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The Church and the Regulation of Birth: After Humanae Vitae

Vitaliano R. Gorospe, S.J.

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*The Church and the Regulation of Birth: After Humanae Vitae**

VITALIANO GOROSPE, S.J.

I. INTRODUCTION

ON July 25, 1968, Pope Paul VI promulgated his Encyclical *Humanae Vitae*, condemning artificial birth control. In view of the fact that the worldwide reaction to the Encyclical was sharply polarized both within and outside the Catholic Church, it is expected that a right-thinking Catholic might ask: What is now the present Catholic viewpoint on birth control and what kind of response is befitting every member of the Catholic Church?

If the Philippine population is growing at the rate of 3.3% a year, this year's 37 million population will grow to 38 million by 1970, 53 million by 1980 and 111 million by 2000. The population problem in the Philippines has become such that it can no longer be ignored.

On October 12, 1968, the Catholic hierarchy of the Philippines issued a Pastoral Letter on *Humanae Vitae*, giving the Encyclical their wholehearted support and exhorting the Filipino faithful to give its teaching their total acceptance and adherence. In view of all this, it is not surprising that more and more mature and educated Filipino Catholic couples will be asking how they can remain loyal to the teaching of *Humanae Vitae* and contribute to the solution of the Philippine population problem.

* Two recent and valuable studies on *Humanae Vitae* have just appeared, too late to be included in this survey. They are *On Human Life* by Peter Harris, Adrian Hastings, John Horgan, Lionel Keane, and Robert Nowell (London: Burns & Oates, 1968), and *Contraception: Authority and Dissent*, edited by Charles E. Curran (New York: Herder & Herder, 1969).

The purpose of the following survey is to offer some answers to these questions by presenting an updated summary review of the Church's teaching on the regulation of birth both before and after *Humanae Vitae* as well as some reflections and practical conclusions which might help not only Catholic couples form their conscience and exercise Christian responsible parenthood but also the whole Church in the Philippines mature and grow.

II. THE PROBLEM BEFORE "HUMANAE VITAE"

A. *The History of the Church's Doctrine on Contraception*

The best study to date on the development of the Church's teaching on contraception is John T. Noonan, Jr., *Contraception: A History of Its Treatment by the Catholic Theologians and Canonists* (Cambridge: Harvard Univ. Press, 1965). Prof. Noonan's main thesis is that if the Church today does not face the same problems to which historically the norm against contraception was a response, then the Church is free to change its rule without inconsistency. The history of the Church's teaching on contraception is divided into four periods. In the first period (50-450), the view of Clement of Alexandria that the intention to procreate was required for lawful marital intercourse was the Church's response to the pagan and Gnostic view on procreation. In the second period (450-1450) St. Augustine's view that the only justification for marital intercourse was procreation was directed against the Manichean view of sexual intercourse without procreation. This Augustinian view dominated the Church's doctrine on marriage, sexuality, and contraception for the next thousand years up to and including Pius XI's *Casti Connubii*. The third period (1450-1750) was a period of innovation and preservation of the Church's rule against contraception but the Augustinian view continued to prevail against the Cathari who considered procreation sinful. The fourth period (1750-1965) was characterized by a slow shift from the Augustinian view embodied in Pius XI's *Casti Connubii* (which was the Church's answer to the modern birth control movement) to the view that marital intercourse has several purposes. The modern belief that the

purpose of marital intercourse, apart from procreation, is the expression and fostering of conjugal love, was confirmed by the Second Vatican Council. The important conclusion of Prof. Noonan's study is that behind the norm against contraception was the Church's intent to preserve the permanent human and Christian values of *procreation, education, life, personality, and love.*

B. Vatican II and the Family

The teaching of the Second Vatican Council on Marriage and the Family is set forth in Pt. II, Ch. I of the *Pastoral Constitution on the Church in the Modern World*. Here we shall touch only on certain important developments of the Church's doctrine on the family that are relevant to our present discussion.

First, the Council rejects the old distinction between the primary and the secondary ends of marriage. The expression and fostering of conjugal love is not to be put second to the procreative and educative ends of marriage. The stress is to be placed equally on both.

Secondly, with regard to the regulation of birth, the Council teaches that responsible parenthood must be carried out in a human and Christian way. Parents should take into account the good of their state of life, both spiritual and material; they should consider the good of the children, both those in existence and those who may come into existence, the common good of the family, the good of secular society and the good of the Church itself. Then, having taken into account these multiple goods, they must decide on the number of children they can responsibly bring up in a human and Christian way. The Council says that the "parents themselves should ultimately make this judgment in the sight of God."

Thirdly, the Council faces the problem of the conflict between, on the one hand, the requirements of conjugal love and on the other hand, the requirements of responsible parenthood. The Council teaches that the embryo is sacred from

the moment of conception and hence "abortion and infanticide are terrible crimes." The morality of marital intercourse depends not merely on the goodwill of the spouses but on "objective standards" which are taken "from the nature of the human person and his acts." The whole person is the standard of morality in contraception; not a single biological act, but all the acts of the person provide the criteria for moral decisions.

Finally, the Council teaches that it is not lawful for members of the Church to regulate generation by using means "disapproved by the magisterium in its interpretation of divine law." Thus the Council affirms the existing law against contraception and adds a footnote to the effect that the Commission on the Problems of the Family, Population and Natality would study the ban on contraception and submit its report to the Supreme Pontiff for final judgment. The important conclusion is that nothing explicit is said by the Council one way or the other on the desirability of change on contraception.

C. The Papal Birth Control Commission: Majority and Minority Reports

[Cf. the texts of the documents in the *National Catholic Reporter*, April 19, 1967, Vol. 3, no. 25.]

