

# Is There a "Marital Morality"?

## Reflections on *Humanae Vitae*

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### *Vatican II and Pope Paul VI*

Pope Paul VI's decision, announced while the second Vatican Council was still in session, to reserve to himself the treatment of the moral admissibility of contraception in the context of marriage was predicated on two series of events.

One of the two was papal. On March 1963, Pope John XXIII had appointed a broad-based papal commission, with the task of studying the use of anovulant pills as a way to regulate births; Pope Paul VI twice reappointed and expanded the commission (*Humanae vitae* [henceforth *HV*], 5). Still, when the majority report (which left the method of birth regulation to the consciences of individual married couples) was published in June 1966, he announced that he would study the reports and make the final decision. From that moment on, the whole Catholic world found itself waiting, impatiently and quite contentiously, for a black-and-white answer to far too simple a question.

The other series of events was conciliar. In the Pastoral Constitution on the Church in the Modern World, *Gaudium et spes*, the Council valiantly (if in broad terms) stressed *responsible parenthood*, as *Humanae vitae* was to recognize and expressly endorse (GS 49-51; *HV* 9-10). Yet this conciliar majority was obtained only in the teeth of curial obstruction, some of which resurfaced later, when the minority report became public.<sup>1</sup>

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<sup>1</sup>For a quick history, cf. Xavier Rynne, *Vatican Council*, vol. II (New York: Farrar, Straus and Cy., 1964), pp. 363-372, 481-488, 554-564. The entire process is reliably documented in Ambrogio Valsecchi's *Controversy: The Birth Control Debate, 1958-1968* (Washington: Corpus Books, 1968), and capably discussed in Janet E. Smith, *Humanae Vitae: A Generation Later* (Washington, DC: The Catholic University of America Press,

What was not wanting in either series of events was *courage*. On the Council's part, it lay in recognizing that it had become morally impossible to reject every form of birth control in the manner adopted in 1930 by Pope Pius XI's *Casti connubii* (DH 3716; CF 2202),<sup>2</sup> which had stated that those who practice contraception "act against nature and do something obscene and intrinsically dishonorable" (*contra naturam agunt et turpe quid atque intrinsece inhonestum operantur*).<sup>3</sup> Besides, in regard to the elaborate casuistry on the moral use of oral contraceptives developed by Pope Pius XII, under the aegis of the principle of double effect, most bishops knew that Catholics were widely regarding it as hair-splitting, and thus, widely *and* publicly shrugging it off.<sup>4</sup> When the Vatican Council positively acknowledged the personalist-existentialist climate of the immediate post-war period, disavowing the arid conceptualism and legalism of a bygone age, it, too, acted quite courageously: it recognized that the Latin tradition, which for centuries had

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1991). For responsible contemporary discussions, cf. *U.S. Bishops Pastoral Letter on Human Life* (Glen Rock, NJ: Paulist Press, 1968); John Horgan, *Humanae vitae and the Bishops* (Shannon: Irish University Press, [1972]); Norman St. John-Stewas, *The Agonising Choice* (Bloomington/ London: Indiana University Press, 1971); Robert McClory, *Turning Point* (New York: Crossroad, 1995); Charles Curran and Robert E. Hunt, *Dissent in and for the Church* (New York: Sheed & Ward, 1969); James J. Mulligan, *The Pope and the Theologians* (Emmitsburg, MD, Mount St. Mary's Seminary Press, 1968).

<sup>2</sup>DH refers to the latest edition of Denzinger's *Enchiridion: Enchiridion Symbolorum Definitionum Declarationum de Rebus Fidei et Morum. Kompendium der Glaubensbekenntnisse und kirchlichen Lehrentscheidungen* (First edited by Heinrich Denzinger; revised by Peter H. Nermann and Helmut Hoping; 37th edition, Latin/German; Freiburg: Herder, 1991). CF refers to *The Christian Faith in the Doctrinal Documents of the Catholic Church* (Ed. by J. Neuner and J. Dupuis; New York: Alba House, 1982).

<sup>3</sup>HV uses the third phrase (14), but not the two qualifiers "against nature" and "obscene." This is all the more remarkable in view of the fact that HV does appeal to the natural law. Yet the reason is not far to seek. In calling artificial birth control *contra naturam*, *Casti connubii* had applied to contraception Aquinas' mainly logical definition of "sin against nature" as "every genital act that cannot result in procreation," i.e., masturbation, bestiality, and sodomy (*S. Th.*, II-II, 154, 1, *in c.*, and 11, *in c.*). Thus, Aquinas' judgment that sin against nature is the worst sin among all the sins of *luxuria* was applied to contraception; this led to the conclusion that those who practice contraception commit mortal sin of the worst kind.

<sup>4</sup>Part of Pope Pius' problem had been, of course, the difficulty, in the fifties, for moralists to stay abreast of the rapid discoveries and applications in biochemistry.

taken its cues from dynastic, family, and property law, and had defined, as such, marriage in essentially *contractual* terms, was, theologically speaking, no help at all. By contrast, in many cultures, including the Mediterranean, while technology and its various blessings had become wide-spread, moral debate, especially about delicate matters, was still widely regarded as improper matter for public discourse. Finally, by teaching that the prerogative of *parenthood* taken as a whole was an *integrally human undertaking*, and not a merely physical-sexual exercise, the Council corrected an impression wrongly given by the common canonical understanding that all that was needed for a marriage to be sacramental (and so, indissoluble) was canonical validity (*matrimonium ratum*) and sexual intercourse (*matrimonium consummatum*). Slowly, it had become obvious that marriage must be regarded not so much as a binding *contract* than as an *integral moral and religious project*; accordingly, it was *at the very least* a properly *moral* task and so, not something to be held hostage to the passion of the moment and the blind forces of physiological process.<sup>5</sup> A sacramental commitment to exclusive, faithful intimacy between a woman and a man seeking mutual love and aspiring to having children cannot possibly pass muster as a Christian institution if the *moral* task of bringing any children up in a human — *i.e.*, freely and deliberately undertaken — manner is not part of the *total* marital commitment. And specifically, it had become widely recognized that at least in the modern world, there are many more angles and consequences to human reproduction than the survival of the human race by dint of sheer numbers.

