the Old and in the New Testaments, where it is referred to as *moderation* or *sobriety*. There is, in fact, an abundance of practical teaching on various concrete aspects of temperance: sobriety, chastity, humility, *etc.*². On the other hand, we do not find in Sacred Scripture an organized reflection on the virtue of temperance in general.

¹*Catechism*, no. 1809.

²Although chastity is a part of temperance, we will reserve our discussion of it for Chapter VIII.

Both the specific term (*sophrosyne*) and the conceptual scheme for understanding the virtue originate from the Hellenistic ambiance³. The word *sophrosyne*, which we translate as “temperance”, had a complex meaning to begin with, comprehending at once the ideas of reasonableness and sanity of mind, awareness of a sense of moderation, self-mastery, modesty and propriety. In classical Greek literature, *sophrosyne* is regarded as a fundamental virtue, implying self-limitation and renunciation, and opposed to *hybris*⁴. A positive and complete ethical-philosophical thematicization of temperance as a moral virtue was achieved by Plato and Aristotle and the Stoics⁵. For Aristotle, temperance represents the just mean between insensibility on the one side and dissoluteness on the other, which safeguards equilibrium and internal harmony, and permits the making of right and reasonable choices. In the books of the Old Testament which exhibit more Hellenistic influence, the word *sophrosyne* is employed with an identical or analogous meaning⁶.

But if we go beyond merely lexical considerations, *in the Old Testament, and especially in the sapiential literature, there is constant reference to moderation, as needed to preside over all the dimensions of life*. *Sir* 31: 12 – 22 urges moderation in eating, and adds an elaborate treatment of wine⁷. Moderation ought, in general, to preside over all the emotions: “Do not fall into the grip of your passion, lest like fire it destroy your strength. It will eat your leaves and destroy your fruits, and you will be left like a dry tree. For fierce passion destroys its owner, and makes him the sport of his enemies”⁸. *Sir* 3: 17 – 28 contains a fine instruction on humility and pride, which are considered as the virtue and vice that pertain to one’s attitude to wisdom. It is not fitting to seek out things that are too difficult or to investigate things that are

³This circumstance does not invalidate the legitimacy of virtue as a theological category; see *Chosen in Christ*, vol. I, Chapter 7, section 1.2.

⁴Cf. U. Luck, *s.v. sofron* (and its derivatives) in *Grande Lessico del Nuovo Testamento* (Brescia: Paideia, 1981), vol. XIII, col. 797 – 806.

⁵There are, of course, important differences between the Platonic, Aristotelian and Stoic doctrines of temperance, bound up with their diverse valuations of pleasure; see A. Lambertino, *Valore e piacere. Itinerari teoretici*, (Milan: vita e Pensiero, 2001).

⁶Cf. for example *Sap* 8: 7: “If one loves righteousness, whose works are virtues, she teaches moderation and prudence, righteousness and fortitude, and nothing in life is more useful than these”.

⁷Cf. *Sir* 31: 25 – 32. See also, in an analogous sense, *Prv* 23: 1 - 3; 6 – 8.

⁸*Sir* 6: 2 - 4.

too lofty; the sense of mystery is not to be lost⁹. “Humble yourself the more, the greater you are”¹⁰, because the humble man is loved by others and pleasing to God; the humble one finds grace before God and “by the humble [the Lord] is glorified”¹¹. The consequences of pride are deadly: “Many are the conceits of human beings; evil imaginations lead them astray. . . a stubborn heart will fare badly in the end; those who love danger will perish in it; a stubborn heart will have many a hurt; adding sin to sin is madness; when the proud are afflicted, there is no cure; for they are offshoots of an evil plant. The mind of the wise appreciates proverbs, and the ear that listens to wisdom rejoices”¹².

The Gospel of St. Luke makes it clear that *the word of God can remain without effect because the ones who hear it are overcome “by the anxieties and riches and pleasures of life”*¹³. “Beware that your hearts do not become drowsy from carousing and drunkenness and the anxieties of daily life, and that day catch you by surprise like a trap. For that day will assault everyone who lives on the face of the earth”¹⁴. In *Rom* 12: 3, temperance is applied to spiritual goods, which are not to become a cause of presumption and vainglory: “For by the grace given to me I tell everyone among you not to think of himself more highly than one ought to think, but to think soberly (*phroneîn eis tò sophroneîn*), each according to the measure of faith that God has apportioned”¹⁵. *Rom* 12: 16 expresses an analogous idea, but with a more direct reference to humility.

Sins against abstinence and sobriety are classified among the sins that exclude one from the kingdom: “nor thieves nor the greedy nor drunk-

⁹ Cf. *Sir* 3: 21 – 23.

¹⁰ *Sir* 3: 18.

¹¹ *Sir* 3: 20.

¹² *Sir* 3: 24 – 28.

¹³ *Lk* 8: 14.

¹⁴ *Lk* 21: 34 – 35.

¹⁵ St. Thomas makes the following comment on the passage: “I urge you to be wise to the measure according to which grace has been given to you. For sobriety requires measure. And although it is properly said with reference to the drinking of wine, nevertheless it can be taken with reference to any matter, in which one must observe a fitting measure”; *Ti* 2: 12: “to live temperately and justly and devoutly in this age” (St. Thomas Aquinas, *Super epistolam ad Romanos*, c. 12, lect. 1, in St. Thomas Aquinas, *Super Epistulas S. Pauli Lectura*, vol. 1 (Taurini-Romae: Marietti, 1953), no. 970.

ards nor slanderers nor robbers will inherit the kingdom of God”¹⁶. The *First Letter of Peter* makes it clear that Christians, by being associated with Christ, are freed from the emotional impulses that lead to sin. By means of the suffering and death of Christ, they have broken permanently with the dissoluteness of their former lives as pagans: “For the time that has passed is sufficient for doing what the Gentiles like to do: living in debauchery, evil desires, drunkenness, orgies, carousing, and wanton idolatry”¹⁷. In the pastoral letters, sobriety appears as one of the characteristic signs of the Christian life¹⁸.

7.1.2 *The Fathers of the Church and Theological Reflection*

The Apostolic Fathers — The references that the Apostolic Fathers make to temperance, to humility, and to chastity, are quite important, even in their simple and direct style. Their Christian experience, plunged in historical reality, is expressed as a desire for union with Christ in purity and temperance. This is why Saint Ignatius of Antioch urges prayer for the pagans, with hope for their conversion. And he adds: “Allow them to learn from you, if only from your actions . . . so that among us no poisonous herb of the devil may be found, and that with complete purity and temperance we may remain in Jesus Christ in both the spirit and the flesh”¹⁹. Moderation of passionate impulses, (“because passion leads to fornication”²⁰), and also humility (of which Christ gave us the example²¹), are what distinguish the way of the Lord.

The Apologists — In the polemical context of apologetics, the vindication of the sanctity of life and the integrity of Christian morals as opposed to the immorality of paganism, became the most efficacious defense against some very serious accusations, and the most convincing

¹⁶1 Cor 6: 10. Cf. also Rom 13: 13; 1 Cor 5: 11; 6: 10; Gal 5: 21.

¹⁷1 Pet 4: 3.

¹⁸Cf. Ti 2: 12; cf. also Ti 2: 2; 1 Tim 3:2.

¹⁹Saint Ignatius of Antioch, *Letter to the Ephesians*, 10: 1, 3 (our translation) from Greek text in Loeb Classical Library, vol.24; ed. B. Ehrman, (Cambridge Mass.: Harvard University Press, 2003).

²⁰*Didache*, 3: 3 (our translation) from Greek text in Loeb Classical Library, vol. 24, as cited above.

²¹Cf. Clement of Rome, *Letter to the Corinthians*, 13 -14.

argument for showing the truth of Christianity. Among Christians, “temperance lives, continence is exercised, monogamy is observed, purity is guarded, injustice is eliminated, sin is uprooted, justice is cultivated, law is administered, piety is practiced, God is proclaimed, the truth presides, grace keeps watch, peace reigns within, the holy *Logos* leads the way, wisdom teaches, life is governed, and God rules”²². We find an analogous passage in Aristides, St. Justin, Tatian and Athenagoras. They present a type of life which had not a few points of contact with the teachings of the better Greek philosophers, but which contrasted with the mode of life that was widely accepted at that time. In any case, the Christian life was very differently inspired: Christians “have engraved in their hearts the laws of the same Lord Jesus Christ and they keep them, hoping for the resurrection of the dead and the life of the world to come. They do not commit adultery, do not become prostitutes, do not give false testimony, do not covet the goods of others, the honor their fathers and mothers and love their neighbor, and judge with justice”²³.

Clement of Alexandria, St. Ambrose and St. Augustine — A more comprehensive examination of temperance is found in Clement of Alexandria and the Fathers who left comments on Biblical passages regarding temperance²⁴. In the *De Officiis Ministrorum* of St. Ambrose and especially in Saint Augustine there is already systematic reflection on the virtue of temperance. We have already mentioned (*cf.* Chapter One, section 4) how in the *De Moribus* Augustine highlighted the intimate connection of the cardinal virtues with *caritas*, and in that perspective he considered temperance as “the integral love that is given to that which one loves” or even “the love for God that is preserved whole and inviolate”²⁵. In *Eighty-Three Questions* he says that “temperance is the firm and moderate control of the reason over the passions and over the other unregulated movements of the soul. Its parts are continence, clemency, and modesty. By continence, cupidity is governed by the reason. By clemency, the pride that is stimulated and stirred up into hatred for someone is moderated with gentleness. By modesty, a noble sense of

²²Theophilus, *Ad Autolycum*, III, 15 (*PG*,. 6, col. 1141 B, our translation).

²³Aristides, *Apologia* 15, 3-4.

²⁴One may think, for instance, of the comments on *Romans* 13: 13 by Origen, Ambrosiaster and St. John Chrysostom.

²⁵St. Augustine, *De moribus ecclesiae*, I. XV. 25 (*PL* 32, col. 1322).

shame acquires a clear and solid authority”²⁶.

The Scholastics — The treatise on the virtue of temperance underwent a remarkable development in the theology of the middle ages. We can consider the examples of Alexander of Hales and Saint Albert the Great. In St. Thomas it attained to a systematic structure that would have a very long life²⁷. The principal sources for the Thomistic treatment of temperance are the Holy Scriptures, Saint Augustine and Aristotle. Even so it manifests a significant originality, which is the fruit of the articulation of these elements, taken together with other new ones in the Thomistic anthropology. In the succeeding section we will concern ourselves with the anthropological foundations of the Thomistic treatise on temperance.

Modern Theology — Modern and contemporary theology on temperance deserves a nuanced treatment. The study of chastity has undergone a great development: first, as an ever more particularized elaboration, at times excessive, of casuistry, but later, beginning more or less from the middle of the twentieth century, it was given new impetus with the renewal of the study of the nature and meaning of sexuality, which tended to set into relief more personalistic and relational aspects. With regard to other aspects of temperance, there have not been any noteworthy developments apart from some particular issues (alcoholism, drug dependency, tobacco use) which, objectively speaking – or at least with respect to modern sensibility – have acquired great personal and social importance²⁸.

²⁶St. Augustine, *De diversis quaestionibus* 83, XXXI, 1. (PL 40, col. 20).

²⁷ Cf. *Summa Theologiae*, II-II, Q. 141 – 170.

²⁸The bibliography on temperance in general, if one excludes the studies specifically on sexuality and the other topics just mentioned, about which there will be more discussion below, is relatively scarce. We can cite a few significant studies: A. Michel, *Temperance*, DTC 15m cols. 94 – 99; M.A. Janvier, *Exposition de la morale catholique*, vols. XI-XII: *La vertu de temperance* (Paris: Lethielleux, 1921- 1922); J. Leclercq, *Vita dell'ordine* (Alba: Paoline, 1955); P. Laféteur, *La temperanza*, in *Iniziazione teologica* (Brescia: Morcelliana, 1955) vol. III, pp. 57 – 78; P. Palazzini, *Vita e virtù cristiane* (Roma: Paoline, 1975); P. Geach, *The Virtues* (Cambridge: Cambridge University Press, 1977); V. Jankélévitch, *Trattato delle virtù*, cit.; R. Cessario, *The Moral Virtues and Theological Ethics* (South Bend, Indiana: Notre Dame University Press, 2009); G. Angelini, *Le virtù e la fede*, cited, pp. 65 – 121 and 307 – 332; J. Pieper, *Temperance*, in *The Four Cardinal Virtues*; trans. Richard and Clara Winston (New York: Harcourt, Brace and World, 1965).

7.2 Theological Analysis of the Virtue of Temperance

7.2.1 *The Anthropology of Temperance*

Today, the virtue of temperance readily suggests the idea of *negating* human sentiments and tendencies, and it implies in particular the attribution of a negative ethical value to pleasure and enjoyment. For some ethical orientations – such as Stoicism²⁹ and Kantian ethics³⁰ – that idea is substantially correct. However, it is quite wide of the mark with regard to the fundamental approach of Catholic moral theology, and in particular to the thought of Thomas Aquinas³¹.

Saint Thomas strongly emphasizes the existence of a dynamic ontological rapport between our knowing activity, our willing activity, and pleasure: “in every being in which there is consciousness – Thomas affirms – there is also willing and enjoyment (*delectatio*)”³². The good that is known and willed becomes a motive of loving, of intentional longing and pleasurable enjoyment. For Thomas Aquinas there is a connaturality between the consciousness and willing of the good, on the one hand, and the pleasant fruition of it, on the other. For this reason, he cannot admit that a negative ethical value can, in principle, be given to pleasure.

The fundamental thesis is that the ontological root of pleasure is the good. Between the good and pleasure there is such a significant link that, as Aquinas affirms, “the motive by which the good is sought is identical with the motive by which joy (*delectatio*) is sought, the latter being nothing other than the acquiescence of the striving toward the good, just as, in virtue of the same natural force, the heavy object tends downwards and lies on the earth”³³. Joy is the fruition of the good³⁴, and also a sign

²⁹Cf. A. Rodríguez-Luño, *Etica General* (cited above), pp. 129 – 134 and the bibliography cited on p. 129.

³⁰On this aspect of Kantian ethics, see the excellent study of A. Lambertino, *Il rigorismo etico in Kant* (Florence: La Nuova Italia, 1999).

³¹On this theme cf. A. Lambertino, *Valore e piacere*, (cited), pp. 55 – 75.

³²*Scriptum super Sententiis*, lib. I, dist. 45, Q. 1, a. 1, sol.

³³*Summa Theologiae*, I – II, Q. 2, a. 6, ad 1.

³⁴“Quies autem voluntatis, et cuiuslibet appetitus, in bono, est delectatio” (*S. Th.*, I-II, Q. 34, a. 4, *in corpore*).

of the perfection of the operation that reaches the good³⁵. Furthermore, enjoyment plays a role as an indirectly efficient cause: the subject that is stimulated by the perception of the good, experiences pleasure in acting, and “acts with more vehemence and diligence”³⁶. Enjoyment stimulates activity and renders it more efficient and secure. It facilitates both the attention and the *tension* needed to act efficiently.

It is not possible to conclude from the fact that pleasure follows upon reaching the good, that pleasure is the purpose of acting. The good is the goal of striving, and it is likewise the good which constitutes and founds the acquiescence that is proper to enjoyment and pleasure. Enjoyment derives its moral relevance from reference to the good, and to the activity that generates it, characterizes it, and completes it. Enjoyment is not good or bad in itself or by itself. Its value is reflected and derivative. St. Thomas affirms that “Enjoyment (*delectatio*) that follows upon good and appetible actions is good and appetible; that which follows upon evil actions is to be avoided. “It only derives its goodness and appetibility from something other than itself (*ex alio*)”³⁷. Even if enjoyment is always ontologically founded upon some good, such good can only be apparent here and now to the acting person. And thus enjoyment cannot be, in itself and always, a good³⁸. It must not be absolutized, nor sought after as an autonomous and exclusive end of acting, on pain of destroying the moral value of acting and of the agent himself. Saint Paul says fittingly about those who absolutize enjoyment that “their god is their belly”³⁹.

The perspective of enjoyment is not a safe criterion of moral orientation. If it is left to itself, it becomes an arbitrary and contradictory force, which can desire anything and the opposite of anything, and it ends up becoming destructive of the subject himself. But if it is given orientation by the judgment of the intelligence, it is a creative power in the face of which one cannot well remain insensible. St Thomas holds that insensibility is a fault, just as much as the exaltation of enjoyment into an autonomous and absolute value, disconnected from any content of personal value in the action that it motivates.

³⁵Cf. *S. Th.* I-II, Q. 34, a. 4, corp.; *In decem libros Ethicorum*, lib. X, lect. 6, no. 2025.

³⁶*Summa Theologiae*, I-II, Q. 33, a. 4, corp.

³⁷*Contra gentiles*, lib. III, c. 26.

³⁸Cf. Saint Thomas, *In decem libros Ethicorum*, lib. X, lect 4, nos. 2001 – 2004.

³⁹*Phil* 3: 19.

But, as Lambertino points out, it is necessary to add a qualification: “Certain statements of St. Thomas permit us to see the legitimacy even of intentionally seeking pleasure as a *proximate* end, that is, to consider as legitimate the purpose of being pleased *for its own sake*, if the pleasure proceeds from a morally significant act and if the end toward which the action is directed is by its nature not *positively* excluded. In such a situation, the orientation of the act would be entrusted to *recta ratio* (right reason), but would prescind in its explicit intentionality from the natural end of the action. If indeed the natural end of the activity is not positively excluded but allows an abstraction to be made from it, the order of nature and the finalistic dependence of the pleasure involved in the activity continue to be respected; there would still be an implicit recurrence, on the part of the subject, to the natural end of the activity”⁴⁰.

7.2.2 *The Object of Temperance*

The object of temperance is the government of the search for the pleasurable good and of the emotions thereby stimulated, according to the judgment of right reason, illuminated by faith. Temperance brings order and measure, in a steady way, to our desire, so that it becomes directed toward that which is fitting here and now, and with the intensity that conduces to the overall good of the Christian person. The moral virtue of temperance is mastery over oneself or, in the words of St. Augustine we have already cited, “firm and moderate governance of the reason over the passions and over the other unregulated movements of the soul”⁴¹.

The pleasurable goods whose pursuit is to be governed by temperance are of diverse kinds. There are pleasures that are linked to activity of a purely spiritual nature (the satisfaction in understanding profound matters, of seeing one’s own competence recognized, of humor), or that are connected to the possession of non-corporeal entities (such as abundant economic means), or to sensual perception (hearing good music, watching a beautiful film), or to sensual pleasures that come by way of touch (pleasures connected to eating, drinking, and sexuality). When

⁴⁰A. Lambertino, *Valore e piacere*, (cited), pp. 74-75, note 46.

⁴¹Saint Augustine, *De diversis quaestionibus* 83, XXXI, 1 (*PL* 40, col. 20).

understood as a virtue in general, temperance has to do with all these goods. *But considering its specific nature*, and that means distinguishing it from its “parts”, *temperance moderates the goods that by their close relationship with fundamental vital functions, excite the passions that are the most intense and most difficult to control, such as those bound up with eating, drinking, and sexuality.*

The Council of Trent teaches that *concupiscence* remains even in those who live in communion with Christ, and although concupiscence is not a sin as such, it proceeds from sin and inclines us toward sin⁴². St. John refers to this when he speaks of the concupiscence of the flesh, of the eyes, and of the pride of life⁴³. Concupiscence can be defined as “the difficulty of integrating the choice of the goods to which we are spontaneously attracted, within our orientation to God in Christ, caused in us by the Spirit”⁴⁴. Human appetites do not become integrated by themselves. Their integration into the good life of a Christian requires commitment and struggle until the virtue of temperance is acquired, and that means, until the proper ordering becomes a stable habit of desiring. Not even then does the need for struggle completely disappear, but everything becomes much easier.

As we said in Chapter Two, *the non-regulation of desire has the effect of obscuring the intellect*. The phenomenon was already attested to by Aristotle. “This is why we give it the name ‘temperance’ (*sophrosyne*), as “saving wisdom” (*hos sózousan ten phrónesin*), because it preserves that kind of knowledge. The pleasant and the painful do not destroy or distort every kind of knowledge, such as, for instance, the knowledge whether or not a triangle contains the equivalent of two right triangles, but only the knowledge having to do with action. The principles of action, in fact, are the purposes we have in doing things. The principle does not immediately appear to someone who has been corrupted by pleasure or pain, nor does it appear necessary to do all things for that reason nor make choices of the means. For vice destroys the principle of good actions”⁴⁵. Intemperance brings arbitrariness, irrationality of judgment, and difficulties in understanding that which is truly good as

⁴²Council of Trent, Session V, 15: June 15, 1546, *Decree on original sin* (DH 1515).

⁴³*Cf.* 1 Jn 2:16.

⁴⁴C. Caffarra, *Viventi in Cristo* (Milan: Jaca Book, 1986), p. 164.

⁴⁵Aristotle, *Ethica Nicomachea*, VI. 5 (1140b 11 – 19; our translation).

the basis for good actions.

The virtue of temperance does not repress the search for the delightful good, as we have said, but ought to prevent the relationship between pleasure and actions (and the good to which actions are directed) from being turned upside-down, which results, at the level of practice, in a hedonistic attitude. Such an attitude has various degrees. The less coarse type of hedonism inverts the relationship between joy and action, but does not destroy it altogether. It dissolves the good into a subjective resonance, but still recognizes distinctions between different kinds of pleasures, according to their connections with activities of various values: one kind of pleasure follows from listening to good music or from reading works of literary or philosophical value, another kind from drunkenness or sexual perversions. There is a coarser kind of hedonism that sees pleasures as having a unitary value admitting only of quantitative differences, and considers the various actions simply as means that do not possess any other value than the degree of pleasure they furnish the acting subject. In the most profound type of hedonism, the search for pleasure becomes a kind of mania, which ends up dominating the entire personality. The search for one's own satisfaction inhibits the capacity to communicate and to transcend oneself. The unavoidable relationships with others become characterized by egoism, insensibility, arbitrariness and absence of compassion. The hedonist refuses limits and responsibility, avoids force, and is unsteady. In regard to the world of thought, the hedonist avoids seeking the truth, and only values elegance, originality and humor. Thought and intelligence perform a playful service for him, to be employed only for the purpose of self-amusement. The most pressing problem for the hedonist is *ennui*, an internal emptiness that urges his sensual imagination to search for new, ever more exciting experiences, leading him into a world of anti-natural perversion, since his familiar experiences have already exhausted their power of providing him with sources of pleasure. This is well illustrated by the characters in Oscar Wilde's *The Picture of Dorian Gray*.

In many countries today, the objectively existing conditions of life make temperance very difficult, and at the same time particularly necessary. The abundance of economic means enables a level of consumption that was never possible before. The very way in which the economic

system is imposed in wealthy countries presupposes that the level of consumption will never decrease. Added to this is the pressure of advertising, which has evolved a positive role in itself, but which often creates fictitious needs and insists in an exaggerated way on the need to acquire articles that are superfluous and purely for pleasure⁴⁶. In such countries, consequently, the means for going to excess in the satisfaction of the desire for pleasure are extended to everyone. It no longer finds a brake in the scarcity of resources (which in itself is not necessarily a bad thing), and the only thing that can keep the desire for pleasure within the bounds of reason is clearness of understanding and firmness of ethical conviction. Indeed, consumerism and hedonism are flooding us, and in their wake come superficiality and carelessness for the spiritual dimensions of human existence.

7.3 The Various Forms of Temperance

7.3.1 *Integral Elements*

*St. Thomas Aquinas considers two integral elements (integral parts) of temperance: shame and honor*⁴⁷. The reader will recall here that we identify as integral elements the virtues or the dispositions that guarantee the functions that are indispensable for the complete act of the principal virtue⁴⁸.

Shame (*pudor*) is “a praiseworthy emotion”⁴⁹, which in a broader sense can even be considered a virtue, in so far as it is a preparatory disposition that is necessary for temperance⁵⁰. *Shame is a sense of restraint, of reverence and reserve with regard to the sexual sphere, and more generally speaking, it is the respect for a sphere of intimacy around the individual person.* Shame develops a very important role in balancing

⁴⁶On the ethical role of advertising see The Pontifical Commission for Social Communications, Pastoral Instruction *Communio et Progressio*, March 23, 1971, nos. 59-62; *Ethics in Advertising*, February 22, 1997.

⁴⁷*Cf. Summa Theologiae*, II-II, q. 143, a. unicus.

⁴⁸See above, Chapter Two, section 4 (beginning).

⁴⁹*Summa Theologiae*, II-II, Q. 144, a. 1, *in corpore*.

⁵⁰*Cf. Summa Theologiae*, II-II, Q. 144, a. 4, *ad quartum*.

the structure of the personality. Because it principally, if not exclusively concerns sexuality, we will explore it in Chapter Eight.

Honor gets its name from the “honest or noble good” (*bonum honestum*), which is to be distinguished from the pleasurable good and from the useful or purposeful good⁵¹. *Honestum* means being worthy of honor and love. In the human being, spiritual beauty is worthy of honor above all, and it consists of virtue, in the fact that “the behavior and actions of a person are well proportioned according to the light of reason”⁵². On the other hand, irrational and bestial pleasures are the opposite of spiritual beauty, as the most shameful and indecent things to be found in a human being. The love of noble objects and the sensibility by which something is perceived as spiritually beautiful, along with repugnance for shameful or obscene things, is a disposition that prepares for, and helps realize the actions that are proper to temperance. Temperance requires the kind of behavior toward which man will be led not simply by a sense for spiritual beauty. But there is no doubt that, at least in the gravest sins against temperance, there is a large dose of vulgarity and ugliness which is repugnant to the nobility of the educated and sensitive person.

7.3.2 *Abstinence or Temperance in Eating*

There are three species of temperance (subjective parts): abstinence, sobriety and chastity, which last will the subject of the next chapter.

The Nature of Abstinence and Abstinent Actions — *Abstinence governs the use of solid and liquid nourishment according to the dictates of reason illuminated by faith.* The task of this virtue is to keep the ordering of nourishment to its natural end, which is the preservation of life, health, and the capacity to develop the natural tasks (e. g. working) and spiritual tasks (such as prayer) that are proper to the Christian. On this subject, Augustine says, “In things of this nature, which are transitory and corruptible, the temperate man has a rule of life with a twofold confirmation in the Old and New Testaments: he loves none of them, nor seeks any of them for its own sake, but uses

⁵¹Cf. *Chosen in Christ*, I, Chapter Six, subsection 2 a).

⁵²*Summa Theologiae*, II-II, Q. 145, A. 2, *in corpore*.

them as much as necessary for the business of this life, with the modesty of someone who uses, and not with the passion of someone who loves”⁵³. To appreciate and enjoy moderately the pleasures of the dining table is not contrary to the virtue, but rather to invert the order which right reason establishes between those pleasures and the human good to which they are linked. Right order seeks to avoid both “too much” and “too little”, and always with respect to the life and duties of a Christian.

Fasting is a fundamental act of abstinence, that is to say, when abstaining from food is seen as morally obligatory or as conducing to the good of the body or soul. When responding to the criticisms of the Pharisees, the Lord’s teaching was that one should not absolutize fasting by taking it only at a strictly material level, and without taking account of the reasons or the occasion⁵⁴, but he does not question the value of abstinence⁵⁵, and points out that certain attacks of the devil cannot be defeated except by prayer and fasting⁵⁶. He Himself fasted for forty days at the beginning of his public life⁵⁷, and the first Christians practiced fasting as works of penitence and in preparation for their apostolic missions⁵⁸. The Fathers of the Church as well as the ecclesiastical writers and theologians have made known the reasons and motivations for the practice of fasting. It is an excellent means of dominating concupiscence, for lifting the soul to God in contemplative prayer, and performing penance for one’s own sins⁵⁹.

The Discipline of the Church on Abstinence and Fasting
— The general necessity of doing penance has been concretized by the Church in some particular days of fasting and abstinence⁶⁰, which is certainly not meant to exclude other ways of expressing the spirit of penitence, which each person is invited to choose. The current discipline is regulated by the Apostolic Constitution *Paenitemini*⁶¹, by canons 1249

⁵³St. Augustine, *De moribus ecclesiae*, I, 21, 39 (cited above; our translation).

⁵⁴*Cf.* Mk 2: 19.

⁵⁵*Cf.* Mk 2: 20.

⁵⁶*Cf.* Mt 17: 21.

⁵⁷*Cf.* Mt 4: 2.

⁵⁸*Cf.* Acts 13: 3; 14: 23.

⁵⁹*Cf.* St. Thomas Aquinas, *Summa Theologiae*, II-II, Q. 147, a. 1, *in corpore*.

⁶⁰*Cf.* *Catechism*, no. 2043.