The 55-member Papal Birth Control Commission composed of theologians, doctors, economists, demographers, sociologists, and married laity, which was established under Pope John XXIII submitted its final report to Pope Paul VI on June 26, 1966. The Birth Control Report is divided into three parts: (1) The Majority Report which favors a change in the Church's doctrine on contraception was signed by 6 theologians and 13 other members of the Commission; (2) The Minority Report which is against change was signed by 4 theologians; (3) The Argument for Reform was signed by 4 theologians and approved by a majority of the Commission.

The majority and the minority groups set forth basically opposed views not only on contraception but also on marriage, the meaning of the natural law, and the development of

Catholic doctrine. The majority group explained its stand for change in two position papers: the first entitled "Responsible Parenthood" presents an integrated contemporary theology of Christian marriage; and the second entitled "The Morality of Birth Control" presents the arguments for change and rebuts the counter-arguments of the Minority Report. The focus of the Commission was on the Magisterium or teaching authority of the Church; the pill was no issue at all. Suffice it here to comment on a few of the salient points of the Commission Report.

1. *The Majority Report on Responsible Parenthood*

The first position paper of the majority group bases its arguments for change on man's responsibility to intervene with nature, including the regulation of birth, in order to achieve his human and Christian vocation. The fundamental values of marriage can be summed up as marital love in the service of human life. Responsible, i.e., generous and prudent, parenthood means that in deciding the number of children, parents should consider the good of their married life, of the children to be educated, and of the whole family.

The morality of sexual acts between married couples depends on the right ordering of these acts towards marital love and responsible parenthood. In a developed view on marriage, the regulation of birth by human means does not conflict with the tradition of the Church which defends the good of procreation and the rectitude of marital intercourse. The conflict is not between conformity to the physiological process of nature and some artificial intervention, but rather between an egoistic contraceptive way of acting opposed to responsible parenthood and an ordered relationship to responsible fruitfulness which is concerned with education and all the essential human and Christian values.

In the choice of means toward reconciling the requirements of both marital love and responsible parenthood there are objective criteria of morality. Abortion and permanent sterilization in general are excluded as means of birth control. Likewise in the choice of means, the natural law and

reason illuminated by Christian faith dictate that a couple proceed not arbitrarily but according to objective criteria among which are: (1) the morality of an action depends on the whole person and his acts; (2) the means chosen must be effective in proportion to the necessity; (3) the means chosen, where several are possible, must have the least negative harmful effect; (4) the availability of means depends on the time, place, and economic situation.

The pastoral need today is renewal towards education in responsible parenthood. In applying the Church's doctrine on marriage to different parts of the world, a pontifical institute to conduct research on problems of married life as well as regional bodies under the direction of episcopal conferences should be established. On population problems, any government intervention in the form of "political demography" must conform to the moral law and the human and Christian responsibility of the parents.

2. The Minority Report

The minority report group says that the Church's rule against contraception as always seriously evil cannot be changed because it is part of the Church's irreformable teaching and any change could destroy the confidence of the faithful in the Church's moral guidance and might raise grave doubts about the very history of Christianity and would open the way to other sexual excesses.

That contraception as always seriously evil has been the constant and perennial doctrine of the Church can be found in the documents of the magisterium, in the statements of national hierarchies and individual bishops, and the whole history of the Church's teaching on the question. The basis of the Church's teaching against contraception is the sacredness and inviolability of human life itself; procreation is a fundamental human good and any voluntary action against it is intrinsically evil. The Church cannot change her answer because this answer is true and she could not have erred through so many centuries.

After synthesizing the philosophical arguments of the liberal side, the minority group contends that the reasons for change make the natural law uncertain and changeable, challenge the authenticity of the Magisterium, and that as human life is inviolable so are the sources of life removed from the control of man. If the teaching of the Church is changed, then arguments favoring contraception could be used to justify extramarital sex, perverse sexual acts in marriage, masturbation, direct sterilization, homosexuality and abortion. The value and dignity of the Church's teaching authority would be destroyed.

3. *The Argument for Reform*

The second position paper of the majority group begins by showing that the past teaching of the Church is not decisive. Pius XI's condemnation of contraception in *Casti Connubii* is not an infallible definition. Scripture scholars interpret the story of Onan, cited in the encyclical, differently from the way it is used in *Casti Connubii*. The argument from reason or the natural law given in the encyclical is vague and imprecise and the Catholic tradition to which Pius XI refers is not of apostolic origin nor an expression of universal faith. The basic fault of the tradition rests in its conception of natural law which makes nature the voice of God and fails to understand man's call to take command of nature and shape it to good human purposes. The official teaching of the Church in protecting the value of procreation has been evolving in recent years due to various modern changes. If the Church's teaching is developing, then there is no sound basis for fearing that a change in the doctrine of contraception would cause a loss of trust in the Church's teaching authority on every other doctrine. A change on the contraception issue would bring a more mature understanding of the whole doctrine of the Church.

That the traditional arguments against contraception based on the natural law are not persuasive may be shown by the following reasons: (1) the sources of life are not inviolable in the sense that man cannot use nature for his own perfection

according to right reason; (2) the norm of morality is conformity to man's rational nature; (3) the sources of life are not the sex organs but married persons who act voluntarily and responsibly in conjugal acts; (4) sexual relation in marriage should be an expression of mutual self-giving and from this viewpoint there is no difference between acts in fertile or infertile periods.

A change in the doctrine on contraception would not be a surrender to "subjectivism or laxism." Man's dominion over nature does not permit complete exclusion of fertility from marriage but it does permit the use of means to be weighed according to objective moral criteria. "These, based on the nature of the human person and his acts, preserve the full sense of mutual self-giving and human procreation in the context of true love." Thus the moral norm is not simply biological conformity of acts but the total meaning of sexuality in marriage. A "responsible procreative community" remains, even if conception is avoided when, for instance, parents already have children to educate or are not prepared to educate a new child. This obligation of conscience for not having more children springs from the rights of the already existing children or the rights of a future child. In some cases intercourse can be required as a manifestation of self-giving love directed to the "community of love and life." This is not selfishness or hedonism but a legitimate communication of persons through gestures proper to beings with sexual powers.