On the part of Pope Paul, there was bravery, too. Firstly, his predicament was hugely complicated by two powerful cultural factors: (a) in the Western world, interference in the properly *human* sphere by means of technical appliances and scientifically developed medical procedures had long been widely assumed to be beneficial and, (b) free public moral discourse had long been treasured as a democratic achievement, vigorously supported by the acceptance of the means of social communication. Besides (and unfortunately), in the Catholic church, the entire complex of delicate human (*i.e.*, moral) issues regarding

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<sup>5</sup>Accordingly, the 1983 *Code of Canon Law* specifies (can. 1061) that the consummation of a *matrimonium ratum* leads to validity only if it is done *humano modo*.

marriage had *practically* come to a head in one, and only one, issue: *the moral admissibility, in the setting of Christian marriage, of birth control by artificial means*. In practice, this made it next to impossible in advance for either side in the debate to do justice to the careful analysis Pope Paul VI was to develop in *Humanae vitae*. Both in the public forum and in the individual consciousness of innumerable people, it looked as if Catholic marriage boiled down to one and only dilemma: contraception or no contraception.

*Humanae vitae* met with much approval; much of it was of the immature, undiscerning kind, being accompanied by myopic demands for blind ecclesial obedience. It also met with massive reluctance, a lot of it of the immature, sullen kind. Relatively few and far between were those who cheered Pope Paul VI for acknowledging that family planning was not an open-and-shut moral case but a serious matter for lay folk to reflect on *and practice* (HV 10, 16). Yet the atmosphere had become so politicized that it occurred to only a few proponents of contraception to state ungrudgingly that the Pope had faced the moral challenge fairly and squarely. Three observations will bear this out.

Firstly, the opening section of the encyclical carefully lists the principal developments that have helped bring the matter of contraception to a head; it allows that overpopulation is a socio-political, economic, and educational issue of enormous dimensions, that the position of women in society has changed the practice of motherhood, and that recent advances in science and technology have “astoundingly” (*mirificare*) increased modern humanity’s ability to “manage” (*moderare*) itself, including its physical and mental life (HV 2).

Secondly, Paul VI also explicitly and fairly acknowledges the issues that are being raised: Is the traditional marital morality too much to ask of less-than-heroic Catholics? Must the moral soundness of intercourse not, rather, be measured by the “principle of totality,” *i.e.*, is it not right to say that single acts of intercourse do not tell a married couple’s whole moral story (HV 3-4)?

Thirdly, the encyclical’s explicit disapproval of what feminists now frequently call “rape inside marriage” confirms that its author was well aware of what was going on in the “real world” (HV 13). The same is clear from the Pope’s candid acknowledgment that the encyclical’s reception was unlikely to be enthusiastic (HV 18). Given these facts, it will not do to dismiss *Humanae vitae* as obscurantist.

One particular passage in *Humanae vitae* was much disputed, both on the left and on the right.<sup>6</sup> Pope Paul VI wrote as follows:

However, even as the Church admonishes the faithful to observe the precepts of the natural law, which it interprets by its constant teaching, it teaches this: it is necessary that *each and every conjugal act* retain its inherent finality, [which is:] the procreation of human life ["*ut quilibet matrimonii usus ad vitam humanam procreandam per se destinatus permaneat*"].<sup>7</sup>

The present essay sets out to examine and interpret this crucial affirmation.

### *Not a New Teaching on the Evaluation of Particular Moral Acts*

One reason why Pope Paul VI's affirmation may be startling is the following. The entire Catholic tradition of moral theology has insisted that *individual* (in the sense of "particular") moral acts *somehow* engage the moral conscience, whose task it is (so to speak) to "apply" the law (whether natural or evangelical) to particular human acts. Hence, so the tradition has maintained, particular, individual human acts, while under the *mandate* of the moral law, are not *judged* by the moral law *alone*.

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<sup>6</sup>On the right-wing point of view, cf. Janet E. Smith's carefully argued "Critique of Work of Germain Grisez, Joseph Boyle, John Finnis, and William May," in *Humanae Vitae: A Generation Later*, pp. 340ñ370.

<sup>7</sup>"Verumtamen Ecclesia, dum homines commonet de observandis praeceptis legis naturalis, id docet necessarium esse, ut *quilibet matrimonii usus* ad vitam humanam procreandam per se destinatus permaneat (italics added). Janet E. Smith writes that the passage "causes controversy, perhaps the most controversy of any passage in *Humanae Vitae*"; she renders the critical final phrase as follows: "Each and every act must remain ordained to procreation" (*Humanae Vitae: A Generation Later*, p. 321; cf. p. 270). For a full — and in my view correct — treatment of the meaning of the phrase, cf. *ibid.*, pp. 98-128. My translation of "retain its inherent finality" differs from Smith's only stylistically and idiomatically; I also agree with her appraisal of the difference between the Italian original and the Latin, authentic text (*ibid.*, p. 270). Vatican II calls both marital love and sexual intimacy "naturally" (*indole sua naturali*: GS 48; cf. *indole sua*: GS 50) "ordained" (*ordinantur*) to procreation (cf. *Catechism of the Catholic Church* 1652; cf. also *Codex Iuris Canonici* [1983], cann. 1055, 1061). *Humanae vitae* calls sexual intercourse "in and of itself aimed" (*per se destinatus*) at procreation. If the difference raises a terminological issue, it can fairly be called negligible.

So, when we read the passage just quoted, are we to conclude that the phrase "each and every conjugal act" implies that the papal magisterium is relinquishing a centuries-old tradition without expressly saying so, and doing so for the sole purpose of sitting in judgment on *individual* (in the sense of "particular") acts of marital intimacy?

This is implausible in the extreme. In other words, in writing as he wrote, Pope Paul simply *must* have meant something else. What?

