

Changing Ecclesial Contexts, Developments in Catholic Health Care Ethics, & the Impact on the Catholic Health Ministry

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Preliminary Comments

- Ethics, understood as any behavior or decision that impacts human dignity (rights, well-being, quality of life) & the common good, ultimately focuses on two essential aspects of human life & interaction



BEING

Who we ought to become as persons, institutions, societies



DOING

How we ought to act in relation to others (people, God, creation)

and

Preliminary Comments (cont.)

- How we view & approach the essential ethical questions of being/identity & doing/integrity as individuals & institutions is influenced by multiple factors
- For Catholic health care (CHC) two important factors are the ecclesial context & developments in Catholic health care ethics

Session Overview

- Describe changing ecclesial contexts
- Reflect on developments in Catholic health care ethics in light of changing ecclesial context
- Discuss impact of changing contexts & developments on CHC
- Highlight positive possibilities & renewed directions for CHC

Changing Ecclesial Contexts

Time Past, Time Present

- *Vatican II Openness*

- **Humble Church**

- Openness to world & other religions
- Search for moral truth
- Essential role of laity
- Collegial model of governance

- *Post-Vat. II Retrenchment*

- Self-confident Church
- Suspicion of world & other religions
- Possession of moral truth
- Dominant role of magisterium
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Vatican II Openness

Humble View of Church

- The Church of Christ, “constituted & organized as a society in the present world, ***subsists*** in the Catholic Church, which is governed by the successor of Peter & by the bishops in communion with him. Nevertheless, ***many elements of sanctification & of truth are found outside*** its visible confines” (*Lumen Gentium* (LG), Dogmatic Constitution on the Church, n. 8, emphasis added).

Vatican II Openness

Humble View of Church

- "Christ, 'holy, innocent, & undefiled' knew nothing of sin but came only to expiate the sins of the people. The Church, *however*, clasping sinners to her bosom, at once holy & *always in need of purification*, follows constantly the path of penance & renewal" (LG, n. 8, emphasis added).

Vatican II Openness

Humble View of Church

- “Although by the power of the Holy Spirit the Church will remain the faithful spouse of her lord & will never cease to be the sign of salvation on earth, still she is very well aware that among her members, ***both clerical & lay***, some have been unfaithful to the Spirit of God during the course of many centuries; in the present age, too, it does not escape the Church ***how great a distance lies*** between the message she offers & the human failings of those to whom the gospel is entrusted” (*Gaudium et Spes (GS)*, Pastoral Constitution on the Church in the Modern World, n. 43, emphasis added).

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Vatican II Openness

Openness to World & Other Religions

- "In addition, the Catholic Church gladly holds in high esteem the things which *other Christian churches & ecclesial communities* have done or are doing . . . At the same time, she is convinced that she can be *abundantly & variously helped by the world* in the matter of preparing the ground for the gospel. This help she gains from the talents & industry of individuals & from *human society as a whole*" (GS, n. 40, emphasis added).

Vatican II Openness

Openness to World & Other Religions

- "Just as it is in the world's interest to acknowledge the Church as a historical reality, & to recognize her good influence, so the Church herself knows *how richly she has profited* by the history & development of humanity. The *experience of past ages, the progress of the sciences, & the treasures hidden in the various forms of human culture*, by all of which the nature of [humanity] is more clearly revealed & new roads to truth are opened, *these profit the Church, too*" (GS, n. 44, emphasis added).

Vatican II Openness

Openness to World & Other Religions

- “The Catholic Church *rejects nothing of what is true & holy in these religions*. She has a *high regard* for the manner of life & conduct, the precepts & doctrines which, although *differing in many ways* from her own teaching, nevertheless often *reflect a ray of that truth* which *enlightens* [humanity]” (*Nostra Aetate (NA)*, Declaration on the Relation of the Church to Non-Christian Religions, n. 2, emphasis added).