⁶¹*Cf.* Paul VI, Apostolic Constitution *Paenitemini*, February 17, 1966: AAS 58 (1966) 177 – 198.

– 1253 of the *Codex Iuris Canonici* (Canon 882 of the CCEO for the eastern churches) and in every territory, by the directives coming from the episcopal conferences.

Abstinence means not eating meat. Aquatic fowl (ducks, etc.) are included in the prohibition. On the other hand, eggs, fish, dairy products and condiments with animal fat are not included. All the faithful who have finished their fourteenth year are required to obey the rules⁶². With regard to the days of abstinence and fasting, canon 1251 of the CIC specifies the following: “Let abstinence from meat or other foods be observed, according to the dispositions of the Episcopal Conference, on every single Friday of the year, except when it coincides with a day that has been named a solemnity; and Ash Wednesday and Good Friday.” By fasting is meant having only one normal meal in the day. In accordance with the the customs of each region, it is also permitted to take a very light breakfast in the morning and a very light supper in the evening, if the normal meal is taken at lunchtime, or a very light lunch if the normal meal is taken in the evening. During the rest of the day, no food may be eaten, with the understanding that water and medicine do not cancel the fast. All faithful are required to fast who have completed their eighteenth year and have not started their sixtieth year.

Beyond this, canon 1253 of the CIC also grants the Episcopal Conferences the capacity to “determine further the observance of fasting and abstinence, such as substituting for them as a whole or in part other forms of penitence, especially works of charity and exercises of piety.” In many countries, apart from Lent, the Friday abstinence can be replaced with other works of piety or penitence, or by almsgiving. The diocesan bishops can designate other days of penitence in an occasional manner, according to the norm of canon 1244 § 2 of the CIC. Even parish priests and superiors of religious orders can dispense with or commute fasting and abstinence for individual or families over which they have jurisdiction, provided there is just cause and provided the dispositions of the local Ordinary are respected.

Those who have a dispensation from a legitimate ecclesiastical authority are not obliged to keep the laws of fasting and abstinence, nor those who by reason of a physical or moral nature would have special

⁶²Cf. CIC cc. 97 and 1252.

difficulties: the sick and the convalescent, persons who are in a state of poverty or malnutrition, who have to undertake especially strenuous labor, etc. Those who for whatever reason have embarked in a boat or ship are not held to keep the laws of fasting and abstinence⁶³.

The ecclesiastical law of fasting and abstinence constitutes in itself matter that is “grave by its nature” (ex genere suo). It admits thereby of “smallness of matter” (*parvitas materiae*), and like every ecclesiastical law, does not oblige when its implementation would bring about a very serious difficulty; what we have just said concerning the sick or those who are undertaking especially strenuous labor constitutes an application of this principle. But the necessity remains, nevertheless, that everyone do penance by the divine law, which every person can do in the way that is possible for them.

Gluttony, a Vice Contrary to Abstinence — Opposed to the virtue of abstinence is the sin and vice of gluttony or overeating, consisting in allowing oneself to be overcome by a disordered desire of eating. The disorder consists in an excessive quantity of food taken, in the avidity or voracity with which it is consumed, in eating outside mealtimes without it being necessary or where there doesn’t, at least, exist some reason that would make such eating convenient or opportune, in seeking rare foods or food prepared with excessive elaborateness, and spending for such purposes more than is reasonable in view of the circumstances⁶⁴. In itself, gluttony is a venial sin, but it can become mortal if, by reason of a disordered appetite for eating, a precept of the ecclesiastical or divine law is violated, if harm to one’s health is knowingly brought about, if the use of reason is lost, if financial resources are used that would be necessary for the support of one’s family – in short, if there is cause of scandal.

If the sin of gluttony becomes habitual, it becomes the vice of gluttony, which is one of the seven capital vices which generate many other sins: and the sin of gluttony, particularly, is the forerunner of impurity⁶⁵. It also causes clouding of the mind, and especially with relation

⁶³Cf. John Paul II, *Motu proprio Stella Maris*, Jan. 31, 1997; III, 2: AAS 87 (1997) 209 – 216.

⁶⁴Cf. *Summa Theologiae* II-II, Q. 148, a. 4, *in corpore*.

⁶⁵Cf. Saint Josemaría Escrivá, *The Way* (cited above) no. 126. Cf. *Summa Theologiae*, II-II, Q. 148, a. 6, *in corpore*.

to spiritual values, to excessive loquacity, and to a state of uncontrolled exaltation which leads to acts of imprudence.

We can explore more profoundly in theory wherein consists the essence of gluttony. First, it is the case that food is and ought to be a function of health. If someone objects, saying: yes, health can be ruined if someone eats excessively to the point of vomiting habitually; but if it happens once in a lifetime, health is not endangered, and it does not make sense that a single act of excessive eating could constitute a sin. Another reason could be given: that such a way of eating goes against the very nature of the biological function of eating, which is to furnish the nutrition needed for living, for working, etc., but if there is excessive eating, this goes badly, and the natural function is contradicted for the sake of attaining a certain pleasure. But even here one could then answer, that it is yet to be proven that the natural characteristics of the nutritive function have an ethical value that is so important as to be respected in every single act of eating, especially when we have means (digestive, purgative, etc.) to eliminate the evil consequences of excessive eating – means that are not to be excluded simply for being artificial.

It seems, in our view, that the most exact response to this argument would be made along the lines of virtue. The human being has various instincts and tendencies. Their actuation ought to be controlled and measured by right reasoning, since this is the only way by which natural tendencies are integrated and contribute to the individual, relational and social equilibrium of the human person. Integration and equilibrium require the moral control of the instincts and tendencies, that is to say, the control that is carried out by the introduction of a rational measure into the tendency as such⁶⁶, in such a way that the tendency becomes the operative *subject* of the well-balanced action and is productive of such actions. The tendency cannot be allowed to be actuated without measure, making it necessary afterwards to seek correction through drugs, etc. The tendency then becomes an *object* that is not integrated into the moral life, and will tend to make the human being a slave, and produce evils of various kinds. The natural characteristics of the nutritive faculty,

⁶⁶St. Thomas affirms in this sense that moral virtue is “nothing other than a certain disposition or form that is sealed and impressed on the appetitive power by the reason” (*nihil aliud est quam quaedam dispositio sive forma, sigillata et impressa in vi appetitiva a ratione*) (*De virtutibus in communi*, Q. unica, a. 9, *in corpore*).

which determine among other things the quantity of food each person can ingest, are important, because by taking them into consideration, moral control is actuated as well as integration of the tendency into the total well-being of the person (which is to say, it constitutes the measure of *recta ratio*), and is not operating as a simple biological fact. A moral fault is committed when the tendency is allowed to operate without the measure that has been prudently established by the reason.

There is need of much prudence before one can formulate moral judgments on well-known eating behaviors such as *anorexia* and *boulimia*. In both cases, there are serious and complex psychological disturbances that require the intervention of specialists and special psychotherapeutic methods, and that the person affected is not in a position to control or correct immediately. Such a lack of self-control in eating need not be considered automatically as a moral fault, since in the majority of cases it is not. We are here in the realm of psychological and psychosomatic pathologies, and not that of temperance.

7.3.3 *Sobriety and the Problem of Alcoholism*

The virtue of sobriety is temperance in the use of alcoholic beverages. Alcohol imbibed in an excessive quantity disturbs the use of reason. To acquire such a disturbance *voluntarily* and *without a good reason* (such, for example, as anesthetizing oneself), constitutes the sin of intoxication. There is complete intoxication when the use of reason is completely lost, and there is partial intoxication, when the loss of self-control and self-consciousness is only partial.

Complete intoxication is a mortal sin. Sacred Scripture considers it as one of the sins that can exclude someone from the Kingdom of God⁶⁷. Immoral acts committed in the state of complete intoxication (violence, bestiality, sexual dissoluteness) are imputable to a person to the extent that they could have been foreseen, at least in a general way. *Incomplete intoxication constitutes in itself a venial sin*, but can become mortal sin if there is scandal, and if serious family disruptions follow from it or damages done to other persons (automobile accidents), or if the intoxication proceeds from a bad intention or becomes habitual.

⁶⁷Cf. 1 Cor 6:10; Gal 5:21.

A problem much more serious and complicated than isolated and voluntary episodes of drunkenness is *alcoholism*, defined as the serious and prolonged abuse of alcoholic beverages, resulting from multiple factors, which transform alcohol into a real drug, with phenomena known as “dependence” or “tolerance” or “withdrawal syndrome”, and from which follows the incapacity to control the desire for consuming alcohol, despite one’s awareness of the evils that it causes to oneself and to the social environment in which one moves. The World Health Organization defines alcoholics as “The immoderate drinkers whose dependence on alcohol has reached such a level as to make mental disturbances evident or to affect their mental and physical health, their interpersonal relationship and their normal social and economic activity; and also those in whom the actions that precede an evolution into such a state”⁶⁸. The alcoholic has a permanently elevated level of alcohol in his blood, which produces a serious intoxication with multiple negative effects on the physical, psychological and social planes⁶⁹. On the physical plane, the most serious damage is to the liver, which is often fatal. On the neuro-psychical level, alcoholism causes various psychic disturbances, and even actual mental illnesses such as alcoholic dementia and Korsakoff psychosis. In the realms of the family, of work, and of society in general, the alcoholic person experiences a diminished capacity for relationships, for working, for positive interactions with his parents etc.

The factors that predispose someone to the abuse of alcoholic beverages, and set into motion the process of alcoholism, are various and complicated. It should be noted, with A. Riccio, that “the traditional alcoholism of peasants and proletarians, bound up with wine and miserable conditions, such as poor nutrition and unemployment, was very

⁶⁸W.H.O., Expert Committee on Mental Health, *Alcohol Subcommittee Second Report*, as cited by N. Kessel, H. Walton, *Alcoholism* (London: Penguin, 1965). For an overview of the problem see L. Ciccone, *Bioetica: Storia, principi, questioni* (cited) pp. 317 – 344, with a good bibliography. We have taken a good part of the considerations that follow from this volume. One may also consult E. Sgreccia, *Personalist Bioethics: Foundations and Applications*, trans. by John A. Di Camillo and Michael J. Miller, (Philadelphia: National Catholic Bioethics Center, 2012); various authors, *Droga e alcolismo contra la vita*, Atti della VI Conferenza internazionale promossa dal Pontificio Consiglio della Pastorale per gli Operatori Sanitari (Vatican City: 21 – 23 November, 1991), *Dolentium Hominum* 7 (1992).

⁶⁹Cf. G. Senini, E. F. Sigurtà, *Aspetti biopatologici dell'alcolismo* (Bologna: Pitagora, 1981).

widespread in Europe until the middle of the twentieth century, and has been replaced today by a different kind of alcoholism: more urban than rural, and more widely spread among adolescents and housewives. It is a kind of “indirect” alcoholism, which manifests itself in more veiled and compromised forms, without the noisy manifestations of acute alcoholism (intoxication)”⁷⁰. Particularly responsible are the proprietors of nightclubs and the makers or distributors of alcoholic beverages who organize parties and evening events, especially on the weekends, where groups of young people are urged to use and abuse alcohol. The high number of automobile accidents, sometimes fatal, is only one aspect of the evils that result.

It is clear that intoxication and chronic alcoholism are extremely serious behaviors on the plane of objective morality. Alcoholism compromises values of undoubted ethical relevance, it attacks the dignity of the person and corrupts or puts at risk the relationships that are of primary importance -- marital, parental and fraternal. It is not always easy to evaluate the actual subjective responsibility, considering that a point is reached when the alcoholic is incapable of judging his own situation objectively and is not able to make free and responsible choices. His behavior becomes increasingly obsessive or compulsive. Responsibility can be considered only to the extent to which someone was truly conscious of the path that led him to chronic alcoholism. Sometimes this is the result of psychic or emotional disturbances, or of problems of a relational and social nature. Less doubtful, however, and more serious are the moral responsibilities of those who for various reasons, sometimes only for the hope of making monetary gain, favor or encourage the process of alcoholizing others.

The care and resocialization of alcoholics requires the intervention of specialists⁷¹. Communities that have been formed for the purpose of the recovery of alcoholics have attained good results, such as “Alcoholics Anonymous” and similar organizations⁷².

⁷⁰A. Riccio, “Alcolismo: tra storia e antropologia”, *Famiglia Oggi* 14 (1991) 8; cited by L. Ciccone, *Bioetica* (cited in note 68 above), p. 328.

⁷¹Cf. for example, Various authors, *Prospettive psicoterapeutiche nel trattamento degli alcolisti* (Rome: Il Pensiero Scientifico, 1977).

⁷²Alcolisti Anonimi, *Alcolisti anonimi* (Rome: Bulzoni, 1980); D. Andreatta, “L’esperienza dei Club degli alcolisti”, *La Famiglia Oggi*, 14 (1991) 70 – 71. See also A.A. World Services, *Alcoholics Anonymous*, 4th edition with added stories (2001; this is the up-

7.3.4 *Drugs and Drug Addiction*

Dependence on psychotropic drugs, which for simplicity's sake we will call toxicdependence, is a widespread and complex phenomenon which needs to be studied from a variety of angles, namely, the medical, ethical, social juridical, political and criminological viewpoints. The bibliography for each one of these areas is very large. Here it should suffice to treat the essential questions in a synthesizing way⁷³.

The Variety of Psychotropic Substances and Their Effects

— By “drugs” in this context we mean “the various psychotropic substances which, through the positive effects they produce, and through their never having been experienced before, lead the subject to take them repeatedly, at first voluntarily, but afterwards compulsively”⁷⁴. There are various kinds of psychotropic substances. The principal kinds are derived from opium (morphine, heroin), cocaine and crack, synthetic drugs (methadone, ecstasy, super-ecstasy, LSD) and the derivatives of *Cannabis indica* (marijuana, hashish, hashish oil). Sometimes they are associated with alcohol or are considered as alcohol. Especially in the case of synthetic drugs, there are many artisanal preparations, for which it is not easy to know in advance the composition, the proper dosage, or even the effects. In general terms, they create psychic dependence or at the least habituation, and for some substances, a physical dependence and a resulting *crisis of withdrawal*. They also induce a phenomenon known as *tolerance*: a kind of insensitivity is created within the organism, by which it can “tolerate” habitual dosages without any reaction. In order to obtain the desired effect, a larger dosage is needed or a change to a more potent substance.

The immediate effects, according to the type of substance, are euphoric, hallucinogenic, hypnotic, excitative (stimulants) or depressive of the central nervous system (morphine and heroin). In the first moments, some of them make possible an increase in performance in work, others

dated edition of *Alcoholics Anonymous* or “Big Book”, authored by William G. Wilson and originally published in 1939).

⁷³For an initial, but still fairly complete review of the principal problems and bibliography, see L. Ciccone, *Salute e malattia. Questioni di morale della vita fisica*, vol. II (cited) pp. 323 – 436; E. Sgreccia, *Manuale di Bioetica* (cited) vol. II, 175- 210 (bibliography pp.228 - 236); L. Ciccone, *Bioetica* (cited) pp. 285 – 316.

⁷⁴L. Ciccone, *Bioetica*, p. 285.

produce a psycho-motor stimulation that enables someone to overcome the fatigue of dancing for an entire night, and are consequently used in discotheques and nightclubs, places normally associated with alcohol. Sooner or later, depending on the kind of drug, they produce serious damage to physical and psychical health, and lead to the self-destruction of the user on the physical, moral and relational levels. As a scholar of the subject has written, “drugging oneself, at least in its more compulsive and extreme forms, is equivalent to psychic suicide and means enslavement to a culture of death; drugging oneself, in the final analysis, is an action against life”⁷⁵.

Causes of Toxicodependence — Discussion of the causes of the phenomenon of toxicodependence is very complicated. In an interesting study published by the Pontifical Council for the Family, it is affirmed that “drugs are not the principal problem of toxicodependence. The use of drugs is only a fallacious response to the lack of a positive meaning of life”⁷⁶. Various factors are at work in producing the phenomenon of toxicodependence: some are of a general nature, such as the hedonistic orientation of large parts of contemporary society in many countries, the widespread crisis of meaning among youth and social marginalization; others are of a more specific kind, such as curiosity on the part of younger people who voluntarily yield to the pressures of their “already initiated” contemporaries, the desire on the part of persons who are imbedded in a highly competitive world to work at higher levels of performance, the search for consolation or self-medication on the part of someone who is pressured by competition, or as a mode of surviving on the part of socially segregated persons, or of someone who finds him- or herself in a situation of severe psychological discomfort⁷⁷.

The moral evaluation of drug use – The *Catechism of the Catholic Church* expresses itself clearly on the objective moral evaluation of the consumption of psychotropic substances: “The use of *drugs* inflicts very grave damage on human health and life. Their use, except on strictly

⁷⁵E. Gori, “Aspetti etico-iuridici delle chemiodipendenze, del loro trattamento e della loro prevenzione”, in A. Bompiani (ed.), *Bioetica in medicina* (Rome: Cic Edizioni Internazionali, 1996), p. 276.

⁷⁶Pontifical Council for the Family, *From Despair to Hope: the Family and Drug Addiction* (Vatican City: Libreria Editrice Vaticana, 1992).

⁷⁷Cf. L. Ciccone, *Bioetica*, pp. 290 – 292.

therapeutic grounds, *is a grave offense*. Clandestine production of and trafficking in drugs are scandalous practices. They constitute direct co-operation in evil, since they encourage people to practices gravely contrary to the moral law”⁷⁸. Certainly, one can allow for degrees of culpability when it is a question of the occasional use of substances that are not very toxic⁷⁹, but in any event it is a matter of dangerous behavior – whether as starting along a path that leads one to toxic dependence, or because one is co-operating with someone who is making money from this, or because of the scandal and encouragement to others caused by one’s own behavior. It is not easy to evaluate the responsibility of particular actions if they are already taking place within a situation of strong dependence on drugs. But there still remains serious culpability for anyone who has initiated a path that ends for the person affected in a physical or psychical dependence that threatens the person’s moral resources. *The moral responsibility of drug-pushers and all those who run the international drug business is extremely grave.*

“Soft Drugs” — The misleading expression “soft drugs” deserves some clarification. To be sure, the substances are remarkably diverse when it comes to their toxicity and effects. But even drugs considered “soft” have significant effects. No drug is “good” or “harmless”. In fact, many persons come to “hard” drugs by way of the “soft” ones, and even these, if they do not always create a dependence in the clinical sense of the word, do in fact create a psychological tendency to have ever more recourse to drugs as a way to solve problems or situations that could have been faced a very different way.

Preventive or Recuperative Interventions — One important theme regards the making of interventions, either to prevent addiction or to make a recovery from it, which also comes into conflict with criminal organizations that push the global drug traffic. In various countries the medical communities have been known to have been very effective in the recovery of toxicodependent persons. On the other hand, there is perplexity about the therapeutic value of treatment with methadone.

There are contrasting positions among the experts concerning the va-

⁷⁸ *Catechism*, no. 2291 (our emphasis).

⁷⁹ Cf. in this sense E. Sgreccia, *Manuale di Bioetica* (cited), vol. II, p. 191.; L. Ciccone, *Bioetica*, pp. 300 – 301.

lidity and efficiency of treating toxicodependence with methadone. Prof. Enzo Gori presents a good overview of the problematics involved in this therapy⁸⁰. He concludes his study with the following words: “From analyses of the very vast complex of data now at our disposal, it is clear that in the case of treatment with methadone, *an absolutely certain conclusion cannot be maintained, given the great discordance of the results obtained by various researchers and research projects*”⁸¹.

He then points out that the problem of toxicodependence cannot be reduced to a pharmacological question, adding: “in every case, therefore, it needs to be observed that *any treatment based on pharmaceuticals is part of a much larger context of the integral treatment of toxicodependency*, which must take into account the complexity of the human situation, and include detoxification, clinical treatments, experiences of life within a therapeutic community, and every other form or process of rehabilitation and re-socialization that are fitting for the individual situation”⁸².

The necessity of pharmacological support in the first stages of combatting an acute withdrawal crisis does not present any particular ethical problems, in our view. The decision whether to use methadone or another strong sedative such as Vallium 75 and similar drugs is a medical question. There can be no doubt that the passage from heroin to methadone as a *first step* to detoxification is something positive. What is important from the ethical perspective is: 1) that there be a strategy of acceptable efficacy directed toward detoxification and rehabilitation, and that it not be limited to transferring dependency over to a less dangerous substance for the sake of health, since this too is always dangerous and creates another dependency. It is a matter of preventing the therapeutic assistance from becoming simply a “methadone bar”⁸³; 2) that the pharmacological treatment be accompanied by, and integrated with, assistance regarding the other aspects of toxicodependency.

Strategies for the “Reduction of Harm” — Strategies intended exclusively for the “minimalization of harm” involve some serious moral

⁸⁰E. Gori, “Il Metadone. Trattamento e risultanti”, *Aggiornamenti Sociali* 31 (1980) 699 – 716.

⁸¹*Ibid.*, p. 716.

⁸²*Ibidem.*

⁸³*Ibid.* p. 701.

reservations. This is when the strategy is limited to distribution of syringes and sterile needles, and/or making available spaces that are isolated and monitored by medical personnel (*drug injection rooms*), and in some cases, even controlled distribution of heroin and other drugs.

In their very careful study, V. di Filippis and G. Miranda⁸⁴ have shown that there are positive aspects to the strategy of “reduction of harm”, among which are the idea that even those who do not succeed in attaining emancipation from drug dependence should not be abandoned; or even that those who do not wish to be de-intoxicated or have not yet accepted the rigorous road offered by the medical community, should not be left in solitude without any protection or assistance⁸⁵. It is understandable that these ideas have drawn the attention of persons or institutions who are fully aware of what Christian charity requires. However, the strategy also exhibits multiple negative aspects, such as its practical divorce from any concrete tension toward an integral recovery from toxicdependency⁸⁶. The two authors concluded that, in the light of the data then available to them, “it is necessary to realize that the English and American theory of harm-minimalization is ethically unacceptable, because it does not have as its goal the full renewal of the addicted individual’s responsibility (or of the recovery of his entire person), but only the preventing of his condition getting any worse, while continuing in the state of irresponsibility. In other words, the integral and greater good of the toxicdependent person is not being sought, but only a lesser evil that continues to deprive him of his freedom of choice and autonomy in making life-decisions. The risk of ‘chronicization’ described by some of the supporters of the program is quite real, as is the possible turning-on-its-head of the theory of ‘reduction of harm’ into a ghettoization of the toxicdependent collectivity alongside the non-dependent population”⁸⁷. On the basis of considerations such as these, we can conclude that the “harm-reduction” strategy, because it does not promote the integral good of the person, and because it does not succeed even in limiting the evil of toxicdependence in its essential aspects, is

⁸⁴V. di Filippis, G. Miranda, “Aspetti etici emergenti nella tossicodipendenza: la ‘riduzione del danno’”, *Medicina e Morale*, 45/3 (1995) 489 – 500.

⁸⁵*Cf. ibid.*, pp. 494– 495.

⁸⁶*Ibid.*, p. 495.

⁸⁷*Ibid.*, p. 497.

not consistent with Christian charity. It is not morally licit to limit oneself to the procedures and interventions of such a strategy, and therefore an activity of the *habitual* distribution of syringes would be considered as mediate, and extremely proximate, material co-operation.

The authors previously cited rightly believe that the strategy of “harm reduction” or “harm minimalization” ought to be brought back “to a strong re-affirmation of the need to carry out action with all one’s effort to overcome the toxicomania”⁸⁸. The tools proposed by the harm-reduction strategy can be accepted “only *as temporary and as leading toward the goal* of abstinence, that is, to the recovery of the integral dignity of the person”⁸⁹. And with this understanding they maintain that the strategy we are discussing now should become “the initial phase of contact on the part of the local social services for addiction with addicted persons, to be followed in a *clear propaedeutic linkage* by a phase of substitution, followed with abstinence, and developing into a final phase of integration with the medical communities”⁹⁰. Within these limits a punctuated and temporary co-operation would be morally acceptable, as long as it is followed *in a clear linkage* by substitution, abstinence and full recovery. And this should occur not only in general, but also case by case. It does not make sense that one could continue to co-operate with a person who shows that he or she is not willing to accept assistance toward recovery, and does not provide any expectation of a change of attitude.

Those who propose the controlled dispensation of heroin argue, in general, that such ministration can be a true therapy. Nevertheless, this hypothesis has been demonstrated neither by argument nor scientific experiments. There is general reference to some experiments carried out in Switzerland, and arguments are made especially of the – so to speak – “charitable” kind: the possibility of approaching persons who would otherwise be alone with their problems, etc. Here also there seems to be a strategy in action, and perhaps to an extreme degree, of “harm reduction”, and not a strategy of complete recovery and rehabilitation, which probably in some cases is not considered realistic.

⁸⁸*Ibid.*, p. 498.

⁸⁹*Ibidem* (our emphasis).

⁹⁰*Ibid.*, p. 499 (our emphasis).

It has not yet been demonstrated that the monitored prescription and supplying of heroin has given any positive results with regard to a complete recovery and rehabilitation of toxicodependents. It must also be pointed out that various studies and various international organizations are decisively opposed to such an hypothesis. At the Conference of the Association of the Cities of Europe held on Nov. 20, 1997, in Karlskrona, Sweden, the strategy of “harm-reduction” was judged negatively, as opening the door to the legalization and liberalization of drugs. It is conceivable that the strategy of harm-reduction only makes chronic the situation of toxicdependence⁹¹. Various authors presented evidence according to which the experiments in Switzerland and other countries had disastrous results even at the level of physical health⁹².

The interventions of John-Paul II on this matter were carried out with a view to the prevention and rehabilitation of toxicodependents. The Holy Father affirmed with joy that “the possibility of recovery and of redemption from this grievous servitude has been concretely proven, and it is significant that this has happened using methods that rigorously exclude a concession to the use of drugs, legal or illegal, of a substitutional character”⁹³. “Drugs are not overcome by drugs. Drugs are an evil, and concessions are not made to evils. Even partial legalizations, apart from being unjustifiable with respect to the nature of law, do not have the effects that they promise. This is confirmed by what is now a common experience. Prevention, repression, rehabilitation: these are the focal points of a program that is conceived and brought into act in the light of the dignity of man, guided by polite relations among nations, and inspiring the faith and the support of the Church”⁹⁴. This position does not hinder in any way the recognition that toxicdependence also needs to be treated as a medical problem⁹⁵, but it intends to cure it, to

⁹¹Cf. A. Bompani, *Bioetica dalla parte dei deboli*, (Bologna, 1995: Edizioni Dehoniane), pp. 345- 346.

⁹²Cf. J. F. Chenaux, *La drogue en liberté* (Paris, 1996: ed. François-Xavier de Guibert); R. L. Maginnis, *America Assesses “Medical” Marijuana* (Washington, D.C., 1997: Family Research Council); R. L. Maginnis, *America Assesses Needle Exchange Programs* (Washington, D. C., Family Research council, 1997).

⁹³John-Paul II, “Discorso ai poartecipanti all’VIII congresso mondiale delle Comunità terapeutiche”, September 7, 1984: *Insegnamenti di Giovanni Paolo II*, VII, 2, 1984, p. 347.

⁹⁴*Ibid.*, p. 349.

⁹⁵Cf. John-Paul II, *Discorso alla Conferenza internazionale di Vienna*, June 17, 1987.

liberate someone from dependence on drugs.

From the moral point of view, it seems clear to us that the prescription and administration of heroin on the part of medical personnel can be morally licit *only as a provisional step of a program of detoxification and recovery of clear and demonstrated effectiveness*. The purposes only of avoiding possible overdoses or a diminution of the social danger of the phenomenon (a diminution that has yet to be demonstrated) does not morally justify immediate co-operation with a behavior that is so devastating for the person.

Even if it is not a matter of drugs, the substances should also be mentioned, the use or abuse of which is harmful for one's own health or the health of others or which hurt in any way one's own psychological and moral integrity. "The virtue of temperance disposes us to avoid every kind of excess: the abuse of food, alcohol, or medicine"⁹⁶. Among the latter, we should consider pharmaceuticals such as anxiety-relievers and anti-depressives⁹⁷.

7.4 The Virtues Associated with Temperance

7.4.1 *Continnence*

The term "continence" has a variety of meanings. It can signify abstinence from all sexual relations, and then we use the expression 'perfect continence'. Here, by contrast, it will signify a virtue, a potential (or 'associated') part of temperance, which consists in *firmness of the will in resisting vehement passions which concern the pleasures of the table and those of a sexual order*⁹⁸. Aristotle says of it that "it is not a virtue, but rather a kind of mixture of virtue and vice"⁹⁹. It is not a perfect virtue, which temperance is, by contrast, because continence presupposes that our affectivity is not ordered with stability, and that strong passions

⁹⁶ *Catechism of the Catholic Church*, no. 2290.

