

Vatican II, *Humanae Vitae* and the Renewal of Moral Theology

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*Abstract: The Second Vatican Council taught that “in matters of faith and morals the bishops speak in the name of Christ, and the faithful are to accept their teaching and adhere to it with a religious assent.” Yet, by and large, the faithful have not accepted the teaching in Pope Paul VI’s encyclical *Humanae Vitae* (*Of Human Life*) that contraception is incompatible with Christian marriage. This essay will situate the debate over the ethics of contraception in the context of Vatican II’s call for the renewal of moral theology. It will then engage with recent developments in Catholic theology that make Paul VI’s teaching more accessible than it was in 1968. The reception of *Humanae Vitae* continues to be a critical test case both for the credibility of Catholic moral teaching and for the methodology of moral theology.*

Key words: *Humanae Vitae*, Contraception, Vatican II, Natural Law, Tradition, Catholic Moral Theology.

The Second Vatican Council taught that “in matters of faith and morals the bishops speak in the name of Christ, and the faithful are to accept their teaching and adhere to it with a religious assent.”¹ In the mid-1960s few Catholics foresaw how problematic this claim would become over the next fifty years in the wake of Pope Paul VI’s 1968 encyclical *Humanae Vitae* (*Of Human Life*). By and large, the Catholic faithful have not accepted the teaching that contraception is incompatible with Christian marriage. In addition, the revelations of sexual abuse by clergy and religious, compounded by the incompetence and negligence of Church authorities, have strained the credibility of bishops as pastors who speak in the name of Christ.

This essay will review the debate over the ethics of contraception in the light of Vatican II’s call for the renewal of moral theology. The theological issues raised by *Humanae Vitae* have required developments in Catholic theology that were subsequently endorsed by John Paul II’s encyclical *Veritatis Splendor*. It will be argued that these developments make Paul VI’s teaching more accessible than it was in 1968. Nonetheless, theological and pastoral questions remain, and the reception of *Humanae Vitae* [henceforth HV] continues to be a critical test case both for the credibility of Catholic moral teaching and for the methodology of moral theology.

¹ *Lumen Gentium*, n.25. All Vatican II and papal documents are taken from the official translation on the Vatican website, www.vatican.va.

PART I – THE CHURCH’S MORAL TEACHING IN THE AUSTRALIAN CONTEXT

From Vatican II to Humanae Vitae

On the eve of Vatican II, the Archbishop of Sydney said the greatest problem facing the Church was, “Mortal sin, of course!” Notwithstanding Cardinal Gilroy’s ability to circumvent questions, his response highlighted Australia’s distance from the religious and theological energies transforming the Church in Northern Europe.² It also highlighted the prevailing idea that the Church’s moral teaching was primarily shaped by the casuistry of confessional practice. The Council overturned this post-Tridentine view of moral theology, in practice, by its fresh engagement with the contemporary world, and, in principle, by its call for moral theology to be renewed in three respects: in its “scientific exposition”, in its nurture by Scripture, and in its recognition of the vocation of the laity to renew the world.³

Of most immediate significance for Church’s moral teaching after Vatican II was the *Pastoral Constitution on the Church in the Modern World (Gaudium et Spes)* [henceforth GS], which transformed the Church’s understanding of its relationship to the world. The new way of thinking spoke of *dialogue* and *reading the signs of the times*,⁴ which, in James McEvoy’s words, required the Church to “immerse itself in the word of God” while being “keenly attentive to the movement of history” and “to the Holy Spirit at work in the hearts of individuals.”⁵ GS spoke of the Church’s solidarity with the human family, and of its desire to bring the gospel into dialogue with all people of good will. Dialogue had also been the theme of Paul VI’s first encyclical, where he spoke of “the dialogue of salvation.” Evangelisation today, Paul VI said, must involve listening before speaking: “Before we can convert the world – as the very condition of converting the world – we must approach it and speak to it.”⁶ The focus of dialogue is *the human being*: the dignity of the human person, the essentially social or communitarian nature of the human vocation, and the ethical “norm” for human activity, namely, that “in accord with the divine plan and will, it harmonize with the genuine good of the human race, and that it allow men as individuals and as members of society to pursue their total vocation and fulfil it.”⁷

Going beyond these largely philosophical claims, GS articulated a new theological anthropology in which the mystery of being human is only truly revealed in the mystery of the Word made flesh (GS 22), such that human beings “cannot fully find [themselves] except through a sincere gift of [self]” exemplified in the sacrificial love of Christ (GS 24).⁸ Although GS admitted that the Church did not always have a ready answer to every ethical

² Another anecdote from my student days records that, on returning from the first session of the Council, he described its achievement as, “to prepare for the second session, of course.” Gilroy had expected the Council to be over by Christmas, assuming the Curia had everything under control. Though surprised by the course Vatican II took, as a loyal churchman, Gilroy set about implementing the changes for which the Council called.

³ Vatican II, *Optatum Totius*, 16.

⁴ See Terence Kennedy, CSsR, “Paths of Reception: How *Gaudium et Spes* shaped Fundamental Moral Theology”, *Studia Moralia* 42 (2004): 115-145.

⁵ James McEvoy, “Church and World at the Second Vatican Council: The Significance of *Gaudium et Spes*”, *Pacifica* 19 (2006): 37-57, at 54.

⁶ *Ecclesiam Suam*, 68-70.

⁷ *Gaudium et Spes*, 35.