Couples must make a moral decision concerning the methods of birth regulation, taking into account the following objective criteria: (1) the method chosen must have lesser inconveniences for the subject; (2) it must be fitting and connatural; (3) it should be conformed to the expression of love and respect for the dignity of the partner; (4) it should be efficacious; the rhythm method is very deficient; since only 60 per cent of women have a regular (menstrual) cycle.

Finally, the legitimizing of contraception would not foster an indulgent attitude toward abortion, sexual perversions, fornication, adultery and masturbation. Abortion deals with human

life already in existence and is wholly different from contraception. Sexual perversions preserve neither the dignity of love nor the dignity of the spouses as human persons created according to the image of God. Contraception is permitted if it favors the stability of the family whereas fornication and adultery are extra-marital relations. Masturbation negates the intersubjectivity of sexuality.

D. The State of the Question

Prof. John T. Noonan, Jr., who was a member of the Papal Birth Control Commission, in *The Church and Contraception* (New York: Paulist Press Deus Books, 1967), gives an excellent summary of the issues at stake on the contraception debate before *Humanae Vitae*. The norm of Catholic behavior is that any intentional act of contraception by condom, diaphragm, pill or withdrawal, is a mortal sin. To maintain this norm three invalid and three valid arguments have been advanced; to change it, three bad and three good arguments have appeared.

1. Invalid Arguments Against Change

(1) Contraception is against nature: it frustrates the natural purpose of the sexual act and is therefore irrational and intrinsically evil. This argument assumes that there is only one natural purpose of sexual intercourse. The Second Vatican Council taught that besides procreation marital intercourse expressed and perfected the love that Christ commanded between husband and wife and thus gave the *coup de grace* to an already discredited argument.

(2) Contraception is against the primary purpose of marriage which is the procreation of children.

Vatican II assigned no primary purpose to marriage.

(3) Contraception is against the teaching of the Bible. It is against God's command to increase and multiply (Gen. 1:28). It was punished by sudden death in the case of Onan, who practiced *coitus interruptus* (Gen. 38:8-10). The command to multiply was never understood by the Church as

instruction to engage in uninhibited procreation. The punishment of Onan was for disobedience to the Levirate law which commanded him to marry his brother's widow and continue to have descendants through this marriage.

2. *Valid Arguments Against Change*

(1) *The Sacrality of Intercourse.* The act of intercourse as a unique cooperation of man with his Creator in initiating human life is sacred and hence it is a desecration, a kind of sacrilege, to interfere in the act, to rob it of its unique power. This view depends on a kind of religious belief, perception and emotion. The perception of the sacrality of intercourse, if it exists, operates only to prohibit tampering with coitus itself.

(2) *Contraception and other Human Behavior.* The norm against contraception is part of an integrated Catholic morality on sexual behaviour. First, if contraception in marriage is permissible it is equally permissible outside of marriage. Hence, contraception must be condemned to condemn fornication. Second, the practice of contraception leads almost inevitably to widespread abortion (In Japan over 1,000,000 per year for the last dozen years) and to a general disrespect for life. This argument is of a prudential, paternalistic character and views the prohibition of contraception as an outer guard against sexual excesses and against assault on life itself. In the past the norm against contraception has operated to defend the holiness of marital sexuality and the integrity of life. The question, however, remains: is the present norm required by human nature in its present environment?

The objection to fornication does not rest primarily on the potential rights of a potential child but on a combination of the strong New Testament teaching (e.g. 1 Cor. 6:16) that marriage alone sanctifies intercourse, and that intercourse without a permanent commitment is ordinarily exploitative and meaningless. The prohibition of contraception is, in short, no longer necessary to guard the life-regarding values of educated Catholics, no longer effective to reach uneducated Catholics.

(3) *The Teaching Authority of the Church.* For over nineteen hundred years the Church condemned contraception as evil. How can the Church now abandon its norm without at the same time abandoning its authority in a confession of plain error? Moral rules are responses to problems. The relevant question is: does the Church today face the same problems to which the norm against contraception was a response? The Church has changed its norms not only on usury (to seek profit on a loan was condemned as evil for eighteen hundred years), but on slavery, on the state's obligation to the Church, on the study of scripture. History has shown that some Popes erred, e.g. Boniface (1302) on salvation and the Roman Pontiff, Urban III (1185) on interest taking, Pius IX (1860) on the Papal States, and Gregory XVI (1832) on freedom of conscience. These considerations show why change in the norm is not impossible. The Church will be developing traditional values, while changing old norms.

3. Invalid Arguments for Change

(1) There is a doubt as to the law, and the fundamental principle of Christian liberty is that a doubtful law does not bind. Vatican II clearly states the existing law against contraception and so there is no doubt as to the law.

(2) The practice of many Catholics who use contraception represents the witness of the faithful that contraception is not contrary to Christian belief. The practice of Catholics by itself cannot alter a norm set forth by the Gospel or demanded by the exigencies of human nature.

(3) Still, the Church is incompetent to establish a norm in this area. It is within the competence of the Church to speak on behavior which may endanger the love of neighbor. Moreover, marriage is a sacrament of the Church and so she has competence to set conditions for the use of the rights conferred by the sacrament. Nor is clerical celibacy relevant to this competence: competency in moral matters does not depend on experience of particular proscribed behavior but on an open earnest responsiveness to the teaching of God, the

testimony of persons seeking to lead virtuous lives, and the opinions of experts from the relevant disciplines.

4. *Valid Arguments for Change*

(1) *The Requirements of Conjugal Love.* Vatican II put a high positive value in intercourse which did not necessarily have a procreative purpose or effect and recognized that the values of responsible parenthood and conjugal love might be in conflict. The Council rejected abortion and infanticide as evil means of resolving the conflict. It left the final judgment on changing the norm against contraception to the Supreme Pontiff. It would seem that contraception is indeed the obvious rational way to reconcile the command of conjugal love and the requirement of responsible parenthood.