⁹⁷ For tobacco, see the study by E. H. Prat, "Das Tabakrauchen aus kuturethischer Sicht", *Imago Hominis* 11/1 (2004) 15 – 28.

⁹⁸ Cf. *Summa Theologiae*, II-II, Q. 155, a. 1, *in corpore*.

⁹⁹ Aristotle, *Ethica Nicomachea*, IV, 9 (1128b 33 – 35).

are in existence which incite us to evil. It has something virtuous in it, to the extent that firmness of will is capable of resisting instinctive impulses, and keeps the person from being drawn toward behaviors that are morally negative.

The relationship between temperance and continence, on the one hand, and between intemperance and incontinence on the other, gives rise to interesting theoretical questions. It has been treated in the first volume of this book¹⁰⁰.

7.4.2 *Gentleness or Mildness*

Gentleness is the virtue that governs anger according to the dictates of right reason illuminated by faith. In common with temperance, it has the ability to bring a stable order into the emotions. The difference lies in the emotions to which the virtues refer: temperance is concerned with gluttony and the sexual impulse; gentleness with the emotion of anger.

The Lord, who was foretold by the prophets to be a gentle king¹⁰¹, offers himself as an example of mildness¹⁰². He also makes it one of the Beatitudes¹⁰³, and St. Paul names it as one of the Fruits of the Holy Spirit¹⁰⁴. The action Jesus took with regard to the merchants in the temple of Jerusalem shows, however, that not every angry movement is sinful¹⁰⁵. Only motions of disordered anger are sinful, whether because of their object (against justice, or out of hatred), or because of their intensity or disproportionate expression.

Disordered anger is not only a sin, and a grave one as well, but it can also be a capital vice¹⁰⁶, and cause of many other sins: enmity, violence, contumely, calumny, etc. Vehement motions of anger contain an intentionality that negates the personality and dignity of others. This is why the Lord likened anger to homicide, showing that the latter has one of its roots in it: “You have heard that it was said to your ancestors,

¹⁰⁰ Cf. *Chosen in Christ*, I, ch. VII, subsection 3 b). See also A. Rodriguez-Luño, *La scelta etica. Il rapporto tra libertà e virtù*, (cited above), pp. 127 – 132.

¹⁰¹ Cf. Mt 21: 5.

¹⁰² Cf. Mt 11: 29.

¹⁰³ Cf. Mt 5: 5.

¹⁰⁴ Cf. Gal 5: 22.

¹⁰⁵ Cf. Mt 21:12 – 13 and the parallel texts in the other Gospels.

¹⁰⁶ Cf. *Catechism*, no. 1866.

‘You shall not kill; and whoever kills will be liable to judgment. But I say to you, whoever is angry with his brother will be liable to judgment, and whoever says to his brother, ‘Raca’, will be answerable to the Sanhedrin, and whoever says, ‘You fool’, will be liable to fiery Gehenna”¹⁰⁷.

At the opposite extreme, the absence of just indignation in confrontations with evil is also a defect, which sometimes proceeds from insensitivity or from the desire of sparing oneself the trouble of correcting someone. To make clear that God is not insensible in confrontations with evils committed by humanity, but is at the same time merciful and always ready to forgive, Sacred Scripture says about God that He is “slow to anger and abounding in love and fidelity”¹⁰⁸.

7.4.3 *Clemency*

Clemency is the virtue which inclines the superior, or the person in charge, to lessen, according to reasonable judgment, the punishment due an offender. This virtue also has anger for its object, but with specific reference not so much to the interior emotion as the external expression it has in the superior, who ought to punish according to the requirements of justice and the common good, and never in an outburst of uncontrolled anger.

Opposed to clemency are cruelty and ferocity, hardness of heart in imposing punitive sanctions, or joy taken in the sufferings of the guilty. On this topic the *Catechism of the Catholic Church* has the following teaching: “In times past, cruel practices were commonly used by legitimate governments to maintain law and order, often without protests from the Pastors of the Church, who themselves adopted in their own tribunals the prescriptions of Roman Law concerning torture. Regrettable as these facts are, the Church always taught the duty of clemency and mercy. She forbade clerics to shed blood. In recent times it has become evident that these cruel practices were neither necessary for public order, nor in conformity with the legitimate rights of the human person. On the contrary, these practices led to ones even more degrading. It is necessary to work for their abolition. We must pray for the victims and

¹⁰⁷ Mt 5: 21 – 22.

¹⁰⁸ Ex 34: 6.

their tormentors”¹⁰⁹.

Contrary to this virtue as well is the excess of not applying a penal sanction that is just and necessary for the common good, all circumstances having been considered. Sometimes there are ideological motivations for holding an attitude of indiscriminate laxity in punishing, which is an incapacity to value the importance and necessity for the common good that just order has – the order that the criminal has damaged and that punishment is intended to restore. Likewise to be considered are the negative effects such an attitude of laxity has on fellow citizens: it confirms delinquents in their style of life and discourages the law-abiding, creating in these latter a bitter sense of distrust in the state and leading them into the temptation of taking the law into their own hands. In any case, such omissions always have profoundly unedifying effects, since the ideological motivations adopted are incomprehensible in the final analysis; justice is equally good for everyone, and injustice and crime are neither ‘central’ nor ‘left’ nor ‘right’.

7.4.4 *Modesty and its Forms*

Modesty is the virtue that refuses ostentation and observes moderation in style of clothing and in sports, in bodily behavior and in the desire for knowledge or curiosity. Like temperance, it regulates desires and emotions that generally need restraint, but which are less vehement than the passions that temperance controls and are therefore usually less difficult to keep at bay¹¹⁰.

Moderation of the Desire to Know and of Curiosity — One part of the virtue of modesty is the virtue St. Thomas calls *studiositas*¹¹¹. This virtue regulates the attitude of a person with regard to knowledge, and thereby governs the differing movements of the soul which such an attitude is capable of causing: the desire to know, which leads one to study, to have curiosity, and in the opposing direction, negligence. The desire to know is one of the most natural characteristics of the human being. “All men by nature desire to know”¹¹². The human being seeks

¹⁰⁹ *Catechism*, no. 2298.

¹¹⁰ Cf. *Summa Theologiae*, II-II, Q. 160, a. 1, *in corpore*.

¹¹¹ Cf. *Summa Theologiae*, II-II, Q. 166.

¹¹² Aristotle, *Metaphysics*, I, 1: 980 a 21.

out, and needs the truth. But the actual exercise of knowing needs to be governed with respect to the various circumstances in which it takes place.

The desire to know can become disordered through a variety of causes. It can be directed to the knowledge of useless things or things that are injurious *here* and *now* for the person seeking to know them, which often happens to someone who lets himself be led by curiosity, which can sometimes turn into a true “concupiscence of the eyes”¹¹³. Or it can occur when the investigation is guided by a negative finality, as when someone takes ‘knowing’ to be exclusively a means of dominating others or a way to affirm his own vanity. But knowledge is a means whereby someone transcends himself and enlarges his horizons. A knowledge that encloses someone in an egoistic circle of self-affirmation is a disordered knowledge. This can also happen if we persist in researching things that are beyond our understanding. This is the meaning of the words of the Son of Sirach: “What is too sublime for you, do not seek; do not reach into things that are hidden from you. What is committed to you, pay heed to; what is hidden is not your concern. In matters that are beyond you do not meddle, when you have been shown more than you can understand. Indeed, many are the conceits of human beings; evil imaginations lead them astray”¹¹⁴.

A desire to know that in itself is right, can be carried out in a disordered way. We should not imitate Don Quixote, the character immortalized by Cervantes, who passed his nights reading his books, so that by much reading and too little sleep he ruined his mental health. The desire to know is also disordered if it leads to the use of immoral means, even if the knowledge thereby gained would be worthwhile.

On the other side, it is morally reproachful to lack the motivation to acquire the knowledge necessary for one’s professional work or for the other duties each person has to carry out in life. According to the importance of the matter, and to the evils that laziness in study can cause oneself or others, this can lead to a serious culpability.

Composure of Manners — Modesty has to do also with composure in one’s gestures and way of moving, and with one’s mode of

¹¹³1 *John* 2: 16.

¹¹⁴*Sir* 3: 21 – 24.

self-presentation. “People are known by their appearance; the sensible are recognized as such when first met. One’s attire, hearty laughter and gait proclaim him for what he is”¹¹⁵. An external composure manifests an interior order, and a respect for others. Extremes of affectation or vulgarity should be avoided.

Modesty of Clothing — Modesty of personal apparel is particularly important, and it ought to be suited to one’s age and condition. Virtue requires what is just and balanced, and it knows how to avoid luxury and vanity as well as slovenliness. Sacred Scripture deplores a choice of clothing inspired by a sensual or lustful intention¹¹⁶. The words that Isaiah uses are very expressive when he censures the manifestations of a disorder of the women of his time, that can in substance be found equally among the men: “The Lord said, ‘Because the daughters of Zion are haughty, and walk with necks outstretched, Ogling and mincing as they go, their anklets tinkling with every step, the Lord shall cover the scalps of Zion’s daughters with scabs, and the Lord shall lay bare their heads’. On that day the Lord will do away with the finery of the anklets, the pendants, bracelets and veils, the headdresses, bangles, cinctures, perfume boxes, and amulets; the signet rings, and the nose rings, the court dresses, wraps, cloaks and purses; the lace gowns, linen tunics, turbans and shawls”¹¹⁷.

In the present day, fashion and certain habits regarding clothing commonly bring it about that styles of clothing are worn that are objectively contrary to what is proper, and even scandalous. This is caused more by superficiality and a desire to conform than by any bad intention. But the objective reality remains. And one must reflect upon the fact that many times it is impossible to distinguish clothing worn for less than noble intentions than what is worn without such intentions.

Moderation in games and sports — Another virtue is closely associated with modesty which St. Thomas calls by its Greek name *eutrapelia*¹¹⁸, and which moderates our attitudes and behavior in relation

¹¹⁵*Sir* 19: 29 – 30.

¹¹⁶Saint Thomas holds that whenever an intention like this exists, one can sin gravely: *cf. Summa Theologiae*, II-II, Q. 169, a. 2.

¹¹⁷*Is* 3: 16 – 22. *Cf.* also *1 Tim* 2: 9 – 10.

¹¹⁸*Cf. Summa Theologiae*, II-II, Q. 168, a. 2, *in corpore*.

to sports and games, and relaxation in general. Rest is a necessity for us, and there are many legitimate ways to relax. Nevertheless, it is immoral to immerse oneself in dishonest or completely useless pastimes, whether because they are not suited to the age and condition of the person, or because they involve excessive expenditure or are dangerous to one's health. It makes little sense to let oneself be totally possessed by games or sports, attributing to them an importance they don't have, and going so far as to lose serenity of mind. Sporting activity ought not to go beyond its intrinsic ethical limits. It is always "an activity that is complementary to the development of our personality: an activity that, because it is complementary, cannot be experienced as the ultimate, exclusive purpose of life. In this case, self-satisfaction becomes bound up with physical exercise and is transformed by the cult of the body and its powers into an absolute. Victory can become transformed in this way at the very pinnacle of success, to which the athlete subordinates everything: himself, the meaning of his own life, and his encounters with others"¹¹⁹. Further, an excessive passion for games and sport easily becomes the source, as experience has shown, of serious injuries against charity and justice, of hatred and violence, and of serious sins – by the very banality of their motivation, such sins become all the more detestable and unworthy of the human being.

It is always necessary for adults to provide orientation for the games and rest-times of children. With differences according to their ages, children and youths have need of fresh air, adequate contact with nature and reality, and should socialize with their contemporaries. The use of television and video games needs to be controlled. For adults, too, there is need for moderation in the use of television and computers (considered as means of entertainment). These are means that generally induce a passive attitude and conformist behavior, often present superfluous images, false emotions, unreal situations, empty ideals, and distorted accounts of affairs: in sum, a virtual reality, which, all things being considered, generates terrible frustrations by its daily collision with reality, and brings no help to the balanced development of the personality.

¹¹⁹B. Montanari, "Sport", in F. Compagnoni, G. Piana, S. Privitera, *Nuovo dizionario di teologia morale* (cited), p. 1288 (with bibliography). See also in the same work A. Bondolfi, *Tempo libero*, pp. 1366 – 1371.

7.5 The Virtue of Humility

Humility is a virtue that plays a role of primary importance to the moral and spiritual life. St. Thomas finds a place for it as a part of modesty, and thus as a virtue associated with temperance¹²⁰, in so far as its task is to moderate in accordance with truth the aspirations of man and the sense one has of one's own worth and abilities. St. Thomas is not unaware of the importance of humility¹²¹. "The motive for such a placement comes from the Thomistic system, which takes into consideration neither the virtue's matter nor its subject but rather its mode of acting"¹²², that is to say, the function provided to the person by the emotions to which the virtue refers. The impulses excited in the human being by everything that comes within the region of the desire for self-esteem and of being esteemed by others¹²³, has a fundamental need of restraint and moderation, and that locates this virtue formally in the field of temperance.

The criterion according to which humility regulates such impulses is truth, both in the natural sense (the exact valuation of one's own capacities, etc.) and in the supernatural sense (an adequate understanding of the place assigned to the human being by God in His plan of redemption). St. Paul refers to the latter when he writes to the Corinthians: "Who confers distinction upon you? What do you possess that you have not received? But if you have received it, why are you boasting as if you did not receive it?"¹²⁴, or when he writes to the Romans: "What occasion is there then for boasting? It is ruled out. On what principle, that of works? No, rather on the principle of faith. For we consider that a person is justified by faith apart from the works of the law"¹²⁵. In approaching God, man ought to be conscious of having received everything from Him, the natural gifts and still more the gifts of grace. There is no true justice within us if it is not that very justice through which God renders us just. If someone glorifies himself, let there be no other boast

¹²⁰ Cf. *Summa Theologiae*, II-II, Q. 161, a. 4.

¹²¹ Cf. *Summa Theologiae*, II-II Q. 161, a. 5.

¹²² E. Kaczynski, "Umiltà", in F. Compagnoni, G. Piana, S. Privitera, *Nuovo dizionario di teologia morale* (cited), p. 1394.

¹²³ On these tendencies see *Chosen in Christ I*, Cap. V, subsection 2 c).

¹²⁴ *1 Cor* 4: 7.

¹²⁵ *Rom* 3: 27 – 28.

but in the Cross of Our Lord Jesus Christ¹²⁶. This attitude of humble acknowledgement becomes the other side of the Love of God. If it were to lessen, man would be deprived of grace and be enclosed in his own misery. “God resists the proud, but gives grace to the humble”¹²⁷.

Humility is also the other side of the love of neighbor. He who is conscious of being nothing in the sight of God avoids arrogance and the despising of his or her neighbor, knows how to be understanding of others, even with all their shortcomings¹²⁸. Only someone who thinks he has never made mistakes is horrified at the mistakes of others (“If they had only been like me! . . .”). Profound humility does not inhibit one’s recognition of having received gifts; it is founded on truth, and on true knowledge of oneself. Goodness is seen for what it is, but it should become a motive for thanking God and an encouragement to put one’s own talents at the service of others. The Lord condemns the false humility of the one who hides the talent he has received¹²⁹.

The virtue of humility can easily be misunderstood in a world that exalts power and self-affirmation. The critiques of Nietzsche are well known, who saw in humility and other Christian virtues merely the most refined flower of resentment and hatred, a conception which has been effectively refuted by Max Scheler¹³⁰. Humility is not an expectation of some immediate realization of the diverse dimensions of the human and Christian good. Its importance consists, rather, in preserving from corruption the value of realizations in the order of knowledge, of work, of interpersonal relationships, and even the love of God and neighbor. Pride can ruin everything, even the most spiritual things. The proud man is egocentric, incapable of true love and of any work for the good of others or of society. The arrogant man, incapable of any form of self-transcendence, lives and works for himself alone. He even “loves”

¹²⁶ Cf. Gal 6: 14. The theme is recurrent in the letters of St. Paul.

¹²⁷ James, 4: 6; cf. 1 Peter 5: 5-6 (Prov 3: 34).

¹²⁸ “The Pharisee took up his position and spoke this prayer to himself: ‘O God, I thank you that I am not like the rest of humanity – greedy, dishonest, adulterous – or even like this tax collector’. . . I tell you, the latter went home justified, not the former; for everyone who exalts himself will be humbled, and the one who humbles himself will be exalted” (Lk 18: 11, 14).

¹²⁹ Cf. Mt 25: 24 – 28.

¹³⁰ Cf. Max Scheler, *Resentimento nella edificazione della morali* (Milan: Vita e Pensiero, 1975).

for himself, and is therefore not capable of true love. The various forms of pride give rise to problems and sins, serious sins, in all areas of life: work, family, social relations, spirituality.

It is natural for man to look at himself from the perspective of his worthiness. From an evolutionary point of view, the perception of one's own value begins to pass into the judgment that our peers have of us. The human being has a need of recognition by others. With psychological and moral development, little by little the person acquires the maturity of judgment sufficient to provide him, autonomously, with a realistic image of himself and his capabilities, even if it is not, and never should become, complete indifference toward the evaluations of us that our being and actions might cause to arise in others. To the extent to which one's sense of self-worth depends on a mature and objective judgment, the person is in a position to set up and adjust adequately the various relationships he has with others in all areas of life (family, work, etc.).

Humility should guarantee the correctness of two intertwined tendencies: the desire of being esteemed, in so far as the person succeeds in acquiring a just and balanced detachment with regard to the judgment that others make about him or her; and self-esteem, which guarantees that someone's moderately autonomous sense of his or her own worth is based on a realistic and objective judgment. An excessive dependence on the esteem of others, which is characteristic of weak personalities, allows for phenomena such as an anxiety about being famous, obstinacy and rigidity, vanity, the hypocritical cult of appearances, and even pretending illness to draw the attention and caring of others (hysterical phenomena). Someone who seeks the approval of others above all things instrumentalizes everything (work, friendships, etc.) for this purpose, indulges in inauthentic behavior, excessively conforms to the group and is ready to perform ridiculous actions. It is extremely difficult to communicate with this sort of person, which is why they easily become isolated. They end up with an impoverishment of social relations and an insensitivity to objective values.

On the other hand, when the person has a sufficiently autonomous judgment about his own capabilities, but when this judgment is not objective or does not appear to accept reality, unfounded feelings emerge, either of inferiority and insecurity, or of arrogance and self-sufficiency.

The proud person has a harsh personality that creates conflicts and is sometimes aggressive and violent. Superior to everyone, always right, generously rewarding those who submit, but incapable of love or self-giving. Oversensitive and arrogant, he tends toward narcissism. In the ultimate analysis, this too is a way for a person to become closed in on oneself.

The lack of motivation to exercise oneself in humility has many manifestations, and no one is completely immune from that, to a certain extent. Let me give a few examples taken from the writings of Saint Josemaría de Escrivá: “Allow me to remind you that among other evident signs of a lack of humility are:

- *Thinking that what you do or say is better than what others do or say;*
- *Always wanting to get your own way;*
- *Arguing when you are not right or – when you are – insisting stubbornly or with bad manners*
- *Giving your opinion without being asked for it, when charity does not demand you to do so:*
- *Despising the point of view of others;*
- *Not being aware that all the gifts and qualities you have are on loan;*
- *Not acknowledging that you are unworthy of all honor or esteem, even of the ground you are treading on or the things you own;*
- *Mentioning yourself as an example in conversation;*
- *Speaking badly about yourself, so that they may form a good opinion of you, or contradict you;*
- *Making excuses when rebuked;*
- *Hiding some humiliating faults from your director, so that he may not lose the good opinion he has of you;*

- *Hearing praise with satisfaction, or being glad that others have spoken well of you;*
- *Being hurt that others are held in greater esteem than you;*
- *Refusing to carry out menial tasks;*
- *Seeking or wanting to be singled out;*
- *Letting drop words of self-praise in conversation, or words that might show your honesty, your wit or skill, your professional prestige. . .*
- *Being ashamed of not having certain possessions . . .*¹³¹

*The importance of the virtue of humility, in the last analysis, consists in its preserving the basic orientation of a person toward values and love. If such a direction is not sufficiently guaranteed, even what appears to be a virtue cannot be one in reality. The greatest difficulty that humility encounters is that the tendencies that it ought to regulate cannot be simply suppressed or oppressed by the will. They have to be educated, in a way that is adequate to the human and Christian reality of each person – realities that should be open to participation, service and love. It is impossible to absolutely stop regarding oneself, but it is possible to learn to do it with an attitude that combines objectivity with a sense of humor (not taking oneself too seriously), in such a way as not to lose the perception of what is outside of us and of what is above us, since what we are and what we do acquires its true value outside of us and above us*¹³².

¹³¹St. Josemaría Escrivá, *Furrow* (New York: Scepter Publishers, 1986), no. 263.

¹³²We have repeated here some observations made in A. Rodríguez-Luño, *Ética General* (cited), pp. 250 - 253.

Chapter 8

Chastity

8.1 Introduction

*Chastity is the moral virtue that brings about the positive integration of sexual impulses and behavior in the person*¹. In the system of the virtues, chastity is a species (one of the subjective parts) of temperance. Many biblical, anthropological, historical and theological considerations discussed in the previous chapter on temperance are valid for it.

The bibliography on the medical, psychological, pedagogical, anthropological and philosophical aspects of sexuality is immense². Such aspects of sexuality will not be the immediate object of our study, which will take shape within a moral-theological perspective, directed to understanding the meaning of sexuality and the criteria for its right exercise in the light of God's plan, as known to us through Revelation. This does not mean, as we have mentioned³, that everything said in what follows presupposes faith, or is valid only for believers. Revelation makes known to us above all the design of God the Creator for man and woman, as carved in the depth of any human heart. Illustrating the well-known Pauline argument, "they show that the demands of the law are written in their hearts, while their conscience also bears witness and their conflicting thoughts accuse or even defend them"⁴. Another problem is that

¹Cf. *Catechism of the Catholic Church*, no. 2337.

²For a first orientation on the problematic, bibliography, and lines of research to be taken on such aspects see G. Russo, (ed.), *Enciclopedia di bioetica e sessuologia*, (Torino: Elledici, Leumann, 2004).

³See Chapter One, section three.

⁴*Rom* 2:15.

only natural forces are supposed to be enough to guarantee the observance of the good and the refusal of bad. The difficulties that sexual ethics encounters today are eloquent in this respect.

History shows that the rational control of one's own impulses has never been an easy task for human beings. In addition to this practical difficulty, there is a widespread culture today for which sexuality is merely a consumerist object, something fundamentally hedonistic and individualistic in nature, something dissociated from commitment, from loving gift, from procreation. There are multiple elements and social conditions to be found at the root of this culture. The philosophies of "sexual revolution" (W. Reich, H. Marcuse, A. Comfort), the wider contact between women and men in adolescence and in professional life, the excessive prolongation of adolescence in the social sense, by which sometimes there are too many years intervening between physical maturity and the social and economic emancipation necessary for being in a position to start a new family, the easy technical possibility of separating sexuality from procreation, the massive invasion of market logic into the realm of sexuality (publications, movies), with the resultant commercialization of the human body and the diffusion of nearly obsessive attitudes toward sexuality⁵.

It is necessary, on the other hand, to realize that human sexuality is a very complex reality, whether from the biological or the psychological or the moral point of view. On these three levels there is a plurality of elements, among which it is not always easy to achieve an adequate integration and even a minimum of equilibrium. One only has to think, for example, of the serious psychiatric problems that arise from an inadequate correspondence between sexual psychological identity and one's genetic and gonadic sex (transsexualism), or the problems that medicine must confront when the gonadic structure is ambiguous or does not completely match the genetic and psychological sex. Even from

⁵Recent studies of sexual ethics offer a synthetic vision of the elements and conditions that have given rise to this culture. See, for example, C. Bresciani, "Sexualidad, matrimonio, familia", in L. Melina, ed., *El actuar moral del hombre. Moral especial*, (cited above), pp. 167-169; H. Weber, *Teologia morale special. Questioni fondamentali della vita Cristiana* (Cinisello Balsamo: San Paolo, 2003), pp. 262- 273 and 310 – 312; L. Ciccone, *Etica sessuale. Persona, matrimonio, vita verginale* (Milano: Ares, 2004), pp. 28 – 52. With regard to the psychoanalytic perspective, see A. Lambertino, *Psicoanalisi e morale in Freud* (Napoli: Guida, 1987).

an anthropological and ethical point of view, human sexuality contains a multiplicity of meanings and values, rooted in the value of the person as such, which must be harmoniously developed in order for sexuality to accompany a person's path to maturity and not disturb the ethical quality of inter-personal relations.

8.2 Sexuality and Matrimony in Sacred Scripture

Sacred scripture, as the Word of God, offers a general vision of God's design for man and woman, within which an ethics of sexuality has its place. It is here viewed holistically, from the point of view of the relationship between the couple and God and the insertion of this relationship in the mystery of salvation. In his valuable presentation of the biblical message, Grelot proposes a consideration that will help us understand correctly what we will be saying in this chapter. "Like anything that enters into human existence, sexuality is part of the universe created by God, fallen into decline by human fault, and rescued by divine mercy. Thus we find ourselves at a place where three forces meet: the tendency of creation towards the end assigned to it by the Creator; the force of sin which takes it in a contrary direction, and what is worse, destroys it; and the force of grace which brings it back to the divine order in the mystery of Christ"⁶. In order to interpret properly what Sacred Scripture – especially the Old Testament – says about the human couple, it cannot be forgotten that the facts of the narrative are permeated with a double tension: the tension between creation and sin which disfigures

⁶P. Grelot, *La coppia umana nella Sacra Scrittura* (3rd ed.; Milan: Vita e Pensiero, 1987), p. 6. We will draw on this excellent synthesis in the pages that follow. For a more detailed study, one should consult the biblical studies included in the volume by P. J. Viladrich and J. Escrivá-Ivars (eds.), *Teología del cuerpo y de la sexualidad. Estudios exegéticos para una teología bíblica del cuerpo y de la sexualidad humana*. Instituto de Ciencias para la Familia (Universidad de Navarra) Madrid: Rialp, 1991). Of great importance for our theme is also John Paul II, *Man and Woman He Created Them: A Theology of the Body* (2nd ed., trans. M. Waldstein; Boston: Pauline Books and Media, 2006). A useful introduction and guide to the reading of John Paul II's catechism is L. Ciccone, *Uomo – donna. L'Amore umano nel piano divino. La grande catechesi del mercoledì di Giovanni Paolo II* (Torino: Elledici, Leumann, 1986).

it, and the tension between the human reality that has been deformed by sin, and the redemption that will heal and integrate that reality into the Kingdom proclaimed by Christ.

8.2.1 *The Old Testament*

The assertions of the Old Testament need to be seen within the context of the cultural and religious atmosphere of the peoples that surrounded Israel. The religious thought of Mesopotamia, Syria and Canaan made human sexuality sacred through the familiar methods of myth and ritual. In the myths, divinity appears as a group of gods and goddesses who go as couples, and their stories constitute the various archetypal aspects of man-woman relationships: fecundity, passionate love, matrimony. Under various names we see presented the figures of the god-father, the goddess-mother, the goddess lover, etc. The polytheistic conception permits the dissociation of the three essential aspects of fecundity, love, and matrimony. Each aspect is sacralized on its own account. There is no integration into an institution like matrimony as the exclusive condition of morally good love and fecundity⁷. Even the rituals (rituals of fecundity, sacred prostitution as a cult of the lover-goddess, hierogamy or “marriage of divinities”, etc.) carry out the same dissociation on the plane of actions by which human beings unite with the divine and share in the capacity of loving and procreation. *The dissociation of the various dimensions of human sexuality follow paganism and neo-paganism like the shadow of a body in the sun.*

Biblical revelation brings a radical break with the religious thought implicit in the pagan myths and rituals. Jahweh is the only God, and does not have a feminine consort or other accompanying divine forces. He is Father, but there is no mother-goddess. Myths and rituals that sacralize sexuality are absent. Human life does, of course, have a sacred value for biblical revelation, but it has a different meaning, which can be taken from the two creation stories of the man and the woman⁸. The

⁷Cf. P. Grelot, *La coppia umana nella Sacra Scrittura* (cited in previous note), pp. 9 – 16.

⁸Cf. G. Aranda, *Corporiedad y sexualidad en los relatos de la creación*, in P. J. Viladrich, J. Escrivá-Ivars, eds., *Teología del cuerpo y de sexualidad. Estudios exegéticos para una teología bíblica del cuerpo y de la sexualidad humana* (cited above), pp. 19 – 50.