### *The Symbolic Meaning of Human Sexual Intercourse*

The most natural answer to this question is the following. When Pope Paul wrote, "it is necessary that each and every conjugal act in and of itself retain its finality [which is] the procreation of human life," he was drawing a conclusion from something he wrote earlier on in the encyclical:

Above all, [conjugal] love is truly *human*, that is, both sentient and spiritual. Thus we are dealing not just with a merely natural or feeling impulse, but also, and especially, with an act of *free will* ... Also, we are dealing with a *full* love, that is, with a specific variety of personal friendship ... those who really love their spouses ... love them for their own sake ... To this end, conjugal love is both *loyal* and *exclusive* ... [O]f this, bride and groom were aware on the day when they freely and clearly consciously tied themselves to each other by the bond of marriage ... Finally, in its totality, this love is *fruitful*, far from being limited to the communion of the spouses, it is also to go forward and generate new lives. *By virtue of what marriage and conjugal love are, their finality is the begetting and bringing up of offspring. Plainly, children are the noblest gift of any marriage, and they chiefly contribute to the parents' well-being* (HV, 10).

In other words, sexual intercourse between Christian marriage partners living a life of love cannot be reduced to a purely psychophysical, involuntary event naturally aimed at reproduction. Rather, it is a *symbolic act* which at certain psychophysically determined periods is *liable* to lead to conception, pregnancy, and birth, but which ceases to be symbolic if and when tampered with, *i.e.*, if and when its significance is re-

duced to a purely psycho-physiological activity, and its essential spiritual dimension is obscured.<sup>8</sup> Accordingly, spouses,

as they undertake to pass on life, are not free to act on self-will [*arbitratu suo*], as if it were properly up to them to decide on [*definire*] the practices which they are to follow as honorable [*vias honestas, quas sequantur*] (HV 10).

It is crucial to notice what Pope Paul is *not* saying. He is *not* teaching that unmistakable anatomical and physiological givens are the defining norm for moral action, as biologist hardliners like Germain Grisez, Joseph Boyle, John Finnis, and William May have kept arguing.<sup>9</sup> What he *is* saying is this: "In marriage (and specifically in Christian marriage), biological givens are to be respected, since in human beings these givens *naturally are* (and thus, should be treated as being) the bearers of anthropological and theological realities and aspirations." Cahal B. Daly has put this in felicitous terms: "The traditional doctrine never was that the physical integrity of the sexual act was *enough* to insure its personal and spiritual completeness, but only that deliberate interference with its physical integrity deprived it of its personal and spiritual integrity."<sup>10</sup>

Accordingly, the phrase "each and every conjugal act" is to be understood to refer not to the innumerable *particular* acts of conjugal intimacy, but to *conjugal intimacy as such*, regardless whether it will in certain cases result in pregnancy or not. Let us elaborate on this.

### *Herbert McCabe: Directives And Rules Of The Game*

In an illuminating essay entitled "Manuals and rule books," the English Dominican, Herbert McCabe, has offered a critical commentary on some aspects of Pope John Paul II's 1993 encyclical *Veritatis Splendor*. McCabe thoroughly agrees with the encyclical's insistence on the

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<sup>8</sup>Incidentally, this is entirely in character with a noteworthy feature of human sexuality: the impulse to seek intercourse is not restricted to particular "mating" seasons; accordingly, human beings are born around the clock, every day of the year. True human love is not tied to times and seasons; it transcends them.

<sup>9</sup>Cf. note 6.

<sup>10</sup>Quoted by Janet E. Smith, *Humanae Vitae: A Generation Later*, p. 100.

crucial significance and, indeed, the unconditional nature of the bio-ethical ground rule, which runs: *innocent human life never qualifies as natural evil*. That is to say, biophysical human life that, (a) offers no present, *deliberate* threat, either to other biophysical human life, whether emergent or existing, or to the human community, (b) is not detrimental to *integral* human well-being and, (c) does not obstruct legitimate human purpose, is to be held unconditionally sacred. But McCabe rightly argues also that we need a more precise understanding just where both its significance and its unconditional character lie. To make his point, he resorts to an analogy taken from the world of team sports.

McCabe begins by distinguishing between two kinds of “rules”: “directives for players” and “basic rules of the game.” Directives that coaches give to players typically consist in specific, often compelling orders detailing *how* players are to play the game, and in reasons stating *why* such orders are apt to get them to play *well*; explicitly or implicitly, the orders usually also direct the players on how to avoid playing the game *poorly*. Such directives are useful and even indispensable, yet they always remain rather general and, in that sense, theoretical; players must indeed carry out the directives, but they must do so flexibly, by *applying* them as play situations demand. Specific moral rules and precepts are analogous to such directives. They lay down, in the form of general, often compelling rules, how human beings and communities, faced with moral issues, are to play the game of morality, if they are to avoid playing it poorly. Such precepts enable human persons and communities to learn how to live morally *in practice* — which is, of course, what counts.

By contrast, fundamental moral rules are analogous to “basic rules of the game.” Basic rules of the game lay down the difference, not between the game being played well or poorly, but between the game being played *and its not being played at all*. Soccer, for example, ceases to be soccer if all players and not just goalies are permitted to play the ball with their arms and hands, just as baseball ceases to be baseball when the bats may be used to hit not only the ball but other players as well. Basic rules of the game, therefore, do not give players any guidance as to how to play the game *well*, but how to play it, period. The same applies to basic moral rules, and in particular, to the bio-ethical ground rule just formulated. The rule that “innocent human life must never become the object of direct efforts to subdue or destroy it” does not give



anybody any *specific* guidance as to how to act morally and avoid acting immorally in *particular* situations where human life is at stake. Its (considerable) value lies elsewhere: it lays down, in regard to the respect due to human life *as a matter of principle*, the *radical* difference between the game of morality being played (whether well or poorly) *and its not being played at all*.

In team sports, when a rule of the game is broken, the game itself ceases, interrupted by the referee; it is resumed only after appropriate penalties have been imposed by the referees, whose function it is to decide, *not* whether the game is being *played well*, but whether it is being *played at all*. In the same way, moral ground rules mark the boundary where responsible (if never perfect) moral engagement simply disintegrates, to give way to the jungle where human beings stop acting morally at all, a situation that obviously calls for strong moral judgments.

In the present case, the moral rule "do not practice contraception" states, in the form of a general precept, how married couples, faced with the possibility of pregnancy (which is a serious moral issue), are to play the game of marital morality *well*, and *why*, and also, how and why they are to avoid playing it *poorly*. In other words, the rule is not a "ground rule," or "rule of the game." By way of illustration, let us take an example of a rule that *is* a rule of the game of marriage — in fact, it is the basic one. Here it is:

Marriage being a personal commitment between a man and a woman to love each other intimately, exclusively, and for good, is inseparable from sexual intercourse, and thus, from procreation, *whether or not the latter eventuates*.

