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Having taken all reasonable steps to make the best decision they can in conscience, a Catholic couple believe they have no real alternative but to use contraception for the time being. Can this couple continue to receive Holy Communion?

Many Catholic couples in 1968 experienced great tension over birth control and a considerable number, feeling that they were receiving little guidance or pastoral support, simply walked away from the practice of their faith. To be fair, bishops and clergy at the time were themselves caught up in a confusion that was to preoccupy the theological community for many years to come: how to explain the relationship between an authoritative teaching such as *Humanae vitae* on one hand, and a Catholic's duty to follow the dictates of a certain conscience on the other. If the theological community was confused, could bishops and priests really be expected to know how to support the faithful making such difficult decisions?

In the first part of *Humanae vitae* Pope Paul VI addressed the Church's formal doctrine on contraception, framing the prohibition as universally valid because it is founded in the objective nature of persons, marriage and sexuality.¹ In the second part of the encyclical he took great pains to encourage couples who struggle to live this teaching to go on seeking the grace of God by receiving the Sacraments 'more often and with great faith'.² And in some late revisions to the pastoral directives he raised an equally important question: the role of priests in providing pastoral care for couples who struggle to live this doctrine in the concrete particularity of their marriages.³

Pope Paul wished to provide couples with every possible help on their journey. He knew that priests play a critical pastoral role in the formation of conscience, but in his final revisions he was able to offer them little more than an earnest exhortation. The theological community and the magisterium itself would take some time to grasp and to articulate Pope Paul's pastoral insight. This article describes how the magisterium gradually explained the role of personal conscience especially for

¹ Pope Paul VI, *Encyclical Letter Humanae vitae. On the Regulation of Birth*. 25 July 1968. AAS 60(1968) 481-503. Online at http://www.vatican.va/holy_father/paul_vi/encyclicals/documents/hf_p-vi_enc_25071968_humanae-vitae_en.html

² *Humanae vitae*, 29.

³ Joseph Parkinson, "Humanae vitae I: Pope Paul VI in Pastoral Mode". *ACR* 90 (2013) : 185-195.

those who continued to struggle with *Humanae vitae*, and the Australian Church's small but significant role in this clarification. The final article of this series will explore a theology and spirituality of conscience implied in Pope Paul's late revisions, and the pastoral role of priests in the ongoing formation of conscience.

The Church unfolds *Humanae vitae*

Encouraged by frequent leaks from the *Pontifical Study Commission on Family, Population and Birth Problems*, many in the Church and indeed in the wider world had come to expect that Pope Paul VI would change the Church's teaching on birth control. When he did not, the Church's theological community quickly zeroed in on two critical questions which were to recur on the agenda of Catholic moral theology for the next thirty years: the status of *Humanae vitae* as 'authoritative', and the relationship between authoritative Church teaching on one hand and personal conscience on the other.

Even before *Humanae vitae* had been officially promulgated, the world's bishops were asked to give active support to the Pope in his teaching role and to report immediately on local responses to the encyclical.⁴ Within a matter of weeks many episcopal conferences issued pastoral letters to their flocks explaining the content and impact of the encyclical in greater or lesser detail.⁵ Echoing contemporary theological debate over the encyclical, all of these pastoral letters emphasized that *Humanae vitae* is certainly authoritative Church teaching and so subject to receive a Catholic's 'loyal

⁴ A letter from the Apostolic Delegation to Australia and New Zealand dated 26 July 1968 asked each bishop to 'inform the Apostolic Delegation, at your earliest convenience, on the reaction in the press and in general public opinion to the Encyclical Letter. . .' William H Shannon reports that Pope Paul's Secretary of State, Cardinal Cicognani, wrote to all bishops prior to the official release of *Humanae vitae* to request that they express solidarity with the Pope on this critical issue. See Shannon's *The Lively Debate: Responses to Humanae vitae*. New York: Sheed and Ward 1969. 139.

⁵ The fifteen responses reviewed for this article are from the Episcopal conferences of Australia (on 5/8/68), Belgium, Germany, Italy, Austria, England and Wales, the Philippines, Scandinavia, Canada, Ireland (in October 1968), Scotland, France, the United States of America, Spain and Switzerland.

The Australian bishops' 1968 response can be found in Nicholas Kerr, ed., *Australian Catholic Bishops' Statements since Vatican II*. Homebush NSW: St Paul 1985. The USA bishops' response can be found in Hugh J Nolan, ed., *Pastoral Letters of the United States Catholic Bishops*. Vol III: 1962-1974. Washington DC: USCC 1983. 164-194. English texts or translations of all others are in *Catholic Documentation* 13:4 (December 1968) and 14:1(March 1969).