⁸ The importance of these claims for theological anthropology is highlighted by William F. Murphy, “Revisiting Contraception: An Integrated Approach in the Light of the Renewal of Thomistic Virtue Ethics”, *Theological Studies* 72 (2011): 812-874, at 827.

question (GS 33), it was confident that “since it has been entrusted to the Church to reveal the mystery of God, Who is the ultimate goal of man, she opens up to man at the same time the meaning of his own existence, that is, the innermost truth about himself” (GS 41).⁹

Among the issues pressing for ethical reflection at the time of the Council were the changed experience of marriage and the question of birth regulation that Paul VI had referred to a special commission. Bernard Häring, writing in 1966, believed that GS transformed the Catholic understanding of marriage more significantly than at any point in its previous history, because it viewed marriage and family as lived, historical realities that are decisive for personal well-being. For Häring, the Council saw the new circumstances of marriage today not as threats, but as factors which enabled its essentials as a “holy” and “intimate partnership” to emerge more clearly. Sexual intimacy was seen as the culminating expression of married love, both good in itself and vital to the deepening of married love.¹⁰

While the Council left unresolved the practical question of how to harmonise conjugal love with responsible parenthood, it made important statements of principle: in resolving ethical questions about responsible parenthood, “objective criteria must be used, criteria drawn from the nature of the person and his [sic] proper acts” (GS 51).¹¹ Responsible parenthood requires respect for the “total meaning of mutual self-giving and human procreation in the context of true love... and the virtue of marital chastity” (GS 52).¹²

The reception of Humanae Vitae in Australia

Gaudium et Spes' encouragement of dialogue with the world through a reading of the signs of the times in the light of the gospel led many to suppose that the Church would change its teaching that all forms of contraception were immoral. Häring for one thought that use of the newly developed “pill” could meet the criteria in GS 51 and 52 and so be morally acceptable. These expectations were to be disappointed. The subsequent rejection or qualification of HV, in practice by a majority of Catholic couples, in principle by most theologians, and magisterially by a number of Episcopal conferences, has shaped the life of the Church for the last forty years, albeit mainly in silent ways. Thus Bishop Peter Elliot spoke recently of “a mood of indifference within the Catholic community in Australia today” [to the ethics of contraception], and other bishops have linked the decline in vocations to the priesthood and religious life to our now typically smaller families.¹³ To these correlations one could add the decline in the practice of individual confession, as well as the practical rejection of other traditional Catholic teachings about cohabitation before marriage and about homosexual activity.

⁹ See Bernard Häring, *Commentary on Part II, Chapter 1*, in *Commentary on the Documents of Vatican II*, Herbert Vorgrimler (ed) (London: Burns & Oates, 1969), Vol. 5, 225-245.

¹⁰ Häring, *Commentary on Part II*, 231.

¹¹ The Council chose to speak neither of criteria drawn simply from human nature, nor of criteria drawn simply from what is good for human persons. See my “Are persons more important than bodies?”, *Australasian Catholic Record* 86/2 (2009): 175-190.

¹² See Häring, *Commentary on Part II*, 231, 243.

¹³ Bishop Peter Elliot, “*Humanae Vitae*: Personal Recollections”, *The Record* (Perth, WA), April 9, 2009 (available at <http://www.therecord.com.au/site/index.php/Nation/schonborn-elliott-lament-bishops-failure-on-humanae-vitae>).

It was not until 1974 that the Australian Bishops published a considered response to the encyclical. Manly moral theologian Michael Allsopp described this Pastoral Letter as “the culmination of six years of research, and overt and less public struggle which in 1972 involved Pope Paul himself.” Among the preparatory documents to guide the bishops was the extensive submission prepared by the staff of Banyo seminary.¹⁴ Significantly, the focus of the Banyo submission was not the truth of the teaching in HV, but its authority and the kind of response due to it. The 1974 statement was controversial because it presented a more nuanced position than had the Australian bishops’ immediate statement in support of HV to the effect that “every member of the Church must be considered bound to accept the decision given by the Pope. To refuse to do so would be a grave act of disobedience.”¹⁵

The 1974 Letter taught that those who accept the truth of the teaching, but find they cannot live up to it, and those who accept the church’s teaching authority in general, but in good conscience find they cannot accept this particular teaching, should not necessarily be refused admission to the Eucharist, but should be encouraged to remain open to full reception of the Church’s teaching. Although this was an accurate application of traditional pastoral practice, for some critics it suggested that conscience was replacing Church teaching. They took their case to Rome and in 1976 the Bishops conference issued a further statement addressed to Catholic Family Planning centres which declared that the teaching in HV “binds the consciences of all without ambiguity and excludes the possibility of a probable opinion opposed to [it].”¹⁶ This later instruction raised the still problematic issue of what it is for an “authentic papal teaching” to “bind the conscience” of a Catholic, an issue also relevant to John Paul II’s Apostolic Letter *Ordinatio Sacerdotalis*, which declared that the reservation of priestly ordination to men was the Church’s “definitive teaching.”

While many Catholics regard the teaching in HV as obviously wrong, or at least impractical, a significant minority see it as a providential and prophetic statement whose truth has been more than verified in the years since. Mary Eberstadt writes:

The encyclical warned of four resulting trends [if contraception became widespread]: a general lowering of moral standards throughout society; a rise in infidelity; a lessening of respect for women by men; and the coercive use of reproductive technologies by governments. In the years since ..., numerous distinguished Catholic thinkers have argued, using a variety of evidence, that each of these predictions has been borne out by the social facts.¹⁷

Eberstadt notes the “irony” in the fact that most of the abundant empirical evidence that supports the accuracy of Paul VI’s predictions is provided by secular social scientists and, more recently, by some feminists.

¹⁴ Michael Allsopp, in the National Council of Priests, *Newsletter* (10th April 1975). MS. held in Veech Library.

¹⁵ Reported in *The Catholic Leader* (Brisbane), August 8, 1968.

¹⁶ Australian Episcopal Conference *Newsletter*, February, 1978, #30.

¹⁷ Mary Eberstadt, “The Vindication of *Humanae Vitae*”, *First Things* (August-September, 2008) (available at <http://www.firstthings.com/article/2008/07/002-the-vindication-of-ihumanae-vitaei-28>).

There are other ironies about *Humanae Vitae*, not least its timing – coinciding with the sexual revolution of the 1960's. In some respects it was premature, since few Catholics in 1968 who wished to live by the teaching had access to anything more than the unreliable “rhythm method” of family planning; yet, providentially, these years also saw the development of new methods of fertility awareness. Australia led the way through the pioneering work of Drs John and Evelyn Billings. Not ironically, but tragically, there were disagreements between proponents of different “natural methods.” The natural family planning centres themselves were barely cottage industries. Church leaders offered little support, financial or otherwise. While bishops stated their support for the teaching, most did little to make it available to Catholic couples. Ironically, it was Federal Government funding in support of marriage preparation that enabled the natural family planning services to operate on a more professional basis. That funding is now reduced and the future is uncertain.