Accordingly, the problem with those married couples who do not accept this ground rule (*viz.*, that sexual intimacy and procreation are inseparable in the life of marriage) is not that they are playing the marriage game *poorly*, but that they are *not playing it at all*.<sup>11</sup>

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<sup>11</sup>Graham Greene's 1961 novel, *A Burnt-out Case*, illustrates the import of Herbert McCabe's distinction. Set in West Africa, the book tells the story of the former seminarian Rycker — a self-righteous, humanly stunted Catholic of the kind that so often got on Greene's nerves. Scrupulously following Catholic rules and observances, and raising what he takes to be "intelligent" Catholic topics whenever he can, Rycker is really a "burnt-out case," a man disfigured by leprosy but no longer a health risk.

Thus, all those who base marital morality chiefly or even exclusively on the body's anatomical and physiological givens alone and not on the *symbolic significance of human intercourse* must ponder a passage in *Casti connubii*

And thus, the Christian faithful will thank God with all their hearts, that they are tied to his commandment and compelled by a kind of gentle force to flee as far as they can from any form of idolization of the flesh and from the foul slavery of license. [They will thank God, too,] that they are quite frightened by, and stay away from, the wicked notions that nowadays, to the disgrace of human dignity, are making the rounds in speech and print, under the rubric of "the compleat marriage"<sup>12</sup> — notions, that is, that have now come to the point of making this perfect marriage tantamount to a "degenerate marriage," as it has been called, and rightly and deservedly so. There is likely to be a wide gap between the healthy teaching and the devout discipline that shape Christian marriage and the sort of physiological tutoring which in our day a few people priding themselves on being married-life reformers claim to help married couples; they do have a lot to say about physiology, but

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He abhors "atheists" and all Catholics who are not like himself, including the hard-working missionary priests and the slightly rakish but unselfish missionary bishop. Loveless as he is, he treats his young wife only as the lawful means for his sexual gratification, yet following the strictest, most mechanical interpretation of the Catholic Church's ban on artificial birth control, and piously practicing natural family planning, but only to avoid pregnancies. In the terms of the present discussion, much as Rycker is playing his game "well" by following the Catholic Church's directives, the game he is playing is not the marriage game at all.

<sup>12</sup>This is one of the rare instances where a papal encyclical identifies a book by its title in order to condemn it. The book is *Het volkomen huwelijk*, by the Dutch physician Theodoor H. van de Velde, published in 1926. True, the author's approach to sexual intimacy is naturalistic; he is also in favor of artificial birth control. Yet the book's basic intention is indicated by the subtitle "An Essay About Its [= the compleat marriage's] Physiology and Its Technique, for the Husband and the Physician]. Writing in a dignified style, van de Velde plainly wants to do something about the insensitivity of both many married men (an issue recognized by *HV* 17, albeit in the context of contraceptives), and many (mostly male) physicians, to the affective needs of married women, by pointing out that the perfunctory and often prudish manner in which couples practice sexual intimacy is (was?) both unhealthy and unnecessary. In that limited sense, van de Velde was well aware of the symbolic, interpersonal significance of marital intimacy.

what they teach is the art of skillful sinning rather than the virtue of chaste living."<sup>13</sup>

Obviously, in this passage, the attempt to teach is almost wholly lost in the rhetoric of taunt and wholesale disdain fashionable at the time in sexual matters. Still, even here the ground rule is clear: intrinsically, there is more to the morality of marital intimacy than correctness or proficiency in the anatomical, physiological performance of it.

It is time to sum up. The aim of *Humanae vitae* is not to impose an unqualified moral duty based on inexorable anatomical and physiological givens, but to issue an urgent pastoral and magisterial plea, based on distinctly humane and religious realities, which in human beings are inseparable from marital intimacy. Pope Paul VI implores, in a reasoned fashion, married couples to keep aspiring to growth in holiness and other-regarding love, and to support other couples by sharing and networking. No wonder its long final section addresses the culture of which the married are so vital a part and which must sustain them. It implores the powers that help shape the culture — educators, the media, governments and political leaders, scholars and scientists, the medical establishments, priests, bishops, and all people of good will — to foster a climate that favors a style of responsible parenthood that can stand the test of human integrity and does justice to what Max Scheler has called the "eternal in man."<sup>14</sup>

### "Honestum"

This conclusion is in keeping with the fact that the key term in *Humanae vitae*'s argument is the Latin word *honestum* ("worthy of praise, honorable, commendable"), along with its counterpart *inhonestum* ("not-to-be-commended, unbecoming, offensive"). The former occurs seven times,<sup>15</sup> the latter once, qualified by "intrinsically." It serves to avow, as a general norm, that the conjugal act, intentionally deprived of its fecundity, is "in and of itself offensive" (HV 14). Yet the striking feature of *Humanae vitae*, especially in comparison with *Casti connubii*, is not

<sup>13</sup>*Casti connubii* (Acta Apostolicae Sedis 22[1930]: 539-592), p. 582

<sup>14</sup>Cf. his *On the Eternal in Man* (Hamden, CT: Shoestring Press, 1972).

<sup>15</sup>HV 10, 11 (quotation from *Gaudium et spes*), 19, 21, 23, 24 (twice; the first being a quotation from *Gaudium et spes*).

so much the use of *honestum* as the absence of any negative moral qualifiers to appraise non-commendable behavior. The drastic terms (including *turpis*: “obscene”) — which *Casti connubii* does not shrink from applying to contraceptive intercourse — are now reserved for the media: “repulsive writings,” “dissolute behavior,” “obscene shows,” “this kind of turpitude” (HV 22). *Humanae vitae* is hardly a moralistic or vituperative tirade aimed at the married themselves.