For an assessment and synthesis of the European and English-language responses respectively, see Dionigi Tettamanzi, 'Il magistero delle Conferenze Episcopali europee e la *Humanae vitae*.' *Lateranum* N.S Anno XLIV 1978 N.1, 48-91; and John Cardinal Wright, 'Reaction of anglophone hierarchies to *Humanae vitae*.' *Lateranum* N.S. Anno XLIV 1978 N.1, 92-104.

submission of the will and intellect' (*'religiosum voluntatis et intellectus obsequium'*),⁶ although none held the encyclical to be infallible in the technical sense.⁷

But the world's episcopal conferences were less uniform on the more difficult pastoral questions.

- Every response appealed to the role of Christian conscience, although there are notable differences in describing both the nature of conscience, and the relationship between the content of doctrine on one hand and the exercise of conscience on the other. The French bishops, in particular, captured the important traditional distinction between objective and subjective aspects of morality: "Contraception can never be a good. It is always a disorder, but this disorder is not always culpable."⁸
- On the question of couples' reception of *Humanae vitae*, only a few responses make reference to what would later become known as 'the law of graduality': the insight that the moral life is one of growth or gradual movement forward, and that one's subjective ability to receive and respond to an objective moral teaching at any particular moment may be conditioned by many factors, some beyond the individual's control.⁹
- Few of the responses addressed the pastoral directives of the encyclical in any detail, and only three - the Scandinavian, Canadian and French - attempted to describe the pastoral role of priests beyond repeating the formulae of the document itself.¹⁰

Meanwhile a drama playing out in the United States of America eventually led to an important magisterial statement on the nature of personal conscience. Fr T McHugh, Rome correspondent for

⁶ This doctrine was upheld in one form or another in all fifteen of the pastoral responses. The phrase is taken from Second Vatican Council's *Dogmatic Constitution 'Lumen gentium' on the Church*, 25. Online at http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19641121_lumen-gentium_en.html

⁷ The Scandinavian bishops said, 'everyone agrees that [*Humanae vitae*] contains no infallible definition.' The Spanish bishops: 'It is certain that in this document the Pope has not claimed to have made an ex cathedra definition'. And Monsignor Ferdinando Lambruschini in formally presenting the document on 29 July 1968 stated his view that *Humanae vitae* "is not infallible but it does not leave the questions concerning birth regulation in a condition of vague problematics . . . there is owed also loyal and full assent, interior and not only exterior, to an authentic pronouncement of the magisterium . . ." *Catholic Documentation* 13:4 (December 1968), 267.

⁸ *Catholic Documentation* 14:1 (March 1969), 37.

⁹ So the French bishops said: '[Priests] will remember principles of general moral theology and will take into account the laws of growth that govern every Christian life and suppose traveling by stages still marked by imperfections and sins. They will ceaselessly invite the faithful to be attentive to the Holy Spirit, Who calls each one to a perpetual forward movement in holiness.' (n.20) *Catholic Documentation* 14:1 (March 1969), 40.

¹⁰ So the Canadian bishops direct priests in confession to be 'less juridical, more pastoral and more respectful of persons' (n.22), and to 'show sympathetic understanding and reverence for the sincere good faith of those who fail in their efforts to accept some point of the encyclical.' (n.25) This is especially true for 'persons who have tried sincerely but without success to pursue a line of conduct in keeping with the given directives', who 'may be safely assured that whoever honestly chooses that course which seems right to him does so in good conscience.' (n.26.) *Catholic Documentation* 13:4 (December 1968), 325-326.

the Western Australian Catholic newspaper *The Record*, reported that before most of the bishops of the United States of America had even received their copies of *Humanae vitae*, a large number of Catholic theologians in Washington DC publicly registered their protest at its teaching.¹¹ The resulting controversy escalated rapidly. It was to have lasting effect on the careers of many Catholic theologians and indeed on the direction of moral theology in the English-speaking world for the rest of the twentieth century. “The Washington Case”, which has been well documented elsewhere, was eventually resolved by mediation of the Holy See in April 1971 with the publication of a “*Statement of Theological and Pastoral Principles*” from the Congregation for the Clergy.¹²

The *Statement* deals with the issues of doctrinal authority, conscience, and pastoral practice. In response to the question of dissent by teachers of Catholic theology it first affirms the doctrinal authority of *Humanae vitae* and ‘the assent due to the teachings of the Ordinary Magisterium’.¹³ The *Statement* then reiterates traditional Catholic teaching on conscience.

Conscience is the practical judgment or dictate of reason by which one judges what here and now is to be done as good, or to be avoided as evil. . . .

Particular circumstances surrounding an objectively evil human act, while they cannot make it objectively virtuous, can make it inculpable, diminished in guilt or subjectively defensible.