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Vatican II Openness

Search for Moral Truth

- “The Church guards the heritage of God’s word & draws from it moral & religious principles *without always having at hand the solution to particular problems*” (GS, n. 33, emphasis added).
- “When it comes to the question of interventions in the prudential order, it could happen that *some Magisterial documents might not be free from all deficiencies. Bishops & their advisors* have not always taken into immediate consideration every aspect or the entire complexity of a question” (CDF, *Instruction on the Ecclesial Vocation of the Theologian*, n. 24, emphasis added).
- “Special attention needs to be given to the development of moral theology. Its scientific exposition should be more thoroughly nourished by scriptural teaching. It should show the *nobility of the Christian vocation* of the faithful, & their obligation to bring forth fruit in charity for the life of the world” (*Optatum Totius (OT)*, Decree on Priestly Formation, n. 16, emphasis added).

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Vatican II Openness

Essential Role of Laity

- “Although by Christ’s will some are established as teachers, dispensers of the mysteries & pastors for the others, there remains, nevertheless, ***a true equality between all*** with regard to the dignity & to the activity which is common to all the faithful in the building up of the Body of Christ” (LG, n. 32, emphasis added).
- With regard to relationship between laity & clergy, the Council quoted St. Augustine: “When I am frightened by what I am to you, then I am consoled by what I am with you. To you I am the bishop, with you I am a Christian. The first is ***an office***, the second ***a grace***; the first ***a danger***, the second ***salvation***” (LG, n. 32, emphasis added).

Vatican II Openness

Essential Role of Laity

- "The apostolate of the laity *is a sharing in the salvific mission* of the Church. . . . The laity, however, are given this special vocation: to make the Church present & fruitful in those places & circumstances where it is only through them that she can become the salt of the earth. Thus, *every lay person*, through those gifts given to him, is *at once the witness & the living instrument of the mission* of the Church itself 'according to the measure of Christ's bestowal'" (LG, n. 33, emphasis added).

Vatican II Openness

Essential Role of Laity

- “Until the full manifestation of his [Christ’s] glory, he fulfills the prophetic office, ***not only by the hierarchy*** who teach in his name & by his power, ***but also by the laity***. He accordingly both ***establishes them as witnesses*** & provides them with the ***appreciation of the faith (sensus fidei)*** & the ***grace of the word*** so that the power of the Gospel may shine out in daily family & social life” (LG, 35, emphasis added).

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Post-Vat. II Retrenchment

Self-Confident Church

- “The Catholic faithful are required to profess that there is an historical continuity—rooted in the apostolic succession—between the Church founded by Christ & the Catholic Church: . . . This Church, constituted & organized as a society in the present world, subsists in [subsistit in] the Catholic Church, governed by the Successor of Peter & by the Bishops in communion with him”. With the expression subsistit in, the Second Vatican Council sought to harmonize two doctrinal statements: on the one hand, that the *Church of Christ*, despite the divisions which exist among Christians, *continues to exist fully only in the Catholic Church*, & on the other hand, that “outside of her structure, many elements can be found of sanctification & truth”, that is, in those Churches & ecclesial communities which are not yet in full communion with the Catholic Church. *But* with respect to these, it needs to be stated that “they derive their efficacy from the very fullness of grace & truth entrusted to the Catholic Church” (CDF, *Dominus Iesus (DI)*, Declaration on the Unity & Salvific Universality of Jesus Christ & the Church, 6 August 2000, n. 22, emphasis added).

Post-Vat. II Retrenchment

Self-Confident Church

- “With the coming of the Saviour Jesus Christ, God has willed that the Church founded by him be the instrument for the salvation of all humanity (cf. *Acts* 17:30-31). This truth of faith does not lessen the sincere respect which the Church has for the religions of the world, ***but at the same time***, it rules out, in a radical way, that mentality of indifferentism ‘characterized by a religious relativism which leads to the belief that “one religion is as good as another.”’ If it is true that the followers of other religions can receive divine grace, it is also certain that objectively speaking they are in a ***gravely deficient situation*** in comparison with those who, in the Church, have the fullness of the means of salvation” (*DI*, n. 22, emphasis added).