Yahwist account of *Genesis* 2, the more ancient one, makes clear that the original solitude of the man is not good⁹, and sets into relief the harmony of the two companions, who have equal dignity. The woman is not an object of possession. The man will unite with her, so that the two will become one flesh¹⁰. By this expression “one flesh”, the sacred author “sees in a very realistic way the corporeal union in which love finds its consummation, but it also serves to evoke concretely a reality transcending that: *the association of two beings that will now be one*. The man’s *affection* must lead to this; the act that makes of him and his wife *a single flesh* does not have meaning in and of itself, but is intended to signify this joining of beings”¹¹. Sexual union expresses a more profound union in which the entire lives of the man and woman are co-involved. The story of *Genesis* 1 gives evidence of monogamy, of equal dignity, of the dominion of man over the land and over the animals. Fecundity is especially emphasized, as the gift of God, the fruit of his blessing, and the object of a true vocation: the purpose for the creation of the sexes. Sexuality is a work of God, and as such, it is good.

The source and cause of the sacrality of matrimony, of love between man and woman, and of fecundity, is therefore the creative word of Yahveh. Instead of a divine, archetypical marriage, there is a human prototypical marriage, created by God, which remains present as the model to be followed. “In it, the various aspects of sexuality are no longer dissociated, as happens in the pagan myths. They are re-united in an institution that as an excelling part of creation sanctifies the use of sexuality, including in it both love and fecundity, and excluding from it all sexual aberrations (such as homosexuality or bestiality)”¹². Sexuality does not become sacred by way of rituals, but through the only means willed by God, which is monogamous matrimony (the two become one flesh), object of his blessing and his grace, and in which sexuality has a double significance: to seal in the flesh the interpersonal rapport between the spouses and to permit them to exercise their social functions by way of procreation”¹³.

⁹ Cf. *Gen* 2:18, and cf. also John Paul II’s commentary.

¹⁰ Cf. *Gen* 2:24.

¹¹ P. Grelot, *La coppia umana nella Sacra Scrittura*, p. 133.

¹² *Ibid.*, p. 30.

¹³ Cf. *ibid.*, pp. 30 – 31.

*The sin of the first parents destroys the original rapport between man and God, and as a consequence, the original rapport between the man and the woman and between man and the world (labor or work)*¹⁴. The relationship of communion and mutual giving is degraded to become merely a relationship of possession and the object of concupiscence. The gift of fecundity is not withdrawn, but it changes. The body, sexuality, conjugal communion are all in need of redemption¹⁵. Liberation from sin and its consequences will take place gradually, and in such a perspective, the Law of Moses represents the first stage of that process and a significant reduction of evil. At the same time, the Law still concedes much to the hardness of the human heart¹⁶ (repudiation of one's spouse, tolerance of polygamy, a certain inequality between man and woman with regard to conjugal fidelity, etc.). Together with some ideal couples (Abraham and Sara, Isaac and Rebecca, etc.), the sacred books exhibit with full realism the deformations of the man-woman relationship caused by sin (David and Bathsheba, Onan and Tamar, Solomon).

*The prophetic teaching introduces a new theme*¹⁷, moving from the human experience of the couple (matrimony, fecundity, love) to the level of the covenant between God and his people. The pact acquires emotional overtones: Israel and their God are bound together in heart, and not just by law. The infidelity of Israel is illustrated through the drama of a human couple. But here, one of the spouses is God himself, whose love, fidelity and affection are absolute and immutable. Love remains even when chastisement occurs, and asks pardon for it. Redemption will reveal the Spouse's love to the fullest. In prophetic preaching, the covenant between God and his people is developed in two stages: the imperfect stage of the covenant at Sinai, in which human infidelity seems to be at home, and the perfect stage of the eschatological covenant. This twofold plan throws light, in retrospect, upon the reality of the human couple taken as a point of departure. Only with the announcement of

¹⁴Cf. *Gen* 3:16-19.

¹⁵Cf. *Gen* 3:15.

¹⁶Cf. *Mt* 19:8.

¹⁷Cf. S. Ausín, "La sexualidad en los libros proféticos. Aportación de las profetas al concepto bíblico del hombre varón y mujer", in P. J. Viladrich, J. Escrivá-Ivars, eds., *Teología del cuerpo y de sexualidad. Estudios exegéticos parap una telogia del cuerpo y de la sexualidad humana*, (cited above, note 6), pp. 51 – 106.

the Kingdom by Christ will human love as lived in matrimony recover its original characteristics: unity in love, fecundity and indissoluble perpetuity¹⁸. In Christ's testimony, the ideal of matrimony will be refined in post-exilic Judaism, especially with regard to divorce¹⁹, even while the Law of Moses remains in force.

8.2.2 *The New Testament*

*The teachings of Jesus on marriage as transmitted by the Gospels, show in concrete terms how the Law of Christ brings the Old Law to completion*²⁰. With his reference to "the beginning", and therefore to an original prototype, Jesus refreshes the Creator's plan for matrimony, by proclaiming its absolute indissolubility, which applies equally to the male: "The Pharisees approached and asked, 'Is it lawful for a husband to divorce his wife?' They were testing him. He said to them in reply, 'What did Moses command you?' They replied, 'Moses permitted him to write a bill of divorce and dismiss her.' But Jesus told them, 'Because of the hardness of your hearts he wrote you this commandment. But from the beginning of Creation, *God made them male and female. For this reason a man shall leave his father and mother and the two shall become one flesh.* So they are no longer two but one flesh. Therefore what God has joined together, no human being must separate.' In the house, the disciples again questioned him about this. He said to them, 'Whoever divorces his wife and marries another commits adultery against her; and if she divorces her husband and marries another, she commits adultery'"²¹. Conjugal fidelity has also to do with one's heart and with one's thoughts: "But I say to you, everyone who looks at a woman with lust has already committed adultery with her in his heart"²². It is from the heart of man that acts of fornication and adultery proceed, and the impurities that

¹⁸ Cf. P. Grelot, *La coppia umana nella Sacra Scrittura*, pp. 50 – 61.

¹⁹ Cf. *Mal* 2: 14-16.

²⁰ Cf. *Mt* 5: 17. For a general account of the sexual ethics of the New Testament, cf. R. F. Collins, *Sexual Ethics and the New Testament* (New York: Crossroads Publishing Company, 2000).

²¹ *Mk* 10: 2 -12. Cf. *Mt* 5: 31 – 32; 19: 3 – 9; *Lk* 16: 18. The two texts of Matthew contain the clause about *porneía*, the interpretation of which is disputed. We will return to this question below.

²² *Mt* 5: 28.

infect it²³. The vision of God has been promised to the interior purity of the heart, as opposed to exterior ritual purity²⁴.

The Lord brings matrimony to its definitive perfection, but does this in such a way as to allow us to see something still greater than it. He teaches that marriage is a reality only in this world: “At the resurrection they neither marry nor are given in marriage but are like the angels in heaven”²⁵, explains the decision not to marry for love of the kingdom of heaven²⁶, and promises the hundred-fold reward for those who have given up their wives, parents, family, etc. for the sake of the kingdom²⁷. The superior value of this way of life has been recognized and continued by the Church to the present day. As Grelot writes, “Voluntary continence anticipates the state which we all will enter, after the resurrection of the body. For this reason, it has the function of a sign: testimony that the kingdom of God is not only a future reality that will come to be *on the last day*, but that it is also a contemporary reality, since with regard to sexuality, the human person already lives the mystery in its fullness, as far as permitted to the bodily creature that he is. This is the meaning of the celibacy of Christ, and those who want to follow him in this regard must give that same meaning to their personal celibacy”²⁸.

*The Letter to the Ephesians (5: 22 – 33) present the mystery of Christ and the Church as a nuptial mystery, thereby casting a new light on the Christian life, whether led in matrimony or celibacy*²⁹. This text, with remarkable complexity, illustrates by way of two analogies (spouse - spouse, head - body) the insertion of Christian marriage within the saving mystery of the union between Christ and the Church³⁰. Catholic

²³Cf. Mk 7:20 - 23.

²⁴Cf. Mt 5: 8.

²⁵Mt 22: 30.

²⁶Cf. Mt 19: 12.

²⁷Cf. Lk 18: 29-30.

²⁸P. Grelot, *La coppia umana nella Sacra Scrittura*, p. 87.

²⁹Since we are presently engaged in sketching a holistic vision, we can leave aside for the moment any particular questions, such as the relation between this passage of *Ephesians* and the vision of marriage in *1 Cor*.

³⁰On this passage of *Ephesians* cf. H. Schlier, *La lettera agli Efesini*, 2nd ed. (Brescia: Paideia, 1973); H. Baltensweiler, *Il matrimonio nel Nuovo Testamento. Ricerche esegetiche su matrimonio, celibato e divorzio* (Brescia: Paideia, 1981), pp. 251 – 270; John Paul II, *Man and Woman He Created Them* (cited above, note 6) pp. 343- 368; R. Penna, *La Lettera agli Efesini* (Bologna: EDB, 1988); C. Basevi, “La corporeidad y la sexualidad humana en el ‘Corpus Paulinum’”, in P. J. Viladrich, J. Escrivá-Ivars, eds., *Teología del cuerpo y*

tradition has drawn on this passage to provide a theological explanation of the sacramentality of marriage between baptized persons as well as to clarify some of the reasons for priestly celibacy. Marriage is revealed as a real participation in the mystery of the union of Christ and his Church. “Matrimony reproduces and preserves the relationship of Christ to the Church and of the Church to Christ”³¹. On the one hand, we can say that conjugal love makes present the saving communion of Christ and the Church, and on other hand, that the presentation of Eve to Adam for corporeal union and thereby for the institution of matrimony, really implies, although only in an embryonic way, the presentation of the Church to Christ, in order to become one body with him³². As Schlier puts it, “This relationship between Adam and Eve which preserves in a foundational way the redemptive relationship between Christ and the Church and refers to it, is made real, according to the will of God, in every marriage. This is because in every earthly marriage – in so far as it is such, and therefore independently of any consciousness that the contracting parties might have of such a relationship, and independently of whether or not the couple assents to it – the divine will for creation is actualized. Not only that: by actualizing this will, there is also actualized the will for redemption that lies hidden within it, so that not only is the relationship of creation between Adam and Eve realized, but also, and properly, the relationship of redemption between Christ and the Church that is foreseen in it”³³.

In virtue of the ontological participation of baptized spouses in the redemptive and nuptial relationship of Christ which makes conjugal love present and elevates it, it can be affirmed that *the love with which Christ was given to the Church in an exclusive, perpetual and fecund union, and the giving in which the Church responds to that love of Christ, constitute the theological norm and model of conjugal love and of the relationship between spouses*. Matrimony in this way is not only a mode of partici-

de la sexualidad. *Estudios exegéticos para una teología bíblica del cuerpo y de la sexualidad humana*, pp. 401-414; M. P. García, *El matrimonio en la dimensión de la Alianza y de la gracia. Una reflexión sobre la sacramentalidad del matrimonio a la luz de la Catequesis de Juan Pablo II sobre el amor humano*, (Rome: Instituto Pontificio Juan Pablo II, 1994).

³¹H. Schlier, *La lettera agli Efesini*, (cited in note 30 above), p. 401.

³²*Cf. ibid.*, p. 441.

³³*Ibidem*.

pation in the mystery of Christ and the Church, but is also a vocation to live in conformity with the dignity of such a mystery. By definition, marriage is a path of Christian sanctity³⁴.

8.2.3 *The Preaching of St. Paul against “Porneia”*

The concrete ethical consequences of the concept that has just been explained came into the light of day hand in hand with the increasing contact of the Gospel message with the Hellenistic cultural environment. The faithful of the communities founded by Saint Paul were very well aware that their adherence to the teaching of the Apostle required a moral transformation – just as it had required among themselves – a change in life’s direction that was characterized, among other things, by the abandonment of idolatry and of “porneia”³⁵. *1 Titus* 4: 1-5 clearly affirms that *the precepts of the Lord transmitted by Paul required the rejection of every form of impurity (porneia)*. *1 Cor* 6:8-10 mentions some of the behaviors and manners that were incompatible with the Kingdom of God, and adds: “That is what some of you used to be [*i.e. fornicators, idolaters, adulterers, boy prostitutes, sodomites, thieves, drunkards: cf. 1 Cor* 6: 9-10]; but now you have had yourselves washed, you were sanctified, you were justified in the name of the Lord Jesus Christ and in the Spirit of our God”³⁶. *Eph* 4: 17 – 19 also opposes Christian purity to the way of life of the Gentiles, who are “callous, and have handed themselves over to licentiousness for the practice of every kind of impurity to excess”³⁷.

There is an extensive doctrine throughout the Pauline corpus that can be summed up as saying: “Avoid porneia”³⁸. This term is full of significance and comprises all impurity and sexual relationships outside of

³⁴This perspective has been fully developed by Saint Josemaría Escrivá in “Marriage, a Christian Vocation”, in *id.*, *Christ is Passing By* (New York: Scepter Press, no date given), nos. 22 – 30. See also M. P. Río García, *El matrimonio en la dimension de la Alianza y de la gracia. Una reflexión sobre la sacramentalidad del matrimonio a la luz de la Catequesis de Juan Pablo II sobre el amor humano* (cited in note 30 above).

³⁵For an account from the sociological point of view, even with all its limitations, one should see W. A. Meeks, *The First Urban Christians: The Social World of the Apostle Paul* (New Haven: Yale University Press, 1983), esp. Chapter 2.

³⁶*1 Cor* 6:11.

³⁷*Eph* 4:19.

³⁸*Cf. 1 Cor* 6:18.

marriage³⁹, that is to say, outside of the conjugal perspective treated in *Ephesians*. In almost every letter of the *corpus Paulinum* can be found an exhortation to avoid behaviors of illegitimate sexuality⁴⁰, now looked upon as actions that exclude one from the Kingdom of God. Explicit mention is made of adultery, fornication and impurity, homosexuality (both masculine⁴¹ and feminine⁴²) and prostitution⁴³. The general principle that regards treating the body in terms of sanctity and not of passion will be capable of application to other problems: “The criterion of comprehensiveness requires us to conclude that even auto-eroticism belongs among those vices upon which St. Paul, as a teacher of the faith, pronounces a reproving judgment”⁴⁴. The same can also be said for pre-marital relations⁴⁵.

The Pauline argumentation in 1 Cor 6 is in an open conflict with those who think that sexuality is a function that can be carried out on the same level as eating and drinking. But, Paul affirms, the body is for the Lord and is the temple of the Holy Spirit. The body “belongs to the Lord as one of his members, and it would be monstrous to join it to a prostitute because he will become *one body with her* (1 Cor 6: 12 – 20). This false couple, founded only on passion, *would abase and profane* the temple of the Holy Spirit that we are; by contrast, the true couple, in conformity with the Christian rule, can legitimately use the flesh without turning their backs on sanctity”⁴⁶. Conjugal love is chaste because it assumes a self-giving attitude in the spouses and

³⁹Cf. H. Reisser, under “porneúo” in L. Coenen, E. Beyreuther, H. Bietenhard, *Dizionario dei concetti biblici del Nuovo Testamento* (cited), pp. 1133 – 1137; S. Zedda, *Relativo e assoluto nella morale di San Paolo* (Brescia: Paideia, 1984), p. 68; J. D. G. Dunn, *La Teologia dell’ apostolo Paolo* (cited), p. 140.

⁴⁰Cf. *Rom* 1:24 – 27; 13: 9, 13; *1 Cor* 5: 1-5, 10; 6: 9-20; 10: 8; *2 Cor* 7:1; 12:21; *Gal* 5: 19; *Phil* 3: 18-19; *Col* 3:5; *1 Titus* 4: 3-5; *Eph* 5: 3-5; *1 Tim* 1: 10.

⁴¹Cf. *1 Cor* 6:9; *1 Tim* 1:10.

⁴²Cf. *Rom* 1: 21 – 32, and especially 24 – 27.

⁴³*1 Cor* 6: 12-20.

⁴⁴S. Zedda, *Relativo e assoluto nella morale di san Paolo* (cited note 39 above).

⁴⁵“According to St. Paul, that which, unlike a relation of prostitution, sanctifies matrimony and permits the conjugal union between two bodies to be integrated in a union with the body of Christ, is the relationship of the Body of Christ with the Church, and it is very difficult to think that this would apply to two engaged persons joining in matrimony before their union was publicly accepted by the Church, the Body of Christ.” (S. Zedda, *Relativo e assoluto nella morale di San Paolo* (cited above), p. 119.

⁴⁶P. Grelot, *La coppia umana nella Sacra Scrittura*, (cited above, note 6), p. 84.

not an egotistical one. The husband loves his wife as Christ loved the Church and gave himself for her⁴⁷. In the beginning, God called the human couple into existence in the image of Christ and the Church, as a community of persons destined to give of themselves reciprocally and to participate in the creative power of God. Through its reference to the mystery of Christ and the Church, human sexuality is sacred, and expresses the vocation of man and woman to self-giving.

We can say, in summary, that *the exercise of the sexual faculty is in conformity with the plan of God only within the indissoluble, perpetual and fertile union between husband and wife, which signifies the salvific union between Christ and the Church. This is the fundamental principle of sexual ethics. In such a context, the exercise of sexuality is a path and instrument for sanctity.* Any other form of the exercise of sexuality is condemned by Paul as *porneía* or *akatharsía*⁴⁸.

8.3 The Structure and Fundamental Meanings of Human Sexuality

From the perspective of a general anthropological reflection, sexuality appears as an area of life where a variety of values and meanings intersect with one another, and profoundly influence our responsibility⁴⁹. The reason for this is that the values inscribed in sexuality are closely bound up with the value of the human person. Concepts so distinctly different as *reproduction and copulation*, on the one hand, and *procreation and conjugal communion* on the other, are applied to two realities – animal sexuality and human sexuality – that are essentially identical from the biological point of view. The moral and psychological distinctiveness of the second reality emerges when it is considered as an existential dimension of the human person and not exclusively as the biological function of reproduction or as a source of satisfaction and pleasure.

The relationship between sexuality and the human person and the

⁴⁷Cf. Eph 5: 25.

⁴⁸Cf. S. Zedda, *Relativo e assoluto nella morale di San Paolo*, pp. 69 – 70 and 73 – 75.

⁴⁹In this section I am repeating, with some modifications, what I wrote in A. Rodríguez-Luño and R. López Mondéjar, *La fecondazione “in vitro”. Aspetti etici e morali* (cited in Chapter V, note 113).

value of the human person is manifested at various levels. And nevertheless it is complex in itself. Sexuality impinges on the human person, above all, in so far as it is in sexual activity that the conditions are realized for beginning the *existence* of a new personal being. Then, in relation to a person already in existence and considered as permanently belonging to one sex, sexuality further characterizes the subject profoundly, from various points of view: physical, psychological, social and finally spiritual. Since the person is contained in and permeated by sexuality in some sense, its exercise affects the person in his or her totality and can be a vehicle and sign of a complete personal donation, which is required from the love that gives life to the most basic and stable form of human society: the matrimonial family.

In human sexuality, therefore, is to be found the intersection of various aspects, all of particular importance. We will inspect each one of these in our analysis, and then proceed to a synthesis.

8.3.1 *Sexuality and Procreation*

That the sexual impulse, understood as the attraction to the opposite sex, has for its intrinsic finality the transmission of life, is clearly undeniable in a general biological perspective. The conservation of the many animal species strictly depends on the sexual impulse. The subsistence of humanity is likewise linked to sexual inclination. And existence is the most basic good of mankind, the presupposition for all the manifestations and actualizations of a human being. All human works, the products of their ingenuity and their skills, the fruits of their art and their moral stature have as their essential condition that a human being exist, that a genius, a technician, an artist, a saint – exists⁵⁰. *The special value of human sexuality is manifested in this way, by its being ordered to the origination of the human person, a being that is of greater value than the visible universe, with a meaning complete in itself, and therefore not merely an instance of a species.*

This fact, although obvious, determines of the personal values of human sexuality. *Its objective meaning is not in the first place biological,*

⁵⁰Cf. K. Wojtyła, *Love and Responsibility*, trans. H. T. Willets (San Francisco: Ignatius Press, 1993), pp. 51-57, for the ordering of the sexual tendency to existence.

but existential. Its value does not emanate from the biological order: it flows from the order of existence. “The expressions ‘the order of nature’ and ‘the biological order’ must not be confused or regarded as identical: the ‘biological order’ does indeed mean the same as the order of nature but only in so far as this is accessible to the methods of empirical and descriptive natural science, and not as a specific order of existence with an obvious relationship to the First Cause, to God the Creator”⁵¹.

The relationship between human sexuality and the divine work of creation can be understood on the basis of a few simple ideas. Man is the only creature God has willed for its own sake. This implies that the person that comes into existence has been thought of and directly willed by God, who creates by reason of wisdom and love, and not through some necessary process of cosmic instinct⁵². No person, therefore, is the result, whether through chance or necessity, of a biological mechanism. At the origin of every rational being is to be found a divine decision and a project⁵³.

⁵¹K. Wojtyła, *Love and Responsibility* (see note above) pp. 56-57. The distinction between the biological order and the order of existence is very clear in itself, but can present some difficulties of comprehension for a mindset that is rather widespread today. Two elements predominate in this mentality: first, empiricist reductionism, which does not admit any philosophical or metaphysical use of reasoning, and consequently reduces rational activity exclusively to the ordering and systematization of sensible data. From this follows the second element: a very deterministic concept of nature, whereby nature is not understood as the handiwork of God but as an object of mechanical science (in the eighteenth century) or as the object of (today’s) physical sciences. This concept of nature formally means only the lawfulness or regularity of spatio-temporal phenomena (Cf. Kant, *Critique of Pure Reason*, B 165); in this sense, it can be said that the human intellect produces and has mastery over nature (i.e., *natura formaliter spectata*: because the intellect formulates the regularity that permits the positive-scientific comprehension of nature, not because the mind materially produces physical things). Moral philosophy does not employ the term nature in this sense. On these two meanings of the concept of nature cf. G. Martin, *Science moderne et ontologie traditionnelle chez Kant* (Paris: PUF, 1963). Aside from pointing out the existence of these different senses of the term “nature” – a question of fact only a beginner could be unaware of – it is necessary to ask ourselves about the legitimacy of the modern concept of nature and the empiricist reductionism that sustains it. It seems to me that the concept is particularly illegitimate, precisely to the degree that it is not, in fact, “empirical”; that is, to the extent that it does not sufficiently respect undeniable human experience, as for example the difference between *reproduction* and *procreation*.

⁵²This affirmation is compatible with a variety of philosophical positions, provided they are not rigorously atheistic. The Supreme Being works via intelligence and love: if it were not so, such a being would be inferior to the human being, which would be contradictory.

⁵³This perspective has been carefully developed by C. Caffarra, “La trasmissione della vita nella *Familiaris consortio*”, *Medicina e Morale*, 33/4 (1983) 391-392.

*The procreative capacity inscribed in human sexuality thereby shows its profound meaning as the capacity to cooperate with God, “who shares with us his creative power”⁵⁴. The explanation offered by Caffarra seems very clear: “We openly affirm that the conception of a human person is the consequence of a decision, usually a free one, of two human persons, a man and woman, to activate the capacity that is, in fact, inscribed in their sexuality. And it is the task of each of the various scientific disciplines to describe what happens when this capacity of the man and the woman are put in action. But there is a point of view that is much more profound than that of the sciences: a perspective in the light of which the procreative capacity is disclosed as a capacity to cooperate with God himself in giving an origin to a new person; it is more a *concreative capacity* than a procreative one. In every human conception two powers are mysteriously, but really, combined: the creative power of God and the concreative power of the man and woman”⁵⁵.*

To sum up: *the connection with human existence is an immanent finality, and a meaning that is constitutive of human sexuality.* This finality and this meaning are an object of absolute respect and not of dominion, just as the new personal subject that can come into existence as the consequence of a sexual encounter is an object of absolute respect and not of dominion. The dignity and value of sexuality are increased when sexuality is understood as the vehicle of the creativity of divine love and human love or, if you prefer, it is where an action takes place that is God’s alone: the elevation of the human procreative act to the divine order of creation.

8.3.2 *Sexuality and Conjugal Communion*

The procreative aspect does not exhaust the meaning of human sexuality. One of the characteristics that specifically distinguish human from animal sexuality is that the former is not only ordered to the transmission of life, but also to reciprocal love, to communion. *With sexuality the possibility is opened for a new and unique realization of human love.* From the ethical point of view, it must be said that this fact corresponds

⁵⁴Saint Josemaria Escrivá, *Christ is Passing By*, no. 24.

⁵⁵C. Caffarra, *La trasmissione della vita ...*, (cited above) pp. 391-392.

to a true necessity. Things cannot be otherwise, considering that sexual activity represents a point of encounter not between *two sexes*, but between *two persons of different sex*. And for the encounter of persons, love is the only appropriate attitude.

Human sexuality presupposes an interpersonal relation founded upon love, and to the extent that it is such, it possesses a second dimension that is both significant and axiological: its unitive meaning, i.e., its value as communion. This consists in the fact that the sexual union, at the same time as it completes or consummates a previous emotional and spiritual union (love as *dilectio*), becomes the expression whereby a man and a woman give themselves to one another in a way that is *total, exclusive, and definitive*, and this is carried out in the presence of *their own consciences, before God, state and society*. In the light of this meaning, physical union acquires a new reason for positive value if, and only if, it is an integral part of the love by which the man and woman commit themselves reciprocally and totally until death. Since sexuality is an existential dimension that includes the human person in his or her totality, and thereby acts to express and consummate a total and reciprocal donation, a physical donation would be intrinsically false and lying if it did not correspond to a previous, complete affective and spiritual donation, from which every kind of present or future reservation is excluded, and in virtue of which the man and woman – before they become one flesh – are one heart, one soul, one life, one destiny.

This peculiar and specific characteristic of human sexuality indicates that man and woman, in addition to being called to transmit life, are called to communion and self-donation through love. Sexuality is superior to the order of having – the order of things that are possessed and used – because in reality it constitutes a mode of being of the person: self-giving, and being called to an interpersonal communion⁵⁶.

The authentic realization of this vocation constitutes a positive value in and of itself that will be grasped more profoundly if we keep in mind that by way of it one acquires a new mode of similarity to the divine nature. God is love: having created man according to his own image and likeness, he has created him for love and has destined him to love. The human vocation to love and to interpersonal communion is a reflection

⁵⁶ Cf. *ibid.*, pp. 392 – 393.

of the mystery of personal communion and love that is the life of God Himself. In harmony with his condition of being an incarnate spirit, man corresponds to this vocation with his soul and body in such a way that spiritual love extends all the way to the body, and the body becomes a participant in the union of wills⁵⁷.

8.3.3 *The Axiological Structure of Sexuality*

The conclusion reached by the forgoing analysis is that human sexuality has two dimensions of significance and value. *The joint presence of these two dimensions appears to be the distinctive and specifically human character of sexuality, because they both arise from a significantly personalist matrix.* The value of the procreative significance, in fact, is centered on existence as the fundamental value of the person. The value of the unitive meaning empowers the dignity and well-being of the man and woman in so far as they are persons called to interpersonal communion. Both these aspects integrate the complete and specifically human significance of sexuality: if we spoke only of procreation or only of conjugal communion, in neither case would we reach the full and properly human significance of sexuality, and any conclusions drawn from this partial perspective would be ethically defective.

We must now inquire how the union of these two dimensions is structured and what meaning it has. The problem will be examined from several points of view: from biological, anthropological, axiological and properly ethical perspectives.

Human biology in the present day has acquired a very precise and detailed knowledge of how the two aspects of human sexuality are structured in nature. We know, for example, that procreation does not always follow from sexual union, because feminine fertility has a cyclic character. Consequently, it is more accurate to speak of conjugal union and possible procreation, or, if you prefer, of conjugal union open to procreation.

⁵⁷Cf. *Familiaris consortio*, no. 11. The axiological dimension of sexuality that we are going to consider now is notably accentuated in Christian ethics, because – as was said before – the physical union completes the conjugal union and consummates the sacramentality of matrimony, living symbol of the communion between God and man, and between Christ and His Church. Cf. *ibid.*, nos. 12 -13.

We now take up the question from the point of view of anthropology and axiology. Procreation and conjugal communion are two goods that are rooted in the value of the human person. They are dimensions that take their origin from the same fundamental value. For this reason, they are not present in human sexuality as two contrasting realities, and are not opposed to each other: if it were not so, human sexuality would contain an internal contradiction and the same would have to be said on the ethical plane, which is centered on the value of the person. But the relation that exists between the two dimensions of sexuality is not simply a “friendly” one. *It concerns, on the contrary, two values that are open toward each other, that empower and reciprocally protect one another to the point of constituting a unitary reality on the plane of anthropological and ethical meaning:* love that is fecund and open to life or procreation as the fruit of conjugal love⁵⁸. Let us now examine the matter in closer detail.