The changing face of the Church's moral teachers

Just as the church in Australia was ill prepared for the “updating” (“aggiornamento”) of Vatican II, so it was ill prepared for the publication of *Humanae Vitae*. Hastily assembled press conferences saw uncomfortable bishops and seminary teachers struggling to explain why the pope had said “no”, and why the encyclical was authoritative. These days the public face of the Church's moral teaching is very different. There are few priests engaged in moral theology, and church spokesmen are more likely to be lay women.

This transformation began in Sydney in the late 1960's, when the proposal to conduct heart transplants saw the formation of a “Medico-morals committee” at St Vincent's Hospital. This committee was possibly the first *clinical* ethics committee in Australia. Meanwhile, at St Vincent's Hospital Melbourne in 1982, Nicholas Tonti-Filippini became Australia's first hospital ethicist, and a frequent contributor to public debates. By the mid-1990s, bioethics centres had been established in the mainland capital cities – mostly associated with Catholic hospitals, and funded either by the hospitals and/or by Australian Catholic University.¹⁸ Through their publications and research, and their submissions to Government, these Centres have contributed significantly to the formation of bioethics policy in Australia over the last thirty years. The bioethics centres have had to earn their credibility as participants in the public forum, while also articulating Catholic teachings, and advising from a Catholic perspective on ethical issues that arise in clinical practice. In juggling their service of the Church with their participation in public debates, the bioethics centres usually rely not on explicitly religious teachings, but on philosophical arguments that will be accessible to people generally. Like the natural family planning services, Catholic bioethics centres receive little financial support from the Church.

More recently, dioceses have chosen to fund their own Family and/or Life Offices, whose rationale is associated with the idea of a “new evangelisation.” These Offices are commonly led by young lay people, not clergy, and they take a more religious approach to ethical issues, and a more challenging approach to contemporary mores. Their publications are largely addressed to the Catholic community, rather than the wider

¹⁸ I note The Plunkett Centre for Ethics in Health Care (Sydney), The Caroline Chisholm Centre for Health Ethics (Melbourne), The L. J. Goody Bioethics Centre (Perth), the Queensland Bioethics Centre (Brisbane), and the Southern Cross Bioethics Institute (Adelaide).

society. In this context, one should also note the establishment of the John Paul II Institute for Marriage and Family, in Melbourne, as well as the focus on ethics teaching and research by Australian Catholic University and the University of Notre Dame Australia.

Thus, in one of the three aspects of the renewal of moral theology called for by Vatican II some progress has been made. The “vocation of the laity to renew the world” is being realised, albeit in small ways, through our Bioethics Centres, Life Offices, Universities, and Natural Fertility Services. But what of the other two aspects of the renewal of moral theology, and how do they bear on the substantive ethical issues raised by *Humanae Vitae*?

PART II – CONTRACEPTION AND THE RENEWAL OF MORAL THEOLOGY

The biblical foundations

Vatican II called for moral theology to be renewed as a “scientific exposition” – or coherent articulation – of the Christian life that would be nurtured by fresh attention to the Scriptures. Of what relevance, then, is the Bible to the ethics of family planning, and what is the ultimate basis for the Church’s teaching? Are the scriptures our only access to God’s laws, or do the scriptures simply encourage us to obey the natural – *humanly accessible* – moral law that is written in the hearts of all people? But these are superficial questions. The more fundamental issues concern: firstly, the nature of revelation, and the relationship between the Word of God and the tradition of the Church (one of Vatican II’s “great questions”); and secondly, how the scriptures are to be read from within the faith of the Church (one of pope Benedict XVI’s “great questions”).

Since the Council there have been several significant teaching documents on moral issues in addition to *Humanae Vitae*: Pope John Paul’s encyclicals *Veritatis Splendor* [henceforth VS] and *Evangelium Vitae* [henceforth EV], the *Catechism of the Catholic Church*, and *Caritas in Veritate*, Benedict XVI’s encyclical on social issues in which he situates “life issues” at the heart of the Church’s social teaching.¹⁹ These works use the Bible in a way that is new for moral theology. VS considers morality in the context of the rich young man’s question, “What [good] must I do to inherit eternal life”? EV traces the history of the Church’s conviction that human life is sacred through the Old and New Testaments. Most significantly, the *Catechism* presents morality as “Life in Christ” under the rubric of the Beatitudes.

The theologian most influential in the drafting of the *Catechism* was Servais Pinckaers, whose own theology emphasises Thomas Aquinas’s understanding of the Christian life as the call to “beatitude”, to the ultimate happiness of life in God. “The Sermon on the Mount begins with the promises of the Beatitudes and engages us in the way of wisdom that finds its perfection in love, given even to enemies.”²⁰ Accordingly, the

¹⁹ Benedict XVI, *Caritas in Veritate*: “Openness to life is at the centre of true development. When a society moves towards the denial or suppression of life, it ends up no longer finding the necessary motivation and energy to strive for man’s true good. If personal and social sensitivity towards the acceptance of a new life is lost, then other forms of acceptance that are valuable for society also wither away. The acceptance of life strengthens moral fibre and makes people capable of mutual help.”(28).

²⁰ Servais Pinckaers, “Scripture and the Renewal of Moral Theology”, in *The Pinckaers Reader*, John Berkman & Craig Steven Titus (eds) (Washington, DC: CUA Press, 2005), 55.

moral law should be understood primarily in relation to beatitude and the call to goodness, rather than as the fulfilment of obligations. Pinckaers argues that we should read the Scriptures as *pareclisis* or “urgent exhortation”, as a call to holiness and perfection for all Christians, on the model of Paul’s exhortation to the Romans (12:1): “I implore you by God’s mercy to offer your very selves (literally, ‘bodies’) to him: a living sacrifice, dedicated and fit for his acceptance, the worship offered by mind and heart” (REB).