What, then, is the force of *honestum* and *inhonestum* in *Humanae vitae*? There is every reason to assume that one reliable source for the meaning and significance of these twin terms is Aquinas’ discussion, in the four crisp articles that make up his *quaestio* on *honestas* in the *Summa theologiae*.<sup>16</sup>

*Honestas*, Aquinas explains, with a wealth of reference to Aristotle, Cicero, Augustine, and Pseudo-Dionysius, is *praiseworthiness*. Yet because praise and honor *can* be both pursued and bestowed on a-moral grounds (such as wealth), and for their own sake (as in the case of those who end up being famous just for being famous), not all that is *honestum* is virtuous. Why not? Because for something *honestum* to be virtuous, it must pass muster before the tribunal of *ratio*, i.e., reasonable judgment; that is to say, something must be “spiritually attractive.” However, *honestas* also implies *claritas* — an outstanding-ness for all the world to see. For example, God is said to be beautiful or attractive, for God is “the cause of whatever is harmonious and outstanding in the universe.”<sup>17</sup> So whereas virtue, properly speaking, is invisible, being a habitual *spiritual* disposition to do what is good, *honestum* is *any* disposition to act morally that commends itself as *publicly* attractive to those who judge things by the subtler light of reason and the invisible light of God. Small wonder, then, that *Humanae vitae* calls for both growth in spiritual maturity and the public support of marriage. No wonder, finally, *Humanae vitae* points out that *deliberate artificial birth control has in and of itself nothing to commend itself*. It is in and of itself *inhonestum*, and thus, never *positively* good.

<sup>16</sup>S. Th., II-II, 145.

<sup>17</sup>S. Th., II-II, 145, 2, in c. “Deus dicitur pulcher, sicut universorum consonantiae et claritatis causa.”

### *Contraception — How Sinful Is It?*

This leaves us with one final point to clear up. In *Humanae vitae*, Pope Paul VI teaches that contraception inside Christian marriage is morally dishonorable, sinful. The question is, How sinful? *The encyclical neither raises nor answers this question.*

Still, the question must be assumed to have been on its *authors'* minds. Unfortunately, it seems to have been overlooked by many of the encyclical's *interpreters*, despite its great importance to Catholic moral practice. It will take time to explain this.

Any treatment of this issue must start with the observation that *Casti connubii* bristles with nouns, adjectives, adverbs, and figures of speech that indicate just to what degree Pope Pius XI wishes Catholics to take the strongest possible exception to artificial birth control and to a culture that deems it reasonable to permit and even justify abortion, divorce, sexual experiment, and license. Precisely in this regard, however, *Casti connubii* must now be called insufficiently discriminating; it lumps all these issues together, and it does so only to condemn. By contrast, *Humanae vitae* differentiates very carefully. It recognizes the issues that have raised the issue of contraception, and then goes on to focus on the admissibility of contraception within marriage both in the Catholic church and outside it. It does so without having any illusions about the modern world's failure, or refusal, to be honest about the hidden ramifications of the culture of artificial birth control; what has vanished is *Casti connubii's* indignant, broad repudiation of the modern interest in human sexuality, reminiscent of both Victorian puritanism and Mediterranean male *gravitas* — two varieties of one and the same patriarchal prejudice. In *Humanae vitae*, these prejudices have given way to the recognition of *mutual* sexual intimacy within marriage as commendable and noble. One effect of this difference between the two encyclicals can be seen in the *divergent moral evaluations* of contraceptive behavior they imply.

### *Immoral Acts Occur On A Scale Of Sinfulness*

Naturally, what has just been explained implies that *immoral acts occur on a scale of sinfulness*. This proposition requires some fairly technical-theological explanation, which will take us, at least for the time being, a lot further afield than the issue of marital intimacy. Let us start with a

few quick scriptural and traditional points.

First of all, there is the basic issue. Consciousness that sin occurs in degrees of seriousness meets us — at least implicitly — in both the synoptics and the *Gospel of John*. In the latter, we encounter the repeated allegation, in the teeth of clear evidence to the contrary, that Jesus is possessed by a demon (*John* 7:20; 10:20; 8:48. 52). In the former, he is charged with being possessed by an unclean spirit and of being in league with Beelzebul, the ruler of demons, to which Jesus replies that Satan knows better than to have his enterprise — his “house” — fail by inside competition, and that “blasphemy against the Holy Spirit” — attributing to Satan what could only be the work of God’s immediate presence — is an unforgivable sin which stays eternally (*Mark* 3:22-27. 28-30 parr. *Matthew* 12, 22-37; *Luke* 11, 14-15. 17, 23; 12, 10; cf. *Matthew* 9: 32-34). In other words, his accusers are stubbornly maligning the very God they claim to know. Paul, too, obviously has *degrees* of sinfulness in mind when he orders the Corinthian community to excommunicate the man who had married his father’s wife (*1 Corinthians* 5:1-5), and when he warns the men in the community away from intercourse with prostitutes. The *First Letter of John*, too, knows of sin (*hamartia*) that equals “lawlessness” (*anomia*) but is forgivable because of the sinless Son of God, who became manifest (*ephanerth*) to take away all sins (*ta hamartia*). This implies that those who do not stop sinning are betraying they are still at least to an extent the devil’s children, not God’s. The letter is here dealing with sins that are “not unto death,” since, of course, it explains that when we see a brother or sister commit such sins, we are not to give up, but pray for him or her. Still, there *are* sins that are “unto death”; those who commit them don’t have a prayer (*1 John* 3:4-10; 5:16-18).<sup>18</sup>

Secondly, in this light, it is not surprising that the Christian community should have developed practices that introduced differentiation in penitential austerity — something already discernible in the mid-second century, in the *Shepherd of Hermas*. Accordingly, in the first few centuries, while secret sins were normally kept secret, absolution from

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<sup>18</sup>For a more detailed study of the various approaches to sin in the Scriptures, Piet Schoonenberg’s monograph *Man and Sin* ([Notre Dame, IN]: University of Notre Dame Press, 1965.) remains a classic resource. Cf. esp. pp. 1-40.

apostasy, murder, and known adultery long required "canonical" penance, public absolution, and formal readmission to the eucharistic community. Somewhat later, starting in the fifth century and especially in what is now known as Provence, where the bishops were often monks from the Rhône delta, ascetical expertise favored the development of catalogues and inventories of sins, often of unusual pastoral perceptiveness and compassion. In a still later development, private ("auricular") confession favored the even subtler categorization of sins found in the Irish penitentials; this enabled confessors to fit the penance to the individual sinner with greater refinement. The medieval growth in popularity of mortifications, pilgrimages, and indulgences took these refinements to new heights of subtlety, not infrequently of the hair-splitting, almost purely external, kind, to which the Reformation was to react by emphasizing trust in God's mercy and inward rejection of sin, and by scorning the scholastic distinction between "moral" and "venial" sin as an incentive to hypocrisy, ignorance, and mediocrity. While understandable as a critique of mere devotionality and popular ignorance, the Reformers disregarded the substantial philosophical and theological wisdom found in the scholastic understanding of virtue and sin at its pastoral best — the *secunda secundae* of Thomas Aquinas *Summa theologiae*.