1. *The needs of conjugal communion are open to those of procreation.* Sexual union – we have said this before – is the expression and completion of the total donation of the self. Total self-giving includes the commitment of the self and the acceptance of the possible paternity/maternity inherent in virility and femininity. Where these dimensions have been deliberately and positively excluded, one cannot speak about a complete and total gift of the self and the sexual act in itself would be false and mendacious. Openness to life is a required feature, rooted in the character of totality that is proper and specific to conjugal communion.

On the other hand, the communion of persons that results from it and which is given life by a total, exclusive and definitive self-donation, constitutes the ideal context for introducing a new personal subject into the world. The stable family promotes in the best way possible the good of the new person, his individuality, sense of identity, education, and so on. *There is a fully adequate interrelationship between the needs of conjugal communion and the needs of procreation.*

The same adequate interrelationship is to be observed from the point of view of the genesis of a new life. *Conjugal communion is the environ-*

⁵⁸In this sense, John Paul II in *Man and Woman Created He Them*, no. 123.6, referring to the two meanings of the conjugal act, stated that “the one acts along with the other and in a certain sense works by way of the other”, pp. 632-633.

ment in which the genesis of the human being receives the protection and disinterested love that looks out for the condition of the person. There is no better protection in existence for a new life than that which is secured by the intimacy of the married couple, as has been seen in Chapter Five with regard to artificial extra-corporeal conception. It is necessary to add as well that only conjugal love is adequate to the dignity of the person: with respect to the person, love alone is the proper attitude, because only in love of the true kind is the person known and willed for his or her own sake. What other attitude could inspire the decision to generate a personal being? Self-interest? Or what sort of compulsion? Hope of getting some advantage? Satisfaction of a subjective impulse? It seems equally as clear that there would be a sufficient correspondence between the procreative process and the dignity of the person only if the former were initiated by an act that would be at one and the same time an act of gratuitous and unselfish love. The fact that procreative activity is in itself an outpouring of disinterested love is required for the dignity of the person who is born from it, and consequently is a need that is fraught with value and not simply a fact of nature.

This value will even increase if we consider, with Caffarra, the plane of the ultimate foundation of personal values. “The creative activity of God is in its deepest essence an action of love. Why? Because it is gratuitous action. God has no need of us – none of us is necessary. If we exist it is because God has freely and gratuitously willed it. The participation of man and woman in the action of God’s creativity cannot but be an action that is rooted in an act of love; it cannot be anything but that. This is the reason why it does not happen by chance that the same act in which the spouses give themselves to one another in reciprocated love is the act which puts the conditions into place out of which a human person is created”⁵⁹. Since creation is the fruit of divine love, that procreation or participation of the human being in this divine work is in itself an act of human love, is not only the fruit of such love, is not only a chance occurrence, but a reality that is full of significance and value, something that cannot be otherwise.

2. Moving on now to consider the matter from the other side, it

⁵⁹C. Caffarra, “Definizione filosofico-etica e teleologica della procreazione responsabile”, in *La procreazione responsabile. Fondamenti . . .* (cited), p. 6.

must be said that *the needs of procreation are open to those of true conjugal love*. The dignity of the person requires that children be the fruit of the love of the parents, and not of violence, of instinctive impulse or a lack of self-control in the sexual partners. Children are also the common good of the parents, the symbol and living fruit of their love, and the confirmation of the mutual love of the spouses, whose stability and harmony is required for the support and education of the children.

On the other hand, *openness to life preserves the quality of conjugal love*. Conjugal union is a “personal context of expression, the integrity of which consists in the joyous forgetfulness of self. Such integrity is not sacrificed to a consequentialist functionalism, such as would limit the multiplicity of the functions of this context in a rationalist-finalistic sense”⁶⁰. If the joyous self-forgetfulness of donation is removed by precaution or by manipulative intervention which deprives sexuality of one of its dimensions of significance and value, the relationship of love ceases to be such, since the one person is treated as an object that promotes pleasure, and this one then behaves analogously toward the other. “Love ... will not be an objective reality, for there is no objective good to ensure its existence. ‘Love’ in this utilitarian conception is a union of egoisms, which can hold together only on condition that they confront each other with nothing unpleasant, nothing to conflict with their mutual pleasure. Therefore love so understood is self-evidently merely a pretence which has to be carefully cultivated to keep the underlying reality hidden: the reality of egoism, and the greediest kind of egoism at that, exploiting another person to obtain for itself its own ‘maximum pleasure’. In such circumstances the other person is and remains only a means to an end, as Kant rightly observed in his critique of utilitarianism”⁶¹.

In conclusion, *wherever there has not been a total donation of one’s own being (in which is included the potential of paternity or maternity), the sexual activity would imply the treatment of a person as a simple means to obtain a subjective satisfaction and, on the other side, would be a betrayal of the vocation to interpersonal communion*. It is clear,

⁶⁰R. Spaemann, “La responsabilità personale e il suo fondamento”, in (various authors), *Etica teleologica o etica deontologica? Un dibattito al centro della teologia morale odierna, Documenti CRIS*, nos. 49-50 (Rome, 1983), p. 22.

⁶¹K. Wojtyła, *Love and Responsibility* (cited), p. 39.

in fact, that this type of union would last only as long as the pleasure and the physical satisfaction, and that a spiritual communion would not come into existence, since that requires a common good and physical pleasure can never be in common: each of the two partners enjoys her- or himself incommunicably, even if this is obtained through the help of the other⁶².

Let us recapitulate. The simultaneous presence of the procreative and unitive aspects that especially characterize human sexuality appears, therefore, to be a powerful structure that bears within itself meanings and values of an inestimable importance. The union itself of the two aspects is not a simple fact deprived of significance, but something that possesses a meaning that is clearly and easily intelligible: such a union guarantees and reinforces the specifically personal values brought by human sexuality, that is, the values that pour forth from the fact that both those who generate and those who are generated are human persons. Because of this, *the simultaneous presence of the unitive and procreative significance is a value and not a simple biological fact: it is an ethical necessity and not only a biological one, it is a necessity of right (de iure) and not only of fact (de facto), and it is something that ought to be as it is, and not just something that is*⁶³. This implies, on the operative plane, that the two aspects of human sexuality are ethically co-essential and ethically inseparable. Their union constitutes the determinative value of the axiological structure of human sexuality. By contrast, their dissociation brings with it not only the wound of lost value, but also the de-naturalization and the dis-evaluation of that which it is intended to

⁶²This is why it is possible for sexual union to have a completely different affective tonality for each of the two participants.

⁶³*Cfr.* C. Caffarra, "La trasmissione della vita ...", (cited), pp. 394-396. In the human being there exist examples both of the connections of fact and connections of right that can facilitate the intuitive understanding of what we are discussing. There is a connection of fact, for example, between the part of our activity that breathes and the part that eats. This is something that is as it is, without particular values being contained in the connection of facts. It could be otherwise. On the other hand, there is a connection of right that exists between morality and happiness: someone who perseveres acting morally ought, at least ultimately, to end up being happy. The thought of the contrary brings scandal to reason. A connection of right of another kind is in the fact that an appropriate tendency follows cognition: sense cognition is followed by a sense tendency, rational cognition by a rational or willing love. A being endowed with universal cognition but without a rational tendency, and endowed only with sense impulses, would be a monster more deformed and unmanageable than a person with two heads.

preserve⁶⁴.

8.3.4 *Ethical Consequences*

The moral principles derived from the anthropological and axiological structure of sexuality are basically two. The first can be formulated as follows: *sexual activity has an ethical value when it is exercised in matrimony*. On the other hand, when it takes place outside of matrimony or despite matrimony (adultery), sexuality comes into contradiction with its own axiological structure.

The second principle affirms that *every exercise of sexuality in matrimony must respect the ethical inseparability of its two aspects: interpersonal communion of the spouses and openness to potential procreation*. This criterion affirms that human sexuality must be respected in the fullness of its meaning and always ought to be exercised in a *truly and fully human way*, since it is insufficient to do so in only a partial way. In other words, sexuality cannot be instrumentalized, cannot be treated as a simple means at our disposal for realizing a design foreign to its meaning and intrinsic truth: a meaning and truth which, as we have seen, are not simple, but consist in a structure of personal values.

Not even the Author of nature instrumentalizes human sexuality. God did not design sexual impulses in order to utilize men and women for a purpose extraneous to themselves. If this were not true, human sexuality would appear to be deformed in some way, and we would arrive in practice at a rigoristic and puritanical conception of sexuality, in virtue of which the enjoyment that accompanies the exercise of the sexual faculty would be in itself bad, and only tolerated insofar as it was coercively connected with the transmission of life, that is to say, as a necessary evil. Such a concept is repugnant both to the most elementary ethical sensibility and to a balanced understanding of the relationship between God and man⁶⁵. Man and woman exercise their sexual activity freely and

⁶⁴Here as well, the high numbers of destroyed human embryos in the context of artificial techniques of extra-corporeal procreation are an eloquent example of what we are affirming.

⁶⁵*Cf.* the criticism of the rigoristic interpretation of sexuality by Karol Wojtyła, *Love and Responsibility* (cited above, note 50) pp. 57 -61. The rigoristic understanding of sexuality does not belong to a correct interpretation of Christianity: "Sex is not a shameful reality, but a divine gift clearly ordered to life, to love, and to fecundity. This is the context, this is the background of Christian teaching about sex." (Saint Josemaría Escrivá, *Christ is Passing*

responsibly, and this activity is in itself a value that is ordered to conjugal love. Sexuality is ordered to life, but also to love. When someone is ready to recognize and accept the values contained in sexuality as a common good, the sexual impulse can be integrated into the bond that unites two persons, it can be integrated into spiritual love and be an expression and completion of the total donation that love implies. In all of this there is not a shadow of “utilization” in the “utilitarian” sense – pardon the redundancy – of that word: what has really happened, as we have seen, is that God grants to man the possibility of a new and unique realization of love and a further mode of being in the image of the divine being.

This clarification having been made, we can now tie up the various consequences implicit in this second moral criterion. *The first and most evident is that one aspect of sexuality cannot be brought into opposition with the other*, that when one aspect is being actualized, the other cannot be deliberately and positively excluded. The two aspects of sexuality are values that are coordinated in their practical realization, not subordinated one to the other.⁶⁶ Its ethical inseparability also means that, even in marriage, one aspect cannot be actualized *without* the other, *separately* from the other, *or to the side of* the other, such as occurs in artificial procreation. The ethical world is the world of freedom, for which the expressions *without, separately, to the side of* are understood with an implicit clause: “as far as depends on human freedom”. It means, in other words, that separating procreation from personal union

By, no. 24.)

⁶⁶What we say here refers to how it does not appear licit to promote only one of the two values: this is a different problem from the question of the ends of matrimony. In traditional moral theology, there were distinguished within matrimony a primary end (procreation) and a secondary end (mutual assistance). However, the context in which such concepts made sense was that of the determination of the nature of existence from the objectively ontological point of view, wherein such concepts explain the existence of the institution of marriage. In this sense, it appears clear that the existence or subsistence of humanity, in the world of personal beings, is a reason of great and primary importance. But in speaking of the primary end and the secondary end, there was never an intent to justify lack of respect toward the person of the other sex, nor that it was licit to use force at the plane of conjugal communion, nor that the use of matrimony would not be permitted when procreation was not possible for natural causes. These erroneous interpretations of the traditional terminology are excluded both in virtue of the context in which the hierarchy of ends was proposed, and because the secondary end still signifies another end, and not an unimportant end that can simply be ‘done without’.

with the subjective intention of favoring one or the other, is in every case a manipulative treatment of sexuality: a treatment, that is to say, which does not respect the fullness of its specifically human meaning, and that would lead to the injury – intentionally or otherwise – of some of its specific personal values.

8.4 The Moral Virtue of Chastity

8.4.1 *The Nature and Object of Chastity*

*Chastity is the moral virtue that regulates desire and sexual behavior according to the requirements of reason, the fundamentals of which have been explained in the preceding paragraph*⁶⁷. The task of chastity is not simply to control or contain in some way one's sexual impulses, as if they were some reality external to the "I", and against which "I" have to defend "myself". Rather, chastity shares in the consciousness that sexuality is part of the subjectivity of the human being, which ought to be subject and not object, and as such is educated and integrated in order to allow for the just realization of interpersonal love and the transmission of life, or, in the case of persons called to it, the total donation of oneself to God. This has been effectively emphasized by the *Catechism of the Catholic Church*: "Chastity means the successful integration of sexuality within the person and thus the inner unity of man in his bodily and spiritual being. Sexuality, in which man's belonging to the bodily and biological world is expressed, becomes personal and truly human when it is integrated into the relationship of one person to another, in the complete and lifelong mutual gift of a man and a woman. The virtue of chastity therefore involves the integrity of the person and the integrality of the gift"⁶⁸.

⁶⁷Cf. *Summa Theologiae*, II-II, q. 151, art. 1-3. In addition to the texts cited in note 5 above, see A. Günthör, *Chiamata e risposta*, (cited), vol. III, nos. 567-568; G. Davanzo, *Sessualità umana e etica dell'amore* (Milan: Ancora, 1986); C. Caffarra, *Etica generale della sessualità* (Milan: Ares, 1992). Very useful, also, for pastoral practice is the volume by A. Léonard, *Gesù e il tuo corpo. La morale sessuale nello spirito del Vangelo presentata ai giovani* (Milan: Paoline, 1991); A. Sarmiento, T. Trigo, E. Molina, *Moral de la persona* (cited) chaps. 9-13.

⁶⁸*Catechism of the Catholic Church*, no. 2337.

Chastity cannot be understood except in relation to love, of which it represents another aspect. Chastity is meant to render possible the realization of the ordering of human sexuality to interpersonal love, which is connected to respect, benevolence, fidelity and fecundity, and which has been hindered, and sometimes ruined, by egoism or by other kinds of attitudes that make the other person into an object of enjoyment and possession. In this sense it can be affirmed that chastity “is the *interior* ‘transparency’, without which love is not itself, for it cannot be itself until the desire to ‘enjoy’ is subordinated to a readiness to show loving kindness in every situation . . . the essence of chastity consists in quickness to affirm the value of the person in every situation, and in raising to personal level all reactions to the value of ‘the body and sex’. This requires a special interior, spiritual effort, for the affirmation of the value of the person can only be the product of the spirit”⁶⁹.

The virtue of chastity is very closely related to love, and therefore with the virtue of charity (caritas); its importance in the moral life flows from this connection. Nevertheless, they are still two different virtues. Not every action that contradicts interpersonal love constitutes an action against chastity. Certain forms of egoism, anger, incomprehension, being closed to dialogue, etc. are not acts against chastity. A person comes short of the requirements of chastity when he or she contradicts the dynamic of spousal love, or becomes closed to it, either by reason of an exaggerated, strained search for sexual pleasure or through an insensibility with regard to it. By spousal love here, we understand that form of interpersonal love which, according to the design of God the Creator, brings about the gift of one’s own being as a male or female, and thus involves the sexual faculty. There are forms of interpersonal love that do not involve the sexual faculty (love among brothers and sisters, parents and children, among relatives or friends, etc.). What is specifically opposed to the virtue of chastity is the disordered seeking out of sexual pleasure, seeking for such pleasure as if it were an autonomous end in itself, to be enjoyed even outside the context of a stable and loving gift of self, or in opposition to the intrinsic dynamics of such a context. The virtue of chastity does not assume the idea that pleasure, and par-

⁶⁹K. Wojtyła, *Love and Responsibility*, pp. 170, 171.

ticularly sexual pleasure, is an evil⁷⁰, but rather the idea that it can, and ought to be, a truly human and Christian good, and that it is to be sought within the context, and under the conditions by which sexual union is in fact a good, according to the particular vocation of every person.

What has just been said concerning the formal element of chastity is equally applicable to all. On the other hand, if we pay attention to the attitudes and concrete behaviors that conform to, or are contrary to chastity, there are some differences according to the state and vocation of each person, that is to say, according as it is a question of married, engaged, or still unmarried persons, of those who are widowed, or of those called to a celibate life, apostolic or priestly, or to consecrated virginity. Other ethical requirements, such as the illicitness of auto-erotic acts, apply to all.

8.4.2 *Modesty and Shame, and Shamelessness*

We mentioned in the precious chapter that St. Thomas Aquinas sees modesty or shame as an integral element (integral part) of temperance⁷¹. Continuing with his Aristotelian reflection, Aquinas thinks that modesty (*verecundia*) is a “praiseworthy emotion”⁷², which in a broader sense can be considered a virtue, insofar as it is a necessary preparatory disposition for the virtue of temperance⁷³. *Shame is a sense of restraint, modesty, and reserve with regard to the sphere of an individual’s intimacy, with particular reference to the sexual sphere.*

Since the days of Aristotle the phenomenon of shame or modesty has become an object of reflection for philosophers, and later, for psychologists and sociologists. The latter discuss, above all, the questions pertaining to its genesis: whether it is a given part of the human constitution or a product of culture, whether it is a positive phenomenon or a negative one that needs to be overcome⁷⁴.

⁷⁰See above: Chapter 7, section 2, a).

⁷¹See above: Chapter 7, section 3, a).

⁷²*Summa Theologiae* II-II, q. 144, a. 1., corpus; cf. Aristotle, *Ethica Nicomachea*, IV, 9: 1128b 10-35.

⁷³*Summa Theologiae*, II-II, q. 144, a. 4, ad 4.

⁷⁴Cf. the synthesis of G. Campanini, *s.v. pudore* in F. Compagnoni, G. Piana, S. Privitera (eds.), *Nuovo dizionario di teologia morale*, (cited above), pp. 1075-1082 (with bibliography).

Shame tends to hide or cover parts of the body, actions or states that cause a certain species of shame, not necessarily because they are ethically negative realities, but because their *exteriorization* is ethically negative. Shame corresponds to the fact that a person possesses an interiority that pertains to him or her alone, and should not be invaded by the observation of another. More specifically, sexual shame is the need to hide the parts of the body that determine the masculine or feminine sex, in order not to see one's own person cheapened to such an extent as to become a simple object of enjoyment. "The function of shame is to exclude – (whether passively as is usual with women or actively, as is more often the case with men) – an attitude to the person incompatible with its essential, supra-utilitarian nature. The danger of such an attitude arises precisely because of the sexual values inherent in the person, and so sexual shame takes the form of a tendency to conceal them"⁷⁵. Shame intends in a way to defend the dignity of the person, making it possible for the attention of the other to be directed to the person as such, rather than to a simplistic erotic vision of the interpersonal relation. For analogous reasons, modesty or shame tends to hide the manifestations of love between a man and a woman, especially the most intimate ones. It is question here of defending the value and dignity of human love.

When there is a true and profound spousal love between a man and a woman, ratified in matrimony, the reciprocal respect of one's own dignity is secured, granted that the love and consideration for the beloved person as a simple object of enjoyment has been excluded on both sides⁷⁶. In this sense the shame between the spouses loses the reasons for its existence before or outside of matrimony⁷⁷, and acquires new specific forms. This is the case if the love between the spouses remains in its true moral essence, without declining to lower levels.

Shamelessness is the negation or absence of shame. Shamelessness of

Also very useful is the "metaphysics of shame" included in K. Wojtyla's *Love and Responsibility*, pp. 174 -193. See also M. Scheler, *Pudore e sentimento dl pudore*, (Napoli: Guida, 1979).

⁷⁵K. Wojtyla, *Love and Responsibility*, pp. 178 - 9.

⁷⁶*Ibid.*, p. 182.

⁷⁷K. Wojtyla speaks of the "law of absorption of shame on the part of love", *ibid.*, pp. 181 - 186.

the body is a way of being, of acting, of dressing that “contributes to the deliberate displacement of the true value of the person by sexual values, that which is bound to elicit a reaction to the person as to a ‘possible means of obtaining sexual enjoyment and not ‘a possible object of love by reason of his or her personal value’”⁷⁸. The violation of shame cannot always be defined in fixed and absolute terms, since it also depends on the circumstances of culture, climate and location (a party is one thing, a swimming pool another), legitimate social practices, etc. But not everything is relative, either on the plane of intentions or behavior: there are behaviors and ways of dressing that are clearly shame-less. This occurs when the article of clothing tends to draw the attention to bodily sexual qualities, either by uncovering parts of the body or by covering them in such a way as to render the forms as evident as possible though tight clothing, etc. Equally shame-less is the exhibition of intimate gestures in videos and movies, in television or the press, or the performance of such intimate gestures in public places (streets, plazas, parks, public transportation vehicles, etc.). There is also a shamelessness in advertising and artworks.

Shamelessness is a disposition toward lustfulness whether through the person acting shamelessly or through report of other persons (scandal), contributes to the eroticization of social relations, and can very easily be sinful in itself, even if it is not always easy to determine the seriousness of the sin: much depends on the circumstances, on the presence or absence of a libidinous intention, on the sensibilities of the persons involved, etc. It constitutes a grave sin when in itself— making an abstraction from the bad intention of another – it brings the proximate danger of sinning against chastity. The most extreme forms are considered a crime in almost all countries (obscene acts done in public).

In some milieux, it is affirmed that the wide diffusion of shameless attitudes and behaviors has the salutary effect of increasing insensitivity in the face of certain stimuli, and can eliminate hypocritical attitudes and false modesty. It can be true that, at least in some part of the population, the abundance of erotic stimuli raises the threshold of sexual excitability, but it is not the case that this contributes to temperance and personal equilibrium. Experience shows, to the contrary, that widespread shame-

⁷⁸*Ibid.*, p. 190.

lessness brings about widespread eroticism in the person and in social life which facilitates lustful behavior, making almost necessary the recourse to abnormal stimuli in order to obtain the disordered pleasure that was being sought. The loss of the sense of shame is followed by the loss of a clear vision of the values of sexuality: the banalization and commercializing of the human body, the ethical degradation of interpersonal relations in society, at the workplace, and in simple friendship⁷⁹.

8.5 Sins Against Chastity

8.5.1 *Essence and Forms of lustfulness*

The term *luxuria* (lust or lustfulness) generically denominates sins against the virtue of chastity. *Luxuria consists in the disordered desire or enjoyment of venereal pleasure.* Venereal pleasure is pleasure bound up with the excitement of the genital organs of a man or woman. Such pleasure is disordered, or contrary to right reason, when it occurs outside of and independently of the conjugal act (complete sexual intercourse between legitimate spouses), or in the conjugal act when it has been deprived – deliberately and by way of a positive action – of its capacity to transmit life. The biblical and anthropological foundation of this fundamental criterion for the virtue of chastity was explained in the second and third sections of the present chapter. The same criterion has been supported and taught without interruption by the magisterium of the Catholic Church. Let a quotation from the Declaration *Persona humana* suffice for us here: “This same principle, which the Church holds from Divine Revelation and from her authentic interpretation of the natural law, is also the basis of her traditional doctrine, which states that the use of the sexual function has its true meaning and moral rectitude only in true marriage”⁸⁰.

⁷⁹For the Christian teaching on shame see the *Catechism of the Catholic Church*, nos. 2521-2527.

⁸⁰Congregation for the Doctrine of the Faith, “Declaration *Persona humana* concerning certain questions of sexual ethics”, Dec. 29, 1975, no. 5. A useful commentary is by L. Ciccone, *Etica sessuale Cristiana dopo la Dichiarazione “Persona humana”* (Milan: Ares, 1977).

Lustfulness can be complete, brought to its consummation, or incomplete, not brought to its consummation. The first is when the person brings his sexual excitement all the way to its natural culmination, known as orgasm. The second is when the excitement has not been brought to, or has not reached, all the way to orgasm. Furthermore, sins against chastity can be internal (thoughts, desires) or external (actions).

With respect to the doctrine of the Church about the seriousness of the sin of *luxuria*, whether it is complete or incomplete, the fundamental principle is clearly expressed in the same Declaration *Persona humana*: “. . . according to Christian tradition and the Church’s teaching, and as right reason also recognizes, the moral order of sexuality involves such high values of human life that very direct violation of this order is objectively serious”⁸¹. To have an adequate understanding of this principle, it will be necessary to clarify the significance of the two terms “direct” and “objectively”.

The direct violation of chastity takes place when venereal pleasure is deliberately sought out, when it is willed as an end or as a means, or when, even though not searching it out to begin with, there is consent to it in a full and deliberate way. Differing from this would be a group of situations in which venereal pleasure is an indirect object of the will⁸², that is to say, situations in which the sexual excitation is neither sought nor willed, but can be foreseen as capable of emerging from some other action that is carried out by the person, such as a doctor’s appointment, the study of a medical textbook or the reading of a novel. The evaluation of these situations depends on various circumstances, which coincide with criteria that are applicable to the actions of double effect:⁸³ the action in itself can be good or indifferent, but the negative effect (the emergent venereal pleasure) must not be consented to, and there must be proportionately sufficient reason to carry out the action. If there is incomplete consent, the sin will be venial. If there is proximate danger

⁸¹Congregation for the Doctrine of the Faith, “Declaration *Persona humana* concerning certain questions of sexual ethics”, Dec. 29, 1975, no. 10. As seen in section 2 of the present chapter, this judgment of the gravity of sins against chastity is supported by Sacred Scripture: cf. 1 Cor 6:9; Gal 5:19; Eph 5:3.

⁸²For the notion of “indirect object” of the will, see *Chosen in Christ to be Saints*, vol. I, chapter 6, section 2b).

⁸³Cf. *Chosen in Christ*, vol. I, Chapter 6, section 5b).

of a perfect or complete assent is, then such kinds of actions must be absolutely avoided, or at least sufficient precautions must be taken to make the danger a remote one⁸⁴.

The term “objectively” is meant to indicate the evaluation of an action according to its matter, that is, according to the content of the act of the will. In order for the objective seriousness to become formally or subjectively serious, it is necessary for the action that is serious in its matter to be fully imputable, proceeding with full awareness and complete consent⁸⁵. Psychological disturbances of an obsessive or compulsive kind can attenuate or, in extreme cases, entirely remove subjective responsibility.

It should be kept in mind that by lustfulness (luxuria) is meant not only the action, but also the habit (i.e., vice) opposed to the moral virtue of chastity. Luxuria indicates, then, a permanent disposition, acquired through the repeated abuse of sexuality, which inclines one to commit sins against chastity, making the person a slave of his or her own habitually disordered sexual impulses. Understood in this way, luxury is one of the capital vices⁸⁶, which tend to generate an obtuseness and blindness with respect to the higher human values, especially the spiritual ones, and make it very difficult to establish interpersonal relationships that work according to the true logic of love and self-giving⁸⁷.

8.5.2 *Internal Sins of Lust*

In general moral philosophy we studied the internal sins, commonly referred to as “brutish thoughts” or “bad thoughts”, which in a technical sense belong to three different kinds: consensual thinking (*delectatio morosa*), interior desire which a person delights in (*desiderium pravum*), and feeling satisfaction for a sin that has been fully accom-

⁸⁴From a practical point of view, it is useful to point out that when, for serious reasons – for example, through professional duty – such actions have to be performed, and there is basically a right intention, it is generally advised that the persons in question not think too much about the possible dangers, or at least, not fix one’s attention on them, in order to avoid a certain psychological tension that could turn out to be counter-productive.

⁸⁵*Cf. Chosen in Christ*, vol. 1, Chapter 6, section 6.

⁸⁶For the capital vices see *Chosen in Christ*, vol. 1, Chapter 11, section 6 b).

⁸⁷For the vices that are the “offspring” of *luxuria* cf. *Summa Theologiae*, II–II, q. 153, a. 5.

plished (*gaudium peccaminosum*)⁸⁸.

Chastity can be sinned against in these three forms. That which constitutes the sin of luxuria is not the mere (speculative) representation of certain actions or parts of the body which have their place for purposes of study in medicine or morality, *but the representation or the deliberate desire that causes an impure pleasure, or a venereal pleasure in the strict sense (sexual excitation), to which the will attaches itself.*

In this connection it is necessary to distinguish temptation from sin. Representations or desires that present themselves suddenly, without being voluntarily stirred up or sought out, are in themselves only temptations. If the person does not become attached and seeks to distance himself from such desires or representations, there is no blame. If there is only attention paid to it or partial attachment (incomplete consent) it will be venial sin. With full attention and complete consent, such sins against chastity are serious. The ninth and the tenth commandments of the Decalogue forbid internal sins, and as the Lord said: “Everyone who looks at a woman with lust has already committed adultery with her in his heart”⁸⁹.