Acknowledging *Lumen Gentium*’s principle that *all* people are called to holiness, a new generation of Catholic moral theologians have now moved beyond both the “autonomous ethic” methodology of the post-conciliar years and the two levels view of the Christian life that had prevailed for centuries. That is to say, for these theologians Catholic life is to be shaped not (simply) by universal moral rules applicable to all, but by membership in the Body of Christ, and by “a maximal ethic of holiness, one that includes those who are not ordained.”²¹ The Christian life may indeed require heroic virtue and even martyrdom. Yet, although a biblical approach to the moral life should take us beyond a minimalist keeping of rules, this “maximalist” ethic should be situated in the wider context of God’s grace and mercy. A biblical morality will caution the virtuous against self-righteousness, while encouraging the sinner who struggles in their weakness. André Louf warns against the pitfalls of ethical norms:

...in particular the danger of separating interior disposition and exterior action. This can result in two dangers. Firstly, it can result in someone who is unable to live up to the expectations of the law becoming caught up in a spiral of guilt. The law accuses, but Jesus refuses to accuse and has come to free us from guilt. Secondly, it can result in a more subtle danger, that of an easy conscience and apparent perfection in which one becomes cut off from the liberating action of the Holy Spirit. Jesus avoided both of these dangers. He never drove sinners to despair and he confronted the conceit of the Pharisees. He did not come for the righteous, but for sinners.²²

Attention to these biblical themes might help transform now tired ethical debates over contraception. To address such debates, however, Pinckaers recommends the method of St Paul, who relied on “compenetrating” criteria drawn from reason and faith. For example, Paul judges fornication to be wrong, both for traditional human reasons – as “a sin against one’s own body”, and also for theological reasons – because our bodies are temples of the Holy Spirit (1 Cor. 6: 18-19).²³

Most people today think about family planning only in terms of material consequences: contraception is viewed as a convenient way of ensuring that intercourse is not procreative. However, this consequentialist analysis reduces moral judgments “to a kind of technical calculation of consequences in view of an end”, and by ignoring the intrinsic meaning of actions limits moral evaluation solely to an agent’s goal in acting.²⁴

²¹ See David Cloutier & William C. Mattison III, “Method in American Moral Theology After *Veritatis Splendor*”, *Journal of Moral Theology*, 1/1 (2012): 170-192, at 178. Perhaps two new levels of moral aspiration are emerging in the Church, not between laity and religious, but between those who try to live by the Church’s official sexual teachings and those who do not.

²² “Dom André Louf on the Liturgy of the Heart” available at <http://avowofconversation.wordpress.com/2008/06/23/dom-andre-louf-on-the-liturgy-of-the-heart/>. See also André Louf, *Tuning into Grace* (London: Darton, Longman & Todd, 1992), ch. 5.

²³ Pinckaers, “Scripture and the Renewal of Moral Theology”, 58, 62-3.

²⁴ *Ibid.*, 63.

The ethics of family planning should rather be situated within the wider context of Christian marriage and the mutual self-giving of spouses (as GS taught). Responsible parenthood is not a technical problem to be solved, but a sacred responsibility to be lived out in the complexities of the human condition. Biblical themes relevant to a theology of human procreation include the goodness of creation as male and female in the image of God, the dignity of the human person, the value of marriage and family, fertility and fruitfulness, and divine providence. In this biblical perspective, the teaching in *Humanae Vitae* is not merely a law – a truth about the human good, but also an exhortation for couples to discover the true meaning of their sexual intimacy and their dignity as spouses called to collaborate with God in the procreation of new life. For the Church, good sex is always marital – the expression of a life-long faithful love that is “open to new life.”²⁵ In this spirit John Paul II’s “theology of the body”, while not strictly exegesis of the biblical text, can be received as a powerful illumination of the Church’s teaching in the light of biblically guided meditations upon human experience.

It might be objected that these biblical themes will not resolve the ethics of contraception, and many have wondered whether John Paul’s theology of the body is a rationalisation serving a predetermined answer. However, exegesis alone does not have the final word on biblical interpretation – for that belongs to the tradition of the Church. As Newman put it, the scriptures *record* the faith we profess, and the Church’s tradition *witnesses* to that faith. “The Church is bound over to test and verify her doctrine by Scripture ... the Bible and Catholic Tradition taken together ... make up a joint [Rule of Faith].”²⁶ Here we might recall the important dogmatic teaching of Vatican II that Divine Revelation is received *and passed on as Tradition* – “everything which contributes toward the holiness of life and increase in faith of the peoples of God.”²⁷ The Bible records the deposit of faith (as a thermometer records – but does not determine – the temperature), and so illuminates and clarifies our own best efforts to understand the truth about the good (the natural moral law).²⁸ Meditations on the “theology of body” may thus be seen as a scriptural illumination of the Church’s tradition, not its source. To evaluate that source, therefore, we must engage with the natural moral law.

²⁵ The phrase “open to life” has proved problematic in the presentation of Church teaching. Clearly most acts of intercourse are not *biologically* open to life; HV requires that couples allow their intercourse to be *the kind of act* that in itself, and insofar as it is up to the couple, is “ordered to procreation.” The official Vatican translation now speaks of each and every marital act retaining “its intrinsic relationship to the procreation of human life” (HV, 11 : “*ut quilibet matrimonii usus ad vitam humanam procreandam per se destinatus permaneat*”).

²⁶ See John Henry Newman, *Lectures on the Prophetic Office of the Church (Via Media, Vol. 1)*, Lecture 11: Scripture as the Record of Faith, available at <http://www.newmanreader.org/works/viamedia/volume1/lecture11.html>. In Lecture 13, Newman explains why “Holy Scripture contains all things necessary to salvation, that is, either as being read therein or deducible therefrom; not that Scripture is the only ground of the faith, or ordinarily the guide into it and teacher of it, or the source of all religious truth whatever, or the systematizer of it, or the instrument of unfolding, illustrating, enforcing, and applying it; but that it is the document of ultimate appeal in controversy, and the touchstone of all doctrine.” <http://www.newmanreader.org/works/viamedia/volume1/lecture13.html#note1>.