The third point. Here, let us limit ourselves to the area of sexual morality. Aquinas' mature treatment of chastity and its opposite, *luxuria* or lechery, is found in the (unfinished) *Summa theologiae*. It starts with a recital of the traditional gamut of sexual license, on an ascending scale of gravity "simple fornication" (*fornicatio simplex*), i.e., intercourse between an unmarried man and a *ditto* woman; adultery (*adulterium*), i.e., intercourse between a married woman and a man other than her husband, or between a married man and a woman other than his wife; incest (*incestus*), i.e., intercourse between a married man or a *ditto* woman and a partner of the opposite sex within the (extended) family; rape (*stuprum*), i.e., molestation of a person of the opposite sex resisting intercourse; ravishment (*raptus*), i.e., rape combined with forceful abduction; and "sin against nature," i.e., sexual intercourse with a partner of the same sex and/or in an inappropriate orifice. After that, he develops a logically coherent treatment of all the possible sins of *luxuria*, which enables him to incorporate related issues. For instance, is fornication the most grievous sin? (No, homicide is worse.) Are fondling and kissing mortal sins? (Yes, if the intent is libidinous.) Is a wet

dream sinful? (Never, but thoughts before going to sleep may have been.) Is it possible for acts of *luxuria* to be sacrilegious? (Yes, if they involve a vowed religious, especially if she should offer resistance.) Which is the most sinful, which the least? (Sin against nature is the worst, simple fornication the least; the others are in between.) Is sexual abuse within marriage a form of *luxuria*? (No, but it is immoral and thus, sinful, on other, "circumstantial" grounds.)<sup>19</sup>

### *If Acts Of Luxuria Are Sinful, Just How Sinful Are They?*

Aquinas has no doubt about the answer to the *general* question as to whether acts of *luxuria* are sinful. By definition, *luxuria* respects neither the rational purpose nor the rational limits of the practice of sexual intimacy (*i.e.*, the *usus venereorum*, or "the use of the private parts"). This implies that *acts of luxuria* are always sinful. *The question is, how sinful?*

Before attempting an answer to this question, let us note that Aquinas, without explicitly explaining why, treats sinful acts and habits of *luxuria* only as they occur *outside marriage*. He explicitly regards all of them as gravely sinful — mortal sins — at least *in and of themselves*. But not a word about chastity and unchastity *within marriage*!

This issue of the *degree* of sinfulness of acts of *luxuria* did not begin to get an authoritative answer till the early seventeenth century, and it was severe. The issue was raised under the rubric of the *actus incompleti* — acts of sexual intimacy that stop short of orgasm. The first to take a public position was Claudio Aquaviva, General of the Society of Jesus, anxious to protect the order against the Inquisition. In 1612, he forbade Jesuits to teach that *luxuria procurata* — sexual activity *outside marriage* deliberately pursued — admitted of *parvitas materiae*; in other words, sins of *luxuria* must be treated as *in and of themselves mortal sins* — a proposition explicitly rejected by Aquinas.<sup>20</sup> Thirty-five years later, in 1647, Vincenzo Carafa, Aquaviva's second successor, tightened the doctrine to include acts of *luxuria admissa* — non-marital sexual pleasure enjoyed even if not actively pursued. The proposition was ratified

<sup>19</sup>S. Th., II-II, 154, 1-12; specifically 3, *in c.*; 4, *in c.*; 5, *in c.*; 10, *in c.* and *ad 2* and *ad 3*; 12, *in c.*

<sup>20</sup>S. Th. II-II, 154, 4, *ad 3*.



by a series of Roman Pontiffs (cf., e.g., *DH* 2013). It is still in force by virtue of what canonists term a "plurisecular tradition."<sup>21</sup> Nowadays, when (and if) taught in seminaries, it is routinely accompanied by the corollary that *in actual fact* many incomplete sexual acts outside marriage are venial sins.<sup>22</sup> Still, one does wonder how much seventeenth-century Catholic rigorism went into the making of the rule that acts of *luxuria* are *in and of themselves mortal sin*. Could it be a case of early Jesuit defensiveness inspired by early Jansenist accusations of laxity, which were to peak in Blaise Pascal's devastating *Lettres provinciales* of 1656-1657?<sup>23</sup>

These explanations finally enable us to complete our interpretation of *Humanae vitae* and draw a decisive conclusion, as follows.

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<sup>21</sup>By contrast, the only *discussion* of unchastity *within marriage* (as against a tangential reference *S. Th.* II-II, 154, 2, *ad* 6) I have found in Aquinas is found in the *Supplementum partis tertiae* to the *Summa theologiae*, an attempt to complete the *Summa* by treating the themes which Aquinas did not live to write, yet could be relied on to have taught. (The *Supplementum* must be read with caution; while using the *quaestio* method of Aquinas' *Summa*, it resorts to his earlier writings for the content, esp. the *Commentary on the Sentences*.) The instance I have in mind is Aquinas' judgment that it is a mortal sin to have intercourse with one's spouse in such a way that she might as well have been someone else sexually desirable (*Suppl.* 49, 6). Some prominent Catholic moralists have argued — not to the satisfaction of all their colleagues — that the position of Aquaviva and Carafa is Aquinas' as well. They quote *S. Th.*, II-II, 154, 4; *QD de Malo*, 15, 2, *ad* 18; and *QD de Ver.*, 15, 4, *in c.* in support of their contention. Cf. A. van Kol, *Theologia moralis* (two vols.; Barcelona: Herder, 1968), I, pp. 395-96 and the literature there.

