

The Natural Law and Human Dignity: Reaffirming Ethical First Things¹

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ABSTRACT

The truth about nature and natural revelation matters. While government cannot impose by decree moral truth, this truth should nevertheless be debated in the public square, if, for no other reason, it is intuited by all human beings. The alternative is an unhuman—and inhumane—consensus of “choice” and degradation of life.

MOST PEOPLE HAVE HEARD, in one form or another, the wonderfully prescient story—perhaps apocryphal—of the student who submitted to his professor a paper under the title “There Is No Such Thing As Justice.”² Without so much as a single marginal comment or concluding evaluation, the professor returned the paper to the student with a failing grade. Outraged, the student went to see the professor—the requisite step, of course, before lodging an academic protest *against injustice* with the dean—and proceeded to plead his case, seeking to convince the professor of how hard he had worked on the paper. Not only did the professor proffer no counter-argument, he readily conceded that this was one of the better papers he had received in his many years of teaching. As a matter of fact, he stated, so powerful was the student’s argument that the professor in the end was forced to agree. In which case, the professor announced, “there *is* no such thing as justice, so quit your

¹ Parts of this essay have been revised and will appear in an essay under title “Protestants, the Natural Law and the Public Square,” *First Things* (forthcoming) and chapters 1, 4 and 6 of the monograph *Retrieving the Natural Law: A Return to Moral First Things* (Grand Rapids: Eerdmans, forthcoming).

² More recently this illustration appeared in Robert P. George, *The Clash of Orthodoxies: Law, Religion, and Morality in Crisis* (Wilmington DE: ISI Books, 2001), p. ix.

whining!”³

It goes without saying that our culture, like the student, will need to make up its mind. Either there *are* fixed, non-fluid—and therefore, universal—norms for justice, right and wrong, to which human beings, regardless of their place in history, are held accountable, or there *are not*. At the practical level, G.K. Chesterton put the matter in perspective: people differ less about what things they call evil (although they indeed disagree) than about *what evils they are willing to excuse*. Chesterton, I think, is on to something; nevertheless, when basics become blurred, one must begin with first things. Are there moral first principles—the “permanent” things—to which the natural law and human moral discernment point us? If there are, then we shall have the means by which to find our bearings amidst a morally obtuse and radically skeptical generation. Indeed, the Christian moral tradition historically has affirmed these ethical “first things”—what Aquinas reduced to “do good and avoid evil” and from which all other moral norms derive. The Christian moral tradition assumes the presence in all human beings of a basic moral intuition.

Unhappily, particularly among Protestants (among whom I number myself), there exists a serious neglect—if not an outright disavowal—of the natural law in contemporary Christian ethics. But in the context of difficult, knotty, and critically urgent ethical and bioethical issues, the natural law will need to serve as a guide, both at the level of moral discourse and at the policy level. Without the natural law, without the moral “first principles” that help us maintain our moral equilibrium, we become, in C.S. Lewis’s words, “men without chests” who, wittingly or unwittingly, facilitate the degradation of all that is humane.

As part of the Creator’s revelation of moral reality, the natural law witnesses to the fact that we have no “original and rightful jurisdiction” over the gift of life. *We possess no moral claim regarding human life as such*, regardless of whether these claims relate to beginning-of-life, life-enhancement, or end-of-life matters. Thus, for example, natural-law thinking inhibits our efforts to develop or justify partial or “subhuman” beings, in the end mutating the species at the expense of some and for the convenience of others. Similarly, it inhibits our attempts at therapeutic

³ My paraphrase.

manipulation of life in its existing form for Promethean purposes. Finally, it inhibits us from determining the “quality” of existing life, as well as the timing and means by which we “terminate” life, since life is to be understood as an endowment. In the end, what in Plato and Jesus corresponds to the Golden Rule, what expresses itself in the contours of the Ten Commandments, what St. Paul described as the “law written on the heart,” what this nation’s fathers called “self-evident truths” based on “nature and nature’s God,” what C.S. Lewis called the *Tao*, or what we call the natural law serves as a reminder of moral reality. In the words of one public philosopher, it witnesses to *what we can’t not know*.

On the important ethical questions of the day, we are rudderless, lost at sea, as it were, without a compass. Seduced by the enchantments of technological progress, we are deaf to the voices of common sense and right reason. To extend the seafaring metaphor, we have recklessly thrown overboard our accumulated moral and cultural wisdom,⁴ at the heart of which lies the natural law.

Here I would like to consider the relationship between law, morality and human moral accountability, before which I shall note, briefly in passing, specific reasons for the neglect of natural-law thinking in Protestant thought over the last sixty years. This will necessitate identifying several influential Protestant thinkers, past and present, wittingly or unwittingly, who have helped us to this place of relative impotence. And finally, I will simply identify several crucial categories lying at the heart of contemporary ethical and bioethical debates that bear some relation to the natural law.

THE NEGLECT OF THE NATURAL LAW IN PROTESTANT THINKING

But first, to the problem “within the camp.” In the 1970s ethicist James Gustafson classified Protestant opposition to natural law according to two tendencies—historicism and existentialism.⁵ Indeed, there is much in his account that is commendable, for these two tendencies accurately explain

⁴ This is the imagery employed by Leon R. Kass in *The Hungry Soul: Eating and the Perfecting of Our Nature* (New York NY: The Free Press, 1994), p. 6.

⁵ James M. Gustafson, *Protestant and Roman Catholic Ethics* (Chicago IL: Univ. of Chicago Press, 1978), ch. 3.

much of the rationalism and fideism that has pervaded Protestant thought. About the same time, ethicist Paul Ramsey, though not a strong advocate for the natural law a generation ago, cited a further contributing factor in its neglect: a particular understanding of “christological justification and divine forgiveness” that “strips politics of norms and principles distinguishing between right and wrong.”⁶

To begin, we should note that opposition to the natural law has been of two types—revisionist and orthodox. My focus for the purposes of this conference shall be the latter. Several names require mention, and this, due to the constraints of time, only in passing. One is Karl Barth. In citing Barth I find myself divided because of his important contribution to the “Confessing Church” in Germany seventy years ago by way of his assistance in crafting the Barmen Declaration that served to reiterate Christ’s lordship against the backdrop of National Socialist totalitarian confessions.⁷ With their theological affirmation the participants at Barmen rejected the nazification of German culture and affirmed that a Christian’s ultimate allegiance could not be given to an earthly *Führer*. Not for nothing did he lose his teaching post at Basel a year after the National Socialists came to power.

A major concern of Barth was to critique and guard against the Enlightenment influences of the eighteenth and nineteenth centuries by which, in his understanding, “nature” was at odds with revealed, logocentric, Christocentric religion. The “idealized” and humanized” understanding of nature, as Barth viewed it, would have serious implications for German thought. The increasing secularization of European culture, coupled with a romantic view of “nature,” for Barth blended easily into the core assumptions of Enlightenment thinking and the new

⁶ Paul Ramsey, “The Problem of Protestant Ethics” in *War and the Christian Conscience* (Durham NC: Duke Univ. Press, 1961), reproduced in *From Christ, To the World*, ed. Wayne Boulton et al. (Grand Rapids MI: Eerdmans, 1994), pp. 212-14. Strangely, despite acknowledging its necessity in the marketplace, Ramsey insists that Christian ethics “transcends” the natural law (*Basic Christian Ethics* [New York: Scriber’s, 1954], p. 84, as suggested in his heading “What the Christian Does without a Code: St. Paul’s Answer” [p. 74]).

⁷ Hereon see esp. the introduction to Karl Barth, *The Church and the War* (New York NY: Macmillan, 1944).

humanism of the eighteenth and nineteenth centuries, undermining the historic church's confession.⁸ Nature represented for Barth that which man could dispose of, comprehend, shape, and manipulate for his own purposes, while reason demonstrated man's superiority over matter and man's ability to appropriate all things for himself. In this sense, then, "natural" Christianity simply implies that which opposes the supernatural character of grace and God's word.⁹ Thus, he believed, "natural religion" operates as a sort of "Trojan horse" inside the walls of Christendom, becoming a substitute for the "word of God." Barth, it should be remembered, was not the only one struggling with social-political tyranny at the time.

But to be faithful to Christ's lordship is not to deny the challenge— or the necessity—of communicating truth to the non-believer, whose worldview and language are devoid of biblical and Christological understanding. How do Christians communicate in a non-Christian world? How do we converse with pagans? How does Christian faith clothe itself in a pluralistic society? Our point of contact, as J. Budziszewski has well reminded us, is established by God himself. That reference is general revelation, and the natural law is the moral aspect of the penetrating arrow of general revelation. Without the natural law, there is no common ground, no point of connection, no meaningful engagement between Christians and non-believers.¹⁰

One must note in this context the heated debate between Barth and Emil Brunner during the mid-1940s that centered around natural law. At the heart of this controversy lay the epistemological question of whether fallen humans possess a natural knowledge of God. Brunner represented the position that nature is normative insofar as "nature teaches" or "nature dictates." Implied therein is that the will of God is embedded in creation and that it can be recognized as such by all people. As Brunner saw it, the reality of sin does not eradicate reason and conscience as the constituents

⁸ Karl Barth, *Protestant Theology in the Nineteenth Century: Its Background and History* (London: SCM, rev. ed. 2001), pp. 41-45.

⁹ *Ibid.*, 91.

¹⁰ None has argued this more succinctly than J. Budziszewski, *What We Can't Not Know: A Guide* (Dallas TX: Spence, 2003).

of the *imago Dei*. Rather, human beings *by nature* are inclined toward truth and have a capacity for recognizing truth, the effects of human sinfulness notwithstanding.

Barth's response to Brunner was adamant. Knowledge that is naturally intuited about God, he argued, is "a possibility in principle but not...in fact."¹¹ The reason for this is that sin has obliterated any possibility of natural theology, and therefore, any utility of "natural law." No second or "independent" category of knowledge, for Barth, could exist in the aftermath of the Fall. Reason simply cannot regain its original powers that it had before humans sinned. The difference between Barth and Brunner is illustrative, for it captures the fundamental disagreement between Roman Catholics and Protestants over natural law to the present day. The critical question is whether human reasoning and human apprehension of basic moral truth are universal, present, and operative within fallen human beings by nature, and thus, whether human beings can be held accountable for their actions. The historic Christian tradition, without equivocation, answers affirmatively to both questions. Ever since the Barth-Brunner controversy Protestant theology has been riddled with suspicion and skepticism vis-à-vis natural law. In this regard, it would appear that the influence of Barth has been dominant. With few exceptions, it is difficult to identify any Protestant theologian or ethicist of note to this day who has robustly championed the natural law.

Karl Barth, it should be remembered is not the only Christian mind at this time to have grappled with the dilemma of the totalitarian state. Other thinkers, such as Heinrich Rommen, Jacques Maritain, Yves Simon, and Eric Voegelin, were among European émigrés to the U.S in the 1930s and 40s who would contribute to a renewal of natural-law thinking in the coming generation. What all of these thinkers shared in common, in contrast to Barth, was the conviction that a traditional metaphysics of natural law, consistent with Christian political and moral thinking, might be advanced *without* capitulating to the modernist, secularist, positivist, or fascist *Zeitgeist*.

A second name, perhaps of lesser significance to both Catholics and

¹¹ Emil Brunner and Karl Barth, *Natural Theology*, trans. P. Fraenkel (London: Geoffrey Bles/Centenary Press, 1946), p. 106.

Protestants, is that of Jacques Ellul. A supremely ambidextrous social critic, Ellul is not particularly known for his theological writings, although several of his works (e.g., *The Subversion of Christianity* and *The Humiliation of the Word*) are remarkably trenchant social critiques. However, his 1946 publication titled *The Theological Foundations of Law* was a “christocentric” and “logocentric” broadside against the natural law for reasons not unlike those of Barth.