²⁷ *Dei Verbum*, 8.

²⁸ The distinction between Revelation and *the witnesses* to Revelation (viz. the Bible and tradition) explains how a biblical text might at one time be (wrongly) taken to witness to a truth, and at later times be (rightly) taken not witness to that truth (e.g. uses of the biblical story of Onan in Gen. 38)

The natural moral law

Humanae Vitae 4 finds “the principles of the moral teaching concerning marriage in natural law [illuminated and made richer by divine revelation].”²⁹ This means that the Church’s teaching on family planning is supposed to be a truth that we could work out for ourselves, a teaching that “is in accord with human reason” (HV 12). But if it is a naturally knowable truth, rather than a revealed truth, who is the best judge of this truth, and why should we think the Church or the pope knows it? These challenging questions were raised by Australian theologian Frank Mobbs, who argued that contraception is not the sort of topic on which the Church has authority to demand of Catholics a “religious assent”, because the Church’s authority to teach on “faith and morals” extends only to *what has been revealed*. On matters about which revelation is silent, the Church has no special competence, and so Pope Paul’s teaching was *ultra vires*: beyond the proper competence of the Magisterium.³⁰

Mobbs’ argument provides a timely reminder that the Magisterium has no “hot line” to God, no access to God’s will, apart from what has *in fact* been revealed and handed on. It follows that the central issue raised by Mobbs is not so much natural law, as it is the nature of revelation and the development of doctrine. In both *Veritatis Splendor* and *Fides et Ratio* John Paul II emphasised that the Church has no philosophical or theological theory of its own.³¹ Its teachings are always concerned with judgments on particular matters, not general theories. *Dei Verbum* characterised the content of revelation as truth for “the sake of our salvation”, truth witnessed to by Scripture and tradition, a truth which is ultimately Jesus Christ himself.³² One such truth for salvation is that life in Christ involves striving to live a morally good life, and so matters of morality — unlike matters of etiquette or science — fall under the judgment of the gospel *because they are linked to revelation*. To the extent that the Church recognises certain conduct to be morally wrong, to that extent is it authorised to condemn it *in the name of the gospel*.

Thus, the ambit claim that the Church is the “authentic interpreter of the whole moral law” (HV 4) means that in principle no ethical questions can be excluded from the Church’s mission to preach the gospel since it would be absurd to hold that only some moral matters, and not others, bear upon one’s Christian discipleship. However, this general principle must be tempered by consideration of the extent to which revelation, tradition and sound moral reasoning do in fact shed light on a particular moral question. This can only be ascertained by a study of what Scripture and tradition affirm, in the light of continuing moral reflection. In short, the authority of any particular moral teaching ultimately depends on the authority of its truth, viz. on the extent to which a particular moral teaching is in harmony with right human reasoning and with the truth of the gospel as received and lived in the Church. The authoritative status of any particular moral teaching depends not on the successful deployment of some theory of natural law, but on how closely the issue is linked with what else is known from revelation, on how well we

²⁹ Janet E. Smith translation, in her book, *Humanae Vitae – A Generation Later* (Washington DC: CUA Press, 1991), 274.

³⁰ Frank Mobbs, *Beyond Its Authority? The Magisterium and Matters of Natural Law* (Sydney: E. J. Dwyer, 1997).

³¹ *Fides et ratio*, 49; *Veritatis splendor*, 29.

³² *Dei Verbum*, 11.

grasp that link, and/or on how well-founded is the moral reasoning on which the teaching is based.³³

When confronted with a new moral question, the Church can only respond in the light of its received teaching, of what the Church “already knows” on the basis of revelation and whatever is essentially connected with it.³⁴ Adapting Newman’s thought we can view the Magisterium as an apostolic standing committee whose authority is limited to declaring what the Church has always believed – even if it did not yet know it because some questions had not been asked. The Magisterium declares what the apostles would say, *if they knew what we know now*.³⁵

With respect to family planning, from the beginning, Christians understood both that human life was sacred – and so they rejected abortion, and that the sexual act in marriage was to be respected as procreative collaboration with God – and so they rejected fornication and contraceptive practices.³⁶ The second century *Letter of Diognetus* summarised the distinctiveness of Christian ethics in memorable words: “Like others, [Christians] marry and have children, but they do not expose them. They share their meals, but not their wives.”³⁷ But *given what we know now* – about marriage as a covenant between persons, about the positive value of marital sexuality, about the equality of man and woman, about the decline in infant mortality, about the world’s growing population and finite resources, and so on – *given all that we know now*, is it time for the traditional teaching to change? This was the question that puzzled Paul VI in the context of the newly developed contraceptive pill.

Nonetheless, Paul VI declared that what the Church had “always known” about marital intercourse as procreative remains valid in the circumstances of modern life. His reasons were both positive and negative. Negatively, HV critiqued the arguments for change, arguments that were remarkably weak – e.g. the argument from totality (that it is enough for a marriage as a whole to be open to life), and the argument from human dominion (that human beings have the right to use their sexual capacities in non-procreative ways).³⁸ Positively, HV sought to deepen the presentation of the Church’s teaching on the many aspects of marital love, beginning with the fact that marital intercourse should be a truly human act, proceeding from personal freedom and respect for one’s partner.

The key to both the critique and the positive presentation is understanding the nature of moral action in terms of what John Paul II later called “the perspective of the

³³ A particular teaching may be an issue of the natural law, and so amenable to various natural law explanations. The basis of the Church’s teaching, however, is not some natural law explanation, but revelation and whatever is closely linked with it.

³⁴ See *Dei Verbum*, 8: “the Church, in her doctrine, life and worship, perpetuates and transmits to every generation all that she herself is, all that she believes.”

³⁵ Newman discusses the infallibility of the Church in his *Apolgia pro Vita Sua*, Part 7.