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Post-Vat. II Retrenchment

Suspicion of World & Other Religions

- “Unfortunately, this disturbing state of affairs, far from decreasing, is expanding: with the new prospects opened up by *scientific & technological progress* there arise new forms of attacks on the dignity of the human being. At the same time a *new cultural climate is developing* & taking hold, which gives crimes against life a new &-if possible-even more sinister character, giving rise to further grave concern: *broad sectors of public opinion* justify certain crimes against life in the name of the rights of individual freedom, & on this basis they claim not only exemption from punishment but even authorization by the State, so that these things can be done with total freedom & indeed with the free assistance of health-care systems” (Pope John Paul II, *Evangelium Vitae (EV)*, The Gospel of Life (25 March 1995), n. 4, emphasis added).

Post-Vat. II Retrenchment

Suspicion of World & Other Religions

- "This reality is characterized by the *emergence of a culture* which denies solidarity & in many cases takes the form of a veritable '*culture of death*'. This culture is actively fostered by powerful cultural, economic & political currents which encourage an idea of society excessively concerned with efficiency. Looking at the situation from this point of view, it is possible to speak in a certain sense of *a war of the powerful against the weak*: a life which would require greater acceptance, love & care is considered useless, or held to be an intolerable burden, & is therefore rejected in one way or another. A person who, because of illness, handicap or, more simply, just by existing, compromises the well-being or life-style of those who are more favored tends to be looked upon as an enemy to be resisted or eliminated (*EV*, n. 12, emphasis added).

Post-Vat. II Retrenchment

Suspicion of World & Other Religions

- “We are moving toward a *dictatorship of relativism* which does not recognize anything for certain & which has as its highest goal one’s own ego & one’s own desires” (Cardinal Joseph Ratzinger, 18 April 2005, homily prior to conclave, emphasis added).
- “The essential things in history begin always with the small, more convinced communities. So the Church begins with the twelve Apostles. . . . Smaller numbers, I think. But from these small numbers we will have a radiation of joy in the world. And so, it’s an attraction, as it was in the old Church” (Cardinal Joseph Ratzinger, interview on EWTN).

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Post-Vat. II Retrenchment

Possession of Moral Truth

- “Christians have a great help for the formation of conscience *in the Church & her Magisterium*. As the Council affirms: ‘In forming their consciences the Christian faithful must give careful attention to the sacred & certain teaching of the Church. For *the Catholic Church is by the will of Christ the teacher of truth*. Her charge is to announce & *teach authentically that truth* which is Christ, & at the same time with her authority to declare & confirm the principles of the moral order which derive from human nature itself’. It follows *that the authority of the Church, when she pronounces on moral questions, in no way undermines the freedom of conscience of Christians*. This is so not only because freedom of conscience is never freedom ‘from’ the truth but always & only freedom ‘in’ the truth, but also because the Magisterium does not bring to the Christian conscience truths which are extraneous to it; rather it *brings to light the truths which it ought already to possess*, developing them from the starting point of the primordial act of faith. The Church puts herself always & only at the *service of conscience*, helping it to avoid being tossed to & fro by every wind of doctrine proposed by human deceit (cf. *Eph 4:14*), & helping it not to swerve from the truth about the good of man, but rather, especially in more difficult questions, to attain the truth with certainty & to abide in it” (Pope John Paul II, *Veritatis Splendor (VS)*, The Splendor of Truth, (6 August 1993) n. 64, emphasis added).