Ellul is suspicious of any attempt on the part of theologians and natural lawyers to find common ground between Christians and non-Christians. Such an aim, he believes, is misguided, since it reveals a wrong-headed wish to ignore or obscure “the tragic separation created by revelation and grace.”¹² To emphasize “nature,” as Ellul sees it, is to abandon grace and the supernatural, collapsing any distinction between grace and what is merely human.¹³ Therefore, the natural law becomes a tool in the humanist project to bring about reconciliation apart from grace and, hence, is “undeniably heretical.”¹⁴

Ellul’s bias against the natural law is rooted not merely in the fear of rationalist autonomy. At the most elementary level, he insists that the scriptures “do not know of law in the proper sense of the term.”¹⁵ And because all justice and judgment in Scripture are understood by Ellul within the context of redemption alone, we cannot therefore understand law without Christ at the center; only at the Cross do we understand divine justice. A Christocentric view of justice, Ellul argues, “radically destroys the ideas of objective law and of eternal justice.”¹⁶ It is theologically significant that Ellul reads the early chapters of Genesis as he does. Through the Fall, man loses any and all resemblance to Adam that he had prior: “we cannot admit the idea of the *imago Dei* being preserved in man

¹² Jacques Ellul, *The Theological Foundation of Law*, trans. M. Wieser (New York NY: Seabury, 1969), p. 10.

¹³ *Ibid.*

¹⁴ *Ibid.*, p. 13.

¹⁵ *Ibid.*, p. 45.

¹⁶ *Ibid.*, pp. 46-47, 61, 49.

as the foundation of natural law.”¹⁷ And on this point Ellul is emphatic: “In scripture, there is no possible knowledge of the good apart from a living and personal relationship with Jesus Christ.”¹⁸ Thus, Ellul makes the critically important theological move of placing the natural law, within salvation history, as a *post-Fall necessity* rather than as a part of a theology of creation. He believes that Adam had knowledge of good and evil only after the Fall; before the alienation Adam had no such awareness.¹⁹

Requiring a fair amount of commentary, at least in the American context, is the enormously influential work of John Howard Yoder. Without question the most influential Anabaptist theologian of the last half-century,²⁰ Yoder has exerted an inordinate influence on the ethical thinking of both Protestants and Roman Catholics. Much of Yoder’s great appeal is lodged in his commitment to being “radical.” Prominent in Yoder’s work is a “radical” understanding of Christian discipleship, his radical critique of “Constantinianism,” and an unrelenting radical critique of “the powers.”

A baseline assumption that pervades all of Yoder’s work is the belief that the early church, in time, wrongly absorbed pagan philosophical influence, which played a significant role in permitting it by Ambrose’s and Augustine’s day to be “compromised” by the political realities. “Christian ethics,” according to Yoder, was developed in such a way as to justify Christian presence and participation in Roman *imperium*; hence, the need for a sustained critique of “Constantinianism” by the church of any era. The history of the church, for Yoder, is one long, unrelenting road of apostasy and cultural idolatry, that is, until “radical Reformation” of the sixteenth century.

The Politics of Jesus, which seeks to set forth an authentic Christian

¹⁷ Ibid., p. 61.

¹⁸ Jacques Ellul, *To Will and To Do* trans. C.E. Hopkin (Philadelphia PA: Pilgrim Press, 1969), p. 16.

¹⁹ Ibid., pp. 6,14.

²⁰ I speak as one who grew up in the Mennonite tradition and thus appreciate from the inside Yoder’s influence.

social ethic rooted in a radical understanding of Jesus's teaching (and a particular reading of the so-called "Sermon on the Mount") and *Discipleship as Political Responsibility* are Yoder's most helpful tracts in this regard. Herein he laments two dominant interpretations: the "Catholic," with its "Stoic" emphasis on reason and natural law that "foreshortens" our vision of the Kingdom by its focus on "the nature of things," and the "Augustinian-reformed," which was "compromised" by the political powers. Christian ethics, as Yoder conceives it, is located neither in human "nature" nor in rational notions of justice or the common good. Rather, it subsists in our radical obedience to what Yoder understands as Jesus's ethics of non-violent resistance to political and social oppression.

Of significance for his understanding of natural-law reasoning, Yoder believes that "standard ethical discernment" of our time has distracted us in our ability to demonstrate an authentic Christian social ethics. Part of this "distraction," Yoder insists, is that Roman Catholic theology keeps reminding us that nature and grace do not stand in fundamental opposition.²¹ Like Karl Barth, Yoder worries that a natural-law emphasis leads to national idolatry.²² Yoder, to be fair, is at his best when he is exposing the Christian community's tendency to toward cultural idolatry, for he is fluent in his critique of twentieth-century idolatries and in his grasp of the character of prophetic ministry.²³ And it is here that he is also at his worst, to the extent that he is unwilling to submit his notion of moral formation, Christian social ethics, and critique of the powers to the collective wisdom of the historic Christian tradition. Given his over-arching commitment to ideological pacifism, Yoder's rejection of the natural law is best understood as a by-product, not a cause, of his pacifist ethics. And with Barth, Yoder believes that the natural law is "an addition" to the Word of God

²¹ Yoder develops this assumption in *For the Nations: Essays Public and Evangelical* (Grand Rapids MI: Eerdmans, 1997).

²² Recall that Yoder studied under Barth at Basel. Instructive is his work *Karl Barth and the Problem of War* (Nashville TN: Abingdon, 1970). In the preface he writes: "To Karl Barth, who taught me to rethink my faith in the light of the Word of God," p. 7.

²³ While this is a prominent theme in all of Yoder's writings, see esp. his essay "The Power Equation, the Place of Jesus, and the Politics of King," in *For the Nations*, pp. 125-47.

as divine revelation.²⁴

In assorted writings, the Methodist theologian Stanley Hauerwas confesses his debt to Yoderian Anabaptism in wishing to advance Yoder's vision of "Christian social ethics." That one news magazine in 2001, rightly or wrongly, described Hauerwas as the most influential theologian in America is some indication of his influence in molding Protestant ethical thought. A prolific writer and innovative thinker, Hauerwas has been explicit in his rejection of the natural law, notably in *The Peaceable Kingdom*, *Christian Existence Today*, and *Truthfulness and Tragedy*. Wishing to further promote the "radical critique of Constantinianism" of Yoderian Anabaptism, Hauerwas argues that "the alleged transparency of the natural law norms reflects more the consensus within the church than the universality of the natural law itself." This conviction is substantiated "by the fact that the power of natural law as a systematic idea was developed in and for the Roman imperium and then for 'Christendom.'"²⁵

The natural-law tradition, then, as interpreted by Hauerwas, rather than offering an account of moral principles that are "the same for all, both as to rectitude and as to knowledge" (Thomas Aquinas), a knowledge that all people possess, rendering them "without excuse" (St. Paul), is a "culturally assimilationist" attempt at Christian ethics that mirrors the Church's cultural captivity. Given the manner in which the "abstractions" of "nature and grace" have "distorted how ethics has been undertaken in the Catholic tradition,"²⁶ Hauerwas views natural-law thinking as a "primitive metaphysics" and the product of the Constantinian era.²⁷ The multifaceted insufficiency of natural-law thinking is succinctly spelled out by Hauerwas in *The Peaceable Kingdom*; its deficiencies are thought to include:

its failure to offer a sufficient account of community

its failure to acknowledge that there is no such thing as a univer-

²⁴ "Discerning the Kingdom of God in the World," *For the Nations*, p. 245.

²⁵ Stanley Hauerwas, *The Peaceable Kingdom: A Primer in Christian Ethics* (Notre Dame IN: Univ. of Notre Dame, 1983), p. 51.

²⁶ *Ibid.*, p. 55-57.

²⁷ *Ibid.*, p. 54.

sal morality and the fact that it “perverts” the nature of the Christian moral life
 its creation of a distorted moral psychology that ignores the dispositions of the moral agent
 its autonomy and thus inherent tendency to confuse nature and grace
 its ignoring of the narrative character of Christian ethics
 its inability to inhibit the inherent violence of this world, tempting us to coerce those who disagree with us²⁸

Some of these objections, the reader will recognize, issue out of Hauerwas’s pre-commitment to ideological pacifism. The use of force—any degree of force—and reluctantly going to war are for him necessarily and thus always “the compromises we make with sin,” indeed a “cooperation with sin,” and therefore always unjust.²⁹ But John Courtney Murray’s basic distinction between “violence” and “force,” I think, is helpful in responsibly addressing the ideological error of Hauerwas’ position: “Force is the measure of power necessary and sufficient to uphold...law and politics. What exceeds this measure is violence, which destroys the order of both law and politics.... As an instrument, force is morally neutral in itself.”³⁰

What is relevant in light of Hauerwas’s objections to the natural law, however, is the fact that far from *preparing* society for violence, contra Hauerwas, the natural law *preserves* social bonds, helping to guard basic freedoms rather than threatening them. And not only is it the grammar of a common moral discourse that Christians must utilize with unbelievers,³¹

²⁸ Ibid., pp. 63-64.

²⁹ This assumption forms the backbone of his book *Should War Be Eliminated?* (Milwaukee WI: Marquette Univ. Press, 1984).

³⁰ John Courtney Murray, *We Hold These Truths: Catholic Reflections on the American Experiment* (New York NY: Sheed and Ward, 1960), p. 274.

³¹ This problem illustrates the weakness of the Anabaptist and separatist commitment that Hauerwas, like Yoder, so stridently wishes to defend. By their account, the Church is to constitute a prophetic community that constantly reminds culture of its misplaced faith in power and violence. While there is an

it is a part of divine revelation—not antithetical to a genuinely “Christian” social ethics that Hauerwas is so concerned to defend—by which the public square not only *can* but *must* be preserved.

Not only Aristotle, but Christian moral thinkers from Aquinas to Jacques Maritain and C.S. Lewis to John Paul II have argued for the application of natural-law thinking in the realm of public discourse. All were cognizant of the need to argue for moral first principles on the basis of human nature. To do such in a pluralistic environment is *not* to capitulate to the culture, as Hauerwas would suggest. Mainstream Christian moral thinkers of prior generations were united in their affirmation of the “permanent things.” One of the most important lessons we can learn from them is that, in contrast to the Yoderian-Hauerwasian approach to ethics, they understood that public morality must rest upon public principles—principles that are rooted in the fabric of creation. For this reason, they championed the time-honored idea of the natural law—out of the conviction that basic moral principles, assumed by and standing in agreement with biblical revelation, are accessible to all people by virtue of God-given reason. In this light we gain new appreciation for the ever-relevant argument of C.S. Lewis regarding the *Tao* in both *Mere Christianity* and *The Abolition of Man*. Not only does the natural law not contravene the ethics of Jesus, as an ethical standard it “cannot be escaped...; it is the source from which all moral judgments spring. Its cardinal virtues—justice, honesty, good faith, magnanimity, beneficence, mercy – are known to be true independently of experience...[and] these basic precepts form a moral common ground that undergirds all civilized societies.”³²

Lewis, of course, was well aware that Christians—and Protestants in

element of truth in this conviction, it fails at several levels—among these: being overly simplistic regarding issues of justice, reserving justice solely for the eschaton rather than in present reality as well, calling believers away from the marketplace and social institutions that desperately need the leaven of Christian influence, being overly pessimistic about political power. Sadly and additionally, this mindset, because it wishes to don a “prophetic” mantle, tends to spawn a self-righteous attitude.

³² John G. West, Jr., “Politics in the Shadowlands: C.S. Lewis on Earthly Government,” *Policy Review* (1994): 69-70.

particular–object to the natural law precisely because they are convinced that it detracts from Christianity. But Lewis rejected this view. Far from contradicting Christian social ethics, the natural law is in truth presupposed by it. And Lewis himself leaves little room for misunderstanding, offering the reader further rationale in *Christian Reflections*:

The idea that Christianity brought an entirely new ethical code into the world is a grave error. If it had done so, then we should have to conclude that all who first preached it wholly misunderstood their own message: for all of them, its Founder, His precursor, His apostles, came demanding repentance and offering forgiveness, a demand and an offer both meaningless except on the assumption of a moral law *already known* and *already broken*.³³

In a certain sense, Lewis continues, “it is no more possible to invent a new ethics than to place a new sun in the sky. Some precept from traditional morality always has to be presumed. We never start from a *tabula rasa*: if we did, we should end, ethically speaking, with a *tabula rasa*.”³⁴ There is, I think, wisdom in what Lewis is saying—wisdom that counters the autonomy and arrogance of much contemporary Protestant ethics.

Voices as diverse as ethicist Gilbert Meilaender, Lutheran theologian Carl Braaten and Roman Catholic social critics George Weigel and David Schindler join Vigen Guroian in the conviction that the Yoder-Hauerwasian approach to Christian ethics, in its practice, wittingly or unwittingly discourages responsible Christian participation in society.³⁵ While Yoder has been quite sensitive to the criticism from the outside that his radical Anabaptist separatism does not engender social withdrawal, he counters

³³ C.S. Lewis, “On Ethics,” *Christian Reflections*, ed. W. Hooper (Grand Rapids MI: Eerdmans, 1967), p. 46.