³⁶ There were more and less rigorous interpretations of marital morality, but these positive themes can hardly be gainsaid – and were uncontested until the 20th century.

³⁷ Available at http://www.vatican.va/spirit/documents/spirit_20010522_diogneto_en.html.

³⁸ Even today, the most common view among Catholic theologians – that it is sufficient for a marriage generally to be “open to life”, rather than every act of intercourse – is a claim asserted, rather than argued for.

acting person" (VS 78).³⁹ Ethical evaluation must focus on precisely what one is choosing to do (one's "moral object") that is, on the reasoning and willing of the person as acting subject. From this perspective it becomes apparent that use of the pill involves the same intentionality or moral object as does barrier contraception, and hence involves the same moral disorder condemned by the tradition. This may not be immediately obvious because hormonal contraception does not alter the sexual act, and so may appear *to the observer* to be very different to those contraceptive methods which interfere with the natural potential of intercourse itself. However, *from the perspective of the agent* (the person using contraception), the two methods involve *the same moral object*, viz. the choice to do something to remove from an act of intercourse whatever procreative potential it might possess.

And yet the Church encourages couples to use modern methods of fertility awareness in order to plan their families: aren't such couples doing something – timing their intercourse – in order to avoid conception? Aren't they trying to prevent intercourse from being procreative? Yes, couples using fertility awareness and couples using contraception might well have the same goal – to avoid pregnancy. However, *what these couples actually do* is quite different. Couples using fertility awareness respect the truth that intercourse is the procreative act; that is why they refrain from this act at times of presumed fertility. Couples using contraception do something (before, during or after) intercourse to ensure it is not a procreative act.

This difference becomes clear from another comparison. Couples using fertility awareness regulate conception by regulating the pattern of their sexual intimacy. Respect for the potential fertility of intercourse is embodied in their decisions about when they have intercourse. By contrast, couples using contraception treat their potential fertility as a problem to be dealt with by mechanical or chemical means, so that their subsequent decisions about when to have intercourse can be made quite independently of any consideration about its procreative nature. To put it starkly, procreation is not a "natural process" (like digestion or the beating of the heart), it is (or should be) the outcome of responsible human activity.⁴⁰

Yet, even if the use of fertility awareness and the use of contraception are quite different *kinds of action* from the moral view point, the question remains: why is it wrong to make intercourse a non-procreative kind of act? Put positively, why is intercourse the kind of act that should be respected for what it is, and not changed to what we might want it to be? Why is it (only) right to regulate procreation by regulating the choice about when to have intercourse? With these questions, I suggest, we reach the bed-rock of the Church's teaching not only about family planning, but about sexual ethics more generally, viz. God's plan for the happiness of human beings as body-soul unities.

This bed-rock may be articulated in various, more or less, persuasive ways. Firstly, traditional approaches have focussed on respect for nature as God's good creation – not

³⁹ This "new" understanding is actually a retrieval of St Thomas' approach. See William F. Murphy, "Forty Years Later: Arguments in Support of *Humanae Vitae* in the Light of *Veritatis Splendor*", *Josephinum Journal of Theology* 14 (2007): 122-67.

⁴⁰ Of course, procreation *presupposes* certain natural processes, such as spermatogenesis and the menstrual cycle, processes that might and may be regulated for reasons of health. Procreation itself is a human activity.

“nature” in a crude biological sense, but the “nature of the human person and human actions” (as GS taught). Marital intercourse is the human procreative act, and it shares in the great values towards which intercourse is directed by God, namely the intrinsic value of new human life and the dignity of spouses as pro-creators with God.⁴¹ The human act which is naturally ordered to procreation shares in the intrinsic value of procreation itself, and hence (argues Janet Smith) it is wrong to impede the procreative power of actions ordained to assisting God in the creation of new human life.⁴² To change sexual intercourse by removing one of its essential aspects (so that it ceases to be the kind of act that leads to conception) is a failure to respect the way God has made us. Furthermore, if a couple change sexual intercourse so that it is not fully marital, then they no longer give themselves to each other as spouses as well as potential parents. Thus contraception removes the power of intercourse (as a “language of the body”) to represent the mutual, total self-giving of spouses. (Likewise, if people change intercourse from being a marital act to be an act of casual pleasure, they fail to respect its God given significance.)

Secondly, however, some defenders of HV believe these naturalistic arguments are not fully persuasive, and they have turned to virtue ethics to provide a deeper explanation of why *each and every* act of intercourse ought to be ordered to procreation (i.e. to retain its procreative *meaning*, albeit not its procreative *function*). They highlight the difference noted above between the practice of periodic abstinence in the light of fertility awareness and the practice of contraception that sets fertility aside. The former embodies the virtues of chastity and procreative responsibility because by this practice a couple integrate their sexual desires and actions in line with respect for the full meaning of sexuality as unitive and procreative. The unity of these two meanings reflects the body-soul unity of the human person. Thus HV teaches that we *cannot* separate the unitive and procreative meanings of marital intercourse without undermining the marital act itself. “The Inseparability Principle ... provides the very (anthropological) *rationale* that provides the reason *why* one *cannot* separate one meaning from the other ... And because one *must not* destroy conjugal love (a point on which everyone agrees), this explains why *it is illicit* to effect such a separation.”⁴³

Whereas the practice of periodic abstinence develops a virtuous integration of sexual inclinations, “contraceptive acts render unnecessary the actions of periodic continence that contribute to the development of such habitual mastery through reason and will.”⁴⁴ Contraceptive acts “leave the sexual inclination to operate under a logic of self (or mutual) gratification, whereas growth in virtue requires that it be further elevated ... into the logic of spiritual love ordered to the procreation of human life and into a broader

⁴¹ See Janet Smith, *Humanae Vitae – A Generation Later*, 98-102.

⁴² At this point we might refer to John Paul II’s suggestion that in the very act of intercourse, couples rediscover the meaning of creation: “man and woman rediscover every time and in a special way the mystery of creation, thus returning to the union in humanity (“flesh from my flesh and bone from my bones”) that allows them to recognize each other reciprocally and to call each other by name, as they did the first time.” (General Audience 10 (November 21, 1979), available at <http://www.ewtn.com/library/papaldoc/jp2tb10.htm>).