Post-Vat. II Retrenchment

Possession of Moral Truth

- "Because the *Church has been sent by Jesus to preach the Gospel* & to 'make disciples of all nations..., teaching them to observe all' that he has commanded (cf. *Mt 28:19-20*), *she today once more puts forward the Master's reply, a reply that possesses a light & a power capable of answering even the most controversial & complex questions...* It is in the same light & power that *the Church's Magisterium continues to carry out its task of discernment*, accepting & living out the admonition addressed by the Apostle Paul to Timothy: 'I charge you in the presence of God & of Christ Jesus who is to judge the living & the dead, & by his appearing & his kingdom: preach the word, be urgent in season & out of season, convince, rebuke, & exhort, be unfailing in patience & in teaching. For the *time will come when people will not endure sound teaching*, but having itching ears they will accumulate for themselves teachers to suit their own likings, & will *turn away from listening to the truth* & wander into myths. As for you, always be steady, endure suffering, do the work of an evangelist, fulfil your ministry" (2 *Tim 4:1-5*; cf. *Tit 1:10, 13-14*)" (*VS*, n. 30, emphasis added).

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Post-Vat. II Retrenchment

Dominant Role of Magisterium

- "In particular, as the Council affirms, *'the task of authentically interpreting the word of God, whether in its written form or in that of Tradition, has been entrusted only to those charged with the Church's living Magisterium, whose authority is exercised in the name of Jesus Christ'* (VS, n. 27).
- Fails to mention, the Council went on to say... "Its [the magisterium's] authority in this matter is exercised in the name of Jesus Christ. Yet this Magisterium *is not superior to the Word of God, but is its servant. It teaches only what has been handed on to it"* (*Dei Verbum* (DV), Dogmatic Constitution on Divine Revelation, n. 10, emphasis added).

Post-Vat. II Retrenchment

Dominant Role of Magisterium

- “The Church's Magisterium intervenes not only in the sphere of faith, but also, & inseparably so, *in the sphere of morals*. It has the task of ‘discerning, by means of judgments normative for the consciences of believers, those acts which in themselves conform to the demands of faith & foster their expression in life & those which, on the contrary, because intrinsically evil, are incompatible with such demands’. In proclaiming the commandments of God & the charity of Christ, *the Church's Magisterium also teaches the faithful specific particular precepts & requires that they consider them in conscience as morally binding*. In addition, the Magisterium carries out an important work of vigilance, warning the faithful of the presence of possible errors, even merely implicit ones, when their consciences fail to acknowledge the correctness & the *truth of the moral norms which the Magisterium teaches*” (VS, n. 110, emphasis added).

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Developments in Catholic Health Care Ethics (CHCE)

Preliminary Comments

- The shift in ecclesial context over the years has significantly influenced CHCE & its approach to concrete issues
- What follows are my reflections on how the shift to *Post-Vatican Retrenchment* has shaped CHCE

CHCE Today

- **Act-centered, rule-based, deductive approach to ethical issues**
- Narrow view of Catholic identity with a virtually exclusive focus on life issues
- Physicialist/functional view of person & vitalist approach to human life
- Emphasis on authority & fidelity to magisterium

CHCE Today

Act-Centered...

- The person, her/his pursuit of human flourishing, & human experience as well as concrete circumstances are not the central moral considerations
- Rather, there is an emphasis on immutable principles derived from natural law, intrinsically evil actions, & absolute concrete norms which are simply applied to concrete issues
- We see this, for instance, in current approaches to treatment of ectopic pregnancy & medically indicated sterilizations

Richard McCormick, S.J., on Sterilization

- Against the thinking that all direct sterilizations are always wrong, Fr. Richard McCormick, SJ, commented: "I know a prominent (non-Catholic) pediatric surgeon. He & his wife have eleven children. The last was slightly retarded, so the wife had a tubal ligation performed. The couple then adopted three more children, an Indian, a black & a retarded child. Anyone who argues that the tubal ligation involved this couple in 'acting against' the power to give life or the 'procreative good' is arguing from a mountain top that is thickly insulated from the real world by a coronal mist" ("Sterilization: The Dilemma of Catholic Hospitals," in *The Critical Calling* (Georgetown University Press, 1989), p. 277).