³⁴ *Ibid.*, p. 53.

³⁵ Carl E. Braaten, “Protestants and Natural Law,” *First Things* (January 1992): 20-26; Gilbert Meilaender, *Faith and Faithfulness: Basic Themes in Christian Ethics* (Notre Dame IN: Univ. of Notre Dame Press, 1991), pp. 19-22; David L. Schindler, *Heart of the World, Center of the Church: Communio, Ecclesiology, Liberalism, and Liberation* (Grand Rapids MI: Eerdmans, 1996); and George Weigel, *Catholicism and the Renewal of American Democracy* (New York NY: Paulist Press, 1989), esp. 196-200.

that, properly understood, it is a principled posture that voluntarily embraces “faithful non-participation.”³⁶ However forceful Yoder’s protest, it is a fact that his “radical critique of “Constantinianism” and his “radical Anabaptism,” in their practice, have tended to engender social withdrawal.³⁷ Braaten laments, with some justification, I think, the fact that highly visible Christian ethicists, in their rejection of the notion of natural law, are unable, despite their considerable influence, to equip the Christian community effectively in terms of its cultural mandate.³⁸ I am inclined, at some level, to agree.

THE NATURE OF LAW AND MORALITY

It scarcely needs pointing out that ours is a day in which the relationship between law and morality is hotly contested, when it is not outright denied. Exacerbating this state of affairs is religious thinking on the subject. One of the abiding weaknesses of Protestant theology is not only its false dichotomy between grace and nature but also its inattention to—when not outright dismissal of—the role of law and law’s place in a theology of creation. Critical questions are at stake. Can “law,” generically understood, represent moral objectivity? Are there objective moral standards by which to interpret law? Is law discovered or is it created? Does it originate in human ingenuity? In human “legality”? Our questioning is not concerned with how cultural values that are negotiable—social, ethnic or cultural diversity, for example—might be determined. In this realm there is plenty of elasticity and room for disagreement. The greater question is whether law might serve as a mirror of the eternal, whether

³⁶ This is a veritable subtheme of *The Politics of Jesus*.

³⁷ I offer this assessment as one who grew up in the Anabaptist—and specifically, Mennonite—context, and thus understand it from the inside. There is a reason why Anabaptists are not found in numerous vocational settings such as law enforcement, the military, security, economics, policy analysis, the social sciences, research, legal theory and law practice, government and civil service. It is for this very reason that Martin Luther published his tract *Whether Soldiers, Too, Can Be Saved*.

³⁸ Carl E. Braaten, “Protestants and Natural Law,” *First Things* 19 (January 1992): 20-26.

justice is conceived as fluid or non-fluid, and whether in the marketplace we might contend, over against the regnant moral nihilism of our day, for the “permanent things.”

If I am correct in my conviction that the greatest ethical challenges to life in western culture—from the embryonic stage to genetic enhancement to euthanasia—lie ahead of us, then Christians of all varieties will need not only to rethink their own position regarding a comprehensive cultural strategy of “life” but also to contend for that conviction—comprehensively—in terms of broader social and public policy. *Someone’s* basic assumptions about “life,” *someone’s morality*, after all, will be imposed on the culture through the social, legal and political apparatus.³⁹

If law and morality are separated, as they are in modern Protestant thought and in secular society as a whole, then we operate at a severe disadvantage, ethically cut off at the knees. For without law, “laws” become arbitrary. And without law, there is no foundation for ethics, for demarcating human behavior. As an ethical measure, law has both a *positive and negative* capacity; that is, it can both induce *and* restrain. As such, it is both pedagogical or tutorial *as well as* restrictive.⁴⁰ Because law has an ethical end or *telos*, as Aquinas argued, because it is the object of human longings,⁴¹ it is not *merely* “external.” Recall the words of the Psalmist in this regard:

“Blessed is the man...whose delight is in the law of the Lord....”

³⁹ An instructive tale is told by Robert P. George, who chronicles dissent and faithfulness among Roman Catholics in the U.S. over the last three decades as it applies to “pro-life” issues. See his “Bioethics and Public Policy” in *The Clash of Orthodoxies*, 273-302.

⁴⁰ In this regard, Robert P. George, in *Making Men Moral: Civil Liberties and Public Morality* (London UK: Clarendon Press, 1994), p. 3, expresses half of the truth—an exceedingly important part of the truth—when he writes: “Laws cannot make men moral. Only men can do that; and they can do it only by freely choosing to do the morally right thing for the right reason. Laws can command outward conformity to moral rules, but cannot compel the internal acts of reason and will make an act of external conformity to the requirements of morality a moral act.”

⁴¹ *ST* I-II Q. 92.

(Ps. 1:2)

“Your statutes are my delight...” (Ps. 119:24)

“...I delight in your commands because I love them.” (Ps. 119:47)

“...I delight in your law.” (Ps. 119:70)

For this reason, St. Paul, that champion of grace, can say that the law is “holy, righteous and good” (Rom. 7:12); already, we must remember, he had conceded that this goodness and rightness are intuited through the natural law written on the heart (Rom. 2:14-15). And for this reason the Catholic *Catechism* states, “The moral law is the work of divine Wisdom.” As “God’s pedagogy,” the moral law “prescribes for man the ways, the rules of conduct that lead to the promised beatitude,” while at the same time it “proscribes the ways of evil which turn him away from God...”⁴²

Thus, the neglect and rejection of law are not *only* a product of deeply secularizing tendencies in the culture; they are also the product of *theologically deficient* thinking. And sadly, not merely revisionist parts of the church but also the more orthodox, who have stressed grace and Christocentrism, have contributed to a negation of the natural law. Regardless of its source, in those human domains wherein law is denied, darkness and disorder become the “law.” Properly understood, law mirrors abiding moral truths, pointing to a higher authority in the universe. In the words of Aquinas, the natural law is nothing else but a participation in the eternal law by rational creatures.⁴³ The Ten Commandments as promulgated at Sinai “were but the concrete and practical form” of ethical first things that existed from the beginning.⁴⁴ Thus, natural law and divine law provide internal and external witness to all people as to what is morally right. Human laws are morally legitimate only to the extent that they are grounded in natural moral law. Not all of the natural law can become legislation, just as kindness or generosity cannot be prescribed by law. But

⁴² CCC § 1950.

⁴³ ST I-II Q. 91.

⁴⁴ John Murray, *Principles of Conduct: Aspects of Biblical Ethics* (Grand Rapids MI: Eerdmans, reprint, 1991), p. 7.

no human law may oppose the natural law without becoming a perversion of law.⁴⁵

It is reasonable to argue that most people (and most societies) hold to the belief, however vague, that morality—pursuing the good or acceptable and avoiding evil or the unacceptable—is a higher norm than what we, in the Western cultural context, call “positive law.” Thereby society shows a basic concern for the health of the wider community.⁴⁶ The presumption among this nation’s founders and framers of the “Laws of Nature” and of “Nature’s God,” regardless of how utterly quaint it may strike contemporary culture, simply mirrors a broader consensus that has withstood the test of time. And for this reason John Paul II, in *Veritatis Splendor*, speaks of this consensus as “participated theonomy,” by which he refers to the natural law with its metaphysical realities, not a theocracy in the narrower sense.⁴⁷ Moreover, this consensus, and *only this consensus*, furnished the basis with which to oppose slavery and address egregious human rights violations, and to argue for human rights that are “inalienable.” Therefore, we are justified in calling the natural law a “first principle.” Because of the reality of this “first principle,” individuals and societies are inclined to establish a hierarchy of goods and values. Thus, public morality will be a reflection, for better or worse, of this assumed moral hierarchy.⁴⁸ Public policy, therefore, will be designed to accord with and mirror these priorities—whether that legislation affects business, commerce, employment, science and technology, family, the arts, or education.

⁴⁵ *ST I-II Q. 95.*

⁴⁶ *Ibid.*

⁴⁷ John Paul’s understanding of a “participated theonomy” finds parallels in the “sphere sovereignty” of Dutch Reformed political thought, notably that of Abraham Kuyper; see his *Lectures on Calvinism* (Grand Rapids MI: Eerdmans, reprint, 1998).

⁴⁸ Well has Steven A. Long asserted, “If Kant, Nietzsche, and Foucault share nothing else, they share this common negation of metaphysical objectivity and of the doctrine that human nature is knowably ordered to ends which have the nature of the good, leading to the *finis ultimis*, the final end and supreme good,” “Reproductive Technologies and the Natural Law,” *National Catholic Bioethics Quarterly* (Summer 2002): 226.

In the end, law retains its ethical function in a moral universe. Negatively, it has a restraining function (that humans might avoid evil), and positively, it has a pedagogical function, serving as a tutor or guide in our moral perfection. Thus, it should not surprise us that every generation, writes legal scholar Russell Hittinger, finds a new reason for the study of the natural law.⁴⁹ For a generation past, in the mid-twentieth century, totalitarianism provided the occasion. Hittinger cites German legal scholar and émigré to the U.S. Heinrich Rommen in this regard to make his point: “When one of the relativist theories is made the basis for a totalitarian stated, man is stirred to free himself from the pessimistic resignation that characterizes these relativist theories and to return to his principles.”⁵⁰ Hittinger sees parallels between the “pessimistic resignation” of Rommen’s day, with its “tired agnosticism” regarding the moral bases and ends of law that had left the German legal profession intellectually defenseless in the face of changes in German society in the 1930s. Like Rommen, Hittinger calls us to rediscover the “moral predicates” of law and politics, without which democratic institutions cannot long survive. When these “moral predicates,” or “first things,” are challenged, obscured or denied, it becomes once again necessary to assert not only their reality but their place in the culture.⁵¹

HUMAN BEHAVIOR AND MORAL ACCOUNTABILITY

While much indeed could be said regarding the culture’s unwillingness to be held morally accountable for its actions, what is notable is the

⁴⁹ From the introduction, written by Hittinger, of Heinrich Rommen, *The Natural Law: A Study in Legal and Social History and Philosophy*, trans. T.R. Hanley (Indianapolis IN: Liberty Fund, 1998), p. xii.

⁵⁰ Heinrich Rommen, *The State in Catholic Thought* (St. Louis MO: Herder, 1945), p. 48, cited in Hittinger’s introduction to Rommen, *The Natural Law*, p. xii. Rommen joined a number of Europeans émigrés who came to the States and who, taking up teaching posts at American universities, made their mark on political and legal thought. These individuals include Leo Strauss, Eric Voegelin, Jacques Maritain and Yves Simon.

⁵¹ Hittinger’s recent book, *The First Grace: Rediscovering the Natural Law in a Post-Christian World* (Wilmington DE: ISI Books, 2003), is lucidly written and argues for the place of the natural law in the culture.

increasing and sophisticated justification for the view that biology is destiny. Social critics and behavioral theorists tell us that we've entered the "biological century," while philosopher-activists such as Edward O. Wilson,⁵² Michael Ruse⁵³ and Richard Dawkins⁵⁴ seek to move us away from moral agency. And this is only the tip of the iceberg.⁵⁵ Given recent advances in genetic research, the gene has become a cultural icon. We have grown accustomed to hearing about pleasure-seeking genes, violent genes, gay genes, depression genes, couch-potato genes and celebrity genes—everything but the kitchen-sink gene.⁵⁶

Evolutionary accounts of ethics, popularized in our day, proceed on the belief that morality originates with biology. So, for example, Michael Ruse can confidently declare, "The question is not whether biology—specifically, our evolution—is connected with ethics, but how."⁵⁷

⁵² See, for example, *Sociobiology: The New Synthesis* (Cambridge MA: Harvard Univ. Press, [1975] 2000); *Consilience: The Unity of Knowledge* (New York NY: Vintage Books, 1998); *On Human Nature* (Cambridge MA: Harvard Univ. Press, 1978); and *The Diversity of Life* (Cambridge MA: Harvard Univ. Press, 1976).

⁵³ See, for example, *Darwin and Design: Does Evolution Have a Purpose?* (Cambridge MA: Harvard Univ. Press, 2003); *The Darwinian Revolution* (Chicago IL: Univ. of Chicago Press, 1999); *Can a Darwinian Be a Christian? The Relationship between Science and Religion* (Cambridge MA: Harvard Univ. Press, 2001); and *The Evolution Wars* (Santa Barbara CA: ABC Clio, 2000).