(2) *The Responsibility for Education.* The procreation and education of children has always been proclaimed as the end of marriage. "Education" in this formula is a dynamic value. Education in today's cultures is a long, arduous, and expensive training. Too much procreation may endanger the education of existing offspring.

(3) *The Exercise of Mature Liberty.* The present norm against contraception no longer seems appropriate to the better educated, conscience-directed couples. The Christian people, if educated, can find in their consciences better guides to protect the values the law secures. The present norm is self-defeating since it operates now as a kind of penalty for the most conscientious laymen. Belief in the sacral character of intercourse may exclude the condom and coitus interruptus. Uncertainty about the abortifacient effect of the intrauterine device may require its exclusion until further evidence is obtained.

E. The Magisterium and Contraception Before "Humanae Vitae"

The problem prior to *Humanae Vitae* was whether the positive doubts which had arisen since 1964 concerning the traditional Church teaching against contraception had encountered a true teaching statement. Those who challenged

the position that the Church's doctrine was practically doubtful advanced three such statements: (1) Pope Paul VI's statement of June 23, 1964; (2) the doctrine of the Second Vatican Council; (3) Pope Paul VI's Allocution of October 29, 1966.

However, the following considerations show that the real doubts which have arisen since 1964 did not encounter a true teaching statement. With regard to the Papal Statement of June 23, 1964, the Pope stated that since the reasons up to that point were not sufficient to render the norms of Pius XII against contraception out of date, the question needed further re-examination and study. The Second Vatican Council deliberately refrained from giving a decision in this theological dispute since the Pope had reserved the matter to himself. The state of debate since 1964 which created the Birth Control Commission was not altered by the Council. In the Papal Allocution of October 29, 1966, the Pope stated that "only an authentic teaching statement is capable of dissipating genuine doctrinal doubt." The October 29 statement itself is not an authentic teaching statement. Hence the teaching on contraception before *Humanae Vitae* was in a state of practical doubt.

III. THE ENCYCLICAL "HUMANAE VITAE"

A. *The rationale of the Encyclical*

1. *Positive Human and Christian Values*

The Encyclical is a real defense of the dignity and sacredness of human life as well as an appeal for responsibility in sexual relationships in marriage. The Encyclical gives an analysis of the new aspects of the contemporary problem of birth control and the competency of the Magisterium; develops the Christian ideal of conjugal love and responsible parenthood within an integral vision of man; recognizes the responsibility of parents in conscience to determine the number and spacing of children; determines illicit and licit means of birth regulation; and finally gives pastoral directives to guarantee human and Christian values.

[Cf. Fr. V. San Juan, S.J., *Action Now* (Aug. 31, 1968)]

The Church is the first to recognize man's responsibility in intervening with nature in the transmission of life but there are limits to man's dominion over his body and its functions with due respect to the order established by God (HV, 16 and 17.) Underlying the Church's re-affirmation of its teaching against artificial birth control is a total vision of man. Thus one's view of the totality of man and his concept of sexuality in the human person will have considerable bearing on one's solution to the problem of fertility control. Likewise the current climate of ideas and values in the modern world will influence one's moral judgments on birth control.

Today the marital act has become more and more the specific means of expressing and promoting conjugal love. But the relevant question is: What is the true and total meaning of the marital act? This act is an authentic expression and promoter of conjugal love only when all the aspects of marriage are taken into account: (1) in humans, every instinct must be brought under subjection to reason; (2) the marital act must reflect the spiritual qualities of the love of the spouses; (3) the marital act, however unique to the spouses, is not the only expression of conjugal love. The problem that must be faced in harmonizing conjugal love and responsible parenthood is precisely this: does the method of birth regulation adopted in any way endanger the authentic character of the marital act?

It is man's vocation to intervene in the workings of nature. But man's intervention in human sexuality becomes objectionable, not because it is artificial, but because of the assumption that reliance for control can be placed only on scientific means and not at all on the development of man's inner self-determination. Such a mentality is erosive of human sexuality. One cannot indiscriminately manipulate the sexual power in man for the purpose of fertility control without necessarily affecting the total personality. It is not scientific to attempt to solve the problem of fertility and thereby create larger problems of sexual personality. The truly scientific is that which promotes the human person as a whole.

And it is this which is a basic concern of the Encyclical: "Some limits to the domination which man can acquire over his own body and its functions must necessarily be acknowledged, limits which it will not be licit to exceed."

2. *On the Regulation of Birth*

(1) *Illicit means*: (a) . . . the direct interruption of the generative process already begun, and above all, directly willed and procured abortion, even if for therapeutic reasons, are to be absolutely excluded as licit means of regulating birth. (b) Equally to be excluded is direct sterilization, whether perpetual or temporary, whether of the man or of the woman. (c) Similarly excluded is every action which, either in anticipation of the conjugal act, or in its accomplishment, or in the development of its natural consequences, proposes, whether as an end or as a means, to render procreation impossible. (14)

(2) *Licit means*: (a) . . . the use of those therapeutic means truly necessary to cure diseases of the organism, even if an impediment to procreation, which may be foreseen, should result therefrom, provided such impediment is not, for whatever motive, directly willed. (15) (b) . . . licit to take into account the natural rhythms immmanent in the generative functions, for the use of marriage in the infecund periods only, and in this way to regulate birth. . . . (16)

B. *The Problem After "Humanae Vitae"*

[Cf. Robert A. McCormick, S.J., *Theological Studies*, 29 (Dec. 1968), 707-741.]

1. *The Analysis and Argument of the Encyclical*

Humanae Vitae teaches that every contraceptive act is intrinsically evil (14) and always illicit (16). The argument is as follows: Each marriage act must be open to the transmission of life. The marital act is a single act with two aspects, unitive and procreative, which by divine design are inseparable so that contraception is an attack on the expression of mutual self-giving (13 & 14).