In the final analysis, conscience is inviolable and no man is to be forced to act in a manner contrary to his conscience, as the moral tradition of the Church attests.¹⁴

Adopting the standard definition of conscience, the *Statement* affirmed what had long been traditional Catholic teaching on the objective and subjective aspects of moral decision-making. This tradition distinguishes between the objective aspect of moral judgment – one’s attending to the proposed action considered purely from the point of view of the goodness or evil of the action’s object (which in Aristotle’s terms is an exercise of ‘contemplative’ or ‘speculative intellect’); and the subjective aspect of moral judgment – one’s apprehension of the particular concrete circumstances which surround and may qualify *this* action for *this* person at *this* time (an exercise of ‘practical intellect’), and which therefore determines the individual’s subjective culpability for making this particular moral choice.

¹¹ *The Record*, 26 September 1968.

¹² Sacred Congregation for the Clergy, *The Washington Case* (26 April 1971) contains a summary of events and the ‘Statement of Theological and Pastoral Principles’. Text in Austin Flannery OP, ed., *Vatican Council II Volume 2: More Post Conciliar Documents*. New York: Costello 1982. 417-422. This document is not currently online.

¹³ *Statement*, I (3).

¹⁴ *Statement*, II.

It is essential to note that the objective aspect provides ‘an affirmation of truth about the status of the act’, while the subjective aspect provides ‘a distinct affirmation about the moral condition of the person.’¹⁵ In other words, a moral choice viewed from the objective point of view addresses only the objective good or evil of the end chosen; so far it reveals nothing about the degree of personal merit or blame which can be accorded to the individual who made the choice. But the latter is often the critical question from a pastoral point of view. For effective pastoral care to be provided it is essential that the care-giver (in Pope Paul’s mind, the priest) can distinguish between the goodness which may reside in the object of an action, and the goodness which may reside in the person’s efforts to attain that object.¹⁶ This is the key to the objective-subjective distinction in the Catholic moral tradition, and it is here that the question of conscience plays out. At stake are two perspectives on moral truth distinguished on one hand as ‘conformity to the objective order’, and on the other as ‘correspondence to right striving’.¹⁷

These perspectives have long sat within the Catholic moral tradition, reaching perhaps their clearest articulation in the later moral manuals following the line of St Alphonsus Liguori.¹⁸ The United States Catholic Bishops had used them to great effect in their response to *Humanae vitae* which was itself cited in the *Statement*.¹⁹ Nevertheless these distinctions still cause some in the Church a degree of disquiet because they open up the possibility that a Catholic couple might in good faith and after due discernment reluctantly feel obliged in conscience to use contraception for the time being.

For many couples at the time who found themselves in this situation the single most urgent issue was: can we continue to receive the sacraments? In the paradigm case, couples who feel bound in conscience to use contraception for the time being are said to be acting ‘in erroneous conscience’, and the Church teaches that we must follow the dictates of our certain but erroneous conscience.²⁰ But what is the moral effect of erroneous conscience? Does it excuse from formal sin, at least to the

¹⁵ Brian V Johnstone, ‘Conscience and Error’ in Charles E Curran ed., *Conscience. Readings in Moral Theology 14*. New York: Paulist 2004. 163-174, at 167.

¹⁶ James F Keenan SJ examines these under the rubrics ‘goodness’ and ‘rightness’. See his *Goodness and Rightness in Thomas Aquinas’s Summa Theologiae*. Washington DC: Georgetown University Press, 1992.

¹⁷ Johnstone, ‘Conscience and Error’, 167.

¹⁸ See Alphonsus Liguori, *Theologia moralis*. Lib. 1; Tract. 1; Cap. 1; n.1-7. See also Henry Davis SJ, *Moral and Pastoral Theology*. 4 vol. 1st ed. (London: Sheed and Ward, 1935.) Vol. I, 64-65.

¹⁹ National Conference of Catholic Bishops (USA), ‘*Human Life in our Day*’ (15 November 1968). This wide-ranging pastoral deals with *Humanae vitae* in paragraphs 15-54. The full text of the pastoral is in Nolan, *Pastoral Letters*, Vol III, 164-194.

²⁰ See Thomas Aquinas, *Summa theologiae* I-II, 19, 5. Note also that in 1690 Pope Alexander VIII condemned the Jansenist view that invincible ignorance does not excuse from formal sin. Cf Denz. 1292.

extent of allowing the couple to receive the sacraments?²¹ Or does a couple acting in erroneous conscience commit no sin at all?²² In either case, can they continue receiving Holy Communion regularly? These questions were raised in the Australian Church in several different ways over subsequent years, leading to some important clarifications.