⁵⁴ One thinks, for example, of Dawkins' 1989 volume, *The Selfish Gene*, published by Oxford University Press.

⁵⁵ Other works of note include, but are not limited to, Holmes Rolston, III, *Genes, Genesis, and God: Values and Their Origins in Natural and Human History* (Cambridge UK: Cambridge Univ. Press, 1999); idem, *Biology, Ethics, and the Origins of Life* (Boston MA: Jones and Bartlett, 1995); Jane Maienschen and Michael Ruse, eds., *Biology and the Foundation of Ethics* (Cambridge UK: Cambridge Univ. Press, 1999); and Matthew H. Nitecki and Doris V. Nitecki, *Evolutionary Ethics* (Albany NY: State Univ. of New York Press, 1993). See as well Elliott Sober, "Evolution and Ethics," in Edward Craig, ed., *Routledge Encyclopedia of Philosophy* (London UK: Routledge, 2000).

⁵⁶ See the almost hilarious cultural critique of Jeffrey Reid, "The DNA-ing of America," *Utne Reader* (September-October 1995): 26.

⁵⁷ Michael Ruse, "Evolutionary Ethics: A Defense" in Holmes Rolston, III, *Biology, Ethics, and the Origins of Life* (Boston MA: Jones and Bartlett, 1995),

Sociobiologist Edward O. Wilson is equally assertive that “causal explanations of the brain activity and evolution...already cover most facts known about behavior we term ‘moral.’”⁵⁸ If this is not enough certitude with which to convince us, Ruse and Wilson combine in an essay published in the journal *Philosophy* to contend that “the time has come to turn moral philosophy into an applied science because...one hundred years without Darwin are enough.”⁵⁹ Intimidating stuff.

For evolutionists such as Ruse and Wilson, morality is “universal” only to the extent that it has a biological, genetic basis and mirrors our interface with the environment. That is to say, the moral “sense” within the human species is an evolutionary adaptation that is part of the natural selection process. Human morality, these evolutionists insist, is “merely an adaptation...to further our reproductive ends.”⁶⁰ It is a human convention that is in place for survival, to which we are genetically predisposed.⁶¹

While the likes of Wilson, Ruse and Dawkins may be daunting to the rest of us who are still working out our natural selection, a rather conspicuous fault-line emerges in their work. A primary philosophical vulnerability among secular naturalists, of which they are certainly representative, is their disavowal or denial of free will. This weakness, both at the theoretical and practical level, will need some probing, especially given its implications for ethics, moral agency and self-responsibility.

In the ongoing debate over nature versus nurture, nature currently has the upper hand. Biology is destiny, or at least the scientific pendulum has been swinging in that direction. The received wisdom of the behavioral

p. 93.

⁵⁸ Edward O. Wilson, *Consilience: The Unity of Knowledge* (New York NY: Vintage Books, 1998), p. 278.

⁵⁹ Michael Ruse and Edward O. Wilson, “Moral Philosophy as an Applied Science,” *Philosophy* (April 1986): 173-92.

⁶⁰ *Ibid.*, p. 51.

⁶¹ For a thoughtful evaluation of the evolutionary account of ethics, see Miguel Endara, “Deficiencies in the ‘Selfish Genes’ View of Ethics: A Critique of the Evolutionary Account,” *National Catholic Bioethics Quarterly* (Autumn 2003): 517-30.

sciences regarding the relationship between genetics and environment in explaining human behavior has changed dramatically in the last two decades.⁶² In 1992, significantly, the American Psychological Association identified genetics as one of several themes best representing the present and future of psychology.⁶³ And given recent advances in genetic research, the gene is becoming—when it has not already become—a cultural icon. This development can be measured not only by the gene’s iconic status in scientific and medical journals but also in popular culture and political discourse.

Not for nothing has one social critic in recent years argued against what he calls “biopolitics,” by which he seeks to warn us of the ambiguous relationship between science and political power in the democratic context.⁶⁴ And while doing criminal justice research in Washington during the early 1990s I began to observe the emergence of biological explanations for crime. “Biopolitics” so understood is, I think, a legitimate concern.

Increasingly, diverse social commentators maintain that we stand on the threshold of the “biological century.” While physics has dominated the century just past, advances in other laboratories suggest a noteworthy shift. Writes Gregory Benford, a professor of physics at the University of California, Irvine:

Just as the 1890s hummed with physical gadgetry, our decade [and beyond] bristles with striking biological inventions. Conceptual shifts will surely follow. Beyond 2000, the principal social, moral, and economic issues will probably spring from biology’s metaphors and approach, and from its cornucopia of technology. Bio-thinking will inform our world and shape our

⁶² Thus, for example, Dorothy Nelkin and Mary S. Lindee, *The DNA Mystique: The Gene as a Cultural Icon* (New York NY: W.H. Freeman and Co., 1995), and Evelyn Fox Keller, *Refiguring Life: Metaphors of Twentieth Century Biology* (New York: Columbia Univ. Press, 1995).

⁶³ See Robert Plomin et al., eds., *Nature, Nurture, and Psychology* (Washington, D.C.: American Psychological Association, 1993).

⁶⁴ Michel Schooyans, *The Matrix of Life—Human Domination* (St. Louis MO: Catholic Central Verein of America, 1996), an English translation of the French title *Maitrise de la vie—domination des hommes*.

vision of ourselves.⁶⁵

Six years into the “biological century,” Benford’s prophecy certainly appears true. But what shall we make of the vaunted biotechnological advances as we head into the twenty-first century? What place shall these advances be accorded? And from an ethical standpoint, what do they portend?

With exhilarating speed, ongoing progress in the biomedical and biotechnological fields confronts contemporary society with inherently perplexing ethical dilemmas—dilemmas that will need to be addressed against a prevailing backdrop of scientific materialism and moral skepticism. In the view of the authors of *The DNA Mystique*, the gene has become an explanation for human behavior that is too readily appropriated, too seldom criticized, and too frequently misused in the service of socially destructive ends.⁶⁶ In the end, the gene is not merely a cultural metaphor; it holds sway over scientific assumptions and theory, both of which trickle down to drive common culture.

The victim in all of this, of course, is free will—moral agency. The relationship between biology and free will, fully apart from recent advances in science, has long occupied scientists and philosophers. Are human beings capable of moral reason and free choice and thus responsible for their actions? Is there a dimension of human existence that transcends the gene and biology, thereby allowing humans to define themselves morally and spiritually? Is human behavior determined by one’s genetic make-up?

In light of the more recent progress in genetics, notably the mapping of the human genome, the stakes are raised significantly regarding the question of whether humans are fully “accountable” for their behavior. While identifying the genetic basis for an ever-growing number of diseases has been a particular focus of medical genetic research, of equal interest among scientists has been the attempt to explain the interplay between genes and behavior. Are human beings truly capable of self-

⁶⁵ Gregory Benford, “Biology 2001: Understanding Culture, Technology, and Politics in ‘The Biological Century,’” *Reason* (November 1995): 23.

⁶⁶ See n. 60.

determination, whatever their gene-based psychological and physiological predispositions? Or are humans mere robots programmed by their genes and thus not to be held morally responsible for their actions? Writing in *Ethics and Medics*, Renée Mirkes summarizes the critical issues that stand before us with the new genetic twist to the question of moral self-responsibility:

According to chemical reductionism central to biological determinism, the causal laws of the tightly structured nexus of human biology—a nexus that is becoming ever more refined through the advances of human genetics—dictate human behavior. It is illogical within this view of human behavior to require personal responsibility for the moral quality of one's actions; moral accountability makes sense only if actions [proceed] from a free agent.⁶⁷

The biological metaphor, then, which is no mere metaphor, would appear to have the potential of allowing us to re-conceive the entire realm of human behavior. What indeed does biology tell us regarding human activity? And, perhaps more importantly, what does it *not* tell us?

For much of the previous century, human behavior has been explained by its relationship to humans' environment. And broadly speaking, social science—from social psychology to cultural anthropology to criminology—remains in thrall to the notion that one's identity and behavior are the products of one's environment.⁶⁸ Yet curiously parallel to the "nurture" model has been the accumulation of biogenetic evidence suggesting that human behavior is less socially constructed or manipulated than behavioral theorists have heretofore believed. Molecular biologists, through their mapping, classification and analysis of the human genome, posit an entirely different model for understanding human actions.⁶⁹

⁶⁷ Renée Mirkes, "Programmed by Our Genes?" *Ethics and Medics* 16/6 (1991): 1.

⁶⁸ For a critique hereof see Francis Fukuyama, "Is It All in the Genes?" *Commentary* (September 1997): 30-35.

⁶⁹ Roger Masters, director of an annual seminar at Dartmouth College on biological perspectives in the social sciences, has pointed out that most university departments of social science have relatively few members who stay abreast of research in the life sciences. That gap prompted the Gruter Institute for Law and

Every moral theory proceeds on the basis of a particular view of human nature. And nowhere are the implications for competing anthropologies more critical than in the realm of bioethics. One's anthropology will determine our ethical responses to questions of life's origin, life's dignity, human suffering and death. If human beings bear the divine image, and if there exists a divinely-ordered moral structure to the universe (what we call the natural law), then it is incumbent upon "pro-life" advocates creatively and faithfully to work toward the shaping of a moral consensus in culture. Thus, it will be necessary on an ongoing basis to remind ourselves of several critical categories that will find themselves at the very heart of pressing bioethical debates in the days ahead.

CRITICAL CATEGORIES⁷⁰

Rethinking Personhood: Sanctity or Quality?

For the average layperson who does not stay abreast of developments in bioethics or the academy, statements like the following almost seem pulled from science fiction.

We all know lots of people; we all know lots of persons. Normally we use the term "persons" as a synonym for "human beings," people like us. However, we are also familiar with the idea that there are nonhuman persons, and humans whom are not, or may not be[,] persons or full persons.... Human nonpersons or humans who are not fully fledged person may include zygotes and embryos, or individuals who are "brain-dead,"

Behavioral Research and Dartmouth's Nelson Rockefeller Center for the Social Sciences to begin cosponsoring annual seminars for the purpose of bringing together the two disciplines. Writing on the emerging conversations that began to surface in the mid 1990s between social scientists and evolutionary biologists is Kim A. McDonald, "Biology and Behavior," *Chronicle of Higher Education* (September 1994): A19-21. These conversations continue and are more spirited than ever. One need only peruse sources as diverse as the *Chronicle of Higher Education*, the *American Journal of Bioethics*, as well as numerous scientific and philosophical periodical and quarterlies to observe the extent to which these debates proceed unabated.

⁷⁰ Parts of this section are developed in greater detail in chapters 6 and 7 of the my forthcoming *Retrieving the Natural Law: A Return to Moral First Things*.

anencephalic infants, or individuals in a persistent vegetative state.⁷¹

If nonhumans turn out to possess significantly more advanced capacities than customarily envisioned, their moral standing would be upgraded to a more human level. However, this possibility remains speculative and may be less important than the thesis that because many humans lack properties of personhood or are less than full persons, they are thereby rendered equal or inferior in moral standing to some nonhumans. If this conclusion is defensible, we will need to rethink our traditional view that these unlucky humans cannot be treated in the ways we treat relevantly similar nonhumans. For example, they might be aggressively used as human research subjects and sources of organs.⁷²

Taken in itself... membership of the human species is not morally relevant... [W]hatever criteria [for personhood] we choose... we will have to admit that they [sic] do not follow precisely the boundary of our own species.... There will surely be some nonhuman animals whose lives, by any standard, are more valuable than the lives of some humans. A chimpanzee, a dog, or pig, for instance, will have a higher degree of self-awareness and a greater capacity for meaningful relations with others than a severely retarded infant or someone in a state of advanced senility.⁷³

Nonhuman persons. Unlucky humans. Nonhuman animals with greater worth than some humans. What does it mean to be a “person”? To be a “human being”? Correlatively, what does it mean to be a “nonhuman person”? What are “humans who are not...persons or full persons”? More importantly, *who decides?* By *what criteria?* And what are the implica-

⁷¹ John Harris, “The Concept of the Person and the Value of Life,” *Kennedy Institute of Ethics Journal* 9/4 (1999): 293.

⁷² Tom L. Beauchamp, “The Failure of Theories of Personhood,” *Kennedy Institute of Ethics Journal* 9/4 (1999): 320.