Three remarks are in order: (1) This argument that the marital act is a single act that is procreative and unitive of persons, is not new (it was taught by Pius XI and Pius XII). However, there seems to be a contradiction in the Encyclical; namely, whereas in infertile acts the unitive and procreative aspects are separable, (11) in fertile acts they are inseparable (12). (2) The Encyclical states that biological structure and the processes of nature are said to represent God's plan and therefore morally normative. However, Vatican II and contemporary theology holds that the basic norm for the meaning of human actions is the person and not an isolated aspect of the person. *Humanae Vitae* shifts from the norm of Vatican II to that based on the "nature of acts" and not of the person. In the majority Report of the Birth Control Commission, it is clear that the person is the criterion of the meaning of human action. Thus the human and moral meaning of an action is not to be identified with physical act but rather the action's relation to the order of persons, to the hierarchy of personal values. (3) The Majority Report also maintains that infecund acts (even those deliberately made such) are incomplete, and derive one aspect of their moral quality from their relationship to the fertile acts already placed or to be placed. In conclusion, *Humanae Vitae* does not succeed in showing that an act deprived of its procreative power is intrinsically evil.

2. *Relation of a Theological Analysis to a Doctrinal Conclusion*

(1) *The Problem of Balance.* Religious docility is the proper response to an authoritative even though non-infallible teaching. But if the analysis and argument of authoritative moral teaching on the natural law does not support the conclusions, what is one to think of these conclusions?

Two extremes must be avoided: on the one hand, to hold that a teaching is as good as the argument; and on the other hand, to hold that the teaching is totally independent of the argument. If the former, then religious assent is not possible; if the latter, then the possibility of objectively founded dissent

is eliminated in principle and who has greater authority than the Pope?

The presumption is that authentic non-infallible statements are correct until a sufficient number of mature and well-informed members of the community, a large number of loyal, docile, and expert Catholics share the same difficulty of dissent.

(2) *The State of the Question.* (a) A good number of theologians consider the norms of Pius XI and Pius XII genuinely doubtful, i.e. they advance serious and positive reasons against them. (b) The vast majority of theologians maintain that the argument which identifies the natural law with the natural processes does not justify the conclusion. (c) Can the immorality of contraception be established on other grounds?

Paul Ricoeur advanced a cultural criticism of the modern "contraceptive mentality" and its influence on marital selfishness, infidelity, and irresponsibility. The facility of sexual expression, the mechanization and dehumanization of human sexuality in the modern world renders the value and meaning of sexuality insignificant and finally extinct. But these arguments do not lead to the conclusion that contraceptive acts are intrinsically immoral or absolutely illicit.

On what grounds did Paul VI reaffirm traditional norms? The Pope did not consider the conclusions of the Birth Control Commission definitive because "no full concordance of judgments concerning the moral norms to be proposed had been reached" and above all "because certain criteria of solutions had emerged which departed from the moral teaching on marriage proposed with constant firmness by the teaching authority of the Church." This does not guarantee the absolute correctness of this teaching (unless infallible) but only its longevity.

If the hermeneutic method of interpreting Encyclicals is applied to *Humanae Vitae*, one possible interpretation would be that its teaching is proposing an ideal of marital love and life.

(3) *Conclusion.* To say that the clarity and certainty of a conclusion of natural-law morality are independent of objective evidence is theologically unacceptable. Therefore the intrinsic immorality of every contraceptive act remains a teaching subject to solid and positive doubt.

This is not a question of a private magisterium distinct from and sometimes in conflict with the genuine magisterium of the Church. Dissent and conflict are radically different notions. If theologians, after meticulous research and sober reflection, share this opinion in sufficient numbers, and if bishops and competent married couples arrive at the same conclusion, it is difficult to see how the teaching of *Humanae Vitae* would not lose the presumption of certainty ordinarily enjoyed by authoritative pronouncements.

IV. THE CATHOLIC RESPONSE TO "HUMANAE VITAE"

A. *Pastoral Letter of the Catholic Hierarchy of the Philippines*

First of all, now that the birth control issue has finally been decided by the Pope, the Bishops appeal to the faithful to accept his teaching "with filial love and to follow it faithfully and loyally." Secondly, the Bishops exhort the clergy to instruct married couples that in this matter of birth regulation they cannot really form a right conscience unless they take into account the serious teaching of the Encyclical. Although the teaching of the Encyclical is not yet a "complete treatment," it demands religious submission of will and of mind. The priests are exhorted not to teach their own private and personal opinions but what the Holy Father has taught. Thirdly, in answer to the worldwide objections to the Encyclical from a small minority, the Bishops warn the faithful against the modern climate of opinion, the restlessness and crisis of faith in the Church, and cite several theologians who have spoken against "new Christianities and new gospels."

B. *Statements of Other National Hierarchies*

The common response of the other Catholic hierarchies is one of great respect for and loyalty to the teaching authority

of the Pope. However, there is an underlying difference of emphasis on the right of married couples to form their own conscience in this matter of birth regulation. In particular, the statements of the Australian, Belgian, Canadian, Dutch, French, German, and U.S. hierarchies show the mildest form of disagreement with *Humanae Vitae* in that sincere and honest Catholic couples who practice contraception may receive the sacraments. A careful study of these hierarchical statements may be a test case of the non-exercise of collegiality in the teaching magisterium of the Church.

C. The Response of Theologians

1. Four Issues at Stake

In view of the enormous interest and debate provoked by *Humanae Vitae*, an editorial statement of *America* (Aug. 17, 1968) suggests four points that need to be explored: (1) the right of the Pope to speak; (2) the right of Catholics to agree and to disagree; (3) the right and wrong ways to resolve the resulting tension within the Church; (4) the proper development of the Church's doctrine on life, love and birth regulation.