In a final paragraph the *Statement* admonishes the priest ('counsellor') to balance doctrinal truth with pastoral prudence guided by these principles of conscience, to refrain from judging too quickly a couple's moral guilt or innocence, and in all cases to encourage the couple to continue striving with the help of God's grace to live the Church's teaching as best they can. The *Statement's* brevity precluded any further discussion of the priest's pastoral role which was, in any case, not the main focus of the document.

The Australian Journey

The Australian Catholic Church's engagement with *Humanae vitae* traces an interesting trajectory in itself, through which it has contributed significantly to unfolding magisterial teaching on conscience. Some key points in this complicated history are perhaps best explored in chronological order.

Little more than one week after *Humanae vitae* had been formally promulgated, the Australian Catholic Bishops Conference issued their first brief pastoral letter on the encyclical.²³ They affirmed that even though Pope Paul 'did not choose to use his teaching authority to its full extent by a solemn definition' the encyclical is still an 'authentic and authoritative' teaching and accordingly 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.²⁴

To this blunt assessment the bishops attached a very brief reference to conscience as 'the ultimate guide of the morality of our actions', without however providing any further clarification on, for

²¹ James F Keenan SJ traces the trajectory of this question from Bernard of Clairvaux's dispute with Peter Abelard in the Twelfth Century, through Thomas Aquinas and William of Ockham in the Fourteenth and Pope Alexander VIII's condemnation of Jansenism in the Seventeenth, to St Alphonsus Liguori's final clarification in the Eighteenth Century. See Keenan's *Moral Wisdom. Lessons and Texts from the Catholic Tradition*. Lanham, Maryland: Rowman and Littlefield 2004. 36-39.

²² Alphonsus Liguori held that such a decision may not only excuse from formal sin but may in fact be meritorious. See his *Theologia moralis*, loc cit., n.6-7. Keenan, *Moral Wisdom*, discusses this question briefly at 39, and in greater detail in *Goodness and Rightness, passim*.

²³ Australian Catholic Bishops Conference, 'Humanae vitae'. 5 August 1968. Text in Nicholas Kerr, ed., *Australian Catholic Bishops' Statements since Vatican II*. Homebush NSW: St Paul 1985. 148-149.

²⁴ Kerr, *Bishops' Statements*, 148.

example, the objective-subjective distinction. Neither did they explore exactly how ‘Christians in the formation of their consciences must be guided by the doctrine of the Church’. The precise relationship between authoritative Church doctrine and the dignity of personal conscience remained elusive. It is also notable that in this letter the Australian bishops made virtually no reference to the pastoral role of priests.

The following month (September 1968) Cardinal Gilroy of Sydney issued ‘Pastoral Directives’ to his clergy that also affirmed the encyclical’s authoritative nature.²⁵ Taking up Pope Paul’s appeal to priests to be ‘united in the same mind and the same judgment’ (1 Cor 1:10),²⁶ Cardinal Gilroy then bound his clergy to eleven directives covering preaching on Christian marriage, marriage preparation, marriage counseling, and especially celebration of the Sacrament of Penance.²⁷ These directives echo what was at the time standard advice in the moral manuals,²⁸ yet they are remarkable for their pastoral sensitivity to couples who struggle with the teaching of *Humanae vitae*: priests are reminded not to treat the issue of birth control in the confessional unless it is raised by the penitent; penitents who have previously used contraception ‘in good faith’ are to be assured that ‘they have not been guilty of sin in the sight of God’; and other categories of penitents are to be absolved ‘if they are here and now disposed for absolution’.

The directives also demonstrate a clear sensitivity to ‘graduality’, noting the possibility that couples may need time to grow into full reception of the teaching:

Should the penitent still affirm that he cannot in conscience accept the teaching of the encyclical, let the priest remember that it is not always easy for persons immediately to change their attitude on a matter so closely affecting their manner of life. Some time of adjustment may be required . . .²⁹

And in the Cardinal’s view, such a penitent

²⁵ The text is in *Australasian Catholic Record* XLV (4), October 1968, 292-296. Given that the text appears in ACR’s ‘Moral Theology’ section, the directives may have been at least partially authored by the then editor of this section, Monsignor James Madden, or possibly by Fr Tom Connolly.

²⁶ *Humanae vitae*, 28.

²⁷ The intention that these directives should be binding is unmistakable: ‘No priest who has, or in the future may be granted the Faculties of the Archdiocese may act contrary to the directions here given.’ *ACR* XLV (4), 296.

²⁸ See for example Henry Davis SJ, *Moral and Pastoral Theology*. Eighth edition. New York: Sheed and Ward, 1959. Volume 3, 270-315.