⁷³ Peter Singer, “Ethics and the new Animal Liberation Movement,” in *In Defence of Animals* (Oxford UK: Blackwell, 1985), pp. 4, 19. Elsewhere, in *Practical Ethics* (London UK: Cambridge Univ. Press, 1981), Singer writes: “Now it must be admitted that these arguments [in favor of abortion and infanticide] apply to the newborn animals whose rationality, self-consciousness, awareness, capacity to feel (sentience), and so on, exceed that of a human being a week, a month, or even a year old. If the fetus does not have the same claim to life as a person, it appears that the newborn baby is of less value than the life of a pig, a dog, or a chimpanzee” (p. 118).

tions of these distinctions for human civilization, civil society and individual lives?

Related questions press upon us. What does it mean to have “moral standing”? What indeed is “moral standing”? Who receives it? By what measure and by what criteria is it conveyed? What are basic moral intuitions? Are all people endowed with these basic intuitions, with a basic moral sense? Does a consensus about “moral standing” and about being “human” change with time and or social location? Is “moral standing” fluid, different today than it was decades ago? Centuries ago? Does it vary with different cultures, societies and people-groups?

Such are by no means academic questions, even when celebrated academics are weighing in on these matters in rather breathtaking ways. Rather, they lie at the heart of civilized culture and are foundational in nature. And they confront us anew as we navigate the entrance to the twenty-first century. Without question, the last three decades have been witness to the break-up of any ethical consensus that heretofore may have existed in Western societies. Nowhere has this dissipation been more clearly on display than in the realm of bioethics. If human life possesses nothing transcendent, nothing sacred, then it can only be measured in terms of its social utility, its usefulness to others, its qualitative benefits.

One moral philosopher asks us to engage in a thought experiment that highlights the distinction between sanctity and quality of life. We are asked to imagine that we invented a mighty Convenience Machine that would make our lives more enjoyable and pleasurable. The down side of this invention is that using the Machine would cost us about 50,000 lives each year. Would we use the Machine? Should we allow it to be sold on the market?⁷⁴ Despite our culture’s reticence to engage in moral reasoning, people typically react to this thought experiment by agreeing that we should not, since no amount of pleasure or comfort equals the value of a single life. Life, even for non-theists, seems to be “sacred.”

And yet, due to the volatile mix of the culture’s post-consensus thinking about ethics and the dazzling and sophisticated scientific technology before us, the matter of sanctity becomes critically urgent.

⁷⁴ Louis Pojman, *Life and Death: Grappling with the Moral Dilemmas of Our Time* (Boston MA: Jones & Bartlett, 1992).

While life's sacredness is, to be sure, Judeo-Christian idea, it is more. There is a basic, or "natural," urge to treat life as sacred, so much so that we might call it a universal, self-evident, "proto-religious"⁷⁵ moral intuition. It should not, therefore, be all that surprising that most religions espouse some version of the sanctity of life. Life, thus, for most people is viewed as an endowment—an emphasis, of course, that is pronounced in Christianity. Even as a bent, corroded coin bears the king's or emperor's image, even the most distorted human being who is degraded by sin bears the stamp, the imprint, of the Creator.⁷⁶

For Thomas Aquinas, dignity⁷⁷ is what distinguishes human beings through the act of creation, an act that bestows on them a status that is unique within all of the cosmos.⁷⁸ In the words of Paul Ramsey, man is "a sacredness in human biological processes no less than he is a sacredness in the human social or political order.... His life is entirely an ordination, a loan, and a stewardship...." Ours is what Ramsey calls "an alien dignity," i.e., an evaluation that is conferred upon us.⁷⁹ Not for nothing did Bernard Lonergan make the observation that when nonhuman animals run out of biological opportunities and activities— e.g., seeking food and shelter, mating and reproducing, playing, avoiding pain and predators—they fall asleep. When humans, however, run out of biological activity, they ask questions. The nature of this questioning always and

⁷⁵ This term is used by Pojman in chapter 2 of *Life and Death*.

⁷⁶ In *Life and Death* (esp. chapter 2) Pojman develops the implications of sacredness quite helpfully.

⁷⁷ Perhaps we should qualify the word "dignity," since there are several ways in which humans use this term. By "dignity" we do not signify how one feels, such as when one's "sense of dignity" (i.e., one's sense of self-worth or self-esteem) is threatened. Nor is dignity a property or quality that we know through intuition. It is rather a possession, an endowment, an essence that merits respect and consideration from other persons. Comparatively, it can be appreciated by the fact that it distinguishes us from animals, since we are by nature rational, moral agents. Most importantly, it follows that dignity cannot be lost or diminished because of the reasons just stated.

⁷⁸ See esp. *ST* I-II Q. 29.

⁷⁹ Paul Ramsey, "The Morality of Abortion" in *Moral Problems*, ed. James E. Rachels (New York: Harper & Row, 1971), pp. 12-13.

again returns to what it means to be human.⁸⁰

Human life, then, is of infinite value, regardless of whether that person has a matter of minutes or many years to live, and regardless of the perceived social utility, status of health, or projected life expectancy. Therefore, some kinds of life are not more worth living than others, despite the utilitarian drumbeat of our day. A moral consensus has been emerging, not only in conferences like this but in responsible bioethical debates, that the embryo is worthy of dignity—based on nature and grace, general and special revelation that are granted by the Creator.

In historic Christian theology, the significance of the doctrine of the *imago Dei* is that every human creature points toward a Creator. The image is a reflection of its origin. It follows then that our full imaging of the Creator expresses itself through our fundamental *nature* and not merely our functionality or social utility. That is, we live as knowing, loving, reasoning, serving beings, always mirroring the image of the Creator in our humanness, whether in our birthing, in our dying, or in between. Furthermore, because the image of God is an endowment, personhood is neither developmental nor incremental; nor is it the product of performance.⁸¹ The true image of God in us is never removed from the human creature. The human person is a body-soul composite, with the soulful dimension continuing to exist beyond physical death.⁸² Viewed differently, in the words of William May, God cannot incarnate himself in a pig or cow or ape insofar as those creatures are incapable of reflecting the divine image. God has, however, incarnated himself in a human, mysteriously choosing as the eternal uncreated Logos to become one of

⁸⁰ See Robert J. Spitzer, Robin A. Bernhoft and Camille E. De Blasi, *Healing the Culture: A Commonsense Philosophy of Happiness, Freedom and the Life Issues* (San Francisco CA: Ignatius Press, 2000), pp. 43-47, for a thoughtful commentary on this human tendency to question.

⁸¹ This is not to deny that an infant progresses through developmental stages, only that it has the natural capacity to do so because of human *nature*.

⁸² The implications of human personhood and dignity for contemporary bioethical debates are developed with unusual sensitivity by Patrick Lee in "Personhood, Dignity, Suicide, and Euthanasia," *National Catholic Bioethics Quarterly* (Autumn 2001): 329-43.

us.⁸³

An important implication for human beings' mirroring of the divine image is that human moral action will transcend mere impulse and desire. It will conform to what is true, what is good, what is virtuous, and what is in harmony with our intrinsic nature, as Aquinas wishes to make clear. Intrinsic human nature, issuing out of the *imago Dei*, allows human beings to flourish, for they can distinguish between ultimate and less-than-ultimate ends. Human actions are morally good when humans use their moral freedom in ways that correspond with their created nature. Therefore, deep within the interior life human beings discover a "law"—the natural moral law—that they themselves do not create yet which they feel obliged to obey. The Ten Commandments merely describe the broader contours of this law, which through faith and virtue are obeyed from the heart.

At the core of Judeo-Christian moral tradition is the proscription against taking innocent life (Gen. 9:5-6; Exo. 20:13; Deut. 5:17; Matt. 5:21; Rom. 13:9; James 2:11)⁸⁴—a proscription that undergirds civilized society. The reason for this is that life is inherently sacred (Gen. 1:26-27; 9:5-6). The scope of this "innocence" is spelled out in a remarkably prescient statement to a group of physicians several generations removed:

⁸³ William E. May, "The Sanctity of Human Life," in *In Search of a National Morality: A Manifesto for Evangelicals and Catholics*, ed. William Bentley Ball (Grand Rapids MI: Baker, 1992), p. 105. I am rejecting a dualism that permeates Western thought and which *separates the person from his or her body*. If the bodily does not in truth constitute part of personhood, as most of our culture believes, then human existence becomes sub-human or sub-personal, and therefore, the destruction of life is not perceived as an attack on the person. Accordingly, such lives—whether unborn, handicapped, diseased or dying—possess no inherent value because they cannot engage in socially meaningful activities or capacities. For a fuller treatment of current debates over contrasting conceptions of personhood, see J.P. Moreland and Scott B. Rae, *Body and Soul: Human Nature and the Crisis in Ethics* (Downers Grove IL: InterVarsity, 2000).

⁸⁴ As born out by Hebrew grammar, the sixth commandment is an absolute proscription not against all killing but against the taking of innocent life. Excluded from the command are the killing of animals, war that is justified, the execution of criminals, and killing in self-defense.

As long as a man is not guilty, his life is untouchable, and therefore any act directly tending to destroy it is illicit, whether such an act is intended as an end in itself or only as a means to an end, whether it is a question of life in the embryonic stage or in a stage of full development or already in its final stages.⁸⁵

The contours of sacred life are further reiterated by one Vatican II document, with almost prophetic insight, “All offenses against life itself, such as murder, genocide, abortion, euthanasia, and willful self-destruction” are “criminal,” since they “poison civilization,” “debase” both perpetrators and victims, and “militate against the honor of the Creator.”⁸⁶

Affirming objective moral truth—as witnessed to by the natural moral law—yields the common moral judgment to protect and dignify human life, and particularly, vulnerable human life. Given our commitment to the intrinsic dignity of the human person, we are forbidden categorically from eliminating it. There is a moral line that connects the human embryo, fetal destruction, euthanasia, slavery, genocide, and totalitarian rule. If it is agreed that we never take the life of an innocent human, at any developmental stage and regardless of its functionality, then intentionally taking life at *any* point along the life-spectrum for *any* reason will *always* be wrong. It is wrong not merely because the Christian Church or the Bible teaches that it is wrong but because the moral law, “written on the heart” of every human, witnesses to its wrongness.

Rethinking Suffering: From Elimination to Transformation

Few would deny that, perched on the cusp of the Third Millennium, our culture faces enormous ethical and bioethical challenges. It should not, then, come as a surprise that the very idea of personhood—and human nature—is being challenged at the most rudimentary level. Tempestuous cultural currents, joining gale-wind forces, foment a turbulence at sea, as it were, that threatens to sink the good ship “Sanctity,” forcing us to

⁸⁵ Pope Pius XII, “Address to the St. Luke Union of Italian Physicians” (November 12, 1944), *Acta Apostolicae Sedis* 66 (1974): 735, reproduced, with English translation, in *Vatican Council II: More Post-Conciliar Documents* (Northport: Costello, 1982), p. 452.

⁸⁶ *Gaudium et Spes* [hereafter *GS*] § 27.

rethink basic notions of compassion, justice, and the good. Ultimately, how we construe personhood will dictate how we express neighbor-love and, at the most practical level, how we will extend morally responsible health care to those in need.

The ethical challenges that mirror the stormy nature of our present cultural life seem to have coagulated on three principal fronts: beginning-of-life issues, life-enhancement issues, and end-of-life issues. How we as a society view suffering plays a critical role in how we approach each of these three domains. But it will foremost govern how we approach aging and dying.

Given the increasing openness to euthanasia in the western cultural context, one properly asks what attitudes in the culture currently push us in the direction of assisted suicide. It is fair to say that a common denominator unites many of our contemporaries as they reflect on death and dying. That common denominator is *fear*. As a society we fear prolonged disability, we fear becoming a burden to our families, we fear economic burden, we fear being trapped by sterile technology and not dying in peace, we fear losing control, and most fundamentally, we fear pain and suffering. Because of the pervasiveness of these fears, we can predict, along with Sidney Callahan,⁸⁷ the appearance of more campaigns and referenda to compel state legislatures to approve physician-assisted death. This development is compounded by the fact that respected secular ethicists and physicians defend the morality of euthanasia.