Richard McCormick, S.J., on Sterilization

- "I shall not enter the niceties of the theological argument on this point [that direct sterilization is intrinsically evil] except to point out that if the Church says that the direct taking of the full integrity of procreative capacity is intrinsically evil, she is asserting something about procreative capacity that she has refused to assert about life itself" ("Sterilization as a Catholic Institutional Problem," in *How Brave a New World* (Doubleday & Co., 1981), p. 273).

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CHCE Today

Narrow View...

- Identity of individual Catholics bound up with fidelity to certain issues: abortion, contraception & sterilization, homosexuality, divorce & remarriage, women's ordination
- Identity of CHC organizations tied to procedures we do not perform & other more narrow elements (e.g., display of religious artifacts, priestly celebration of sacraments, Catholic directors of spiritual care, etc.) with broader concerns & values downplayed or forsaken altogether

CHCE Today

Narrow View...

- With this is the focus on a narrow set of issues
 - Treatment of female victims of sexual assault
 - Contraception & sterilization
 - Donation after cardiac death
 - Induced early delivery of severely impaired fetuses
 - Embryonic stem cell research & cloning
 - Artificial nutrition & hydration (ANH)
- Left out are important ethical issues in health care like access, reform, disparities, safety, workplace justice

CHCE Today

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- Narrow view of Catholic identity with a virtually exclusive focus on life issues
- **Physicianist/functional view of person & vitalist approach to human life**
- Emphasis on authority & fidelity to magisterium

CHCE Today

Physicalist/Functional View...

- Despite claims to the contrary, hard to argue otherwise when one considers approaches to ectopic pregnancy, artificial insemination with perforated condom, gamete intrafallopian transfer
- Debate on ANH has exposed a vitalistic tendency where benefit is reduced to sustaining life & physical life is elevated above all other goods
 - “Such measures [nutrition & hydration] must not be withdrawn in order to cause death, but they may be withdrawn if they offer no reasonable *hope of sustaining life* or pose excessive risks or burdens” (emphasis added; USCCB Pro-Life Committee, “Nutrition and Hydration: Moral and Pastoral Reflections,” 1992).

Breaking from Tradition?

Cronin	CDF 1980	John Paul II	Rigali/Lori
<p>“Another point to understand clearly is the fact that in determining whether a means offers proportionate hope of success & benefit, <i>one must consider some relative factors</i>. It is <i>hardly possible to establish categorically</i> that a particular means will always offer proportionate benefit under all circumstances & to all people. In other words, it is <i>difficult to establish an absolute norm</i> when determining the required hope of success & benefit in <i>any procedure</i> designed to conserve life.”</p>	<p>“It will be possible to make a correct judgment as to the means by studying the type of treatment to be used, its degree of complexity or risk, its cost & the possibilities of using it, & comparing these elements with the result that can be expected, taking into account the state of the sick person & his or her physical & moral resources.”</p>	<p>“the administration of water & food, even when provided by artificial means, always represents a <i>natural means</i> of preserving life, not a <i>medical act</i>. Its use, furthermore, should be considered in principle, <i>ordinary & proportionate</i>, & as such morally obligatory, insofar as . . . consists in providing nourishment to the patient & alleviation of his suffering.”</p>	<p>“Pope John Paul II & his successor held that <i>food & water</i>, even when their provision may require technical medical assistance, constitute the ‘<i>basic care</i>’ that patients should receive. The value of such medical assistance is <i>not</i> to be judged by its <i>efficacy in curing</i> the patient or <i>improving</i> the patient’s condition.”</p>