First, the right of the Pope and bishops to speak on morals is self-evident to most Catholics. The most serious theological problem the Encyclical raises is not the problem of artificial birth control but the problem of the magisterium, that is, an understanding of the exercise of teaching authority within the Church. If the Pope and the bishops have a right to speak on family life and conjugal love, then it is the duty of all Catholics to listen.

Secondly, in accordance with the doctrine of the Second Vatican Council, Catholics owe a "religious submission" to the teachings of the Holy Father on faith and morals. The right and duty of Catholics, therefore, to agree with the Pope as a moral guide cannot be questioned. Neither, however, should one deny the right of Catholics to disagree with a non-infallible teaching that is still in a state of development, if they have

grave, solidly grounded reasons for disagreement. Likewise in accordance with the doctrine of Vatican II concerning religious liberty and the obligation of conscience, theologians and married couples who are convinced, after careful study, that disagreement is possible for them are not only free but have a serious personal moral responsibility to follow their conscience.

Thirdly, there are right and wrong ways to resolve tension within the Church. The wrong ways would be for dissenters to leave the Church or to be forced out of the Church.

Fourthly, the right way is to continue discussion within the Church so that the Church's doctrine on life, love and birth regulation can develop properly. It is certain that Pope Paul VI did not intend his Encyclical to be the last word on love and life. The root question behind the tension within the Church is really the continuing search of the whole Church for the truth.

2. *The Proper Conduct of Various Members of the Church*

[Cf. Avery Dulles, S.J., "Karl Rahner on 'Human Life'," *America*, Sept. 28, 1969]

Karl Rahner offers some reflections on how the various groups in the Church should conduct themselves in view of the tension brought about by the diversity of opinion concerning the Encyclical. First, *Humanae Vitae* cannot reasonably be considered irreformable doctrine. Although the presumption is that the Pope's declaration is correct, this presumption must also allow the possibility that a Catholic can arrive at a carefully formed and critically tested conviction that in a given case the fallible magisterium has in fact erred. It cannot therefore be assumed that a Catholic who conscientiously opposes a non-infallible teaching, as it stands at a given moment, is necessarily disloyal. Secondly, the Encyclical, although it claims to be an interpretation of the natural law, does not in fact give very persuasive intrinsic arguments. It seems to look on human nature as something static, and closed—not open to modification by free and responsible

human decision. But for sometime now many moral theologians have been teaching that what is distinctive to *human* nature, as distinct from plant and animal life, is precisely man's power to modify his own nature, according to the demands of a higher good. Since a notable majority of the Papal Commission is known to have come out against the position later taken in the Encyclical, one can hardly expect the majority of Catholics to find the reasoning of *Humanae Vitae* convincing.

(1) Bishops should instruct the faithful about the meaning of the Pope's decision and warn them to take it seriously. But the Bishops should not act as though the Encyclical were irreformable or as though everyone who dissented were guilty of contempt of authority or were separating himself from the Church. They should refrain from imposing canonical penalties on persons who respectfully and discreetly propose another view.

(2) Priests, in their preaching and confessional practice, should emphasize central points of undisputed Catholic doctrine, e.g. the use of marriage is not a mere exercise of hedonism. Married life should in principle be open to the begetting of children, and any restriction of fecundity must be done within the limits of the moral law. In his pastoral guidance, the priest should not "correct" the views of those who are disposed to follow *Humanae Vitae* and he should not consider himself obliged to upset the good faith of a penitent who is committed to a different view.

(3) Moral theologians should not feel faced by a choice between falling totally silent or defending the Encyclical as absolutely certain. In order to speak loyally and credibly, the moral theologian must present the arguments on both sides. If no one would voice his opposition to reformable doctrines, the development and correction of the Church's official teaching would be seriously hampered.

(4) If after mature deliberation, married persons find themselves unable to accept the current teaching, they should not feel subjectively guilty or accuse themselves of formal

disobedience to the Church. They may in practice follow their critically tested conscientious decision without feeling obliged to submit their decision to the approval of a confessor.

In conclusion, Rahner points out that the ecclesiastical magisterium is only one element in the total interplay of factors that work together to achieve clarity of doctrine. It would therefore be unrealistic to demand total clarity from the outset. The individual Christian, relying on principles outlined above, must make a conscientious personal decision that does justice to all the factors. He must assume responsibility for his own decision before God.

3. "*Humanae Vitae*" and the Spirit of Vatican II

[Cf. Fr. Paul LeMaire, S.J., *Philippine Studies*, 17 (Jan. 1969)]

Is the teaching of *Humanae Vitae* in conformity with the spirit of the Second Vatican Council? The spirit of *Humanae Vitae* differs from that of Vatican II in four areas: (1) the question of dialogue, (2) the role of a responsible and mature laity, (3) the collegiality of the magisterium, (4) the task of theologians in the Church.

First, the Council called for a dialogue with the modern world. But in the preparation of *Humanae Vitae*, has there been a dialogue between the Church and the world and other Christian Churches, between pastors and laity, and to what extent? *Humanae Vitae* took a different position from the majority group of the Birth Control Commission which favored change. There is little evidence that a dialogue has taken place between the Church and other Christian Churches in the spirit of the Decree on Ecumenism. The Encyclical claims that the legitimization of contraception paves the way to marital infidelity, general lowering of morality, loss of respect for women, but there is no sociological evidence that this is the case.

Second, the Council teaches that the individual layman, by reason of the knowledge, competence, and outstanding ability which he may enjoy, is permitted and sometimes even obliged to express his opinion on things which concern the

good of the Church. It is unrealistic for the Church to develop a mature and responsible laity that is always in agreement with the point of view of Church officials. Outside the Birth Control Commission, *Humanae Vitae* did not attempt to sound out the layman in the dioceses of the world and yet the experience of married people is pivotal in this question of birth control. After all, the Holy Spirit operates in and through all the members of the Church. Furthermore the Decree on Religious Freedom teaches that an individual is bound to follow his conscience faithfully and may not be forced to act in a manner that is contrary to his conscience.