In light of the fact that our attitudes toward death and aging are shaped by our fundamental beliefs about personhood and the meaning of life, the challenge before us, it should be emphasized, is foremost one of *moral persuasion* and not political protest. Sadly, the religious tradition of which I am a part in recent decades has tended to opt for the latter, the short-term strategy, rather than the former, the long-term strategy, which (truth be told) is hard work. It is hard work because it requires (1) moral education and (2) engaging culture in socially-relevant ways rather than merely shouting from the sidelines. A significant element in the moral argument that we will need to make against suicide, physician-assisted

⁸⁷ Sidney Callahan, "The Moral Case against Euthanasia," *Health Progress* (February 1995): 38-39.

suicide and euthanasia concerns the ethics of suffering. This will be no easy task.

Suffering, in the eyes of contemporary culture, is meaningless and hence to be avoided at all costs and by all means. For this reason, abortion and euthanasia—and to a lesser extent, infanticide—receive substantial popular support. Why? Because they are perceived as necessary to end present—or to prevent future—suffering. Each measure, therefore, becomes a “compassionate choice.”⁸⁸ As it relates to end-of-life issues, the reality of suffering is thought to imbue a person with both a moral and legal “right” to die.⁸⁹

The argument that the Christian community will need to advance has both a negative and positive component. Negatively, we must make a public case in exposing euthanasia and physician-assisted death for what it is—an evil that destroys both individual integrity and the common good in society, thereby rending asunder the fabric of civil society.⁹⁰ We in the West must be convinced of “the interconnectedness of [all spheres of] life

⁸⁸ This mindset is described with utmost clarity by N.C. Lund-Molfese in “The Gift of Suffering versus Euthanasia,” *Social Justice Review* (November-December 1999): 170-73, and “*Salvifici Doloris*: A Challenge to Catholic Social Scientists,” *Social Justice Review* (July-August 2000): 108-11.

⁸⁹ Thus, on 27 October 1997, Oregon became the first state to legalize physician-assisted suicide. Initiated in 1994 as Measure 16 (“The Oregon Death with Dignity Act”), the initiative was voted into law by a margin of 51% to 49%. Oregon Health Division’s second annual report, published in the *New England Journal of Medicine* 342/8 (pp. 598-604), is noteworthy for what it does *not* report. For example, according to the report, only 37% of the patients killing themselves in 1999 received a psychiatric evaluation. For a helpful assessment of the report, see K. Foley and H. Hendin, “The Oregon Report: Don’t Ask, Don’t Tell,” *Hastings Center Report* (May-June 1999): 37-42. What is exceedingly alarming in Oregon is that those who are sanctioned by the state government to assess its operation are *advocates* of physician-assisted death. What’s more, the very same issue of *NEJM* contained results of a Dutch study showing that 18% of the physician-assisted suicides in the Netherlands are botched (pp. 551-56).

⁹⁰ A forceful, and timely, response to the social consequences of euthanasia is the declaration “Always to Care, Never to Kill: A Declaration on Euthanasia,” which was produced by the Ramsey Colloquium of the Institute on Religion and Public Life in New York City in 1991 and published in *First Things* (Feb. 1992): 45-47.

and the limits of a cult of privacy, autonomy, and private property.”⁹¹ Positively, we must make a compelling case for the alternative—namely, caring for the aged and dying in a way that preserves both individual integrity and the common good. An important “plank” in that campaign is to re-educate society regarding the “redemptive” side of suffering.⁹² This task, it must be stressed, is both conceptual and pragmatic; it will need confronting at both the theoretical and existential level.

From the standpoint of technology and research, the elimination of suffering is typically extolled as a primary goal in debates over genetics and end-of-life issues. The drive to eliminate suffering, however, does not *necessarily* spring from authentic compassion for people who are in pain or suffering. Let the reader beware. Its motivation may issue out of a utopian desire to rid society of its imperfections by means of technology.

⁹¹ Thus Callahan, “Moral Case,” p. 40. The interconnectedness of all life can be graphically illustrated on two levels by one very tragic suicide. A decade ago the Navy—indeed, the whole nation—was rocked by news that Admiral Jeremy (“Mike”) Boorda, the U.S. Navy’s Chief of Naval Operations, had taken his life. Because of the social stigma attached to self-inflicted death as a result of a shotgun wound to the head, most people in the media, shell-shocked, were extremely reticent to use the “s” word. The press made no mention of the hellish nightmare and life-long emotional scars that Boorda’s suicide had inflicted upon a wife and four children. What’s more, no one dared conjecture the immensely demoralizing effect the suicide had on the millions of our nation’s servicemen, irrespective of rank. Was it now preferable for officers or non-officers alike, following Boorda’s lead, to take their own lives, given the demands associated with serving national interests? Because of the impact of suicide on communal bonds, Sidney Callahan writes: “Maintaining an absolute prohibition against actively taking a human life—self or other, with or without consent, dying or not—is necessary to protect human communal bonds. All human living, loving, declining, and dying is full of stress that must be endured and overcome by communal support. What humans need most is an unconditional commitment to steadfastly care for one another through any illness or impairment until the end comes” (ibid).

⁹² Although suicide is a personal response to the pressures of a life deemed not worth living, its thought germinates in a social climate in which a collapse both of the intellect *and* of faith has already taken place. For a cultural analysis of our own time, see J. Daryl Charles, “Suicidal Thought in a Culture of Death,” in *Suicide: A Christian Response*, ed. T. J. Demy and G. P. Stewart (Grand Rapids MI: Kregel, 1997), pp. 209-20.

Not surprisingly, this unfettered optimism in technological advancement inevitably carries with it a deep-seated bias against traditional religion and moral codes. In a culture in which scientific and biomedical technology flourishes, disconcerting questions will need to be raised by *someone*. For example, is the desire to eliminate suffering in some cases misguided? Is it possible to find any meaning in suffering? What if the desire to eliminate suffering bleaches society of its “humanizing” dimensions such as service of love, sacrifice, compassionate care-giving, community, personal character growth and development, in the end rendering these elements nonsensical and illusory to people?⁹³

In his 1995 encyclical *Evangelium Vitae* (“The Gospel of Life”) John Paul challenged his audience to embody a culture of life in the face of what he called a “culture of death.” While *Evangelium Vitae* was primarily a philosophical reflection on contemporary culture and an exhortation toward authentic Christian witness, the theological groundwork for this encyclical was laid eleven years earlier in a significant though relatively unknown apostolic letter titled *Salvifici Doloris*, or, “The Christian Meaning of Human Suffering.”⁹⁴ In this letter John Paul examines the meaning of personal suffering as well as the Christian responsibility to the suffering of others. Because there is much in this letter that commends itself to all people of faith, a brief summary of its contents follows. As a tool it should greatly encourage the wider Christian community as we seek to embody a redemptive presence in the current cultural context.

Though much shorter than an encyclical, *Salvifici Doloris* is divided into eight progressively-developing parts.⁹⁵ John Paul’s basic thesis is that meaning can only be found in suffering as a result of revelation, and

⁹³ Such a grim scenario has been thoughtfully critiqued by D.A. du Toit in “Anthropology and Bioethics,” *Ethics & Medicine* 10/2 (1994): 35-42, esp. pp. 39-40.

⁹⁴ *Salvifici Doloris* is literally rendered “redemptive suffering.”

⁹⁵ Between introduction and conclusion are found the following sections: The World of Human Suffering, The Quest for an Answer to the Question of the Meaning of Suffering, Jesus Christ: Suffering Conquered by Love, Sharers in the Suffering of Christ, The Gospel of Suffering, and The Good Samaritan.

specifically, the revelation of Christ's suffering on the Cross and redemption of humankind that ensued. This, however, does not simply remain a religious *ideal*; it becomes incarnated in meaningful and relevant ways.

Suffering, observes John Paul, is "a universal theme that accompanies man at every point on earth," and therefore, demands to be constantly reconsidered.⁹⁶ In fact, St. Paul's words to the Roman Christians, that "the whole creation has been groaning in travail together until now,"⁹⁷ are a poignant reminder of the universality of the problem, even when suffering "seems to be particularly essential to the nature of man."⁹⁸ Suffering, then, is "almost inseparable from man's earthly existence."⁹⁹ Early on in the letter, John Paul reminds his audience that pain and suffering have something of an *apologetic* function; that is, the church must "try to meet man in a special way on the path of his suffering."¹⁰⁰ Effective apologetics, after all, wrestles seriously with building bridges to surrounding pagan culture; it will not suffice merely to cite Scripture or affirm Scriptural authority, as Protestant evangelicals frequently have tended to do.

The former pontiff points out the limits of medicine, insofar as the science of healing is uni-dimensional.¹⁰¹ Humans suffer in a variety of ways. Their anguish can be moral, psychological, and spiritual as well as physical. So, it is inevitable that human beings are occupied by one perplexing question: Why do we suffer? Although physical pain is

⁹⁶ *Salvifici Doloris* [hereafter *SD*] § 2. The text of the letter appears in *Origins* 13/37 (1984): 609-24.

⁹⁷ Rom. 8:22.

⁹⁸ *SD* § 2.

⁹⁹ *SD* § 3.

¹⁰⁰ *Ibid.*

¹⁰¹ At the same time, it is legitimate to argue that the task of medicine is to cure and care even when it cannot heal. A basic ingredient in that caring process is palliative. Thus, D. Beauregard, "The Mystery of Suffering," *Ethics & Medics* (August 1995): 1-2, and J.F. Bresnahan, "Palliative Care or Assisted Suicide?" *America* (March 14, 1998): 16-21.

widespread and measurable in the animal kingdom, only humans reflect on the *why* question. This anguish is intensified by the fact that no satisfactory answer is forthcoming.¹⁰²

For John Paul, no resource expresses so vividly the emotion, anxiety and dissonance of human suffering as does the book of Job. And what is particularly striking to the reader is the sheer amount of the story devoted to the dialogue between Job and his acquaintances. Their task, as they understand it, is to convince him that he must have done something seriously wrong, for “suffering—they say—always strikes a man as punishment for a crime.”¹⁰³ In this “theology of retribution,” suffering only has meaning in the context of moral justice, whereby evil is repaid for evil.

While much of the Old Testament in fact corroborates the retributive truth that suffering is the direct result of evil, this explanation is incomplete and is challenged by Job. That is, *not* the moral law of reaping and sowing is to be rejected; rather, his “friends’ application of this law to *his own situation*. Hence, “it is not true that all suffering is a consequence of a fault,” for Job is not being punished.¹⁰⁴ Rather, as the context of the story immediately establishes, suffering in Job has the character of a test—a test to *demonstrate Job’s righteousness*.

But there are problems. Although such a “stock Christian” answer has validity, “at the same time it is seen to be not only unsatisfactory...but it even seems to trivialize and impoverish” the notion of divine justice.¹⁰⁵ For John Paul, a satisfactory “answer” to the problem of suffering can only be grasped when it is tethered to “the entire revelation of the Old and above all the New Covenant.”¹⁰⁶ Suffering, thus viewed, “must serve for conversion, that is, for the rebuilding of goodness in the subject.”¹⁰⁷ In

¹⁰² *SD* § 9.

¹⁰³ *SD* § 10.

¹⁰⁴ *SD* § 11.

¹⁰⁵ *SD* § 11.

¹⁰⁶ *SD* § 12.

¹⁰⁷ *SD* § 12.

order to perceive the true answer to the “why” of suffering, “we must look to the revelation of divine love, to what God has done for man in the cross of Jesus Christ.”¹⁰⁸

Because the very essence of Christian soteriology is liberation from evil, herein we behold *salvific love*. The mission of the only-begotten Son consists in conquering sin and death, by which “we have in mind not only evil and definitive, eschatological suffering...but also...evil and suffering in their *temporal and historical* dimension.”¹⁰⁹ Evil remains bound to sin and death. Hence it is necessary that in his messianic ministry “Christ drew increasingly closer to the world of human suffering. ‘He went about doing good’ [Acts 10:38], and his actions were directed primarily to those who were suffering and seeking help.”¹¹⁰ Moreover, because of his full awareness that his mission was to *suffer and die*, Christ therefore severely rebuked Peter when the latter wished him to abandon the thought of suffering and death.¹¹¹

Thus, as innocent sufferer, Christ takes upon himself the sufferings of the world. And this we call “substitutionary”—and above all, redemptive—suffering. Christ has accomplished the world’s redemption through his suffering.¹¹²

John Paul wishes his audience to ponder the fact that “with the passion of Christ all human suffering has found itself in a *new situation*. In the cross of Christ not only is the redemption accomplished through suffering, but also human suffering itself has been redeemed.”¹¹³ To

¹⁰⁸ *SD* § 13.