²⁹ *Australasian Catholic Record* XLV (4), October 1968, 295.

who sincerely promises to follow the directions of his confessor, could be judged disposed for absolution. His conscience is objectively erroneous, but through no fault of his own, he cannot at the moment see the light of truth and form a true conscience.³⁰

It may be significant that toward the end of his 'Pastoral Directives', Cardinal Gilroy quoted in full the two sentences which, at the eleventh hour, Pope Paul had added to *Humanae vitae* 29 – lines which reflect the Pope's own pastoral directives to priests. It would seem that at least one bishop had heard the Pope's *cri de coeur*.

The Cardinal's ability to balance doctrinal clarity regarding the objective morality of contraception with pastoral compassion for the those who feel subjectively 'trapped' into using it, was not shared by all. Monsignor James Madden of St Patrick's College, Manly, held that even if the care of children and peace in the home should suffer as a 'necessary result of observing the divine law', such deleterious events are not morally evil because they are not sinful, 'and sin is the only evil in the true Christian sense of the word'.³¹ Madden held the view that 'it is never impossible to avoid serious sin' because God would never place anyone in a position where they were obliged to violate divine law. Whatever the truth of this claim as a statement of doctrine, Pope Paul VI and Cardinal Gilroy could see another pastoral reality: a Catholic couple who feel strongly that they have no option but to use contraception for the time being, and who remain open to growing into full conformity with the Church's teaching over time, should not cease to receive the Sacraments.

The questions continued. On 11 April 1972 the chairman of the Australian Episcopal Committee for Doctrine and Morals asked theologians at Pius XII Seminary in Banyo, Queensland, to prepare a paper to deal, in part, with whether

those who believe in good conscience that they may use contraceptive methods as the only effective alternative in specially difficult circumstances need not regard themselves as separated from the love of God and may be admitted to the sacraments.³²

The theologians built their response not on pastoral questions about conscience but on the doctrinal question of assent due to an 'authentic non-infallible teaching' of the Church. The Banyo paper surveyed pastoral letters of ten episcopal conferences and determined that since the form of the

³⁰ *Australasian Catholic Record* XLV (4), October 1968, 295-296.

³¹ *Australasian Catholic Record* XLVI (1), January 1969, 52-59.

³² *Submission from the staff of Pius XII Seminary, Banyo*. Undated monograph. (i) I am grateful to Fr Kevin McGovern for drawing this document to my attention.

encyclical allowed for ‘*progressus doctrinae*’, and given differing interpretations of ‘*obsequium religiosum*’ offered by various ‘*probati auctores*’, such a couple might be exercising ‘legitimate dissent’ and so would not be required to abstain from the sacraments. Of course the term ‘dissent’ has since acquired a very specific definition focused on a refusal (rather than an inability) to accept a non-infallible teaching of the Church, perhaps simply on the grounds that it is non-infallible.³³ It may not have had this precise meaning in 1972, but were the Banyo theologians writing today they would doubtless choose another term, and perhaps another argument altogether.

Pope Paul VI had so insisted that struggling couples should and must be encouraged to receive the Sacraments ‘more often and with great faith’ that he made this the subject of his very last revision of the encyclical.³⁴ But he did not make it clear whether his pastoral teaching was grounded in the doctrine of erroneous conscience, or in another ‘acting in good faith’ theory, or in ‘legitimate dissent’, or in some other wisdom of the Church’s rich moral tradition. In any event, it seems that while the Banyo document was still under consideration the Australian bishops wrote directly to Pope Paul on 24 April 1972 expressing their concern at

the number of interpretations of *Humanae vitae* by episcopal conferences offering the faithful a less difficult course in situations where duties and obligations clash than would seem to be provided by the encyclical.³⁵

They received a reply from Cardinal Villot, Prefect of the Council for Public Affairs of the Church, on 7 July 1972. The Cardinal’s letter only confirmed the authoritative nature of *Humanae vitae* and the respect which is due to it in faith - otherwise he simply expressed Pope Paul’s ‘full confidence’ in the Australian bishops to resolve the question themselves. To help them along Cardinal Villot enclosed a ‘statement by the Sacred Congregation for the Clergy, which affords a noteworthy clarification of the question’ - presumably the document *The Washington Case* of 26 April 1971. In August 1972 Cardinal Villot’s letter was duly published by the Australian Episcopal Conference as their second pastoral letter on *Humanae vitae*.³⁶

³³ Sacred Congregation for the Doctrine of the Faith, *Instruction Donum veritatis. On the Ecclesial Vocation of the Theologian*. (24 May 1990) 33. This document also explores ‘*obsequium religiosum*’ (23) and ‘*progressus doctrinae*’ (24).

³⁴ *Humanae vitae*, 29.

³⁵ Letter of 7 July 1972 from Cardinal Villot to Archbishop Freeman, President of the Australian Bishops’ Conference. See Kerr, *Bishops’ Statements*, 150. The Cardinal appears to be quoting the Australian bishops’ letter to Pope Paul of 24 April 1972.