⁴³ Martin Rhonheimer, *Ethics of Procreation & The Defense of Human Life*, edited by William F. Murphy (Washington, DC: CUA Press, 2010), 81. Cf. “... each [meaning] receives its full intelligibility as a *human* reality... precisely *from the other*.” (77).

⁴⁴ Murphy, “Revisiting Contraception”, 842.

and relational communion of persons.”⁴⁵ The virtuous integration of one’s sexual inclinations is not merely a case of “controlling” one’s desires. Rather, one’s body and one’s desires are themselves shaped by right reason, and when thus rightly ordered become the source of virtuous action.⁴⁶

These two lines of argument seek to explain why HV was right to teach that the traditional Christian rejection of contraception applied also to the pill. Crucial to grasping this point was a renewed understanding of human action from the perspective of the acting subject and of the virtues as integrating the bodily and spiritual nature of the human person – a renewed understanding that was only clearly articulated in *Veritatis Splendor*. In short, if the pill shares the same moral disorder as those practices which the Church had rejected from the beginning, then this is what the Church must continue to teach, unless it becomes apparent that change in this teaching is required. Thus far, as HV argued, good reasons for change have not emerged.

PART III – LOOKING AHEAD

This essay has sought both to identify the methodological issues at stake in the renewal of moral theology and to model that renewal in relation to the teaching of *Humanae Vitae*. In both respects it is time to move beyond the debates over “proportionalism” which dominated Catholic moral theology from the mid 1960’s to the mid 1990’s. John Paul II’s encyclical *Veritatis Splendor* taught that proportionalism was incompatible with the Catholic moral tradition, not primarily because it is a defective ethical theory, though it is, but because it cannot affirm that certain kinds of action are always wrong (or “intrinsically evil”) – which, the pope said, is a datum of scripture, “the Biblical morality of the Covenant and of the commandments of charity and of the virtues” (VS 81-2). Although the debate over proportionalism did not concern contraception directly, that is where the theory was most commonly applied because of HV’s other key teaching, viz. that couples should not do something wrong (e.g. use contraception) even for a good and necessary end (e.g. responsible family planning). It has become evident in recent years just how much proportionalist theory was still in the grip of the physicalism and legalism of post-Tridentine theology, as was its claim that contraception involved only a “pre-moral” or “physical” evil that need not impact on the character of the person.⁴⁷ A virtue explanation like that developed by Martin Rhonheimer helps to explain why exceptions to this principle are counterproductive: each and every non-virtuous act will weaken one’s growth in virtue. (No one supposes that infidelity only on rare occasions is consistent with fidelity.)

While the insights of natural law reasoning and virtue ethics are relevant to understanding why contraception is contrary to Christian marriage, for Catholics it is the authority of the tradition that ultimately carries weight. It follows that one urgent theological task now is the evaluation of John Paul II’s statement that the moral teaching in HV, though not found explicitly in the scriptures, “is in accordance with the sum total of

⁴⁵ Ibid., 843.

⁴⁶ Ibid., 843, fn. 77, and Rhonheimer, *Ethics of Procreation*, 90-102.

⁴⁷ See Christopher Kazcor, *Proportionalism and the Natural Law Tradition* (Washington DC: CUA Press, 2002) and his “Double-Effect Reasoning: From Jean Pierre Gury to Peter Knauer”, *Theological Studies* 59 (1998): 297-316.

revealed doctrine contained in biblical sources.”⁴⁸ If this is correct, then the Church’s teaching on contraception will indeed prove to be definitive teaching, just as some theologians and bishops already claim. At the very least, I have argued, HV’s teaching is coherent and consistent with the tradition, and has not yet been shown to be wrong.

Moreover, if the teaching in HV is consistent with the normative tradition, then it is easy to see why rejection of the teaching is one of the major reasons for the demoralisation of the Church today. While small groups of Catholics zealously promote the official teaching, for the most part bishops and priests remain silent out of respect for the sensitivities of their people who in general have not received the teaching. The many who reject the teaching, whether clergy or laity, live with a certain cognitive dissonance towards the Church; the few who accept the teaching are an embarrassing minority. As a result Catholic life, witness, and ministry is undermined; the *communio* of the Church is weakened. This is a statement of fact, irrespective of whether the Church’s teaching is correct; but if the teaching in HV is correct, then the Catholicism of the future will be counter-cultural in ways we have not known for many centuries.

In this troubling situation, Pope Benedict has spoken of the need for a positive orthodoxy. Addressing Swiss bishops in 2006, he referred to the typically controversial issues on which the Church’s teachings are so counter-cultural. He warned that:

If we let ourselves be drawn into these discussions, the Church is then identified with certain commandments or prohibitions; we give the impression that we are moralists with a few somewhat antiquated convictions, and not even a hint of the true greatness of the faith appears ... I therefore consider it essential always to highlight the greatness of our faith – a commitment from which we must not allow such situations to divert us

....

Christianity, Catholicism, isn't a collection of prohibitions. It's a positive option. It's very important that we look at it again, because this idea has almost completely disappeared today. We've heard so much about what is not allowed that now it's time to say, 'We have a positive idea to offer.'⁴⁹

In conclusion, I offer some brief positive suggestions in relation to the Church’s preaching on marriage and sexual ethics. First, as Vatican II taught, it must be nurtured by the Scriptures – as wisdom directed to true Beatitude, in the context of weakness, grace and mercy. With respect to Beatitude, Catholics are being urged to re-discover the full meaning of human sexuality as both life-giving and love-giving, and to not settle for forms of relationship less than that for which we have been created. The biblical themes of fertility and generosity to new life remind us that family planning is not a problem to be solved, but a mystery of collaboration with God, to be lived with trust and generosity. If the fundamental datum of the tradition is that marital intercourse is the freely chosen act by which we become pro-creators with God, then the full meaning of that act calls for our unconditional respect.