¹⁰⁹ *SD* § 15. Here evangelical Protestants would do well to pay attention. In our recent history we have stressed the eschatological over the temporal, with a deficient “theology of creation”; hence, we have not always been responsible in the cultural mandate.

¹¹⁰ *SD* § 16.

¹¹¹ *SD* § 16.

¹¹² *SD* § 17.

¹¹³ *SD* § 19. For this reason Paul can write to the Corinthians, “For this slight momentary affliction is preparing for us an eternal weight of glory beyond all comparison...” (2 Cor. 4:17-18).

suffer, writes John Paul, “means to become particularly susceptible, particularly open, to the working of the salvific powers of God offered to humanity through Christ.”¹¹⁴

Despite its relative absence in our pulpits, our classrooms, our bookstores and our study groups, the question of suffering nevertheless has “a special value in the eyes of the church. It is something good, before which the church bows down in reverence with all the depth of her faith in the redemption.”¹¹⁵ As the individual embraces suffering through the grace of the crucified Redeemer, gradually, notes John Paul, the salvific meaning of suffering is revealed.¹¹⁶

Finally, and most significantly, in the thinking of John Paul the question of suffering is inextricably linked to the parable of the Good Samaritan (Luke 10: 25-37), for it is precisely the Samaritan who shows himself to be the real “neighbor” to the victim.¹¹⁷ If the parable teaches anything, it teaches that we may not “pass by on the other side” indifferently; rather, it underscores the redemptive character of suffering by its condemnation of passivity. The Good Samaritan is “good” because he has compassion and is sensitive to the sufferings of others.¹¹⁸ In this concrete expression of the Samaritan’s love, John Paul is convinced, “the salvific meaning of suffering is completely accomplished and reaches its definitive dimension.” Namely, suffering is present in the world “in order to release love, in order to give birth to works of love toward neighbor, in order to transform the whole of human civilization.”¹¹⁹

Rethinking the Common Good

The common social good may be defined as the sum total of social

¹¹⁴ *SD* § 23.

¹¹⁵ *SD* § 24.

¹¹⁶ *SD* § 26.

¹¹⁷ *SD* § 28-30.

¹¹⁸ *SD* § 28-30.

¹¹⁹ *SD* § 30. Although John Paul is sensitive to the isolation that suffering forces upon the individual, the emphasis of his letter is conspicuously communal and ecclesial.

conditions that allow people to reach their fulfillment as human beings in society. The Catholic *Catechism* identifies three components that compromise the common good: (1) respect for the person as such; (2) the social well-being and development of individuals and groups; and (3) the commodity of peace, by which we mean the stability and security of a just order.¹²⁰

Because one's view of the "common good" depends on one's view of rights, society stands or falls on its views of personhood and rights. Where there are no universal moral truths, nothing fixed, personhood and dignity suffer. What might Christians have to offer in the way of public debate? Here we might keep in mind John Paul's argument developed in *Veritatis Splendor*: if there is no fixed truth, there can be no freedom or rights or dignity.

Freedom, John Paul warns, does not extend to the toleration of intrinsic evil, and where the denial of universal moral truth is permitted to exist, the result is that "law" is reduced to a function of "raw, totalitarian power."¹²¹ It matters not "whether one is the master of the world or the 'poorest of the poor' on the face of the earth. Before the demands of morality, we are all absolutely equal."¹²² How, John Paul asks, shall a society govern itself without recourse to universal moral values? And how are government and the state to be conceived? "If there is no ultimate truth to guide and direct political activity," he cautions, then "ideas and convictions can easily be manipulated for reasons of power."¹²³

Democratic culture has been a *wager*, not a frozen accomplishment, writes Jean Elshtain in her book *Real Politics*. It has been a wager

[f]rom Jefferson's bold throwing down of the gauntlet to the British Empire, not knowing whether the upshot would be "hanging together or hanged separately," to Lincoln's "nation thus conceived and thus dedicated," to Martin Luther King's dream of an essentially pacific democratic people who judge their fellow citizens

¹²⁰ CCC §1907-09.

¹²¹ CCC § 96 and 99.

¹²² CCC § 96.

¹²³ CCC § 101.

by the content of the character [and] not the color of their skins...¹²⁴

Hereby Elshtain wishes to underscore the importance of participation. Responsible citizenship, as the reader will discover, is a recurring theme in Elshtain's writings, and as an Augustinian scholar, she is ever-conscious of the tension between faith and culture that imbues the work of this church father. Augustine, of course, lived at a time very much like our own, a time of considerable social and ideological upheaval. Indeed, culture was literally crumbling before his eyes while he penned *De civitate Dei*. An important subtheme in much of Augustine's work, not only in *De civitate*, is the tension between our earthly and heavenly citizenship. Where our loyalties are challenged by compromise, where the possibility of idolatry is present, our ultimate allegiance is always to the heavenly city. However, as Christians we retain dual citizenships, a reality implying that we are obligated to balance—rather than eradicate—the tension between our duties in both realms, since duties to both are divinely bequeathed.

The obligation to “occupy” responsibly, of course, is not an easy word for fundamentalist or isolationist types to hear. Nor does it soothe those who are cultural accommodationists, i.e., those who yearn for culture's acceptance. To occupy responsibly requires of us spiritual discernment. As Christians we are required by faith to eschew the twin errors of isolation and capitulation as it relates to faith and culture. On the one hand, we reject the outlook that faith and culture or politics or social involvement have little or nothing to do with one another. This is the later-Tertullian error. On the other hand, we are equally attentive to the idolatry that conflates faith and culture, politics, or society. Both stances are idolatrous; both require our constant vigilance.¹²⁵

It is in response to this Augustinian burden, namely, to avoid both the flight from culture and an absorption into culture, that much of Elshtain's

¹²⁴ *Real Politics*, p. 363.

¹²⁵ Elsewhere I have attempted to apply the Augustinian outlook on citizenship to the problem of justice, war and peace. See J. Daryl Charles, *Between Pacifism and Jihad: Just War and Christian Tradition* (Downers Grove IL: InterVarsity, 2005), pp. 37-45.

work is devoted. And this to her credit. Hence, we should not be surprised that the strand of responsible citizenship laces its way through much of Elshtain's work.

The robust spiritedness of democratic culture, by its very nature and from its origin, requires our active engagement in order to distinguish itself—and remain distinguished—from other forms of political organization that tend toward tyranny. While certainly one cannot participate in all aspects of civic life, neither is one permitted to remain aloof and isolated from that civic life in which he or she is embedded. For to do so is to forfeit, over time, the climate that permits—indeed, fosters—those benefits and advantages of a democratic versus dictatorial system.

Correlatively, and importantly, belonging to such a social system requires the balancing of freedoms and responsibilities. Unquestionably, this runs counter to the cultural *Zeitgeist*, given the fact that rights and freedoms always trump duties in the present social-political climate. Nevertheless, to acknowledge our moral accountability to an authority higher than self, to live in the shadow and circumference of self-evident “truths,” is to embrace our responsibility toward our neighbor. This responsibility is not *actualized* in the prayer closet, important as prayer for the neighbor might be. While social responsibility should be second-nature to all people espousing Christian faith, many professing Christians remain remarkably disengaged from public service, even when, to be sure, this “service” can take an infinite number of forms.¹²⁶ Not only is this service to others the evidence of true religion (cf., e.g., James 1:27), it is the prerequisite for maintaining the underpinnings of the democratic social order.

Rethinking Tolerance

Along with its siblings “diversity” and “compassion,” “tolerance” has achieved remarkable status in our culture's hierarchy of values. It is one of those “thought-killer” words, as someone has remarked, that has come to comprise our cultural lexicon, requiring uncritical acceptance for all

¹²⁶ One readily thinks, for example, of the disengagement of fundamentalists and a rather large sector of Protestant evangelicalism.

seasons and all reasons.¹²⁷ In fact, the Commandment “Thou shalt not judge” seems to have superseded all revealed commandments—even rationally discovered ones.¹²⁸ But how far tolerance? And how is tolerance best understood?

In the English language, tolerance in the sense of “bearing” or “indulging” (Latin: *tolerare*) dates from the mid-eighteenth century. Originally, “tolerance” denoted a policy of forbearance in the presence of something disliked or disapproved. It was foremost a political virtue, demonstrated by a government’s readiness to permit a variety of religious beliefs.¹²⁹ The notion that government should not enforce a specific religion comes to expression in John Locke’s *Letter on Tolerance* (1689) and *Two Treatises of Government* (1690). Removed from its political context, tolerance gradually came to be understood as a forbearance, an enduring, of those behaviors or practices that we dislike.¹³⁰

Tolerance in its conception took on the cast of a virtue because of its concern for the common good and its respect for people as persons. We endure particular customs, behaviors or habits—sometimes even (relatively) bad habits—of people in the interest of preserving a greater unity. In the Lockean context, tolerance was advocated for religious non-conformists. Never was it construed, however, to imply—much less to

¹²⁷ So David Warren, “Tolerance/Forgiveness,” *Sunday Spectator* (December 4, 2005) accessible at www.davidwarrenonline.com/index.php?artID=546.

¹²⁸ Adam Wolfson, “What Remains of Toleration?” *The Public Interest* (Winter 1999): 40.

¹²⁹ By way of analogy, one thinks, for example, of sectors within current-day resurgent Islam which demand that the entire political and social order be founded on Sharia.

¹³⁰ In a volume with the fascinating title *The Long Truce: How Toleration Made the World Safe for Power and Profit* (Dallas TX: Spence, 2001), A.J. Conyers has traced the modern history of the notion of tolerance in an attempt to answer the question of whether tolerance can be considered a virtue. Conyer’s answer is that, strictly speaking, it is not a virtue in the classical sense. Rather, in his argument, it is to be viewed as a “strategy” or policy that directs virtues such as patience, humility, moderation and prudence to a desired end. In the end, the goodness of tolerance is understood as depending entirely on the nature of the goods that it serves.

sanction—*morally questionable behavior*. Consider the devolution of a concept. What was a public virtue in its prior state becomes a vice if and when it ceases to care for truth, ignores the common good, and disdains the values that uphold a community. The culture of “tolerance” in which we presently find ourselves is a culture in which people believe nothing, possess no clear concept of right and wrong, and are remarkably indifferent to this precarious state of affairs.¹³¹ The challenge facing people of faith is learning how to purify tolerance so that it remains a virtue without succumbing to the centripetal forces of relativism.

Let us recall that tolerance, in our cultural tradition, emerged as a political and social virtue. And as such, tolerance has private as well as public or communal dimensions. While we may disagree with another’s opinion, vice, or lifestyle, we extend (in principle) that person’s “right” to a specific opinion or behavior we find objectionable. Christians and non-Christians of *all* varieties tolerate one another’s differences because of what they *all* share in common—the laws of nature, inalienable rights, dignity that inheres in personhood. When, however, a person—in the name of “tolerance”—is making claims on the *public square*, tolerance must then cease, for we tolerate what we dislike *until it begins making claims on the wider community in a way that undermines the common good*. Thus, we are compelled to draw a strict distinction between the freedoms of an individual, practiced in private, and the needs of the community, of which we all are contributing parts. This distinction is not necessarily owing to Christian insight, for Locke himself makes the basic observation—an important one for contemporary Americans—that a great deal of difference can be tolerated *provided that it does not endanger social cohesion*.