³⁶ Kerr, *Bishops’ Statements*, 149-151.

By the following year the question of whether a couple acting in erroneous conscience may receive the sacraments had become both more complex and more specific. On 13 November 1973 several Australian Catholic doctors made a direct approach to Pope Paul VI for definitive answers on, among other matters, (i) the normativity of personal conscience, (ii) the relationship between ‘acting in good faith’ and ‘*obsequium religiosum*’, and (iii) the right of a couple who are ‘acting in good faith’ to receive Holy Communion. After a significant delay a reply dated 29 July 1974 was received from the Congregation for the Doctrine of the Faith, addressed to Cardinal Freeman of Sydney as President of the Australian Episcopal Conference. It was accompanied by a covering letter from the Prefect of the Congregation, Cardinal Franjo Seper, who had advised Pope Paul VI in his very last revision of *Humanae vitae*. This letter asked that the Congregation’s replies be communicated confidentially to the inquirers, to all Australian bishops, and to ‘other qualified persons’.³⁷

The first question asked whether a couple acting in good conscience are ever justified in using contraception ‘in the circumstances of their particular case’. After affirming the authority of *Humanae vitae*, the Congregation’s simply reflected Catholic moral tradition:

There can, however, be situations in which a couple have, in good faith, come to the erroneous conviction that in their particular case the use of contraceptives is justified. In this case, the use of contraceptives, although objectively unlawful, is subjectively excusable, on condition that the judgment of conscience is made on the basis of sufficient information and after serious reflection before God. This is traditional catholic doctrine on personal conscience as the norm for responsible human action . . .³⁸

The Congregation’s first reply thus confirms the objective status of contraception as ‘unlawful’ even as it also affirms that this couple’s decision may be ‘excusable’ because their striving in itself seems right and honest. This reflects exactly the position of St Thomas Aquinas,³⁹ and closely approximates that of St Alphonsus Liguori,⁴⁰ on erroneous conscience.

³⁷ The covering letter bears the Protocol number 52/63. In keeping with Cardinal Seper’s wishes neither the SCDF replies (known in Australia simply as ‘The Replies’) nor the covering letter have ever been officially published in the form received. However the Australian bishops themselves substantially published the text of the first three replies in their 1974 pastoral letter, and according to Fr Walter Black MSC (in personal communication with the author) at least one bishop simply handed the *Replies* to his priests for their information. They have been in the public domain ever since. Fr Brian Lucas, then Archdiocesan Secretary for the Archdiocese of Sydney, confirmed in personal communication with the author that the *Replies* were issued in English.

³⁸ *Replies*, Response to I.

³⁹ *Summa theologiae* I-II, 19, 5 & 6.

⁴⁰ *Theologia moralis*. Lib. 1; Tract. 1; Cap. 1; n.1-7.

The second reply continued the theme: even if ‘an error is possible in good faith’, every Catholic is still bound to give the doctrine on contraception ‘religious reverence and sincere adhesion’ because ‘this obligation does not cease by the fact that someone subjectively does not see it.’⁴¹ That is to say, for ‘right striving’ to be ‘right’ in every respect it must always include reverence for the source of moral teaching even when that striving leads to a practical conclusion at variance from the teaching. So a Catholic who has reached a decision in certain but erroneous conscience can nevertheless honestly give the Church’s moral doctrine sincere internal assent, the ‘religious reverence and sincere adherence’ which is its due. Without that internal reverence and assent the individual’s commitment to ongoing moral growth could reasonably be called into question.

Notice once again the distinction between ‘goodness’ as it may reside in the object of an action, and ‘goodness’ as it may reside in the person’s efforts to attain that object. It is this differentiation between the goodness or evil of the moral choice judged on the basis of the act’s object on one hand, and the merit or culpability of the moral agent judged on the basis of his or her process of moral choosing on the other, that allows Thomas Aquinas to distinguish between *malum*, *peccatum* and *culpa*.⁴² For Thomas, *malum* refers to the evil of the act’s object simply, and *peccatum* refers to the evil of a moral choice insofar as it lacks due order (*ratio recta*); but this moral evil is not yet that morally culpable fault (*culpa*) to which the English word ‘sin’ normally refers.

This helps to explain the Congregation’s third reply. The question asked whether a priest who knows of this couple’s decision in conscience can continue to give them Holy Communion. Implicit here is, precisely, the question of sin: does such a couple acting in good but erroneous conscience commit a sin serious enough to prevent them from receiving the sacrament? Do they commit sin at all? St Alphonsus Liguori held that such a decision may not merely be excused but may in fact be meritorious.⁴³ In its first reply the Congregation had only gone as far as teaching that such a decision may be ‘subjectively excusable’, but would that in itself be enough to allow the couple to receive the sacraments? In its finely nuanced third reply the Congregation leaves readers to draw their own conclusion.

