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The U.S. Catholic Bishops and Abortion Legislation: S

The U.S. bishops explicitly addressed this issue in writing their pastoral letters on peace and the economy in the 1980s. In writing their letter on peace which developed through three different drafts, they explicitly wanted to be more specific than papal teaching had been in this area. At the same time, other national groups of bishops were also addressing the issues of peace, deterrence, and war. The Vatican under Cardinal Joseph Ratzinger convened a meeting involving representatives of the different bishops' conferences writing such letters and Vatican officials. One of the problems was the real possibility that different bishops' conferences would take different positions on some of these specific issues such as no first use of even the smallest nuclear weapon. The memorandum from the meeting called for the bishops in their letters to distinguish clearly between moral principles and their application to concrete realities which involve the assessment of factual circumstances. The authority of the bishops on prudential judgments or the application of principles does not bind all Catholics. There is room for legitimate diversity in the Churchh

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come to different conclusions. A contemporary example of this would be immigration reform. I basically agree with what the bishops have said, but I would also claim, invoking the position of Thomas Aquinas, that some more specific principles can also admit of exceptions.⁴ But such a discussion lies beyond the parameters of the present topic.

Another question arises: should bishops support particular candidates or even political parties? Here the bishops have been both clear and consistent. Prior to every presidential election beginning in 1976, the Administrative Board of the bishops' conference has come out with a document on how Catholics should address the coming election. They have made it very clear from the beginning that they do not endorse any political candidates.⁵ In the document preceding the 1988 presidential election, they made one significant change. In 1984 some individual bishops certainly gave the impression of opposing a particular political candidate. The document for the 1988 election insisted that the bishops neither endorse nor oppose a political candidate.⁶ In addition they have consistently maintained that they do not seek the formation of a religious voting bloc.

The reasoning behind positions against supporting a particular political candidate or party and not wanting to form a voting bloc are obvious. The bishops have recognized that on one particular issue there is legitimate room for diversity among Catholics. A candidate takes stands on all the issues involved in political debate. In such circumstances there is clearly much room for the freedom of the believer and no one in the Church can authoritatively demand that all Catholics support a particular political candidate. All the more so the bishops do not want to form a voting bloc or support a particular political party.

There is no doubt the primary involvement of the U.S. Catholic bishops in public life in the last part of the twentieth century and the first decade of the twenty-first century focused on abortion. The bishops as a national body and as individual bishops in their own dioceses have spent more time, energy, and money on abortion than on any other single issue.

Three reasons explain this emphasis. First, the Catholic moral position has consistently and for a very long time taught that direct abortion is morally wrong. The teaching recognized a very few conflict situations in which indirect abortion could be acceptable for a proportionate reason, but these situations were very narrow and did not even include abortion to save the life of the mother.

Second, in the last fifty years abortion has been the most controversial public policy issue in our country. In the 1960s, efforts were made to legalize abortion in a number of different states, but the bishops as a whole did not publicly insert themselves into opposition to these attempts. In fact a number of the early opponents to relaxing abortion laws in the 1960s were Catholic laity who even complained about the lack of support from clergy and bishops.⁷ With the Supreme Court's *Roe v. Wade* decision in 1973, abortion became a very public national issue and the United States bishops became the best-known opposition to it.

aimed at a constitutional amendment providing “protection for the unborn child to the maximum degree possible.”⁸

Within the staff of the bishops’ conference and among the bishops themselves, some feared that the emphasis on abortion, especially the call for organized political activity, would make the Catholic Church into a single-issue voice and put into the shadows Catholic teaching on many other issues involving peace, social justice, and opposition to violence-wielding right-wing regimes in South America. This group was influential in having the Administrative Board of the bishops’ conference issue a document on political responsibility before the 1976 presidential election.⁹ This document insisted the bishops did not want to form a voting bloc or tell Catholics how to vote. Voters should examine the candidates on a full range of issues, and with a consideration of the candidates’ integrity, philosophy, and performance. The document lists eight issues in alphabetical order, beginning with abortion, but does not give priority to any of these issues.¹⁰

In the 1980s the bishops as a whole moved towards a comprehensive and consistent approach to all the life issues under the leadership of Cardinal Joseph Bernardin. Bernardin had been the first general secretary of the bishops’ conference (1968-1972); the president of the conference (1974-1977); and the chair of the committee that wrote the pastoral letter on peace. In 1983 he became chair of the bishops’ Committee for Pro-Life Activities. Beginning with the Gannon Lecture at Fordham University in 1

a candidate from receiving support. A Catholic voter cannot vote for a pro-choice politician if the voter’s intention is to support that position. But a Catholic who rejects this unacceptable position may decide to vote for the candidate for other morally grave reasons.¹⁷

The historical record thus clearly shows that the U.S. bishops have changed their approach to abortion law over the span of forty years. They now clearly state that abortion is the primary issue. They also have explicitly stated the reason why this issue is primary and differs from all the other areas of social issues that they have addressed. Other issues of public policy and law involve prudential judgments, but in the case of abortion laws they deal with something that is intrinsically evil and does not involve prudential judgments. Catholics have certitude on the abortion law issue.