Thirdly, one of the significant contributions of Vatican II is the clarification of the relationship of the Roman Pontiff to the whole episcopal college. The College of Bishops, in union with its head, enjoys full power over the Church and *are* the magisterium of the Church. *Humanae Vitae* is a test case of the non-exercise of collegiality. Only a brief reference is made to the Bishops in the Encyclical. *Humanae Vitae* downgrades the office of bishops; first, by putting episcopal judgment on the same qualitative level as that of the Birth Control Commission; and second, by equating the magisterial office with that of the Roman Pontiff.

Fourthly, the Council points out the positive role of theologians in the development of the Church's teaching. For at least ten years, moral theologians and other experts studied the question of birth control. They based their main argument for change on the *principle of totality*, i.e. the norm of morality is the whole person, not isolated individual acts. The requirements of *conjugal love* and those of *responsible parenthood* or the good of the whole family may at times justify the practice of contraception. *Humanae Vitae* does not give one single reason for rejecting these views of theologians except n. 5; namely, ". . . certain criteria of selection had emerged which departed from the moral teaching on marriage proposed with constant firmness by the teaching authority of the Church."

4. Other Difficulties with the Encyclical

(1) *Humanae Vitae* bases its argumentation against contraception on the exigencies of the natural law. However, in

contemporary theology and philosophy there has been a shift from a static abstract and inadequate concept of human nature to a more dynamic, concrete and adequate concept. *Humanae Vitae* has not moved in this direction.

(2) It does not seem that *Humanae Vitae* gives due consideration to the question of underdeveloped countries faced with the problem of a high rate of population growth. These countries will not be able to make social and economic progress sufficient to meet the basic needs of their people, unless their birth rate can be reduced. The Encyclical does not seem to present a realistic solution to this dilemma.

(3) The central problem of the Encyclical is not so much the question of artificial birth control as that of the new understanding of the magisterium or the teaching office of the Pope and the Church. Vatican II has shifted from a static view of the magisterium to a historical view, but *Humanae Vitae* seems not to have advanced in this direction. It would seem that the Pope was pressured by the mass media to make a decision before the question was episcopally and theologically ripe. It is the responsibility of Bishops and theologians to see to it that the mass media does not take over the development of the magisterial teaching of the Church.

5. *The Question of Dissent.*

Fr. R. A. McCormick, S.J. (Cf. above) in reviewing the development of theological thinking on morality and the magisterium of the Church, offers some valuable reflections on the proper Catholic response to authoritative non-infallible teaching. The Second Vatican Council said that "religious submission of will and mind (religious assent of soul) must be shown in a special way to the authentic teaching authority of the Roman Pontiff, even when he is not speaking *ex cathedra*."

Religious docility is possible even in the case of a well-founded dissent with the non-infallible teaching of *Humanae Vitae*. For religious docility involving internal and external reverence, respect, openness, and careful personal reflection

generally issues in assent. It follows that: (1) the measure of one's loyalty to the magisterium is not precisely assent, but docility and deference which generally (only this) issue in assent; (2) juridical sanctions imposed on Catholics who conscientiously and responsibly dissent are out of place and only perpetuate a paternalistic notion of the Church; (3) a doctrine which is offered in contrast to one which is imposed has the character of a gift. The aim of hierarchical concern and vigilance should be the education of the Catholic community to a truly personal reception of this gift.

To quote Fr. McCormick: "The achievement of the truth is a process in which all of us have a Christian responsibility. It is precisely and only by a truly personal appropriation of a magisterial teaching that we will learn in the Church how our charity is to be expressed. If we simply hear and act, then the learning process of the Church will be short-circuited. The process of growth of knowledge in the Church demands that we hear, study, consult, and act. The result of this communal experience can become the source of a new understanding and a fuller unfolding of basic human and Christian values. Dissent—honorable, respectful, responsible—is not so much a personal right (there are applied concessions of excessive juridicism in this type of talk); rather it is only the possible outcome of a respectful and docile personal reflection on non-infallible teaching. Such a reflection is the very condition of progress in understanding in the Church. Dissent, therefore, as a possible outcome of this reflection, must be viewed as part of that total approach whereby we learn."

D. Pastoral Notes and Conclusions

1. Bishops

It is a mistake for Bishops to accept *Humanae Vitae* or any non-infallible teaching without serious personal reflection and consultation with other Bishops, theologians and experts. A distinction must be made between "accepting the authority of the Pope" and "accepting what is authoritatively taught."

2. *Bishops and Priests*

If a teaching is non-infallible and error is possible, then it is a mistake for bishops to insist on assent from their priests. Rather they should insist on: (a) a basic Christian and religious docility and the need for arduous reflection, study and consultation; (b) responsible conduct: respect for the Pope and his office; respect for the fact that he has a personal charism authoritatively to teach and lead the faithful so that their virtue of faith may not be weakened.

3. *Priests and Faithful*

(a) Priests should distinguish between their personal opinion and authoritative teaching.

(b) They should aid the faithful toward a personal reflection and assimilation of the Encyclical; help the faithful in forming their conscience but should not form their conscience for them. These avenues of solution and pastoral approaches are tentative in a difficult transitional period in the Church.