As a general rule, the priest should inform the couple of the responsibility they assume in acting in this way, and of their obligation to reconsider the decision that have made.

⁴¹ *Replies*, Response to II.

⁴² Thomas Aquinas, ST I-II 21, 1 and 2. ‘*Dicendum quod malum in plus est quam peccatum, sicut et bonum in plus est quam rectum . . .*’ (21, 1); ‘*Dicendum quod sicut malum est in plus quam peccatum, ita peccatum est in plus quam culpa. Ex hoc enim dicitur actus culpabilis vel laudabilis, quod imputatur agenti;*’ (21, 2). This point is taken up in Johnstone, *Conscience and Error*, 167; and Keenan, *Goodness and Rightness*, 148-157.

⁴³ *Theologia moralis*. Lib. 1; Tract. 1; Cap. 1; n.6-7.

However, for proportionate reasons, the priest may leave the couple in good faith about their decision, in accordance with the principles of moral theology.⁴⁴

Unless the priest chooses for pastoral reasons to leave this couple in good faith, he will help them arrive at a better understanding of three key points: their need to remain open to further growth in this matter, their right to make a fully informed decision in conscience, and their duty to accept full responsibility for that decision. The Congregation quite pointedly does not teach that a priest may refuse this couple Holy Communion. Nor does it teach that this couple should refrain from receiving Communion. Instead it delves into the Church's moral tradition to explain how priests should help this couple respond to Pope Paul VI's urging that they access the grace of God through the sacraments 'more often and with great faith'.

In September 1974 the Australian Episcopal Conference faithfully published the content of these three replies in their third pastoral letter on the encyclical,⁴⁵ which was intended to be a pastoral guide for clergy.⁴⁶

The bishops first express their understanding of the negative reception which had been given to *Humanae vitae* and then, citing 'The Washington Case', they explain the dignity and nature of personal conscience. In fulfilling their duty to inform their conscience, all Catholics need to maintain 'a spirit of openness to the teaching of the Church which is an essential aspect of the Christian baptismal vocation'.⁴⁷ Reflecting the second SCDF *Reply*, the bishops explain that this is why all Catholics need to afford *Humanae vitae*, as an authentic expression of papal magisterium, their sincere internal assent.

Turning then to the couple acting in certain but erroneous conscience, the Australian bishops follow closely the first SCDF *Reply*. While they retain an open mind on the question of whether this couple commit any sin at all, the bishops seem to favour the Congregation's position that such a decision may be 'subjectively excusable' rather than the Alphonsian line that it may be 'meritorious'.

⁴⁴ *Replies*, Response to III.

⁴⁵ "The application of *Humanae vitae*". The text is in Kerr, *Bishops' Statements*, 151-155.

⁴⁶ In a covering letter dated 24 September 1974, Archbishop Freeman of Sydney said that the bishops hoped the pastoral letter would help priests to continue to encourage their people in following the teaching of *Humanae vitae*, would encourage priests themselves in their pastoral responsibility, and would promote consistency in the counselling priests provide to their people.

⁴⁷ Kerr, *Bishop's Statements*, 152, citing the *Statement of the Canadian Hierarchy* of 17 September 1968.

It is not impossible, however, that an individual may fully accept the teaching authority of the Pope in general, may be aware of his teaching in this matter, and yet reach a position after honest study and prayer that is at variance with the papal teaching. Such a person could be without blame; he would certainly not have cut himself off from the Church; and in acting in accordance with his conscience he could be without subjective fault.⁴⁸

Finally the Australian bishops devote considerable space to the ‘pastoral care of married couples who are troubled by this matter’, calling first and foremost for ‘compassion, discernment and prudence on the part of the priest’.⁴⁹ Here at last are the beginnings of a response to Pope Paul’s fervent hope that married couples may ‘always find, in the words and in the heart of a priest, an echo of the voice and the love of the Redeemer.’⁵⁰

Reflecting the wisdom of Cardinal Gilroy six years earlier, the bishops distinguish three categories of Catholics: those who fully accept and live Pope Paul’s teaching, those who accept the papal teaching but occasionally ‘fail in their efforts to observe it’, and those who accept the papal teaching but feel ‘unable to observe it because of special circumstances’.⁵¹ All three categories of Catholics are to be admitted to the sacraments. Interestingly this pastoral letter differs from Cardinal Gilroy’s ‘Pastoral Directives’ in two respects: it does not treat of Catholics who cannot accept the papal teaching at all, and it does not limit itself to the practice of the confessional. In avoiding the former this letter side-steps a difficult pastoral matter; but in opening up the question of pastoral care beyond the sacrament of penance, this pastoral letter begins to break new ground in response to Pope Paul’s vision for priests.