In my judgment, the U.S. bishops claim too great a certitude for their position on abortion law and fail to recognize that their own position logically entails prudential judgments so that they cannot logically distinguish it from most of the other issues such as the death penalty, health care, nuclear deterrence, housing. Consequently, they are wrong in making abortion the primary social issue for the Catholic Church in the United States. This section will develop four reasons to prove the thesis that the bishops have claimed too much certitude for their position on abortion law—the speculative doubt about when human life begins; the fact that feasibility and possibility are necessary aspects involved in discussions about abortion law; the understanding and role of civil law; and the weakness of the intrinsic evil argument.

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In the Catholic tradition and to this day hierarchical Catholic teaching recognizes speculative doubt about when the soul is infused or when the human person comes into existence. Thomas Aquinas is the best known theologian who held for delayed animation, although he still opposed abortion. Others dispute this. ~~On this n# so~~

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Thomas Aquinas understood civil law in light of natural law. Civil law either republishes the natural law (e.g., murder is a crime) or makes determined what the natural law leaves undetermined. Thus the natural law says automobile drivers should drive safely but the civil law determines speed limits. Human law is truly law and obliges only to the extent that it is derived from natural law. What is opposed to natural law is not a law but the corruption of law.²⁸

Aquinas, however, recognizes that morality and law are not identical. Civil law is ordered to the common good. Thus civil law should not legislate all the acts of all the virtues, but only those that affect the common good. In civil society today, for example, there is not and should not be a law against lying but there is a law against perjury. Aquinas also takes a further step based on his realistic understanding of human nature. Human beings are not perfect. Human law should suppress the most grievous vices from which most people are able to abstain, especially those harmful to others, because such laws are necessary for the good of society.²⁹

In another context Aquinas approves of

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- 1 Jan Schotte, "Rome Consultation on Peace and Disarmament: A Vatican Synthesis," *Origins* 12 (1983): 691-95.
- 2 United States Catholic Bishops, "The Challenge of Peace: God's Promise and Our Response," nn. 9-10, in *Catholic Social Thought: The Documentary Heritage*, ed. David J. O'Brien and Thomas A. Shannon (Maryknoll, NY: Orbis, 1992), 494.
- 3 United States Catholic Bishops, "Economic Justice for All," n. 20, in *Catholic Social Thought: The Documentary Heritage*, ed. David J. O'Brien and Thomas A. Shannon (Maryknoll, NY: Orbis, 1992), 494.

- 15 United States Catholic Bishops, "Catholics in Political Life," *Origins* 34 (2004): 97-99.
- 16 United States Conference of Catholic Bishops, *Forming Consciences for Faithful Citizenship: A Call to Political Responsibility from the Catholic Bishops of the United States* (Washington, DC: United States Conference of Catholic Bishops, 2007), 7-12.
- 17 *Ibid.*, 11-13.
- 18 Germain Grisez, *Abortion: The Myths, the Realities, and the Arguments* (New York and Cleveland: Corpus, 1970), 282-85.
- 19 Joseph F. Donceel, "Immediate Animation and Delayed Hominization," *Theological Studies* 31 (1970): 76-105.
- 20 Sacred Congregation for the Doctrine of the Faith, "Declaration on Procured Abortion," footnote 19, in *Medical Ethics: Sources of Catholic Teachings*, ed. Kevin D. O'Rourke and Philip Boyle (Steveve eor e fl o 0 a

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37 Paul Valadier, *EY^ MYSZ^ Q[X^ TV\X[X^P^ LMS\L]X^ [Z^ JWZSYWX]R[YWT]* (Paris: Lethielleux, 2010), 124. Valadier's source for the Ratzinger quotation is Joseph Ratzinger, *\$R\U]X[, \[TNL[W]XL[-^ [Z^M\U]Z]!N]* (Paris: Fayard, 1987), 200.

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