And yet, sexuality remains one of the most complex, vulnerable and flawed aspects of the human personality both for individuals and, more challenging still, for couples seeking mutually agreed decisions. It is spiritually healthy to approach decision making in

⁴⁸ John Paul II, “General Audience”, 18th July, 1984 (cited by Janet Smith, *Humanae Vitae*, 158).

⁴⁹ Benedict XVI to the Swiss Bishops, 2006 (available at http://www.vatican.va/holy_father/benedict_xvi/speeches/2006/november/documents/hf_ben-xvi_spe_20061109_concl-swiss-bishops_en.html).

this area with a “repentant conscience”, rather than a self-justifying conscience, and so to acknowledge how far we all fall short of God’s plan for our happiness.⁵⁰ The debate over HV rightly led to a new emphasis on the responsibilities of personal conscience. As Newman noted, apart from revelation, conscience is supreme and always to be obeyed, and “obedience even to an erring conscience [is] the way to obtain light.”⁵¹ Nonetheless, Newman continued, the essence of all religion is authority and obedience to a message received from another, a message which requires, *here and now*, an authoritative interpreter. Catholics thus exercise personal conscience in the context of their allegiance to the tradition and teaching authority of the Church. Newman puts it starkly:

The most obvious answer, then, to the question, why we yield to the authority of the Church in the questions and developments of faith, is, that some authority there must be if there is a revelation given, and other authority there is none but she. A revelation is not given, if there be no authority to decide what it is that is given. In the words of St Peter to her Divine Master and Lord, “To whom shall we go?”⁵²

Secondly, the teaching in HV invites Catholics to be open to a truth of the natural law – a truth about what is good for us as human beings – *that was given in conjunction with God’s revelation in Christ*, which itself presupposed God’s revelation to the people of Israel. “Revelation sets before [us] certain supernatural facts and actions, beings and principles; these make a certain impression [upon us... which] need not even be recognised.”⁵³ What revelation sets before us is a way of living that was shaped by the history and Scriptures of Israel, as well as the person of Christ. As a result, the apostolic preaching called Christians to distance themselves from the sexual practices of the culture around them. Moreover, the Church claims infallibly to witness to this revelation.

The great truths of the moral law, of natural religion, and of Apostolical faith, are both its boundary and its foundation. It must not go beyond them, and it must ever appeal to them. Both its subject-matter, and its articles in that subject-matter, are fixed. And it must ever be guided by Scripture and by tradition ... Nothing, then, can be presented to me, in time to come, as part of the faith, but what I ought already to have received, and hitherto have been kept from receiving, (if so,) merely because it has not been brought home to me ... The new truth which is promulgated, if it is to be called new, must be at least homogeneous, cognate, implicit, viewed relatively to the old truth.⁵⁴

Likewise, Vatican II, in *Dei Verbum*, understood Tradition as a unified source prior to Scripture and the teachings of the Church to which the latter both bear witness.

And Tradition transmits in its entirety the Word of God which has been entrusted to the apostles by Christ the Lord and the Holy Spirit. It transmits it to the successors of the apostles so that, enlightened by the Spirit of truth, they may faithfully preserve, expound and spread it abroad by their preaching. Thus ... the Church does not draw her certainty about all revealed truths from the Holy Scriptures alone.⁵⁵

⁵⁰ See VS 104 and Louf, *Tuning into Grace*, chs. 1 & 5.

⁵¹ John Henry Newman, *Apologia pro Vita Sua*, Masie Ward (ed.) (London: Sheed & Ward, 1967), 139 (in a letter of 1844).

⁵² Newman, *An Essay on the Development of Christian Doctrine*, ch. I, available in Ian Ker, *The Genius of John Henry Newman* (Oxford: Clarendon, 1989), 221.

⁵³ *Newman’s University Sermons* (London: SPCK, 1970), Sermon 15, 320-1.

⁵⁴ Newman, *Apologia*, Part 7, in Ker, 250.

⁵⁵ *Dei Verbum*, 9.

It might be objected that these claims apply only to dogmatic definitions; they cannot apply to a contested issue of morality. The short answer is that they do apply to some moral teachings (e.g. love your enemies), and they *might* also apply to the question of contraception – not because revelation includes a theory of natural law, but because the specific understanding of sexuality and procreation that I have called the bed-rock of the Church’s teaching really is part of what God revealed in the history of salvation, in the lived experience of Jews and Christians alike. The key theological task now is not to develop legalistic ethical theories to justify exceptions to rules, but to deepen the theology of revelation, and sympathetically to interrogate both the Scriptures and the tradition on the substantive issues of marriage and procreation. Such inquiries would allow HV to be re-evaluated in the light of a “scientific exposition” of the Church’s moral teaching on sexuality and marriage that is nurtured by the Scriptures (and which might eventually lead to a new style of encyclical).

Thirdly, however, the witness of couples and families who strive to live out the Church’s teaching is likely to be more persuasive than the arguments of theology. Revealed truth has in fact been maintained through the centuries, “not by books, not by argument, nor by temporal power, but by the personal influence of such men [and women]... who are at once the teachers and the patterns of it... holiness embodied in personal form.”⁵⁶ Such people may be few in number, “they are enough”, and in any case, people are only likely to influence those who know them personally, “who ever must form a small circle.”⁵⁷

Fourthly, this personal witness needs support from the Church in the practical form of money and resources – not only for education in the new methods of fertility awareness, but also in the support of families, and of parents who generously welcome children with life-limiting conditions and disabilities. Unless the Church through the leadership of its pastors is willing to invest time, money and personnel in supporting couples who seek to live by the Church’s teaching, we will fall foul of the warning issued to those who bind up heavy burdens and lay them on people’s shoulders, but do nothing to lift them.⁵⁸

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⁵⁶ Newman, *University Sermons*, 5, 91-2.

⁵⁷ *Ibid.*, 97-98.

⁵⁸ My thanks to Tony Percy and Bernadette Tobin for suggestions in the course of writing this essay.