<sup>22</sup>On this subject, cf. Alphonsus van Kol, *Theologia moralis*, vol. I, pp. 394-97, and the bibliography there. The 1949 edition of the Jesuit *Epitome* still carries the prohibition, under threat of a *censura*: can. 913; I have not found a parallel in the 1996 English edition of the *Constitutions* and the complementary norms.

<sup>23</sup>For a brief, balanced, and lucid account of this major episode in the history of West-European Catholicism, cf. Robert Bireley, *The Refashioning of Catholicism, 1450-1700* (Washington, DC: The Catholic University of America Press, 1999), pp. 188-1700. The Marietti edition of the *Summa* (22nd ed., 1939) shows a case of the nervous preoccupation I have in mind. No sooner has Aquinas stated, in *S. Th.*, II-II, 153, 3, *in c.*, that *luxuria* is indubitably sinful (*absque dubio luxuria est peccatum*) than the editor rushes to the reader's rescue by adding, in a footnote, that the whole *genus* of *luxuria* is mortal sin, and quotes Gal 5, 21 to "prove" it.

## *Luxuria Inside Marriage: How Sinful?*

Plainly, in writing *Humanae vitae*, Pope Paul VI has every intention of teaching that contraception is intrinsically wrong. Thus, he finds it impossible to *commend* it, as “a positively good thing to do.” Those, he implies, who teach that it *is* a positively *good* thing to do are fanning the flames of lechery in the culture and indirectly favoring the culture of abortion. Accordingly, he makes it plain that the Catholic church’s *magisterium* can never ratify it. However, there is no reason *not* to assume that Pope Paul VI intended to imply something which he may well have considered unwise to state explicitly, namely, that *within marriage* contraceptive acts (and, *a fortiori*, incomplete acts), while *in and of themselves sinful*, are not necessarily in and of themselves *mortally* sinful. This leaves open the question if *in practice* contraceptive acts are often “only” venially sinful, or even (by reason of at least occasional lack of full deliberation) *not sinful at all*.<sup>24</sup> If this interpretation should be correct, then the teaching of *Humanae vitae* is (at least by default, it would appear), far less rigoristic and far more humane and merciful than the teaching of *Casti connubii*.

This conclusion is important enough to make a brief review of the logic of the present argument worthwhile, as follows.

## *Conclusion*

In the modern period, the Catholic church’s explicit teaching has been that acts of sexual intimacy, including incomplete acts, are *in and of themselves* mortally sinful; this implies that only lack of freedom and intention can excuse from mortal sin those engaging in illicit sexual activity. Still, what has eluded the attention of most is that this precept has always been specifically addressed to sex-partners *who are not married*. It has never been *taught* that “illicit sexual activity is mortal sin” is valid across the board, to each and all, married and unmarried. It may have been widely *thought*, and the opposite may have *appeared* to be the case, especially in parts of the Catholic church touched by Jansenism

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<sup>24</sup>The French and Canadian bishops’ treatments of *Humanae vitae* focus on conscience; they do not adopt the position adopted here, yet their teaching is compatible with it. Cf. Janet E. Smith, *Humanae Vitae: A Generation Later*, pp. 148-60.

or by excessive deference to "Rome," but it does not have magisterial authority behind it. This invites further reflection.

### *Marital Love Beyond Morality?*

In the tradition upheld by *Humanae vitae*, marriage is a state, not of two separate *individuals* who retain all the rights they enjoy as individuals, but of two freely, spiritually committed persons. Only as such can it be a *school of fruitful mutual love*. But schools do not expect learners to arrive mature. So, if marriage is a school, then anxious, fumbling, immature, and even mistaken acts of intimate love are more readily pardonable, *and in that sense venial, even when deliberately undertaken*.<sup>25</sup> For married people are called to something that, even if viewed as a *natural* state, is beyond the pale of mere morality.<sup>26</sup>

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<sup>25</sup> It is dishonest to argue that contraception in marriage is a venial sin by virtue of defect of intention and/or freedom; people contracept deliberately, if usually under emotional pressure. What is here argued is that deliberate non-commendable and, thus, intrinsically dishonorable acts practiced by people seeking growth in other-regarding love are easily pardonable and *in that sense* venial. Could this be the reason behind Paul VI's insistence that "the Church understands" (HV 19-20)? Could it be why he commends the Eucharist as the fount of grace and "charity," and *only then* reminds the married of the wealth of forgiveness offered in the sacrament of Penance (25)?

<sup>26</sup> This raises, of course, the issue signaled by Joseph Fuchs over forty years ago: Is there a *specifically Christian morality*? Firstly, by virtue of their very nature, sexual differentiation and attraction amount to an invitation to, and have a potential for, de-centered, self-abandoning, other-regarding love, which (while not entirely separable from the world of responsible morals) will lead human beings both individually and together to the threshold of the properly theonomic life. Secondly, grace does not add something alien to nature but supposes and actualizes, so marital commitment lived by way of a participation in the faithful love of the Father and the Son and of Christ and the Church brings to actuality what human beings have from time immemorial symbolized as the natural potential of sexual differentiation and attraction. To back up this position, Catholic theology is free to refer the exuberant and extravagant wedding-feast rituals found in virtually every culture; in fact, this position is behind a proposal formulated elsewhere, viz., that Christian theology can interpret not only the *Christian faith but also non-Christian positive religions* as the concrete shape of *grace*, and hence, accord to them a theological superiority over natural religiosity: *God Encountered: A Contemporary Catholic Systematic Theology* (vol. 1; 2nd ed.; Collegeville, MN: The Liturgical Press, 1998), §26, 2; cf. §23, 3, b.

This thesis, while possibly surprising, reminds us of the fact that marital intimacy and religious faith are profoundly connected in almost every religious culture. Sexual differentiation and attraction, therefore, are connected with religious awe and observance *in and of themselves*. In the Jewish and Christian imagination, married life is and remains first and foremost *worship* — a sacrifice offered to a God who is both transcendent and faithful. The opening of *Humanae vitae* puts this in unmistakable words:

The transmission of human life is a most serious undertaking [*munus*]. On its strength, married couples offer to God the Creator their service, consciously and freely undertaken. For themselves, it has always been a great joy to do so; yet the joy regularly brings great hardship and anguish with it (*HV* 1).