But, in practical terms, what does this mean? With regard to objectionable behavior, where exactly do we draw the line? How do we as a society determine what behavior is acceptable and what is unacceptable? A well-worn bit of conventional wisdom among religious folk is that we should “hate the sin while loving the sinner.” Granted, there is some truth to this maxim. Nevertheless, as C. S. Lewis pointed out, this nice-

¹³¹ David Warren (see n125) quips that tolerance is one of those ideas “loosely hatched” during the Enlightenment but carried forward today by postmodernists “into the realm of dementia.” It is hard to disagree with him.

sounding piece of piety can easily descend into sloppy sentimentalism. Lewis observes that to love the sinner in fact means that we feel toward him

as we feel about ourselves—to wish that he were not bad, to hope that he may, in this world or another, be cured: in fact, to wish his good. That is what is meant in the Bible by loving him: wishing his good, not feeling fond of him nor saying he is nice when he is not.¹³²

Lewis's advice appropriately parallels the New Testament admonition to "speak the truth in love."¹³³ To speak the truth in love is to embody a moral honesty that refuses to compromise the consequences of ultimate reality, while it simultaneously is cognizant of the fact that fellow human beings are to be treated as bearers of the image of God. Love and truth are not mutually exclusive, despite the ethical propaganda that emanates from common culture. Those who would call us to "love the sinner" frequently *really* mean that we should *sympathize non-judgmentally* with him, by which they mean, we should refrain from stigmatizing and expressing disapproval. The person, then, will feel better. But as one social critic has quipped, this attitude only "makes the world safe for moral dereliction."¹³⁴

If "tolerance" and "compassion" are not rooted in moral principle, they end up corrupting both the practitioner *and* the object. Elevating them to the status of cardinal virtues, while disengaging them from unbending moral realities, sends the signal to the unscrupulous that

a good strategy for getting their way is to play on other people's pity, which is dreadfully destructive to character. It encourages malingering, self-pity, and claims of victimhood. It encourages not self-sufficiency, but dependence...; not strength, but weakness; not honesty and integrity, but shameless and vicious exploitation of others; not cheerfulness in adversity, but whining; not acceptance of life's vicissitudes, but a readiness to find

¹³² C. S. Lewis, *Mere Christianity* (New York NY: Macmillan, 1960), p. 108.

¹³³ Eph. 4:15.

¹³⁴ John Attarian, "In Dispraise of Tolerance, Sensitivity and Compassion," *The Social Critic* (Spring 1998): 16.

fault...¹³⁵

But we return to the nagging question of drawing the line. As to precisely where Christians are to draw the line, our answer is this: we must draw the line *where private preferences that undermine the communal good make claims in the public sphere*. Are Christians called to tolerate an individual whose sexual behavior differs? Indeed. Are Christians called to tolerate the theoretical and practical promotion of that behavior in the form of social or public policy? By no means. Whereas sexuality is a private matter, educating on human sexuality (at least through a public, tax-supported institution) ceases to be private; it is very much a public and communal concern.¹³⁶

Therefore, whatever the cost and inconvenience, Christians are not only free to contend, they are *required* to do so, and that *for the purposes of preserving social cohesion and the moral order*.¹³⁷ This response, of course, will lead to charges that we are “imposing” our morality on those around us. Christians are reminded *ad nauseum* by secularists that because we live in a pluralistic democracy, we are *forbidden* from such imposition. But are we?

If morality is indeed a *private* matter as some contend, then critics of Christianity would be justified in excluding the voice of Christian ethics from the public square. But since the square is *public*, that means that all *may* contend—especially those of Christian faith. In the last two decades vigorous debate has transpired between professors of law, political scientists, and philosophers over inter-locking questions of justice, the public square, and moral neutrality. The strongest advocates of “tolerance” in our day insist on the idea that the public square is morally neutral. And because it is thought to be neutral, therefore the state must

¹³⁵ Attarian, “Dispraise,” p. 18.

¹³⁶ A brief but excellent overview of the limitations of tolerance within the communal context as well as the contours of Christian responsibility are found in Kent Weber, “How Far Is Tolerance a Virtue?” *Regeneration Quarterly* (Winter 1996): 29-31.

¹³⁷ Adopting *the appropriate language* with which to contend, however, is of vital importance.

remain “neutral” in adjudicating various claims to “rights.” But *is* there such a thing as moral neutrality?

If there are particular goods identified by a society that need protecting, then society cannot be “neutral” with regard to those goods. It has a vested interest in maintaining and preserving them. And those goods, of course, are established on the basis of what a society considers to be ultimate and authoritative. Moral neutrality is neither self-evident nor self-justifying; rather, it must be shown to be true or correct. When its proponents press their argument in the public square for a particular position—for example, on the nature of the family or marriage, same-sex unions, free speech, or abortion rights—they argue that competing notions are controversial, mistaken, and therefore to be rejected. Thus, “moral neutrality” is much like moral relativism insofar as its proponents demonstrate through arguments *for* or *against* competing moral positions the falsehood of its alleged existence.¹³⁸

We must in this context stress the symbiosis between tolerance and the common good. Tolerance as an authentic *virtue* is rooted in a commitment to what is true and good for society; correlatively, as a *vice* it is indifferent to these realities. Therefore, tolerance is not—indeed, cannot be—neutral toward what affects society. Even staunchly secular approaches to public and political life themselves are *thoroughly religious* in nature. That is to say, they arise out of deeply held or binding commitments (from the Latin verb *religare*, “to bind”) to what they believe to be right and wrong, acceptable and unacceptable. Any comprehensive orientation toward life has an inherently “religious” character, and every political and legal mode of reasoning begins and ends with fundamental assumptions, precommitments, and preconceptions about the origin and nature of life.¹³⁹

¹³⁸ J. Budziszewski, “The Illusion of Moral Neutrality,” *First Things* (August/September 1993): 32-7, has pointed out that intolerance – ironically furthered by the “tolerance police” of our day—demonstrates itself in two ways –through a “softheadedness,” i.e., through excessive indulgence that is morally spineless, and through the opposite extreme of “narrowmindedness.”

¹³⁹ James Skillen, *Recharging the American Experiment* (Grand Rapids MI: Baker, 1994), pp. 30-33, argues this point quite succinctly. For a more extensive treatment of “neutrality,” see Roy Clouser, *The Myth of Religious Neutrality: An*

But what we are prepared to tolerate pivots, as we have sought to emphasize, on what is ultimate—in our personal lives and in the life of culture. There is something ultimate before which every person—indeed, every society—will bow. Modern and postmodern idolatries abound, but there is no escaping the fact that everyone has a hierarchy of values. What society tolerates is predicated on this hierarchy, atop which sits something ultimate. Social consensus is possible where there are overlapping realms of agreed-upon moral-social capital. Where there is no overlapping agreement, consensus is impossible, and anarchy is invited.¹⁴⁰

But let us proceed one step farther. By contending that there is *no such thing* as moral neutrality, we are also declaring that *someone's morality will be imposed*. Francis Canavan has expressed it this way: “it is an old half-truth that you cannot legislate morality. The other and more significant half of the truth is that a society's laws inevitably reflect its morals and its religion. As a society's religious and moral beliefs change, then, so will its laws.”¹⁴¹ Therefore, we must expose the falsehood of the philosophical and sociological notion that a pluralistic society can be neutral on moral matters, since this thinking inevitably leads to the establishing of the most secularized, materialistic, and hedonistic elements of the population. In other words, ultimately *someone's* morality will be legislated.¹⁴² Two examples of this moral reasoning may suffice to illustrate. If someone claims the “right to die,” society is morally

Essay on the Hidden Role of Religious Belief in Theories (Notre Dame IN: Univ. of Notre Dame Press, 1991).

¹⁴⁰ Hence, as James Davison Hunter, in his book *Culture Wars: The Struggle to Define America* (New York NY: Basic Books, 1990), and J. Budziszewski, in *True Tolerance: Liberalism and the Necessity of Judgment* (New Brunswick NJ: Transaction Publishers, 1992), have attempted to demonstrate, the metaphor of “culture wars” is no mere metaphor; at stake is the clash of two competing, all-encompassing visions for humanity and society.

¹⁴¹ Francis Canavan, “Pluralism and the Limits of Neutrality” in *The Battle for Morality in Pluralistic America*, ed. C. Horn (Ann Arbor MI: Servant, 1985), p. 158.

¹⁴² Canavan writes: “If we are a plurality of communities,” the right “to maintain and transmit the community's beliefs and values is at least as important as the right of the individual to live as he pleases” (pp. 160-61).

constrained to respond on the basis of the natural law: as an objective “good,” human life has intrinsic value that must be protected by the state (if the state is legitimate). Neutrality is not an option, permitting right-to-die advocates the luxury of finding a constitutional “right to privacy.” Likewise, in response to homosexual activists who insist gay marriage as a “civil right” on par with heterosexual marriages, we might argue that neither government nor the public can seek refuge in a purported “neutrality,” since there exist a particular “nature” and function of human activity that are consensually demonstrable throughout human civilization.

The fathers of the American experiment assumed that people will broadly agree on rationally discernible moral norms, a *consensus juris*, that will inform a society’s understanding of rights, justice, good, and evil. This consensus, it should be noted, guards against a tyranny of both the minority and the majority, since “tyranny” *per se* is a fundamental violation of human (i.e., natural) rights that are inalienable. There is, then, no moral “neutrality” as envisioned by the framers of this nation’s charter documents; in the interest of all of society, particular “goods” will need to be defended.

Thus, the public nature of the marketplace (of both ideas and goods), then and now, as well as of social institutions, coupled with the very public nature of requisite Christian witness (then and now), compels people of Christian faith to work for the common good using any and all means, so long as democratic pluralism resists the centripetal slide into a soft form of totalitarian statism.¹⁴³ For those of us who tend to shy away from confrontation, the hard truth is this: a society

cannot function well, cannot survive, and cannot protect the innocent...from harm and evil, without a large measure of intolerance. Yes, intolerance—of theft, burglary, cruelty, classroom hooliganism, disrespect for parental authority, and violent crime of all sorts; of substance abuse, infidelity,

¹⁴³ In response to the potential objection that a balance of power—namely, judicial, executive and legislative—excludes the possibility of political tyranny of various degrees in the U.S., I would simply pose the following question: What if all three branches of “democratic” government, mirroring the values of elitist culture, are (more or less) committed to a bleaching of the religious viewpoint and an eradication of Christian participation in the moral, legal as well as political process?

illegitimacy, perversion, pornography, rape, and child molestation; of fraud, envy, covetousness, and knavery; of sloth, mediocrity, incompetence, maleducation, improvidence, irresponsibility and fecklessness. A society tolerant of those things would soon find itself in serious trouble, even facing dissolution, and many people in that society would be in peril of their lives.¹⁴⁴

Everyone has claims on the public square—most notably, Christians, whose cultural mandate rests on a firm commitment to the redemption of all things.¹⁴⁵ While it is not a “given” that everyone’s claim will be “tolerated,” tolerance properly understood mirrors a strong and principled commitment to promote moral truth and work for the common good.¹⁴⁶

CONCLUDING REFLECTIONS

From the standpoint of faith, the truth about nature and natural revelation matters. And while government cannot impose by decree moral truth, this truth should nevertheless be debated in the public square, if, for no other reason, it is intuited by all human beings. The alternative is an unhuman—and inhumane—consensus of “choice” and degradation of life.

Our mandate, therefore, as people of faith, is not to “shrink the truth to the point that even a postmodernist can bear it,” in the words of one social critic. Rather, it is to contend for moral “first things” in a manner that accords with our inherent dignity as human beings—beings who mirror the *imago Dei*. “Man has been given a sublime dignity based on the intimate bond which unites him to his Creator,” John Paul has argued with considerable force. In the human person, “there shines forth a reflection of God himself.... The sacredness of life gives rise to its inviolability, written from the beginning in man’s heart, in his conscience.”¹⁴⁷ There-

¹⁴⁴ Attarian, “Dispraise,” p. 22.

¹⁴⁵ Col. 1:17-20; cf. Eph. 1:10.

¹⁴⁶ Recent volumes that commend themselves to the reader are Joseph Cardinal Ratzinger, *Truth and Tolerance: Christian Belief and World Religions* (San Francisco CA: Ignatius, 2004), and Brad Stetson and Joseph G. Conti, *The Truth about Tolerance: Pluralism, Diversity, and the Culture Wars* (Downers Grove IL: InterVarsity, 2005).

¹⁴⁷ *EV* § 34.

fore, responsible participation in pressing ethical and bioethical debates of the day will necessitate our commitment to *safeguard* human life *at all junctures*, since life is to be *absolutely* respected.

If nature itself cannot instruct us about what is ethically permissible and impermissible, and our borrowed social and moral capital cannot be sustained, how will our society proceed ethically? Leon Kass has framed it this way: “How, for example, will we be able to judge whether increasing the human life span, say, to 150 years, will be humanizing or dehumanizing; whether an alterable genetic predisposition toward homosexuality...[if diagnosable *in utero*] ought to be regarded as a treatable condition; whether we will be better or worse off with a perfected pharmacology of pleasure? In short, how, in a world morally neutered by the effect of objectified science, will we know which genetic or functional or behavioral alterations of human nature we should welcome as improvements?”¹⁴⁸

In the end, heaven and earth cry out against grandiose visions of unbridled autonomy and human lawlessness. Notwithstanding all that changes, the natural law will remain.

¹⁴⁸ *The Hungry Soul*, pp. 5-6.