Conclusion

One later magisterial intervention helped to draw these insights together. In 1989 the Congregation for the Doctrine of the Faith published some ‘clarifications’ entitled ‘The moral norm of *Humanae*

⁴⁸ Kerr, *Bishops’ Statements*, 153. The bishops stop short of teaching that ‘without subjective fault’ means ‘without sin’, but they apparently have in mind Thomas Aquinas’ distinction between *peccatum* and *culpa*.

⁴⁹ Kerr, *Bishops’ Statements*, 153-154.

⁵⁰ *Humanae vitae*, 29.

⁵¹ Kerr, *Bishops’ Statements*, 154.

vitae’ and pastoral duty’.⁵² It notes that the moral norm of *Humanae vitae* concerning contraception ‘does not admit of exceptions’ because contraception is ‘an intrinsically disordered act’, but then immediately points out that the Church’s moral tradition distinguishes between ‘objective disorder and subjective guilt’.⁵³

This subjective situation, while it can never change into something ordered that which is intrinsically disordered, may to a greater or lesser extent modify the responsibility of the person who is acting.⁵⁴

The document briefly notes the ‘law of gradualness’ of moral growth, and touches momentarily on conscience noting that

the moral conscience of the Christian . . . has a deep inner ecclesial orientation, which makes it open to hearing the teaching of the Magisterium of the Church.⁵⁵

It also calls on priests in particular to help married couples form a conscience ‘which judges according to the truth’, and to foster a close relationship between the couple’s moral life and their spiritual life since

an ever more intense spiritual life . . . is needed to understand the law of God and meet its demands within a social and cultural context which often provides little or no support.⁵⁶

This recognition of the relationship between morality and spirituality reflects Pope Paul VI’s basic insight into the couple’s need for grace and the role of the Holy Spirit in their journey of moral growth.⁵⁷ So much of the Church’s teaching on conscience has traditionally been cast more or less exclusively in the terms of Aristotelian metaphysics, reflecting scholastic theories of rationality,

⁵² Sacred Congregation for the Doctrine of the Faith, ‘The moral norm of ‘*Humanae vitae*’ and pastoral duty’. *L’Osservatore Romano* (English edition) 27 February 1989. Online at http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19890216_norma-morale_en.html
The print edition did not reveal who had authored this document, nor even the Vatican office that had issued it. However, the author’s identity may be deduced from two ‘clues’: the print edition was ‘signed’ by three asterisks which traditionally signify a highly authoritative source; and it was intended to address ‘critical and sometimes harsh observations on conjugal morality as this is taught by the Magisterium of the Church’ which had been made ‘by a well-known moral theologian’. The document has only recently appeared on the website of the SCDF, whose Prefect at the time was Cardinal Joseph Ratzinger, a close personal friend of then recently retired moral theologian Fr Bernard Häring CSsR. It is well known that Fr Häring had never been happy with *Humanae vitae* or the magisterium’s position on contraception, and he used his retirement to fire some parting shots. It is likely that Cardinal Ratzinger felt duty-bound to correct Fr Häring but wished to do so without naming his old friend.

⁵³ SCDF, ‘The moral norm’, 3.

⁵⁴ Ibidem

⁵⁵ Ibidem

⁵⁶ Ibidem

⁵⁷ *Humanae vitae*, 25 & 29.

knowing and willing. But very often the tensions felt by married couples who struggle with birth control are experienced at levels of their humanity far deeper than the merely rational. The role of conscience is now understood to engage the whole human person in the profound complexity not simply of their essential human nature but also of their particular human experience. It is this complex truth that the Church's moral tradition has sought to capture by holding together both the objective and subjective aspects of moral decision-making.

In its unfolding of *Humanae vitae* the Church rightly rejected both the rigorist or purely objectivist view that the sole duty of conscience is to apply the rational principles of universal moral law, and the laxist or purely subjectivist view that conscience can constitute an alternative, personal 'magisterium'. What emerges is a view of conscience as a function of the whole person, much more than a passive handmaid of the law, because the whole human person plays an active role in discerning what is to be done in the concrete. In aligning morality and spirituality, furthermore, the Church points to a more positive view of the role of the human person as such in moral decision-making, one which allows the wisdom of individual insight and apprehension of particular circumstances to do much more than merely modify one's culpability. This would sit well in a moral theology that grounds and is directed toward the pastoral ministry - a thoroughly Alfonsian view.⁵⁸

⁵⁸ Introducing the tract of human acts in general Alphonsus Liguori expresses the view that moral theology 'is entirely directed toward the practice (of Christian life)'. *Theologia moralis*, Lib. V, Preamble.