In other words, marriage is a *school of holiness*: “staying with it has always faced the married with hard questions, matters of conscience.”<sup>27</sup>

Now is it not the case that learners in the school of God-like love remain learners as long as they do not decide that mediocrity in love is what they want — a decision which would make them settle for a lower, less mature form of marital love? And does this not imply that for a weak, sinful, *yet basically generous* couple committed to loyal love and to the new human lives that are apt to spring from it, some mutually agreed-upon artificial birth control practices may well be a conscientious and understandable, if less-than-ideal tide-over strategy, at least now and then?<sup>28</sup>

By contrast, a firm decision in favor of comfortable mediocrity, of course, *will* affect a marriage’s mettle. In such a case, the option in favor of artificial birth control will no longer be a less-than-entirely-good tide-over strategy; instead, it will turn into the chief tool of what Pope John Paul II has termed a “contraceptive mentality” (*mens contra conceptionem: Evangelium vitae*, 13). This in turn may well lead a couple

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<sup>27</sup>*HV* 1: “Quod munus sustinere . . . omni tempore coniugum conscientiae arduas facessivit quaestiones.”

<sup>28</sup>On a more personal note, I have heard many committed Christian couples speak along these lines; and I have never heard committed Christian couple declare that they viewed this kind of artificial birth control as a positive moral good.

to where all that is left of their marriage is (to quote Dylan Thomas) "love and its patients roaring on a chain."<sup>29</sup>

But this implies a conclusion of great theological weight: within "the marriage of true minds,"<sup>30</sup> morality is a limited, *non-ultimate* good. What, then, is ultimate? Answer *the other one*, loved for the sake of himself or herself, in radical self-abandon — that is, for better for worse, for richer for poorer, "*till death do us part*." This makes Christian marriage (along with its traditional alternative in the Christian community, the vowed single life) the noblest demonstration of the proposition that the *ethical* life — the life of virtuous and responsible engagement with otherness — while sound and moral in its own right, is not "self-authenticating or self-justifying." Yes, we human beings and communities — moral as we owe it to our nature to be — have a way of getting stuck in the witches' circle of human justice (capital punishment and war being the most obvious examples). Still, like it or not, deep down — "after virtue" but not *just* after — we will plead for the gift of loving self-abandon.

But what is "loving self-abandon"? Even more decisively, how to take its measure? The *Song of Songs* provides the Great Tradition with the answer: love is incomplete until it consents to letting itself be measured by death.

For strong as death is Love,  
inexorable as the realm of the dead is passion;  
its flames are flames of fire;  
a coup de foudre is Love, is the Lord.  
(*Song of Songs* 8:6)

The fourth gospel and the author of John's first letter agree:

I am the good shepherd I know my own and my own know me ...  
and I lay down my life for my sheep ... No one has greater love  
than those who lay down their lives for those they love ... This has  
taught us love he gave up his life for us.  
(Jn 10:14-15; 15:13; 1 Jn 3:16)

<sup>29</sup>*Collected Poems 1934-1952* (London: J. M. Dent & Sons, 1953), p. 124.

<sup>30</sup>William Shakespeare, *Sonnet* 116.

Jan van Ruusbroec shows he understands the same thing when he writes about “dying into God”:

And as often as such persons are allowed, by means of love, to die to themselves into God’s super-essential freedom (whether in abundance or in dearth), so often their innermost richness is renewed and grows, as well as the fiery blaze of their love.<sup>31</sup>

Poets of all ages have intuited the links between love and sorrow. Thus (to quote only one example out of thousands) Dylan Thomas can write:

In my craft or sullen art  
Exercised in the still night  
When only the moon rages  
And the lovers lie abed  
With all their griefs in their arms,  
I labour by singing light

.....

But for the lovers, their arms  
Round the griefs of the ages,  
Who pay no praise or wages  
Nor heed my craft or art.<sup>32</sup>

All of us know this, at least from occasional experience. It is both charming and embarrassing, but invariably deeply touching (if, that is, we do not joke or cackle it out of court for sheer embarrassment) whenever a loyal wife or husband finds herself or himself suddenly at a loss when asked to give an account of why their partner loves them, despite all their foibles. They will not know what to say. For love resists rational itemization — Shakespeare knew it and played with it in *Twelfth Night*.<sup>33</sup> In the last resort, no repertory of reasons will account for faith-

<sup>31</sup>*Van den gheesteliken tabernakel*, (Mechelen/Amsterdam: Het Kompas/De Spiegel, 1934), Bcviii, p. 231 (“& Ende alsoe-dicke else ...”).


<sup>32</sup>*Collected Poems 1934-1952*, p. 128.

<sup>33</sup>*Twelfth-Night*, I. v. 264-70 [*Olivia*] O! sir, I will not be so hard-hearted; I will give out divers schedules of my beauty it shall be inventoried, and every particle and utensil labeled to my will as *Item*, Two lips, indifferent red; *Item*, two gray eyes, with lids to them; *Item*, One neck, one chin, and so forth. Were you sent hither to praise [= appraise] me?

ful, faith-filled love. No parents can give anyone, not even their own children, any satisfactory explanation. Even the most intelligent love is beyond reason — a proposition with which the Great Tradition has been thoroughly familiar, having understood that faith best recognizes and respects natural limits *in the act of going beyond them*:

*Le cœur a ses raisons que la raison ne connaît point; on le sait en mille choses.*<sup>34</sup>

That is to say, *total* self-abandon, unsupported by *otherwise reasonable apologias and self-justifications* — puts morality in its proper place. How so? By virtue of its very nature morality must operate within the park of right reason, *yet without allowing either reason or morality to define human life in ultimate terms*.

This proposition is likely to have moral-theological consequences of no small moment. To mention only one, forgiveness puts justice — and thus, morality — in its place; "I look for mercy, not sacrifice." But that story must be told some other day. 

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<sup>34</sup>"The heart has reasons of its own, which reason does not know at all; we know it from a thousand experiences" Blaise Pascal, *Pensées* 423 (Brunschvicg 277), *Oeuvres complètes*, p. 552.