It is not always easy to decide whether or not the adherence of the will to an impure thought is complete or incomplete. Many times the pastor or confessor has to rely on the principle of presumption. If a person with a delicate conscience and habitually right conduct has some doubts, it is very probable that he has not committed a grave sin by reason of thoughts or desires which he may not be completely sure he had rejected with sufficient promptitude. On the other hand, a person with habitual or frequently irregular conduct, who confesses grave external sins against chastity, has very probably also consented to the thoughts and desires that he recalls having had. Nevertheless, in the moral evaluation of internal sins, much prudence and balance is needed, particularly when it is a question of persons who tend to scruples (on the one hand) or to laxity (on the other).

⁸⁸Cf. *Chosen in Christ*, Chapter 11, subsection 4 b).

⁸⁹Mt 5:28.

8.5.3 *External Sins of Incomplete Lust*

These sins, generically referred to as “impure acts”, consist in intentionally procuring or at least consenting to venereal pleasure bound up with the excitation of the genital organs but without reaching an orgasm. Such sexual excitation can be initiated in an involuntary way or through actions that have other purposes (studying human anatomy, art, or moral issues, etc.). If the person does not cling to them and tries to shut them off as much as possible, they do not constitute any moral culpability; if there is a partial adhesion (incomplete consent) there will be venial sin. If with full awareness there is complete consent to the excitation, or if the latter has been intentionally sought out through touching intimate parts of the body, caressing, kissing, and intense hugging, looking at pornographic pictures, reading of obscene stories, or situations of intimacy (between two naked persons, for example), etc., a serious sin has been committed against chastity.

This does not mean that some moderate expressions of affection are not licit between engaged persons (kissing, hugging, caressing), which, depending on their intensity, can provoke the onset of sexual turbulence, in which case one should close him- or herself off from this by not consenting to the incipient venereal pleasure (that is, not allowing oneself to have the pleasure), if such actions were only intended to express one's affection. But something very different occurs when such actions respond to a libidinous intention, that is to say, when sexual excitation is being intentionally sought by their means, with an intentionality that normally determines a certain way of carrying out such actions (touching of intimate parts, prolonging the action, etc.). In this latter case, rather than manifestations of affection, they are impure actions, which will generally be understood as serious sins against chastity.

In any case, it must be clarified that it is not the external action in itself (the kiss or hug) that constitutes the sin against chastity. It consists in the intentional seeking of, or deliberate consent to, the venereal pleasure that is sought from such actions or can result from them.

8.5.4 *External Sins of Complete Lust*

Masturbation — *By masturbation is understood the voluntary excitation of the genital organs for the purpose of drawing complete sexual pleasure from them (orgasm)*⁹⁰. “Both the Magisterium of the Church - in the course of a constant tradition - and the moral sense of the faithful have declared without hesitation that masturbation is an intrinsically and seriously disordered act”⁹¹. It has to do, in fact, with a deliberate use of the sexual faculty outside of marriage, from which the sexual relation is missing that within the context of true conjugal love realizes the sense of mutual donation and of openness to procreation⁹².

Masturbation is a behavior that can become habitual. A distinction often exists between the masturbation of the adolescent, who has not reached full sexual and affective maturity, and the masturbation of an adult, which often constitutes an involutive psychological phenomenon⁹³. Particularly in the adult, masturbation can be a symptom of a variety of situations of tension or distress: “In this way one can hide an unconscious defense, by way of an inexpensive gratification, against the most diverse forms of anxiety, frustration, and emotional solitude; it can signify a search for compensation for failures in socialization, the reaction to inferiority complexes. It often represents a reaction to a pathological sense of guilt caused by previous acts of masturbation or for other unconscious reasons”⁹⁴.

These and other possible situations of distress do not affect the objective moral evaluation of acts of autoeroticism, but must be kept in

⁹⁰ Cf. *Catechism of the Catholic Church*, no. 2352.

⁹¹ Congregation for the Doctrine of the Faith, Declaration “*Persona humana*”, no. 9. Cf. also *Catechism of the Catholic Church*, no. 2352. The Declaration “*Persona Humana*” cites some previous magisterial documents in its footnotes, such as: Leo IX, *Ep. Ad splendidum nitentis*, anno 1054: DH 687 – 688; Pius XII, “Allocution of October 8, 1953”, *AAS* 48 (1953) 677-678; *ibidem*, “Allocution of 19 May, 1956”, *AAS* 48 (1956) 472-473.

⁹² Cf. Congregation for the Doctrine of the Faith, Declaration *Persona humana*, no. 9. A little afterwards the document adds that “... even if it cannot be proved that Scripture condemns this sin by name, the tradition of the Church has rightly understood it to be condemned in the New Testament when the latter speaks of “impurity,” “unchasteness” and other vices contrary to chastity and continence” (no. 9). Section 2 c) above, on St. Paul’s teaching, should also be kept in mind.

⁹³ On these aspects of the problem cf. G. D’Avanzo, *Sessualità umana* . . . (cited), p. 80.

⁹⁴ G. Gatti, *Morale sessuale, educazione all’ amore* (Torino: LDC, 1979), p. 130.

mind in the pastoral guidance of persons⁹⁵. In general, it makes sense to deflate the drama of the situation, and, short of disguising the seriousness of the phenomenon, it is not good to fix one's attention upon it overmuch. It is preferable to help the person review his style of life, to see that it is healthy from a physical and spiritual perspective. Prayer and frequenting of the sacraments are of great help, as also avoiding excessive eating and drinking and hours spent working, getting adequate opportunities of rest, finding reasonable and authentic solutions for the stressful situations that are bound to occur, keeping oneself away from things that stimulate concupiscence (frivolous programs, obscene pictures, alcohol, etc.), and treating depression with the help of medication, etc.

Fornication and Concubinage — *Fornication is a sexual relationship between two free persons of different sexes, outside of matrimony and with both parties consenting.* It is an action intrinsically evil and serious, explicitly condemned by Sacred Scripture⁹⁶, contrary to the essential significance of sexuality and therefore an injury to the natural moral law. In the case when the birth of children follow from fornication, both parents have the obligation in justice to provide support and education of the children.

Concubinage is the stable sexual relation between two persons of different sex who live together but without being legitimately married. Such are also the so-called “free unions” or “de facto unions”. The sexual relations between co-habitators have the same moral evaluation as fornication. Furthermore, the fact of living together is a proximate and permanent occasion of grave sin which must be removed before anyone can receive sacramental absolution and the Eucharist⁹⁷. If the co-habitation is notorious and public it also gives rise to an impediment to marriage⁹⁸.

⁹⁵“On the subject of masturbation modern psychology provides much valid and useful information for formulating a more equitable judgment on moral responsibility and for orienting pastoral action. Psychology helps one to see how the immaturity of adolescence (which can sometimes persist after that age), psychological imbalance or habit can influence behavior, diminishing the deliberate character of the act and bringing about a situation whereby subjectively there may not always be serious fault. But in general, the absence of serious responsibility must not be presumed; this would be to misunderstand people's moral capacity.” *Persona humana*, (no. 9).

⁹⁶*Cf. Gal 5:19; 1 Cor 6:18; 10: 8; 2 Cor 12:21; Eph 5:3; Col 3:5.*

⁹⁷*Catechism of the Catholic Church*, no. 2390.

⁹⁸“The impediment to a good public reputation arises from an invalid matrimony after a

Prostitution — *Prostitution occurs when a person gives one's body frequently to others of the same or the other sex, in return for a payment of money.* Apart from the sin of fornication or homosexuality, prostitution seriously offends the dignity of the person who prostitutes her- or himself, which has been reduced to the venereal pleasure procured in the act. It constitutes a social scourge, and is often connected to forms of delinquency and abuse, sometimes even of adolescents and children. "While it is always gravely sinful to engage in prostitution, the imputability of the offense can be attenuated by destitution, blackmail, or social pressure"⁹⁹. Much more serious is the sin of the clientele and those who profit from prostitution. Prostitution poses a group of legal, political and social problems that require specific study¹⁰⁰.

Prostitutive behavior is "every utilization of one's own body for non-affective purposes, as can happen in persons who 'easily' submit themselves to it to obtain occasional advantages or in persons who are made to give in to the manipulative threats of someone who can favor them in their work or career"¹⁰¹. This phenomenon, which is more widespread than is commonly thought, is a very serious element of corruption that extends through a variety of professional environments, and gravely assaults the dignity of the person. The seriousness of this type of behavior is evident.

Adultery — *Is the sexual union between a man and a woman who are not married to each other, even though one or both of them is already married.* Apart from being a grave sin against chastity, it is at the same time a grave sin against justice and conjugal fidelity, not to mention a profanation of the sacrament of matrimony. "Christ condemns adultery even of mere desire (*cf.* Mt 5:27-28). The sixth commandment and the New Testament forbid adultery absolutely (*cf.* Mt 5:31-32; 19: 6; Mk 10:11; 1 Cor 6: 9-10). The prophets declare the gravity of adultery: they

shared life has been established, or from a public and notorious cohabitation, and it renders marriage null and void in the first degree of the direct line between the man and the relatives of the woman, and vice versa." *CIC*, can. 1093.

⁹⁹*Catechism of the Catholic Church*, no. 2355.

¹⁰⁰A very useful synthesis is provided by G. D'Avanzo, s.v. "Prostituzione", in F. Compagnoni, G. Piana, S. Privitera, eds., *Nuovo dizionario di teologia morale*, (cited), pp. 1040-1048 (with bibliography).

¹⁰¹G. D'Avanzo, s. v. *Prostituzione*, p. 1040.

see it as an image of the sin of idolatry (*cf.* *Os* 2:7; *Jer* 5:7; 13:27)”¹⁰². Even under the supposition that a spouse consents to the adultery of the other, the moral evaluation is not changed, since such consent is immoral and does not modify the obligations of the other spouse in virtue of the natural law and the sacrament of matrimony.

If conception follows upon adultery, a complicated problem of justice arises. On the one hand, both the adulterers are under an obligation to provide for the support and the education of the children they have together, and on the other hand, they must repair as far as possible the losses incurred from this by their spouses and legitimate children¹⁰³.

An act that is close to adultery (*adulterium imperfectum*) is the realization of acts of incomplete lust, on the part of a married person, with another man or woman.

Incest — *Is a sexual relation between parents or relatives within the degree of kinship which the Church has defined as being an impediment to matrimony*¹⁰⁴. When it is committed by parents of the first degree of kinship both of the ascending-descending line and collateral lines (between parents and children or between siblings), this sin entails a most serious degeneration of family relations that is repugnant to moral common sense. St. Paul expresses a harsh condemnation of this sin¹⁰⁵. Incest is also considered a crime in secular legislation.

“Connected to incest is any sexual abuse perpetrated by adults on children or adolescents entrusted to their care. The offense is compounded by the scandalous harm done to the physical and moral integrity of the young, who will remain scarred by it all their lives; and the violation of responsibility for their upbringing”¹⁰⁶.

Rape — *Someone commits rape (or sexual violence) when he forces another person through physical or moral violence, to submit to him sexually.* Apart from an injury to chastity, rape seriously injures the right of every person to respect, freedom, and physical integrity. It brings a serious loss to the victim, who can remain scarred for a long time and

¹⁰²*Catechism of the Catholic Church*, no. 2380.

¹⁰³For a more complete view of this delicate question see D. M. Prümmer, *Manuale Theologiae Moralis* (cited), vol. 2, nos. 151-152.

¹⁰⁴*Cf.* *CIC*, chs. 1091-1092.

¹⁰⁵*Cf.* *1 Cor* 5: 1-13. For the Old Testament, see, for example, *Lev* 18:6-17.

¹⁰⁶*Catechism of the Catholic Church*, no. 2389.

even for an entire lifetime. Without any doubt it is a most serious act¹⁰⁷. Rape is also a serious crime in the penal code of the state¹⁰⁸.

Sacrilege — *Sexual sacrilege refers to a group of sins against the sixth commandment, to which is added a grave sin against the virtue of religion.* This can happen, for example, when an external sin is committed against chastity in a sacred place, or when sexual relations are realized between persons at least one of whom is obliged, either by public ecclesiastical vows, or by reason of holy orders, to virginity or celibacy.

Bestiality — *This refers to the sexual union between a human being and an animal.* These actions are condemned in the Old Testament¹⁰⁹, signify one of the most profound perversions of the sexual instinct, and constitute a serious sin without any doubt.

8.6 Some Particular Problems

8.6.1 *Homosexuality*

The problem of homosexuality has social, juridical, political and pastoral implications today that exceed the ambit of the ethical perspective of this chapter on chastity as such. The Church has been concerned with various dimensions of the problem in recent decades¹¹⁰.

With regard to the grave objectively moral illicitness of impure acts and of sexual relations between persons of the same sex there can be no doubts, given that such acts obviously contradict the values and meaning of sexuality¹¹¹ and with the fundamental data of the theology of creation¹¹².

¹⁰⁷ Cf. *Catechism of the Catholic Church*, no. 2356.

¹⁰⁸ Cf. V. Musacchio, *Il delitto di violenza sessuale* (Padua: Cedam, 1999); B. Romano, *La tutela personale della sfera sessuale* (Milan: Giuffrè, 2000).

¹⁰⁹ Cf. *Lev* 18:23.

¹¹⁰ Cf. Congregation for the Doctrine of the Faith, Declaration “*Persona humana*” (cited above), no. 8; *Idem*, “Letter on the Pastoral Care of Homosexual Persons”, October 10, 1986; “Some Considerations Concerning the Response to Legislative Proposals on Nondiscrimination of Homosexual Persons”, July 23, 1992; *Idem*, “Considerations Regarding Proposals to Give Legal Recognition to Unions between Homosexual Persons”, June 3, 2003.

¹¹¹ Cf. Section 3. of this chapter.

¹¹² Cf. Section 2. of this chapter.

“Providing a basic plan for understanding this entire discussion of homosexuality is the theology of creation we find in Genesis. God, in his infinite wisdom and love, brings into existence all of reality as a reflection of his goodness. He fashions mankind, male and female, in his own image and likeness. Human beings, therefore, are nothing less than the work of God himself; and in the complementarity of the sexes, they are called to reflect the inner unity of the Creator. They do this in a striking way in their cooperation with him in the transmission of life by a mutual donation of the self to the other”¹¹³. On this basis, *both the Old and New Testaments express clear moral reproof of sexual relations between persons of the same sex*¹¹⁴. The Declaration *Persona humana* offers a synthetic expression of the Church’s moral judgment on this type of behavior: “. . . according to the objective moral order, homosexual relations are acts which lack an essential and indispensable finality. In Sacred Scripture they are condemned as a serious depravity and even presented as the sad consequence of rejecting God. This judgment of Scripture does not of course permit us to conclude that all those who suffer from this anomaly are personally responsible for it, but it does attest to the fact that homosexual acts are intrinsically disordered and can in no case be approved of”¹¹⁵. While actually having an inclination toward persons of the same sex is not amoral fault in and of itself, “it is [however] a more or less strong tendency ordered toward an intrinsic moral evil; and thus the inclination itself must be seen as an objective disorder”¹¹⁶.

At the present time the moral teaching of the Church holds that, given the psychological complexity of the homosexual phenomenon, a certain caution is needed when it comes to evaluating the degree of culpable subjectivity in individual cases¹¹⁷, and that “it is deplorable that homosexual persons have been and are the object of violent mal-

¹¹³Congregation for the Doctrine of the Faith, “Letter on the Pastoral Care of Homosexual Persons” (cited in note 110 above), no. 6.

¹¹⁴*Cf.* for example *Lev* 18:22; *Rom* 1: 26-27; *1 Cor* 6: 9-10; *1 Tim* 1: 10. See also: M. Gilbert, “Che dice il Nuovo Testamento sull’omosessualità ?” in Congregation for the Doctrine of the Faith, *Pastoral Care of Homosexual Persons. Letters and comments* (Città del Vaticano: Lib. Ed. Vaticana, 1995) 61-64.

¹¹⁵Congregation for the Doctrine of the Faith, “Declaration *Persona humana* . . .” no. 8.

¹¹⁶*Idem*, “Letter on the Pastoral Care of Homosexual Persons”, no. 3.

¹¹⁷*Idem*, Declaration “*Persona humana* . . .”, no. 8.

ice in speech or action. Such treatment deserves condemnation by the Church's pastors wherever it occurs. It reveals a kind of disregard for others which endangers the most fundamental principles of a healthy society. The intrinsic dignity of each person must always be respected in word, in action, and in law"¹¹⁸. But the obligatory, absolute respect toward all persons does not require thinking that the sexual relations between persons of the same sex are not disordered, or proposing that such relations are a morally acceptable option. Even less acceptable is the legal recognition of the unions between persons of the same sex and granting them the right of adoption¹¹⁹.

Still more difficult are the problems that homosexuality poses in practice. There are two principal reasons for this. First is the psychological complexity of the phenomenon, which is not homogeneous, insofar as there are different forms of homosexual tendencies, often associated with psychological disturbances of various kinds that can give rise to compulsive and obsessive behavior. The second factor is the international movement of "gay culture" that makes extremely difficult any work of information and formation, which is accused of being "homophobic" and "discriminatory"¹²⁰.

It must be acknowledged that in the past, the persons who suffered from a change of sexual tendency were sometimes socially stigmatized and could become the objects of unjust discrimination. Partly for this reason, in recent decades homosexual movements have been organized and have carried out an intelligent campaign for public opinion. There are powerful pressure groups, even within official organizations at the national and international levels, which have succeeded in changing the conditions of research and medical practice¹²¹. The Diagnostic Man-

¹¹⁸*Idem*, "Letter on the Pastoral Care of Homosexual Persons", no. 10.

¹¹⁹*Cf. idem*, "Considerations Regarding Proposals to Give Legal Recognition to Unions Between Homosexual Persons", cited in note 110). See also A. Rodríguez-Luño, "Il riconoscimento legale delle unioni omosessuali. Profili etico-politici", in A. Rodríguez-Luño, *Cittadini degni del Vangelo (Fil. 1:27). Saggi di etica politica* (cited above,) pp. 117-122.

¹²⁰For a global vision of the problem, the work of A. M. Persico is very useful: *Omosessualità tra "scelta" e sofferenza. Conoscere per capire, capire per andare oltre* (Rome: Alpes, 2007).

¹²¹It is known, for example, that in 1993 the ILGA (International Lesbian and Gay Association) was recognized as a consultative body by the very influential Economic and Social Council (ECSOC) of the United Nations. ILGA recognizes an organization for the emancipation of pedophilia (NAMBLA: The North American Man-Boy Lovers Association).

ual of the American Association of Psychiatry has been changed in a very controversial way¹²², and homosexuality is not listed among psychological disturbances¹²³. The principal result of these campaigns is that conditions have been created by which it is virtually impossible to express in public any ethical or psychological positions that differ from those propagated by the “gay culture”. Any intervention that is not “politically correct” is attacked as an attempt at discrimination and violent oppression. The official organizations that have made objective statistical studies on the number of persons with homosexual tendencies are constantly called into question by the homosexual movements and supporters, who are interested in making people think that they are very numerous. Much objective and undeniable data is systematically hidden¹²⁴. An example would be the fact that many persons with homosexual tendencies request the help of medical specialists, who, when the interested persons are properly motivated, obtain good results, despite the objective difficulty of their task¹²⁵.

In conclusion: in various ways, the idea that homosexuality is a “natural”, “inborn” or “normal” condition of a large group of people has become rooted in society, among physicians and political leaders. Any kind of dissent with regard to the “gay” style of life is considered cruel discrimi-

¹²²Cf. P. Cameron *et al.*, “Errors by the American Psychiatric Association, the American Psychological Association, and the National Education Association in Representing Homosexuality in Amicus Briefs about Amendment 2 to the U. S. Supreme Court”. *Psychological Reports* 79 (1996) 383-404.

¹²³The decision of the American Association of Psychiatry has seriously hindered the actions of any psychiatrist who wants to offer assistance to persons with homosexual tendencies who freely ask for help.

¹²⁴We cite here some research reporting data generally suppressed by the “gay culture” and is unknown to public opinion: A. P. Bell, M. S. Weinberg, *Homosexualities: A study of Diversity Among Men and Women* (New York: Simon and Schuster, 1978); P. Cameron *et al.*, “The Longevity of Homosexuals: Before and After the AIDS Epidemic”, *Omega Journal of Death and Dying*, 29 (1994); J. A. Nelson “Intergenerational Sexual Contact: A Continuum Model of Participants and Experience”, *Journal of Sex Education and Therapy*, 15 (1989) 3-12; P. Cameron, K. Cameron, “Homosexual Parents”, *Adolescence* 31 (1996) 757-776.

¹²⁵Cf. G. J. M. Van den Aardweg, *Homosexuality and Hope* (Ann Arbor, Mi: Servant Publications, 1985); *idem*, *On the Origins and Treatment of Homosexuality: A Psychoanalytic Reinterpretation* (New York: Praeger, 1986); *Idem*, *The Battle for Normality. A Guide for (Self-) Therapy for Homosexuality* (San Francisco: Ignatius Press, 1997); J. Nicolosi, *Reparative Therapy of Male Homosexuality: A New Clinical Approach* (Northvale, NJ – London: J. Aronson, 1997); *Idem*, *Oltre l’omosessualità. Ascolto terapeutico e trasformazione* (Cinisello Balsamo: San Paolo, 2007).

nation and an anti-natural oppression. In some countries legislation has accepted these ideas, and laws are promulgated which in practice permit citizens the single option of applauding homosexual living. Freedom to dissent from or to refute certain unjust social practices (the celebration by public officials of “marriage” between persons of the same sex, the obligation to permit children to be adopted by homosexual couples, etc.) is not recognized.

From the point of view of pastoral practice, *moral judgment in itself does not include any condemnation of persons. Anyone who affirms that he has homosexual tendencies ought to be treated with the same friendship and understanding that is owed to all the other faithful.* It is important to distinguish “fears” of being homosexual – which are occasional or simply transitory during adolescence – from rooted homosexual tendencies. The interest, rather than being focused on reaching an exact estimate of one’s own subjective culpability (which can sometimes be difficult), should be oriented instead toward encouraging the will to react against it. It is one thing to accept oneself realistically, and another to allow oneself to become psychologically committed and renounce any hope. By means of the spiritual resources available to everyone, among which should be considered as especially important the sacraments such as Penance and the Eucharist, and with the help of a physician when it is necessary or convenient, one can reach the point of being able to control one’s own tendencies, which in fact is a goal that can be reached by any person¹²⁶. The faithful with homosexual tendencies are called – like all others – to struggle to live Christian virtues, including the virtue of chastity, aspiring by way of this struggle to reach the sanctity of the children of God.

8.6.2 *Sexual Abuse of Minors and Pedophilia*

There is debate today concerning the proper way to understand the concept of “sexual abuse of minors” and more specifically “pedophilia”.

¹²⁶The work of J. Nicolosi cited above, *Oltre l’omosessualità*, offers positive therapeutic experiences opening up wide horizons for the hope to change. Further information can be found at [textstyleInternetlinkwww.narth.com](http://www.narth.com)

Various definitions have been proposed¹²⁷. The question has a certain importance, especially regarding the protection of minors and the juridical and criminal aspects of the problem. In general, it will be sufficient for the purposes of the present study to state that *sexual abuse of minors is "the involvement of a minor, on the part of a dominant partner, in sexual activities that are not characterized by explicit violence"*¹²⁸. Such abuses can be occasional or based on "a stable sexual orientation in a person, characterized by an exclusive, or at least preferred sexual orientation toward human beings in the prepubescent, or early pubescent stage of life"¹²⁹. In the latter case we can speak of pedophilia in the strict sense.

In general, pedophilia is considered *paraphilia* (a distortion of the ability to love), along with other disturbances of sexual preference such as fetishism, exhibitionism, voyeurism, sadism, masochism, etc. Pedophilia can assume a variety of forms with respect to behaviors¹³⁰, and can extend to a murderous pedophilia, which inflicts so much suffering on the victim as to end up killing him. Pedophilic behaviors can occur in an intra-familial setting (where the abuse is carried out by a member of the nuclear or extended family), extra-familial (by persons known to the minor), institutional (where the perpetrators are teachers, medical staff, etc.), street abuse (where the persons are strangers) or for financial profit (committed either by individuals or by groups of organized criminals, such as organizations working to produce pornographic materials or to make a profit from the prostitution of minors and sexual tourism), or by other organized groups (groups of pedophiles, sects, etc.)¹³¹. Finally,

¹²⁷For an initial survey of the various proposals see F. Di Noto, s.v. "Abuso sessuale di bambini (pedofilia)", in G. Russo, (ed.) *Enciclopedia di bioetica e sessuologia* (cited above), pp. 7-8. In the same encyclopedia see also I. Mastropasqua, "Abuso sessuale di bambini. Giustizia minorile", pp. 15-19.

¹²⁸*Coordinamento Nazionale dei Centri e dei Servizi di Prevenzione e Trattamento dell'Abuso in Danno di Minori*, "Dichiarazione di Consenso in Tema di Abuso Sessuale all'Infanzia" (Rome: March 21, 1998), cited by L. Ciccone, *Etica sessuale*, pp. 231-232.

¹²⁹L. Ciccone, *Etica sessuale* (cited), p. 231.

¹³⁰This is a subject matter whose particular details can be particularly disagreeable, and normally, knowledge of them is not necessary. The reader who may need more detailed information is referred to F. di Noto, under "Abuso sessuale di bambini (pedofilia)" (cited), pp. 10 – 11 and the bibliography provided there.

¹³¹To acquire a global perspective on the actual dimensions of this sad phenomenon the reader may consult in addition to the sources already mentioned, the work of M. Cesa Bianchi and E. Scabini, *La violenza sui bambini* (Milan: Angeli, 1991) V. Andreoli, *Dalla parte dei*

there is “virtual pedofilia” on the internet, whether in the form of sexual propositions made through *chat* or by way of pornography, a business that is now worth billions of dollars.

The actual dimensions of the phenomenon are truly alarming. According to the data that emerged from the First World Congress against the Commercial Sexual Exploitation of Children (Stockholm, 1996) and from the Report prepared by Unicef for the Second World Congress (Yokohama, 2001), the number of children forced into prostitution or who remain as victims of sexual abuses, often accompanied by necrophilia, has risen to several million per year. There are also thousands of websites reported every year that are dedicated to pedophilia. No less alarming is the diffusion of attempts to socially and culturally legitimate pedophilia. There are hundreds of different associations in the world that defend the “right” to have sexual relations with minors. And “sexual tourism” has also been on the rise, organized for the purpose of pedophilia and child prostitution.

There is very little doubt about the serious moral illicitness of pedophilia. All forms of sexual abuse of minors – apart from destroying the personal values of human sexuality, constitute a very serious injury to the dignity, freedom, and both physical and psychical integrity of the person. Pedophilic actions have a devastating effect on their victims – that is, their children – on the physical, psychological and spiritual planes. The victims remain destabilized and disfigured in many shapes for a long period of time, in some cases for their entire lives. Particularly repugnant is “the vulgarity of making a profit in a disgusting manner off the miserable condition of children and their families in underdeveloped countries, which are frequented for the purpose of sexual tourism. This is one of the greatest scandals of our ‘civilization’”¹³². John Paul II described infant prostitution as a ‘worldwide scourge’ and as a ‘horrendous crime’, highlighting the fact that “it often derives its origin from the crisis widely affecting the family. In countries that are still in development, the family is the victim of the conditions of extreme poverty and the lack of adequate social structures, while in the wealthier countries the

bambini (Milan: Rizzoli, 1998); P. Monni, *L’Arcipelago della vergogna. Turismo sessuale e pedofilia* (Rome: Edizioni Universitarie romane, 2002; with new bibliography); S. Leone, *L’Innocenza tradita. Pedofilia: il punto sulla questione* (Rome: Città Nuova, 2006).

¹³² L. Ciccone, *Etica sessuale*, pp. 243-244.

family is conditioned by a hedonistic view of life, which can progress all the way to the destruction of moral conscience through justifying any means for the attainment of pleasure”¹³³.

In all countries, pedophilia is considered a serious crime, normally a crime against the person. Article 34 of the U.N.’s “Convention on the Rights of the Child” (1989) pleads that all nations take the measures that are necessary to combat it. The Council of Europe took the same step on February 24, 1997. In Italy, the issue was regulated in penal law no. 269, on August 3, 1998: *Norme contro lo sfruttamento della prostituzione, della pornografia, del turismo sessuale in danno di minori, quali nuove forme di riduzione in schiavitù* (“Norms against profiteering from prostitution, pornography, and sexual tourism that cause injury to minors, as new forms of slavery”).

For the purpose of avoiding false accusations, it must be remembered, as experts in the matter are well aware, that ensuring the truthfulness of the testimonies and the recollections of the children can at times be very difficult, and requires the assistance of specialists. It is only by the greatest sensitivity and tactfulness that a minor can be protected from harmful re-iterations of the interrogators, while at the same time avoiding any serious and unjust criminalization.