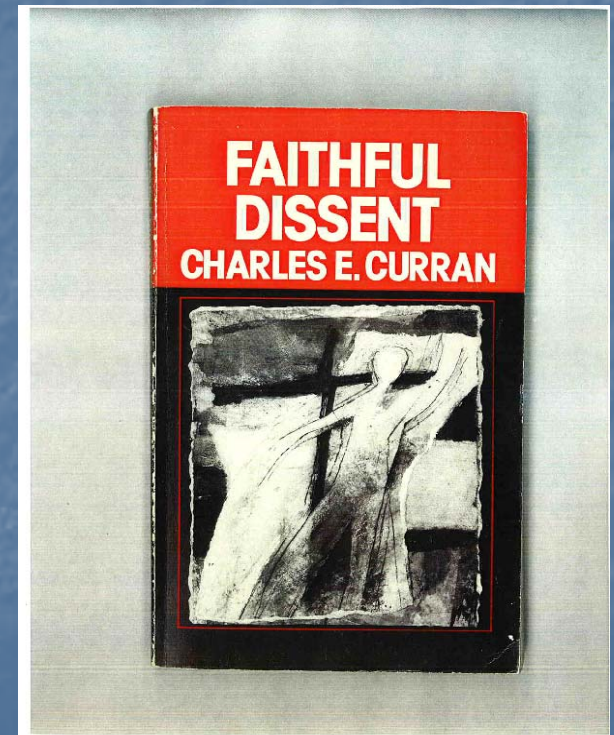
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CHCE Today

Emphasis on Authority...

- Rather than dialogue, recourse to authority
 - Starts with *Humane Vitae*
 - Host of other issues, for example:
 - Women's ordination
 - Sterilization
 - Sisters of Mercy of the Union & the CDF "dialogue"
 - Debate over proportionalism
 - Explicit silencing of theologians & pastoral ministers
 - Fr. Hans Kung, Leonardo Boff, Fr. Charles Curran, Sr. Jeannine Grammick, Fr. Robert Nugent, Fr. Roger Haight



CHCE Today

Emphasis on Authority...

- Emphasis on authority also reflected in recent hierarchical statements such as a recent article by Cardinal Rigali & Bishop Lori on ANH, wherein they state:
 - CDF document "is an *authoritative statement* of moral truth, *reaffirming* a teaching by the Catholic Church's ordinary magisterium" ("On Basic Care for Patients in the 'Vegetative' State," *Health Progress* (May-June 2008): p. 70-72, at 70, emphasis added).

CHCE Today

Emphasis on Authority...

- All this has led to:
 - A diminished role for laity & theologians alike
 - A dearth of creative theological work (especially in CHCE)
 - A single, dominant voice that echoes the teachings of the magisterium
 - A one-sided exercise of the Church's teaching authority

Exercise of Teaching Authority

- “With respect to the exercise of the Church’s teaching office [or authority], this would involve a prayerful study of the Church’s tradition (giving *primacy of place to the testimony of Scripture*), a consultation of scholars & theologians (*representing diverse schools of thought* & theological/historical perspectives), a consideration of the *insights of pertinent related fields* (e.g., the contribution of the social sciences or genetics), and an attempt to discern the *sense of the faithful* in & through whom the Spirit also speaks” (Richard A. Gaillardetz, *By What Authority?* (Collegeville, MN: Liturgical Press, 2003), p. 65, emphasis added).

Impact on Catholic Health Care & Renewed Directions

Being-Doing Impact

- Changing ecclesial context & developments in Catholic ethics impact CHC's self-understanding & approach to many issues noted above & others:
 - Right of employees to refrain from performing, informing, referring for proscribed services
 - The formation of partnerships with other-than-Catholic providers
 - Cooperation with philanthropic organizations

A Paradox

- CHC embodies & reflects many elements of *Vatican II Openness* as its main focus is on bringing the gospel & the broader tradition (including CST) to bear on complex, changing circumstances
- Acceptance of others & religious diversity, seeking common ground in a pluralistic society, finding creative solutions to complex moral problems, vital role for laity

A Paradox (cont.)