4. *The Philippine Situation*

Despite the enormous overpopulation problem in the Philippines, allegedly because of the strong element of conservatism and because this country is Catholic with a tradition of loyalty to the Church over four centuries, there has been a tendency to ignore the problem of population and birth control and to pretend that it will all somehow be all right in the end. The current climate of opinion is that birth control may be a problem of the Church abroad but certainly not here in the Philippines. The Pastoral Letter of the Philippine Bishops is "happy to note that among our Clergy and our leaders of the lay apostolate, not one voice was raised in public against the Encyclical" and is confident that Filipino Catholics will accept the Encyclical with loyalty and obedience. However, it must never be taken for granted that the influence of the Church has been a more effective determinant than say, folk tradition, in the Filipino attitude and behavior toward birth control. The problem is not whether the Church or Filipino tradition is largely responsible for the

population increase and an adverse attitude towards family planning. Rather the problem is whether conservatism, or triumphalism, or ignorance does not lead to a *conspiracy of silence* which in the long run will be more harmful to the growth of the Church and of the country. There is no doubt that many mature and educated Filipino couples will personally reflect upon and responsibly follow the teaching of the Encyclical, but we must make sure that the vast majority of Filipino Catholics do not silently follow the Church's teaching out of ignorance or folk tradition or because they have no independent way of making a personal and responsible judgment and decision.

The purpose of these notes and comments is to provide grounds for further study, discussion, and dialogue on the birth control issue in the Philippines so that a broader consensus other than that which exists at present may be arrived at and thus contribute to the solution of our overpopulation problem. This dialogue which Vatican II made so much of should include not only Bishops, clergy and married laity within the Church, but also other Christian Churches and various experts representing significant segments of Philippine society. To stifle this dialogue by a conspiracy of silence because of fear is to stifle the development of a mature and responsible laity and the future growth of the Church in the Philippines. That is why a growing number of the more educated and responsible citizenry are suggesting a frank and open discussion of this issue of birth control so that the consensus that will emerge will help not only in the renewal of the Church in the Philippines (*ecclesia semper reformanda*) but also in the human and Christian development of the whole nation as well as contribute to the development of the magisterium of the universal Church.

V. APPENDIX: RESPONSIBLE PARENTHOOD—TWO VIEWS

A. A Sociological View

[Cf. John L. Thomas, S.J., "The Church and Responsible Parenthood," *Theology Digest*, XIII (Winter, 1965), 255-268.]

Fr. Thomas sets the question of responsible parenthood in a historical, sociological, and theological perspective within which the Church must develop a Christian view of human sexuality under contemporary conditions of cultural development. In determining the morality of various means of family regulation, the following points must be taken into account:

(1) Normal human couples are endowed with a procreative capacity providentially designed to meet the needs of the species under all the various historical circumstances through which it has developed.

(2) Owing to the helplessness of the human infant and its need for socialization, the requirements of parenthood may vary widely from culture to culture and remain unrelated to an individual couple's reproductive capacity.

(3) Since human sexual response and receptivity are not directly dependent on seasonal or cyclical physiological changes, marriage partners can be sexually responsive and receptive at all times.

(4) Owing to the cyclical character of ovulation, not the individual marital act but the *process* of marital relations, i.e. the series of sexual actions, operations, and exchanges normally shared by the cohabiting couple, must be regarded as procreative. (This is the principle of totality).

(5) Since the intimacy of the married state has health-giving qualities highly significant for the maintenance of marital stability, the observance of absolute or prolonged continency may seriously jeopardize the essential "goods of marriage" in some cases.

B. A Philosophical View

[Cf. Robert O. Johann, S.J., "Responsible Parenthood: A Philosophical View," Address to the American Catholic Theological Society, June, 1965]

1. The Concept of Responsibility

(a) To be responsible means to be a person and the source of one's actions. (b) To be responsible also means to be freely

committed and to be accountable for one's actions. (c) To be responsible finally means to be able to respond to actions upon us, i.e. to give a fitting answer to the demands and exigencies of the human situation.

2. Man's Vocation or Responsibility to Being

The ultimate context and the unifying ground of man's responsibility is Being itself. The foundation of man's moral life is this dynamic relationship of the human self to Absolute Being. What actually constitutes an adequate response to Being in any particular situation is a matter of discerning intelligence and love.

In a dynamic concept of the natural law, the norm of morality is right reason which is open to the Absolute and rectified and motivated by love. The morally good is not simply what is in conformity with nature, but what presents itself as reasonable in the particular circumstances or situation. To be moral is to be reasonable in the fullest possible sense.

Our promotive response to being must necessarily be embodied in our relationships to persons and things. The order of nature is there merely to mediate the universal community of persons. That is why the exploitation of persons as means to one's ends is unreasonable and immoral.

Morality is not something arbitrary, subjective and relative. Based on the dynamism of Being itself, the distinction between right and wrong is objective and absolute. A person's vocation to responsible and reasonable action does not dispense with the objective meaning of people and things but rather insists on it. The significance of natural processes is not in their brute facticity but in the contribution they can make, by being what they are, to the growth and enrichment of human life.

Responsibility means to respond to things not simply as they are but in the light of Being, i.e. in the light of their concrete possibilities for integration in a human work of love which reason discovers in the presence of Being.

3. *The Total Meaning of Sex*

On the level of physical nature, sex is simply a biological process for begetting offspring. But on the level of the human person, sexual union is the embodiment of mutual self-giving in the most intimate way possible. Human sexuality is a way of being for another, a way of being responsible for the other. The total human and objective meaning of sex is the human family, the very sacrament of promotive and sacrificial love. Man is called to a rational work of loving enhancement—a genuine promotion of being. His intervention in natural processes is always justified when its issue is an enlargement of human meanings and possibilities.

4. *Responsible Parenthood*

What are responsible parents to do when sex as a physical process begins to work against the human meaning of sex in its total human sense, when it threatens to undo the very work it made possible, when respect for its sheer physical efficacies begins to be self-defeating? In a case where sex would save the family and where it is to be refused only out of reverence for the sheerly physical integrity of a natural process, a rationally demanded conception-prevention, far from being reprehensible, can be obligatory. Is it really possible to show that contraception—in this case—is in any way opposed to the fully human meaning of sex? Would not abstinence here be a kind of physicalism that is, in the last analysis, irresponsible? These are the questions which philosophy asks to which theology must give an adequate answer.