In pastoral practice, it is necessary to motivate and encourage a firm will, in those who have committed pedophilic actions, to emerge from that situation through recourse to suitable medical or psychological remedies in each case, and in some way to clarify at all levels the moral necessity of abandoning certain occupations or environments that provide any occasion for so seriously damaging a minor¹³⁴.

¹³³John Paul II, *Discorso ai rappresentanti dell’ ECPAT (End Child Prostitution in Asian Tourism) e del Centro Europeo di Bioetica e Qualità della vita*, 21 Marzo 1997, nos. 2 and 4.

¹³⁴With regard to clergy, the violation of the Sixth Commandment of the Decalogue by a clergyman with a minor under eighteen years of age is one of the most serious violations of morality handled by the Congregation for the Doctrine of the Faith. On this matter see John Paul II, *Motu proprio Sacramentorum sanctitatis tutela*, April 30, 2001: AAS 93 (2001) 737 – 739, and with regard to applications in practice see Congregation for the Doctrine of the Faith, *Epistula ad totius Catholicae Ecclesiae Episcopos aliosque Ordinarios et Hierarchas interesse habentes: De delictis gravioribus eidem Congregationi Pro Doctrina Fide reservatis*, May 18, 2001: AAS 93 (2001) 785 – 788.

8.7 Pre-marital Chastity

In the light of what has already been treated in this chapter, the nature and concrete normative requirements of pre-matrimonial chastity should not raise any doubts on the theoretical level. Nevertheless, they represent a serious pastoral problem, in so far as certain cultural and social conditions, in connection with a problem that in itself has never been very easy, often drive persons with an affective relationship that is preliminary to marriage or at least orientated toward it, into not observing the chastity appropriate for the state of unmarried persons. These particular social and cultural conditions consist primarily in the privatization and trivialization of sexuality, the lack of an anthropological and social context that holds in high esteem the idea of entering matrimony in a state of sexual virginity, the reduction of matrimony (both civil and canonical) to a merely bureaucratic process, the too early beginning of affectionate relationships between couples, accompanied by an excessive delay in the time of getting married, and above all – but not exclusively – because of the current difficulties in attaining employment that could guarantee the economic autonomy that is needed for marriage. These latter two circumstances, taken together, greatly extend the period of engagement and create a situation that is very unnatural for persons who have reached the age of affective and relational maturity.

In this context, any discussion of premarital sexual relationships will have reference to a whole variety of actions. In many cases it is simply a question of *sexual relationships without meaning*, that is, more or less occasional encounters between friends or companions at work or at college or university, who are connected by mutual sympathy or a fleeting and superficial complex of emotions, and this occurs between persons who have only recently met, or only once or twice before. We are looking here at cases of fornication pure and simple, such as has been discussed above. For *premarital relationships* in the strict sense, by contrast, it is a question of sexual relationships between committed persons, between whom a relationship of pure and profound love is growing, and who may be seriously anticipating marriage. Experience has fully demonstrated, nevertheless, that the relationships presented as pre-marital – and even experienced as such – are not in reality pre-marital, since the persons involved never arrive at marriage, and sometimes for poor or at least

very questionable reasons. The attribute of *premarital* is based on an expectation of the future which, the moment when it is formulated, can have a more or less solid or sincere foundation, but which in every case is always a projection, an expectation, but not an irrevocable bond. This is a fact confirmed every day by pastoral experience and should never be lost sight of when discussing this theme.

The moral teaching of the Church, firmly founded on Sacred Scripture, maintains the *moral illicitness of every form of sexual relationship outside of marriage, including premarital relationships*. The biblical and anthropological foundation for this judgement has already been treated¹³⁵. The Declaration *Persona humana* clearly affirms that the contrary opinion “is opposed to Christian teaching”¹³⁶, which “the Church has always intended and taught, finding a profound agreement with her teaching in the reflections of humanity and the lessons of history”¹³⁷.

The same Declaration presents a synthesis of some of the principal objections to the teaching of Church that are encountered today. Some maintain that there “exists a firm intention to marry and an affection which is already in some way conjugal” which requires a completion that would be entirely connatural at this stage, such that the intimate relationship “seems necessary in order for love to be preserved”¹³⁸. Of course, it cannot be denied that sometimes difficult situation come into being, above all when economic or employment circumstances inhibit the

¹³⁵ Cf. sections 2 and 3 of the present chapter.

¹³⁶ *Congregation for the Doctrine of the Faith*, Declaration *Persona humana*, no. 7.

¹³⁷ *Ibidem*. The Declaration cites other documents of the Magisterium in endnote 17 that furnish testimony of the Church’s teaching on the matter through the ages. Specifically, one should consider: Innocent IV, *Epist. Sub catholicae professione* (March 6, 1254): DH 835; Pius II, “Propos. condannate nell’ *Epist. Cum sicut accepimus* “ (November 14, 1459): DH 1367; Decrees of the Holy Office (September 24, 1665 and March 2, 1679): DH 2045 and DH 2148 ; Pius XI, Encyclical *Casti Connubii* : AAS 22 (1930) , pp. 558 – 559. *The Catechism of the Catholic Church*, no. 2391, is also quite explicit: “some today claim a ‘right to a trial marriage’ where there is an intention of getting married later. However firm the purpose of those who engage in premature sexual relations may be, ‘the fact is that such liaisons can scarcely ensure mutual sincerity and fidelity in a relationship between a man and a woman, nor, especially, can they protect it from inconstancy of desires or whim’ (Cf. Declar. *Persona humana*, no. 7). Carnal union is morally illegitimate only when a definitive community of life between a man and a woman has been established. Human love does not tolerate ‘trial marriages’. It demands a total and definitive gift of persons to one another (Cf. *Familiaris consortio*, no. 80).”

¹³⁸ Declaration *Persona humana*, no. 7.

marriage of persons who have reached a certain maturity. In general, however, the objections do not seem convincing, even for very difficult situations¹³⁹.

Above all there is the fact that, for the future marriage that is desired, decided upon or planned for, the couple do not have an irrevocable bond between themselves before God, their consciences, society or the state. Their life is not yet a single life or a single destiny, and up until the last moments before being married, their common project can be revoked, and has been in many cases, as experience shows. Their sexual union cannot express and consolidate an irrevocable unity of life that does not yet exist. If they have been baptized, the couple is still not constituted by Christ as husband and wife through the sacrament of matrimony, and their carnal union cannot express the mutual self-giving of Christ and His Church. The carrying out of the actions of spouses by those who are not spouses contains an insuperable element of falsity. Despite the limitations of an analogy, the situation would nevertheless

be similar to that of a candidate for the priesthood who thinks the fact that he has persevered in his desire to become a priest and that he has devoted long years to his studies and preparation, would make him capable of celebrating Mass or administering the sacrament of Penance weeks or months before his priestly ordination.

This insuperable element of falsity has very evident consequences. Although asserting that they live a sexual union as an act of genuine and total self-giving, the engaged couple are basically manipulating their sexuality, intentionally depriving it of the procreative dimension that God has inscribed in it. The fact that they are not able to use their sexuality the way God intended it to be used, indicates that their union in

¹³⁹For a fuller understanding of the whole theme, see D. Tettamanzi, *Rapporti prematrimoniali e morale cristiana* (Milan: Daverio, 1973); A. Günthör, *Chiamata e risposta* (cited), vol. III, nos. 571 – 577; M.L. Di Pietro, *Adolescenza e sessualità* (Brescia, La Scuola, 1993); A. Léonard, *Gesù e il tuo corpo*, cited above; A. Cattaneo (con la collaborazione di Franca e Paolo Pagni), *Matrimonio d'amore. Tracce per un cammino di coppia* (Milan: Ares, 2000); L. Ciccone, *Etica sessuale*, cited above, pp. 155-172; J. De Irala, *El valor de la espera* (Madrid: Palabra, 2007). For a comprehensive vision of the pastoral care of betrothal and marriage, see: Pontifical Council for the Family, *Preparation for the Sacrament of Marriage* (May 13, 1996); Italian Bishops' Conference (*Conferenza Episcopale Italiana*), *Direttorio di pastorale familiare per la Chiesa in Italia* (Rome: Fondazione di Religione 'Santi Francesco di Assisi e Caterin da Siena', 1993).

such circumstances does not correspond with God's design. If they allow their union to have its natural openness to life, something that rarely happens today, they agree to give life to a child without the presence of a context that would guarantee an adequate “welcome” to life and an education. It is difficult to escape the impression that a new life has been brought into the world in a difficult situation – or at least not an optimal one – as the fruit of an act of incontinence – the consequence, that is, of an act that should have been avoided.

If we turn our attention to what is often the case – certainly not always the case – one can add another observation: *premarital sexual relations often flow from a kind of moral blackmail*: one partner of the couple insists in asking “proof of love” from the other partner, as a *conditio sine qua non* for continuing the relationship. But persons do not “prove” themselves, rather, they make choices, and a reciprocated love is shown by mutual sacrifices no less than by the sharing of pleasures. The person who is being asked to “prove” his or her love in this way feels used and abused by the other. In other situations, couples who have recourse to premarital relations base their relationship on the sexual experience itself, losing thereby the objectivity and freedom needed to acquire an adequate understanding of the character, intentions and ideals of the other person, a circumstance that causes difficulties after matrimony, when marriage does occur. If it were true that premarital sexual relations give support to love, mutual understanding and reciprocity, there would not be any marital failures today. But experience and incontrovertible statistical data show exactly the opposite.

In pastoral practice it is important to keep in mind that the correct development of an engagement presupposes an underlying anthropological framework: a correct understanding of the person, of love, and of matrimony. And for the Christian faithful there are also religious presuppositions. Sometimes, instead of dwelling upon a rational discussion against, or in favor of, some particular behavior, it is more effective to accompany an engaged couple through a long course of formation and prayer, taking advantage, if at all possible, of the helpful example of other couples who are rightly and happily living their engagement. Once the engaged couple has acquired the desire to build a right relationship, there is need to exhort them to have confidence in God's help and to ap-

proach more often the sacraments of Penance and the Eucharist, as well as teach them in a practical way to avoid the situations and occasions that make it difficult to behave well, such as, for example, constantly isolating themselves from others or spending their vacation times together and apart from others¹⁴⁰.

The exchange of gestures of affection between engaged partners is not opposed to chastity, since they can change the character of these manifestations step by step as their relationship becomes deeper and stronger. Nevertheless, they should not involve sexual turbulence or become sins of unfulfilled lust (“impure acts”)¹⁴¹. If they grasp clearly the difference between impure acts and manifestations of affection, the couple themselves can provide an adequate response to questions about how they ought to behave.

8.8 Conjugal Chastity

8.8.1 *The Context: Conjugal Love*

Conjugal chastity should not be considered a self-standing dimension of value. It is an ideal that needs to be considered within the larger context of the theology of matrimony and conjugal spirituality¹⁴², argumentation that the space at our disposal in this work does not allow us to recall. Nevertheless, it is necessary, at least, to keep in mind that – in addition

¹⁴⁰ Cf. the relevant observations contained in the *Direttorio di pastorale familiare* of the Conference of Italian Bishops, nos. 45- 47.

¹⁴¹ Cf. Sections 5a) and c) above.

¹⁴² Abundant stimuli for laying the foundation of a conjugal spirituality can be found in *Familiaris consortio*, no. 56: “The sacrament of marriage is the specific source and original means of sanctification for Christian married couples and families. It takes up again and makes specific the sanctifying grace of Baptism. By virtue of the mystery of the death and Resurrection of Christ, of which the spouses are made part in a new way by marriage, conjugal love is purified and made holy [. . .] Christian spouses have a special sacrament by which they are fortified and receive a kind of consecration in the duties and dignity of their state [. . .] Christian spouses and parents are included in the universal call to sanctity. For them this call is specified by the sacrament they have celebrated and is carried out concretely in the realities proper to their conjugal and family life. This gives rise to the grace and requirement of an authentic and profound conjugal and family spirituality that draws its inspiration from the themes of creation, covenant, cross, resurrection, and sign.” On marriage as a vocation and path of Christian holiness , see also St. Josemaría Escrivá, *Marriage, A Christian Vocation* (cited).

to the biblical and anthropological foundations seen in sections 2 and 3 of the present chapter – the chastity that is proper to married persons is the expression, the protection, and the consolidation of the conjugal love that animates the married life of the couple¹⁴³. The Second Vatican Council describes conjugal love as an eminently human love: “directed from one person to another,” it embraces and affirms “the good of the whole person” and therefore “can enrich the expressions of body and mind with a unique dignity, ennobling these expressions as special ingredients and signs of the friendship distinctive of marriage”¹⁴⁴. The Lord has given conjugal love “healing, perfecting and exalting gifts of grace and of charity” that lead the spouses to a “free and mutual gift of themselves . . . by gentle affection and by deed, such love pervades the whole of their lives”¹⁴⁵.

Conjugal love is not one of the three goods that Saint Augustine called the goods of matrimony, nor is it one of the two ends of marriage, according to traditional scholastic vocabulary. Conjugal love “is rooted,

¹⁴³ Cf. *Familiaris consortio*, no. 11. On conjugal love see F. Gil Hellín, “El lugar propio del amor conyugal en la estructura del matrimonio según la *Gaudium et Spes*”, *Anales Valentinus*, 6 (1980) 1 – 35; F. Gil Hellín, A. Rodríguez-Luño, Il Fondamento antropologico della *Humanae Vitae* nel Magistero di Giovanni Paolo II”, in various authors, *Humanae vitae: 20 anni dopo: Atti del Congresso Internazionale di Teologia Morale* (Rome, November 9-12, 1988 (Milan: Ares, 1989), pp. 425 – 438. For the history and the successive redactions of nos. 46 to 52 of *Gaudium et Spes*, cf. F. Gil Hellín, *Concilii Vatican II synopsis. Constitutio pastoralis ‘Gaudium et spes’*, (Vatican City: Libreria Editrice Vaticana, 2003), pp. 377 – 453.

¹⁴⁴ *Gaudium et spes*, no. 49.

¹⁴⁵ *Ibidem*. A classical treatment of the highest quality on matrimony is G. H. Joyce, *Christian Marriage* (Italian translation: Matrimonio cristiano: Alba, Paoline, 1956); for a comprehensive account that is more up - to - date see A. Miralles, *Il matrimonio: teologia e vida* (Cinisello Balsamo [Milan]: San Paolo, 1996). Of special interest are: P. Adnès, *Il matrimonio* (Rome: Desclée, 1966); K. Wojtyła, *Love and Responsibility*, trans. H. J. Willetts (San Francisco: Ignatius, 1993); L. Ligier, *Il matrimonio. Questioni teologiche e pastorali* (Rome: Città Nuova, 1988); C. Caffarra, *Creati per amare* (Siena: Cantagalli, 2006). For a general philosophical vision, cf. A. Caturelli, *Dos, una sola carne* (Buenos Aires, 2005). From the sociological point of view: S. Belardinelli, *Il gioco delle parti. Identità e funzioni della famiglia in una società complessa* (Rome: AVE, 1996). Among magisterial documents one should consult: Pius X, Enc. *Casti connubii* (Dec. 31, 1930); *Gaudium et spes*, nos. 46 – 52; *Familiaris consortio*; John-Paul II, *Man and Woman Created He Them*, trans. M. Waldstein (cited above, note 6). A very useful collection of magisterial texts is: A. Sarmiento, J. Escrivá-Ivars, *Enchiridion familiae: textos de magisterio pontificio y conciliar sobre el matrimonio y la familia: siglos I a XX* (Madrid: Rialp, 1992). A systematic vision of the teaching of the Magisterium is offered by R. García de Haro, *Matrimonio e famiglia nei documenti del magistero. Corso di teologia matrimoniale* (2nd ed., Milan: Ares, 2000).

instead, in the essence of marriage itself, and thereby informs and vivifies the entire marriage and the sum total of its goods and its ends, so much so that marriage can be considered the institution of conjugal love.”¹⁴⁶ The goods and the ends of marriage are the goods and the ends of conjugal love, that is, the goods and ends that constitute its objective reason and essence and define it, distinguishing it from other forms of affection and friendship. Saint Augustine’s teaching on the goods of matrimony is well known: “This good is a triple one: faithfulness, offspring, and sacrament. The good of *faithfulness* provides that there are no unions with others outside the conjugal bond; the good of *offspring* makes for their loving welcome, their generous nurturing, and their religious education; the *sacrament*, finally, keeps the marriage from being dissolved, so that neither the woman nor the man be rejected for the purpose of forming a new bond in order to get children. This is a kind of rule of marriage, by means of which natural fecundity is ennobled and the depravity of lust is regulated”¹⁴⁷. Following Augustine, theological tradition has coined the terminology *bonum prolis* (good of offspring), *bonum fidei* (good of faithfulness), and *bonum sacramenti* (good of the sacrament) to express the goods that regulate the life of a married couple, a teaching that has been fully developed by the Magisterium of the Church¹⁴⁸.

From the ethical point of view, it must be emphasized that conjugal love, just as it has been described, is not a simple sentiment that will disappear today or tomorrow. It is – according to the Second Vatican Council – far superior to “mere erotic inclination, which, selfishly pursued, soon enough fades wretchedly away”¹⁴⁹. *Conjugal love is, rather, the fundamental content of the conjugal alliance, in the sense that in contracting matrimony the spouses commit themselves before God, to their own consciences, and to society and the state, their reciprocal gift of self*

¹⁴⁶F. Gil Hellín and A. Rodríguez-Luño, “Il fondamento antropologico della *Humanae vitae* . . .” (cited), p. 428. In *Familiaris consortio*, no. 11, John-Paul II calls marriage “the pact of conjugal love”.

¹⁴⁷Saint Augustine, *De Geneis ad litteram*, IX. 7, no. 12: *CSEL* 28. 275-276; *PL* 34, 397D. Cf. also Augustine’s *De bono conjugali*, 24, no. 32: *CSEL* 41. 227; *PL* 40, 394D.

¹⁴⁸Cf. Pius XI, *Casti connubii*, Dec. 31, 1930: DH 3703-3714. Pula Vi as well, without explicitly recalling Saint Augustine, offers a very beautiful description of conjugal love as total, faithful, exclusive and fecund that coincides in substance with the teaching of the ancient Bishop of Hippo (*Humanae vitae*, nos. 8-9).

¹⁴⁹*Gaudium et spes*, no. 49.

and their conjugal love, and therefore to maintain, protect, nourish and promote their love every day of their lives: a commitment to which they are bound by reason of strict justice and also, of course, by charity¹⁵⁰. The love between spouses is not a mere psychological fact that can be changed – such as what happens with simple attraction – because it constitutes, on the ethical plane, the fundamental commitment of the spouses, and it is this commitment that becomes the alliance, the institution, and the sacrament of marriage. All the actions of the spouses – including the requirements of chastity – can be viewed and judged in the light of this commitment, without ever losing sight of the fact that the love to which they have committed themselves has a well-defined essential content: the *bonum prolis*, the *bonum fidei*, and the *bonum sacramenti*, which should never be harmed.

8.8.2 *The Sanctity of Conjugal Relations*

Conjugal love is the love that a married couple has the obligation to promote and defend. In practice, conjugal love has many manifestations, that in part are shared in common with other kinds of love: cohabitation, affection, paying attention, understanding, assistance, being available to serve and make sacrifices, etc. *But in its specific nature as conjugal love, this kind of love is expressed in the mutual and complete self-giving that takes place in conjugal relations, which are not only good and holy¹⁵¹, but obligatory as well.* St. Paul speaks clearly in this sense about the “duty” of the husband toward the wife and of the wife toward the husband¹⁵², since “a wife does not have authority over her own body, but rather her husband, and similarly a husband does not

¹⁵⁰ *Familiaris consortio*, no. 13, affirms this as follows: “Conjugal love reaches that fullness to which it is interiorly ordained, conjugal charity, which is the proper and specific way in which the spouses participate in and are called to live the very charity of Christ who gave Himself on the Cross.”

¹⁵¹ See, for example, *Gaudium et spes*, no. 49: “This love is uniquely expressed and perfected through the appropriate enterprise of matrimony. The actions within marriage by which the couple are united intimately and chastely are noble and worthy ones. Expressed in a manner which is truly human, these actions promote that mutual self-giving by which spouses enrich each other with a joyful and a ready will.”

¹⁵² Cf. 1 Cor 7: 3.

have authority over his own body, but rather his wife”.¹⁵³ He then adds “Do not deprive each other, except perhaps by mutual consent for a time”¹⁵⁴. The Catholic moral tradition uses the concept of the “conjugal duty” (*debitum coniugale*) to indicate that *there is a moral obligation of justice, grave in itself, to satisfy the conjugal duty when the spouse requests it in a serious and reasonable manner*¹⁵⁵. We can now define more exactly the meaning of this obligation.

1) *The conjugal relations are always licit and holy, as long as they have not been intentionally rendered infertile by the couple* (e.g. by onanism or contraception) as will be mentioned later, and as long as they take place within the proper circumstances (as an expression of love, and not in the presence of others, etc.). They are equally licit when, for causes independently of the will of the spouses (age, illness, natural sterility, etc.), they are foreseen to be infecund, because in that case they remain “ordained towards expressing and consolidating their union”.¹⁵⁶ The obligation to promote their love and make it deeper will lead the spouses to love one another without fears or scruples, knowing that it is always licit to satisfy the conjugal debt and that it is licit to ask for it when it is considered conducive to the well-being of one or both of the spouses¹⁵⁷.

¹⁵³1 Cor 7: 4. According to the Encyclical *Casti connubii*, it pertains to the *bonum fidei* that “what belongs to one of the parties by reason of this contract sanctioned by divine law, may not be denied to him or permitted to any third person; nor may there be conceded to one of the parties anything which, being contrary to the rights and laws of God and entirely opposed to matrimonial faith, can never be conceded.” (Pius IX, Enc. *Casti connubii*, par. 19, DH 3706).

¹⁵⁴1 Cor 7: 5. The original Greek here, *mè apostereíte allélous* has been translated as “deprive” by the NABRE, which does not quite capture the exact meaning of *aposteréo*, which more properly means “defraud” or “cheat” or rob”, and has been translated as *defraudare* in the *Nova Vulgata*.

¹⁵⁵Cf. M. D. Prümmer, *Manuale Theologiae Moralis* (cited above), vol. III, nos. 694 – 697.

¹⁵⁶*Humanae vitae*, no. 11. “Nor are those considered as acting against nature who in the married state use their right in the proper manner, although on account of natural reasons either of time or of certain defects, new life cannot be brought forth. For in matrimony as well as in the use of the matrimonial rights there are also secondary ends, such as mutual aid, the cultivating of mutual love, and the quieting of concupiscence which husband and wife are not forbidden to consider so long as they are subordinated to the primary end and so long as the intrinsic nature of the act is preserved.” (Pius XI, Enc. *Casti connubii*, par. 59, DH 3718)

¹⁵⁷The licitness of conjugal relations implies the licitness of conjugal acts “*sive mutui*

2) *Conjugal relations are intrinsically (“per se”) immoral which involve a serious risk to the health of one or the other spouse or to any resulting infant.* This occurs above all in the case of serious infectious diseases (syphilis, AIDS, etc.). Without question, the infected spouse must not request the conjugal duty, and the healthy spouse does not have the obligation to satisfy it. Nevertheless, it cannot be ruled out that, in order to avoid serious moral or physical dangers to the infected spouse, it would be licit for the healthy spouse to request the conjugal duty, for the reason of Christian charity toward the other. It is a delicate question that needs to be evaluated in the light of all the circumstances, and after consultation with a competent physician.¹⁵⁸ Not all diseases have the same seriousness in general or for particular persons, nor do they have equal chances of being sexually transmitted to a spouse or child, nor are they equally accessible to prevention, protection or therapy in case of contagion.

3) *There is a serious obligation to satisfy the conjugal duty when it is requested in a serious and reasonable manner.* Such a duty does not exist in the strict sense in some cases: a) if the request is made by an adulterous spouse, even if it is likely that the innocent spouse will forgive and resume married life again with the other who has repented of the action; b) if co-habitation has been legitimately interrupted or suspended; c) if the request is unreasonable, for example, because one of the spouses is intoxicated or acting in a brutal manner, or if one of the spouses is physically indisposed at the moment, or would run a serious risk to his or her health.

*sive solitarii, qui ad actum coniugalem perficiendum vel necessarium vel utiles sunt: cui enim permittitur finis, ei permittuntur etiam media, et cui permittitur actus consummati, ei permittuntur etiam actus qui ab ipsa natura ut dispositio et praeparatio ad illum destinati sunt. A) Hinc quando adest intentio perficiendi copulam, coniugibus liciti sunt aspectus, tactus, etc., qui ad copulam excitant, sive ante copulam sive in ipsa copula peraguntur. Cavere autem debent coniuges, ne diutius in eiusmodi actibus immorando pollutio sequatur; si tamen praeter intentionem sequeretur, culpa vacaret. B) Si, copula ex parte viri iam consummata, hic se retrahit antequam mulier actum complevit, potest ipsa tactibus vel alio modo actum complere et plenam voluptatem sibi procurare.” (H. Noldin, *De sexto praecepto et de usu matrimonii*, 32 nd ed., (Innsbruck-Leipzig: Rauch, 1941), no. 70.*

¹⁵⁸For a discussion of this problem see H. Noldin, *De sexto praecepto et de usu matrimonii*, (cited above), no. 86. The theme can be more profoundly studied by consulting passages of the *Theologia Moralis* by Saint Alphonsus, to which Noldin refers in the above cited work, lib. V, tract. VI, cap. I, art. II: no. 950.

When things are happening as they should between the spouses, their reciprocal love will generally bring it about that their conjugal relations will not be subject to a cold analysis of “rights” and “duties”. Nevertheless, from the objectively moral perspective, the right and the duty do exist, and a grave injustice can be committed when one spouse always or nearly always refuses the other. This can occur at times when in one of the parties, especially for reason of age, desire diminishes or almost completely disappears, and perhaps thinks that the same thing has happened to the other. In this case one must try through love and Christian charity to do what no longer happens spontaneously, in such a way as to build up conjugal harmony and ward off, at the same time, the various forms of incontinence (adultery, prostitution, masturbation, pornography).

4) *There exists a right, but not an obligation, to request the conjugal duty.* However, often, for the good of the other spouse, there does exist an obligation in charity to take the initiative.

5) *By free and mutual agreement, spouses can abstain from conjugal relations, whether temporarily or definitively.* Temporary abstention, for sensible reasons that both spouses can agree with, can be a good solution in some cases. Permanent abstention would only rarely be advisable¹⁵⁹, since it brings the risks of a chilling of conjugal love, of incontinence and conjugal infidelity.

6) *The intention to effect a sodomitic union does not satisfy the conjugal duty*, since such unions are illicit and have nothing to do with properly spousal acts. If one of the spouses intends to carry out an onanistic union, the other ought to manifest proper disapproval; in certain circumstances, however, to be discussed below, it can be licit to cooperate *materially* in the sin of the other spouse.

8.8.3 *Responsible Parenthood*

Children are always a good, “the supreme gift of marriage”¹⁶⁰, and marriage itself is ordained to them. Spouses are called by God to the handing on of human life¹⁶¹, and in the carrying out of this task, “should realize

¹⁵⁹ Cf. 1 Cor 7: 6.

¹⁶⁰ *Gaudium et spes*, no. 50.

¹⁶¹ Cf. Gen 1: 28.

that they are thereby cooperators with the love of God the Creator, and are, so to speak, the interpreters of that love”¹⁶². *The concept of responsible parenthood, promoted by the Church’s magisterium*¹⁶³, *makes it clear that man fulfills the divine plan only as “a responsible agent, as the master of his own actions, as an ‘interpreter of God’s will’, participating in the Creator’s providence by his own acts of intelligent understanding”*¹⁶⁴, and not simply driven by instinct or irrational forces. This active participation in God’s providence, in the last analysis, is nothing other than what traditionally has been called the natural moral law, which is to say, the natural human capacity to know what to do and what to avoid.

It is the concern of the married spouses, and of no one else, to understand God’s design for themselves and their family. To that end, prayer and reflection are needed, as well as generosity and a filial trust in divine providence, the sincerity to examine one’s own motives, an evaluation of circumstances that is not undermined by pessimism, and the consultation with wise persons – without, however, passing one’s own responsibility upon them – in these matters the “The parents themselves and no one else should ultimately make this judgment in the sight of God”¹⁶⁵. Often the couple will arrive at the conclusion that their responsibility is to accept with generosity and joy all the children God wants to entrust to them. In this sense the Second Vatican Council notes particularly the married spouses who “with a gallant heart and with wise and common deliberation, undertake to bring up suitably even a relatively large family”¹⁶⁶. On other occasions, serious reasons of the physical, social, and economic orders, etc., will lead them to plan not to have another child for the time being. As the Encyclical *Humanae vitae* affirms, “With regard to physical, economic, psychological and social conditions, responsible parenthood is exercised by those who prudently and generously decide to have more children, and by those who, for serious reasons and with due respect to moral precepts, decide not to have additional children for

¹⁶² *Gaudium et spes*, no. 50.