- In some sense this places CHC at odds with a *Post-Vatican II Retrenchment* Church which is more focused on orthodoxy ("right belief") & orthopraxy ("right practice") & views CHC with suspicion
- At the same time, it also places CHC at odds with *modern, secular society* which is more focused on self-determinism, moral plurality, & technological advancement & views CHC as a sectarian group trying to impose its beliefs on others

Irresolvable Tension

- This creates an irresolvable tension for CHC that challenges how we understand ourselves (being-identity) & how we act in concrete circumstances (doing-integrity)
- Given the importance of our health ministry (*both for & to*), we must persevere & continue to learn to live amidst the tension
- This is possible with (1) a clear sense of identity that translates into (2) certain core activities & (3) a distinctive style of approaching concrete situations

Living Amidst the Tension

(1) CHC is motivated first & foremost out of its faith in the redemptive act of Jesus Christ, which provides us with a worldview that causes us to see things in a different light

- Among other things, faith sensitizes us to the true meaning of persons, sharpens & intensifies our focus on the human goods definitive of our flourishing (e.g., health care), & provides the motivation that stamps all our actions

- Writing on the distinctiveness of Christian ethics, McCormick suggests something of the Christian that is relevant for CHC:
 - Faith in God's covenant with humanity, especially as manifested in the saving incarnation of Jesus Christ, "love & loyalty to this central figure, yields a decisive way of viewing & intending the world, of interpreting its meaning, of hierarchizing its values. . . It aids us in staying human by underlining the truly human against all cultural attempts to distort the human."

- McCormick goes on to write:
 - Faith does not provide concrete answers, but rather provides “a worldview that informs” reasoning. “This worldview is a continuing check on & challenge to our tendency to make choices in light of cultural enthusiasms which sink into & take possession of our unwitting, pre-ethical selves. Such enthusiasms can reduce the good of life to mere adjustment in a triumph of the therapeutic; collapse an individual into his [or her] functionality; exalt his [or her] uniqueness into a lonely individualism or crush it into a suffocating collectivism.”

Richard A. McCormick, S.J., “Does Religious Faith Add to Ethical Perception,” in *Readings in Moral Theology No. 2*, ed. Charles A. Curran & Richard A. McCormick, S.J., (New York: Paulist Press, 1980), 156-173, at 170.

Living Amidst the Tension

(cont.)

(2) Because of our faith there are certain actions that are core to our identity as CHC:

- Care for the poor, marginalized, & vulnerable
 - Promote justice in the workplace & the rights of workers
 - Improve the health of communities & work toward the elimination of disparities
 - Practice & promote environmental responsibility
 - Witness to the value of human life at all stages
 - Analyze decisions/policies with a preferential option for the poor
-
- We would cease to be CHC if we failed to engage in these activities

- McCormick again describes this well:
 - “[O]ne need not be a Christian to be concerned with the poor, with health, with the food problem, with justice & rights. But if one is a Christian & is not concerned, something is wrong with that Christianity. It has ceased to be Christian because it has ceased to be what its founder was—human.”

Richard A. McCormick, S.J., “Does Religious Faith Add to Ethical Perception,” in *Readings in Moral Theology No. 2*, ed. Charles A. Curran & Richard A. McCormick, S.J., (New York: Paulist Press, 1980), 156-173, at 172.

Living Amidst the Tension

(cont.)

(3) Because of our faith & our sense of identity CHC should approach concrete issues in a certain manner or style

- A person-centered, end-based, inductive approach to ethics
- A holistic view of the person
- A pastoral, practical sense
- A consistent ethic

Living Amidst the Tension

(cont.)

- “A separation, or even an opposition, is thus established in some cases between the teaching of the precept, which is valid in general, & the norm of the individual conscience, which would in fact make the final decision about what is good & what is evil. On this basis, an attempt is made to legitimize so-called ‘pastoral’ solutions contrary to the teaching of the Magisterium, & to justify a “creative” hermeneutic according to which the moral conscience is in no way obliged, in every case, by a particular negative precept” (*VS*, n. 56).