¹⁶³ Cf. *Gaudium et spes*, nos. 50 – 51 and *Humanae vitae*, no. 10.

¹⁶⁴ M Rhonheimer, *Ethics of Procreation and the Defense of Human Life*, ed. William F. Murphy Jr (Washington, D. C.: CU of A Press, 2010), p. 91.

¹⁶⁵ *Gaudium et spes*, no. 50.

¹⁶⁶ *Ibidem*.

either a certain or an indefinite period of time”¹⁶⁷.

When there are serious reasons for spacing births, responsible parenthood requires knowledge of and respect for biological processes as well as the necessary mastery that reason and will must exercise over impulses and inclinations¹⁶⁸, in such a way as to act like spouses should in accordance with the decision taken. *It is legitimate to make use of certain natural circumstances that in themselves tend to space the births, such as the nursing of an infant. It is also licit to “take advantage of the natural cycles immanent in the reproductive system and engage in marital intercourse only during those times that are infertile, thus controlling birth in a way which does not in the least offend . . . moral principles”*¹⁶⁹. Despite certain campaigns to vilify this, statistical data exist that demonstrate that recourse to infertile periods, if rightly applied, is fully trustworthy. In some more difficult cases (irregular menstrual cycles, etc.), it may be necessary to have recourse to a specialized medical center¹⁷⁰.

The prevailing mentality in wealthy countries, where the population is aging at an alarming rate, and the real difficulties for maternity pre-

¹⁶⁷ *Humanae vitae*, no. 10.

¹⁶⁸ Cf. *ibidem*.

¹⁶⁹ *Ibid.*, no. 16.

¹⁷⁰ Such, for example, as the Center at Rome for the Study and Research on the Natural Regulation of Fertility (Università del Sacro Cuore). The study by the World Health Organization on the results of the use of the Billings method have been reported and commented upon by A. Cappella, V. Navarretta, E. Giacchi, “Il metodo della ovulazione Billings: dati e valutazioni dello studio multicentrico della organizzazione mondiale della Sanità [W.H.O.]”, *Medicina e Morale* 32/4 (1982) 371 – 387. For an introduction see A. Cappella, “La regolazione della fertilità con il metodo dell’ovulazione”, *Medicina e Morale* 25/2-3 (1975) 255 – 305; E. Billings, A. Westmore, *The Billings Method* (New York: Random House, 1980); E. Giacchi, E. Terranera, A. Cappella, “Panoramica storica e basi scientifiche dei metodi naturali di regolazione delle fertilità”, in: Centro Studi e Ricerche sulla Regolazione naturale della Fertilità, Istituto Giovanni Paolo II per Studi su Matrimonio e Famiglia, *La procreazione responsabile. Fondamenti filosofici, scientifici, teologici* (Rome: 1984); A. López Trujillo, E. Sgreccia, eds., *Metodi naturali per la regolazione della fertilità: l’alternativa autentica* (Milan: Vita e Pensiero, 1994); E. Billings, J. Billings, *Due vite per la vita. La pianificazione naturale delle nascite con il metodo dell’ovulazione* (Milan: San Paolo, 1998); G. Bonomi, *I metodi naturali* (Pavia: Ed. Bonomi, 1999). With regard to the ethical aspects cf. C. Caffarra, “La trasmissione della vita nella *Familiaris consortio*” *Medicina e Morale* 33/4 (1983) 391 – 399; A. Rodríguez-Luño, “Differenza morale ed antropologica fra la contraccezione e la continenza periodica”, in *La procreazione responsabile. Fondamenti filosofici, scientifici, teologici* (cited above); M. Rhonheimer, *Ethics of Procreation and the Defense of Human Life* (cited above, note 165), especially pp. 95 – 107.

sented by today's working conditions and social practices *make it advisable in practice to encourage couples to be generous in having a greater number of children than the minimum that is becoming the standard today*. Large families are a good for society, for the Church, and above all, for the families themselves. Nevertheless, this kind of choice cannot be imposed on anyone, but can only grow out of a dialogue between the spouses and between the spouses and God. A priest can, and many times must, enlighten and help the couple to reflect on their motivations and their circumstances. Ultimately, it is the married couple themselves who must decide, according to the conviction that ripens within their hearts, how to take up with a joyful spirit all the sacrifices that their job of parenting and educating requires.

8.8.4 *The Abuses of Marriage: Contraception*

*The moral teaching of the Church has always considered it a gravely moral fault directly to deprive (whether as means or end) conjugal relations of their openness toward the "bonum prolis" which such relations have in every single instance*¹⁷¹. The encyclical *Casti connubii* presents this as "uninterrupted Christian tradition"¹⁷² and expresses the teaching in the following words: "any use whatsoever of matrimony exercised in such a way that the act is deliberately frustrated in its natural power to generate life is an offense against the law of God and of nature, and those who indulge in such are branded with the guilt of a grave sin"¹⁷³.

Up until the second half of the twentieth century, the conjugal act was able to be rendered infertile on purpose, through the modification of the act itself by way of a barrier, such as a prophylactic condom or a diaphragm, by the practice of *coitus interruptus* (onanism) or by the use of creams and foams, etc. But the advent of the birth control pill changed the "ground-rules" of the game, because it could prevent contraception without modifying the conjugal act in any way. This occurred on

¹⁷¹For the history of the issue, cf. J. T. Noonan, *Contraception: a history of its treatment by the Catholic theologians and canonists* (Cambridge, Mass.: Harvard University Press, 1986).

¹⁷²Pius XI, Enc. *Casti connubii*, par. 56, DH 3717.

¹⁷³*Ibidem*. The original Latin text reads as follows: "Quemlibet matrimonii usum, in quo exercendo, actus, de industria hominum naturali sua vitae procreandae vi destituatur, Dei et naturae legem infringere, et eos, qui tale quid commiserint, gravis noxae labe commaculari."

the eve of the so-called “sexual revolution”, in the years of many changes and strong influences upon public opinion, and when there were pessimistic forecasts of over-population (largely rejected today). A heated debate broke out in the Church, to which Paul VI answered with the encyclical *Humanae vitae*. Taking account of the nature of the new contraceptive methods, the pope articulated a more precise definition of the sin of contraception, clarifying as *absolutely excluded* “any action which either before, at the moment of, or after sexual intercourse, is specifically intended to prevent procreation—whether as an end or as a means”¹⁷⁴. The essence of the sin of contraception was precisely located in the directly intended proposal, howsoever realized, to render infecund the conjugal act, that is to say, the consensual sexual relations between legitimate spouses. On the other hand, the encyclical also made plain the moral licitness of using “those therapeutic means necessary to cure bodily diseases, even if a foreseeable impediment to procreation should result therefrom—provided such impediment is not directly intended for any motive whatsoever”¹⁷⁵. The same teaching was reaffirmed many times and explicated by John Paul II in his apostolic exhortation *Familiaris consortio* (1981), in his “Catarcheses on Human Love”¹⁷⁶, a work of great theological power, and in numerous addresses that left no doubt about the Church’s teaching on the matter in question.

The anthropological considerations developed in section three of the present chapter (“Structure and Significance of Human Sexuality”) sufficiently illustrate the foundation of the moral judgement on contraception. The argument makes it understandable why it is never licit to separate the two meanings of the conjugal act – the procreative and the unitive – inscribed by God in human sexuality¹⁷⁷, and why the intentional injury of the *bonum prolis* entails the “falsification of the inner truth of conjugal love, which is called upon to give itself in personal totality”¹⁷⁸.

¹⁷⁴ *Humanae vitae*, no. 14.

¹⁷⁵ *Ibid.*, no. 15.

¹⁷⁶ The series of Wednesday Catarcheses were collected into a book: John Paul II, *Man and Woman He Created Them*, trans. M. Waldstein (cited); an excellent guide to the study of this complex work is offered by L. Ciccone, *Uomo – donna. L’Amore umano nel piano divino. La grande catechesi del mercoledì di Giovanni Paolo II* (cited above).

¹⁷⁷ Cf. *Humanae vitae*, no. 12.

¹⁷⁸ *Familiaris consortio*, no. 32. We can point out here a few works of interest to the reader

From the pastoral perspective, one must mention the *Vademecum for Confessors* published by the Pontifical Commission for the Family¹⁷⁹, in which precise indications are given for dealing with penitents who are in situations of error or inculpable ignorance¹⁸⁰, with the recidivists who are still repentant and to whom absolution cannot be denied, and with those who cooperate materially with the sins of the spouses¹⁸¹. The instructions of the *Vademecum* are not new, but they present sound moral and pastoral criteria – which are often neglected – in an ordered and clear way.

In pastoral practice, matrimonial abuse has always been a difficult

who would like a fuller treatment of various aspects of the question: E. Lio, *Humanae vitae e coscienza* (Città del Vaticano: Lib. Ed. Vaticana, 1980); C. Caffarra, “La trasmissione della vita nella *Familiaris consortio*”, *Medicina e Morale* 33/4 (1983) 391 – 399; E. Lio, *Humane vitae e infallibilità* (Città del Vaticano: Lib. Ed. Vaticana, 1986); M. L. di Pietro, E. Sgreccia, “La trasmissione della vita nell’ insegnamento di Giovanni Paolo II”, *Medicina e Morale* 38 (1988) 787 – 841; F. Ocariz, “La nota teologica dell’insegnamento della *Humanae vitae* sulla contraccezione”, *Anthropotes* 4 (1988) 25 – 44; various authors, *Humanae vitae: 20 anni dopo* (cited above); F. Gil Hellín, *Il matrimonio e la vita coniugale*, (Città del Vaticano: Lib. Ed. Vaticana, 1996). A good overview of the debate on contraception is given in the work of S. Seminckx, *La réception de l’encyclique “Humane vitae” en Belgique. Étude de théologie morale* (Dissertation), Rome: Pontificia Università della Sant Croce, 2006). The best work from the point of view of ethical argumentation appears to be the work of M. Rhonheimer, *Ethics of Procreation and the Defense of Human Life* (cited), pp. 33 – 132.

¹⁷⁹Pontifical Commission for the Family, *Vademecum for Confessors concerning some aspects of the morality of conjugal life*, February 12, 1997. Also useful are the comments published by various authors and edited by the same Council: *Morale coniugale e sacramento della penitenza. Riflessioni sul “Vademecum per I Confessori”* (Città del Vaticano: Lib. Ed. Vaticana, 1998; also available in Italian, French and Spanish versions).

¹⁸⁰In this area as well, the moral principle is valid according to which it is preferable to leave penitents in good faith who find themselves in error for reasons of subjectively invincible ignorance if it can be foreseen that after having been instructed, they will still not modify their own behavior, and thus pass over to formal sin. Nevertheless in such cases the confessor should try to encourage the penitents to embrace the design of God for their conjugal lives, and to exhort them to form their consciences according to the teaching of the Church through prayer and study: cf. *Vademecum for Confessors*, 3. 8. It should be kept in mind, however, that in a question so intimately linked to the very essence of marriage, it is rather difficult for ignorance to be truly invincible in persons of culture and average moral sensitivity. Incomplete understanding and acceptance of a doctrine is not the same thing as invincible ignorance. Therefore a lot of care must be taken to keep married couples from suffering serious harms that the confessor – who must be a teacher and a doctor in addition to being a confessor – can and should prevent.

¹⁸¹ On this last topic there will be some further discussion in Subsection 8 f) below.

problem¹⁸². It is necessary to distinguish a variety of situations. It is one thing when couples behave without recognizing that the conjugal act has a procreative meaning in God's plan, and thereby arbitrarily suppress it practically all the time, denying the very idea of conjugal chastity; it is another thing when spouses who are trying to follow the divine plan, fail every so often, through weakness or as the result of difficult circumstances, and repent afterwards. In every case the problem of contraception must be faced in pastoral practice with an unshaken fidelity to church teaching, with patience and trust in God's grace, and with the right sense of balance. It should never be detached from the context established by the value of the family and conjugal love, which must always be safeguarded, in an awareness that a careless approach could provoke an irreparable break-up of the spouses, which can and must be avoided, in the same way as the damage caused to the children. A growth in the prayer life of the spouses can resolve problems that could be never be solved by the best theological arguments. It is necessary to encourage couples and be understanding with those who find themselves in difficulties, without forgetting that they are persons who have the moral obligation to live together and love one another, and that sometimes they can get involved in very delicate situations regarding finances or personal safety. Conjugal infidelity, recourse to prostitution, etc. are evils far worse than occasional lapses into the sin of contraception.

The anthropological and moral difference between contraception and continence – It is often asked why, when there are well-founded reasons for avoiding another conception and birth for a certain period of time, it is licit to do this using periodic continence but illicit to do the same thing via the method of contraception. The problem was dealt with by Paul VI¹⁸³ and by John-Paul II¹⁸⁴. The latter clarified the fact that it is not a question merely of methods, since there is a remarkable anthropological and moral difference between the two behaviors. When there is a serious reason to delay the birth of a new child, responsible parenthood, as part of conjugal chastity, is required to assume a sexual behavior that is in keeping with the situation that has arisen. The

¹⁸²Prümmer calls it the “vera crux confessoriorum” [“the real cross of confessors”]: *Manuale Theologiae Moralis*, (cited above) vol. III, no. 704.

¹⁸³Cf. *Humanae vitae*, no. 16.

¹⁸⁴Cf. *Familiaris consortio*, no. 32.

virtue of chastity also informs the sexual drive, and in such a way that the latter becomes a subject that acts responsibly, or, better still, so that the whole person of each spouse, in his and her body-soul unity, virtuously control their sexuality – and that means by way of the intelligence, the will, and mutual affection. This contributes to strengthening their love by way of shared sacrifice, attention paid to each other, and by the building of a better harmony. When recourse is had to the use of contraceptive methods, they do not change their sexual behavior and do not responsibly correspond to the need to delay a birth, but, with regard to their sexual behavior, they act just as they had before, when there was no need for spacing: they simply add a manipulation to their sexuality which deprives it of its procreative power. The sexuality of the spouses is no longer the subject of responsible action, but rather an object that is being manipulated for the sake of *avoiding* the behavior entailed by procreative responsibility. In this way, there is no growth in virtue and self-control in the spouses, their mutual harmony is not nourished (since the burden of the situation is borne by only one of the spouses), and gives rise to a lack of integration of sexual energies in the totality of the person, which will always have negative ethical consequences¹⁸⁵.

8.8.5 Sterilization

*The concept of sterilization – By sterilization is meant the act by which a person (man or woman) who is sexually fecund is deprived of the faculty of procreating in a temporary or permanent way through an organic or functional mutilation*¹⁸⁶. There is clearly a connection between sterilization and contraception, since contraceptive pharmaceuticals have a sterilizing effect, and some of them are abortive as well¹⁸⁷. In practice,

¹⁸⁵Cf. M. Rhonheimer, *Ethics of Procreation and the Defense of Human Life*, pp. 71 – 118.

¹⁸⁶We are recalling here, in part, what was published in A. Rodríguez-Luño, “Sessualità, matrimonio, procreazione responsabile. Problemi etici della sterilizzazione e dell’aborto procurato”, in E. Sgreccia, ed., *Corso di bioetica* (Milan: Franco Angeli Editore, 1986), pp. 95 – 116. Cf. also D. Tettamanzi, *Sterilizzazione anticoncezionale: per un disorso Cristiano* (Varese: SALCOM, 1981); J. A. Guillamón Alvarez, *El problema moral de la esterilización* (Madrid: Palabra, 1988); F. D’Agostino, *La sterilizzazione come problema biogiuridico* (Torino: Giappichelli, 2002),

¹⁸⁷Cf. Chapter 5, subsection 3 i).

surgical sterilization is sometimes presented as the most effective means of contraception.

Direct Sterilization — A distinction exists between *direct and indirect sterilization* that is essential for any adequate moral evaluation. *Direct sterilization* is “the action of someone who has determined to render procreation impossible, either as an end or a means”¹⁸⁸. The essential characteristic of direct sterilization is that the choice of the will proposes to deprive a person of the power to procreate, while permitting the realization of sexual union. It follows that not only eugenic sterilization but also anti-procreative sterilization (intended for birth control) are always direct sterilization, even in the case when the latter would be motivated by a desire to eliminate health risks during pregnancy.

Direct sterilization is intrinsically impermissible since, as in the case of contraception, it entails the dissociation of the procreative and unitive aspects of sexuality, to which has been added a mutilation which sometimes makes the dissociation difficult or impossible to reverse. If sterilization is ordered or promoted by public authorities it is always injurious to the common good and justice¹⁸⁹.

At the pastoral level, it is important to keep in mind that as every single sexual act of spouses making use, for example, of the contraceptive pill, is a sin of contraception, the same is true in the case when one of the spouses has had recourse to direct sterilization. One can depart from such a situation of sin through sincere penitence and sacramental absolution. True repentance, in principle, requires the restoration of the procreative faculty, if this is at all possible. If the sterilization cannot be reversed, a very delicate situation is created that must be treated with much prudence, since the spiritual well-being of the persons concerned requires that they be assisted in understanding the seriousness of their action and thereby attain to true repentance. If they succeed in making

¹⁸⁸Pius XII, *Discorso al Congresso Internazionale di Ematologia*, Nov. 12, 1958: AAS 50 (1958) 734-735. One should also consult Congregation for the Doctrine of the Faith, *Documentum circa sterilizationem in nosocomiis catholicis*, March 13, 1975 (DH 4650).

¹⁸⁹Cf. Pius XI, Enc. *Casti connubii*, cited: DH 3722- 3723; *Reply of the Holy Office* of August 11, 1936: DH 3760- 3765; *Decree of the Holy Office* of February 21, 1941: DH 3788; *Humanae vitae*, no. 14; Congregation for the doctrine of the Faith, *Documentum circa sterilizationem in nosocomiis catholicis* (cited above): DH 4650 – 4651; *Familiaris consortio*, no. 30.

a true conversion of heart, they can, in my judgment, licitly resume their conjugal life.

Indirect Sterilization — *By indirect sterilization is meant, by contrast, an action that, without seeking to render procreation impossible as either a means or an end, has for its object a genuinely therapeutic and necessary effect, but is accompanied by a sterilizing effect that is foreseen but not desired.* If the desired therapeutic effect is itself achieved only so that no pregnancy results from the free exercise of sexuality, then we are in a situation of direct sterilization, since now the effect is willed as a means.

*Indirect sterilization is always morally licit so long as there is no other means to protect the life and health of the person concerned*¹⁹⁰. Pius XII explained the matter as follows: “Three things must coincide for the moral licitness of a surgical intervention that brings about an anatomical or functional mutilation: 1) above all, when the preservation or the functionality of a particular organ within the total organism would provoke serious damage to the latter or constitute a menace to it; 2) in second place, when this damage cannot be avoided or at least appreciably diminished except by the proposed mutilation and that the efficacy of the latter will be very certain; 3) finally, when it can be reasonably certain that the negative effect, that is, the mutilation and its consequences, will be compensated by the positive effect – such as the removal of the threat to the organism, the reduction of pain, etc.”¹⁹¹. An example of indirect sterilization would be the removal of the ovaries or the uterus made necessary by a malignant tumor that cannot be treated in any other way. It is the case of a therapeutic action, not an anti-procreative one, it being understood that there is no reason for wanting to avoid conception, but only to remove the organs that have been compromised by the tumor. The moral judgment on indirect sterilization is an application of general moral principles concerning actions with a double effect, which is to say, actions that in themselves are good but which have an indirect negative

¹⁹⁰ Cf. Pius XI, Enc. *Casti connubii*, DH 3723.

¹⁹¹ Pius XII, *Discorso al XXVI Congresso della Società Italiana di Urologia*, October 8, 1953: AAS 45 (1953) 674 (translation from Italian). The Pontiff adds that the crucial point here is not that the organ to be amputated or rendered non-functional is itself diseased, but rather that its retention or functionality constitutes a direct or indirect threat to the body as a whole.

effect¹⁹².

Forced Sterilization — It is necessary to add that at the present time there is a widespread practice, deontologically unjustifiable, of proceeding with the (anti-procreative) sterilization of women without asking their consent, for example, following a caesarean section, or *with* their consent, but obtained on the spur of the moment, and just before the operation, when the situation generates a great deal of anxiety and there is no possibility for calm reflection. In environments where such is likely to occur, it is sometimes necessary to sign a document to be included in the patient's paperwork that denies consent to any intervention for direct sterilization, and, if it should happen without the person's consent, to proceed to criminal charges. And beyond all other ethical considerations, the individual conscience must be given an absolute respect.

Sterilization of Persons with Mental Health Handicaps — A particular problem arises with the sterilization of persons with mental handicaps. It is a complex problem, to which a recent bibliography has been devoted¹⁹³, over which we can propose a few reflections here. In general, a morality on two different levels is not admissible. The ethics of sexuality is the same for all persons, healthy or ill. The teaching of the Church on the immorality of every form of extra-marital sexual relationship is equally valid for healthy and for disabled persons. And the same thing can be said for the ecclesial doctrine regarding contraception and direct sterilization: what is valid for normal persons is equally so for the handicapped. They are equally persons and have the same dignity.

With regard to extra-marital relations, the most serious moral problem does not consist in whether or not they are being intentionally rendered infecund. The problem, for both the able and the disabled, lies in the relationships considered in themselves, which acquire a very particular significance in the case of mentally disabled persons. Two different types of issue will be mentioned.

- 1) The first comprises sexual aggressions of which disabled persons

¹⁹²Cf. *Chosen in Christ* I, Chapter vi, Section 5 b).

¹⁹³See the volume (multiple authors), *Dignità e diritti delle persone con handicap mentale (Atti del Simposio promosso dalla Congregazione per la Dottrina della Fede* (Rome, Lib. Edit., January 2004) Vatican City, 2007. I am including my response to the Symposium in what follows here.

can be the victims, and which can take place through violence, trickery or seduction. In the face of such deplorable events, the fundamental obligation on the part of care-takers and the community is to prevent the occurrence to disabled persons of experiences that can be damaging or traumatizing for them. Confusion and disorientation is added to the trauma if the care-take is involved in the aggression. Even if the fecundity of the handicapped person has been inhibited, the aggression and the trauma remain. Consequently one must act with the utmost attention. A moral doctrine is not acceptable that promotes – at least in practice -- disengagement or indifference on the part of the community or care-givers toward persons who have a right to adequate protection.

Of course, legitimate defense against sexual aggression is equally licit for able persons and disabled. The difference, apart from cases of war, is that the handicapped person, if he or she is not autonomous, is under the protection of others. Therefore, to anticipate in principle that disabled persons will under undergo sexual aggression is to anticipate that the care-givers do not intend to completely carry out their duty to keep certain experiences from their charges, experiences that can be devastating and brutalizing from more than one point of view, and not only because of the threat of pregnancy. Consequently, in general, the dispensing of anti-ovulants cannot be part of the care of mentally disabled persons. To take care of the disabled means, above all, to spare them from inhumane and traumatic experiences. Anti-ovulant drugs are only in part a “means of defense”, and on another level they attack the handicapped person and discourage the attention that should be given them by care-takers.

In some rural or under-developed areas, where it is not possible to have an effective supervision, the existence of certain limited cases cannot be absolutely excluded, above all when nobody can be continuously assigned to the care of a disabled person. Grave questions of conscience can arise for persons who intend to assist the disabled in such situations, which have to be resolved in a case by case manner with the help of expert individuals, and by having recourse to the Apostolic Penitentiary in very exceptional cases.

2) There is another type of actions that differ from those of sexual aggression: spontaneous sexual contacts between two mentally disabled

persons. Here it is not a matter of violence, but spontaneous actions realized without complete internal freedom, owing to a lack of sufficient awareness and self-control. From the moral perspective, a violent action and a spontaneous action carried out with only fragmentary freedom are very different things. Not every sexual action carried out without perfect awareness is a violent action. With this type of acts we are confronted with a psycho-pedagogical problem. It would be totally inadequate to agree to a merely pharmacological response, and still less, a surgical one. A human problem of awareness, understanding, maturity, self-control and moral growth cannot be solved with drugs.

In the case of disabled persons who have enough autonomy to absent themselves from the oversight of their care-givers, and by reason of their psychological situation are spontaneously seeking sexual experiences, there can be some particularly difficult situations. These patients require special vigilance and attention, the sort that parents or care-givers are not able to provide 24 hours a day, every day of the year. If there is such a case where, notwithstanding the supervision that can be given, a real danger of this kind arises, there will also be a serious problem of conscience which must be attended to carefully and possibly – when the situation is truly exceptional – submitted to the Apostolic Penitentiary.

Finally, it is necessary to emphasize that *in every case, even an exceptional one, surgical sterilization is absolutely excluded*. For this reason we must take very seriously the statement of the National Committee on Italian Bioethics in a document on this topic: sterilization is an answer to the desire “to achieve long-term savings on the expenses of assisting the handicapped, whether for the institutions or in general for anyone burdened with such expenses.” In this way “the handicapped person is injured physically, which activates reactions in the person at the comprehensive level of his personal identity, which are extremely serious and objectively *anti-therapeutic*. . . . and permits an indirect form of disengagement on the part of the collectivity with regard to individual subjects who, in the name of their fundamental right to health, are under the impression that an authentic treatment has been put in place for them, rather than indirect techniques for controlling their sexuality”¹⁹⁴.

¹⁹⁴Comitato Nazionale per la Bioetica, *Il problema bioetico della sterilizzazione non vol-*

8.8.6 *Material Cooperation in the Sin of a Spouse*

We would now like to refer to a delicate problem that can arise in married life. Pius XI described it as follows: “Holy Church knows well that not infrequently one of the parties is sinned against rather than sinning, when for a grave cause he or she reluctantly allows the perversion of the right order. In such a case, there is no sin, provided that, mindful of the law of charity, he or she does not neglect to seek to dissuade and to deter the partner from sin”¹⁹⁵. These situations can be brought about through the violent imposition on the part of one of the spouses, or by serious threats of abandonment, separation or divorce, or even the risk of fights and lawsuits that can end in violence or separation – situations that can themselves cause further grave injuries to the children.

What Pius XI said, and what has been re-affirmed in the *Vademecum for Confessors*¹⁹⁶, shows definitively that in some circumstances, *material cooperation* in the sin of the spouse is morally licit¹⁹⁷. There are three requirements for the cooperation to be considered licit:

1. When the action of the cooperating spouse (i.e. the innocent spouse) is not itself illicit. This means: it cannot involve depriving the act of its procreative power through onanism (early withdrawal), by taking an anti-conceptive pill or by using a barrier method. The cooperation is not licit if the other spouse is using a birth-control method with an abortive effect.
2. When proportionally serious reasons exist for cooperating with the sin of the other spouse. The motives can be avoiding, for example, violence or serious conflicts, a rupture of conjugal cohabitation (abandonment, separation or divorce), or an imminent danger of conjugal infidelity.
3. When the innocent spouse does not inwardly consent to the sin

untaria (November 20, 1998) pp. 24 -25; translation is ours.

¹⁹⁵Pius XI, Enc. *Casti connubii*, par. 59, DH 3718. See also the treatment of this problem by Saint Alphonsus in his *Theologia moralis*, lib. V., tract. vi., cap. ii, no. 947.

¹⁹⁶Pontifical Council for the Family, *Vademecum for Confessors Concerning Some Aspects of the Morality of Conjugal Life* (cited above), 3.13.

¹⁹⁷For the concept of material cooperation with evil see *Chosen in Christ I*, chapter xi, section 8.

(this does not of course mean that the spouse cannot take any pleasure in the conjugal union), and tries to help the other desist from the sin through prayer, charity, willingness to make sacrifices, and dialogue. It needs to be clear that the spouse does not approve of the actions, even if it is not brought up at every moment or on the occasion of every act. Of course, the spouse must avoid being indirectly the cause of the illicit behavior of the spouse (by lamenting, by being stubborn, etc.)

It must be kept in mind that this type of difficulties can be temporary and due to various transitory causes, whereas the rupture of conjugal harmony, separation, divorce, etc. create very difficult situations, at times irreparable, for both spouses and children. Therefore it is justified, and often even obligatory for reasons of charity, to tolerate the negative behavior of a spouse for a time, helping at the same time with patience and affection to the end of a better choice on the part of the other spouse. Conjugal charity requires combining firmness with a tolerant flexibility, always in order to the human and spiritual well-being of the spouses, the defense of the family, and the protection of the children.