

3. *More Critical Approaches to Scripture and Natural Law*

Reconstructing sexual ethics within a Western religious framework requires rethinking the resources available for ethics and how they are used. As mentioned in Chapter One, contemporary science and social science must be primary sources regarding human sexual function. Attention to contemporary science is especially necessary in the present because the repressive silence about sex which has prevailed in the U.S. has created an extensive sexual ignorance regarding over half a century of extensive scientific discoveries in the field of sexuality.

At the same time, science/social science can only offer partial information regarding human sexuality. They are neither the most important sources for interpreting the meaning/value of specific sexual attitudes, behaviors or relationships, nor is any specific science privileged in understanding the extent to which these sexual attitudes, behaviors, or relationships can or should change. The truths in science are factual truths, truths about what is or what was, not truths about what should be or what would be best. While some of the most basic facts about sexuality may involve the effects of hormones on the fetal brain, about which science can inform us, the most important truths about sexuality for us as a society are much broader. The most important truths about sexuality are about the meaning and value of sexuality and sexual acts. They are truths which include criteria for choosing some sexual acts, or relationships, or attitudes, over others. This is one of the reasons why so many sex education programs are ineffective today. While many of our young people are never exposed to information about sexuality in any systematic way, many of those who are exposed fail to take in the material to which they are exposed.

There are a variety of reasons for this failure to internalize sexual information. One of the most common is that the sex education program failed to present the factual information within a framework of values; without that value framework, the information has little meaning. This kind of meaninglessness is what young people indicate when they say something is "boring." It is boring because there are no clues as to what the information really means—that is, how it relates to the goals and ambitions, the activities, emotions, and relationships of the individual. After decades of vocal objections to sex education programs on the part of conservative Christian religious groups who understand sex, including information about it, as sinful, many school boards have stripped down their sexual education programs to strictly "academic" shape, which is exhausted by teaching reproductive biology and perhaps sexually transmitted diseases. They hope in this way to avoid criticism, since they teach nothing about sexual attitudes or practice, but only basic biology and health. But the cost of their only partially successful attempt to escape criticism is the claim of irrelevance by their audience.

Other school boards have responded to their vocal anti-sex education critics with a more complete capitulation. That is, they have designed sexual education programs which are effectively anti-sexual in that they teach negative attitudes toward sex. Such programs teach biological reproduction (the "facts of life," as they are called) and then go on to stress the risk of sexually transmitted diseases and pregnancy, which are presented as the rationale for a section of the curriculum which urges students to "Say No to Sex." This curricular program gives students techniques for and often role-playing practice in resisting peer pressure to engage in sex and in clarifying their own desire to postpone sex. Such programs often use films and printed materials, and even bring in persons to share their own experiences with both teen pregnancy and STDs.

All of the information conveyed in such programs is valuable and necessary, but it is also all negative. While from many educators' point of view the message is about postponing sex, a message which most parents and teachers support, from the students' point of view the message is that sex is bad. Though such programs attempt to include information about meaning and value, their tendency is to attribute maturity, honesty, and courage to anti-sex attitudes, and irresponsibility, serious risk, promiscuity, and a need for instant gratification to pro-sex attitudes.

Contemporary youth will not, for the most part, accept such a message; it runs counter to their dominant cultural experience. Youth see themselves faced with a desperate search for the sexual partner who will not only provide them with companionship and shared sexual pleasure, but will be bonded to them in exclusive, intimate relationship that fulfills all their bodily, emotional, and relational needs. The example of their parents, the stories in movies, on TV, and in books—all implicitly give them this romanticized view of sex. Everyone must seek a sexual relationship

or be adrift and alone, unhappy, burdened with gifts that cannot be shared and needs that cannot be met. Adolescents learn to see sex not only as attractive because pleasurable, but as a human good, and therefore reject the negative message of sex education programs about sex. They cannot agree that sex is not valuable and offers little but ephemeral pleasure in return for major risks. Frequently, they are so suspicious and unbelieving of the negative message about sexuality in school sexuality programs that they tune out the sexual information itself, which could be of some benefit.

We need to formulate a sexual education program which includes a great deal more information about sex, but which presents it within the framework of an honest message about meaning in sexuality. That message must acknowledge the power of sexual activity, which can be either an important but not sufficient avenue for fulfilling basic human needs and aspirations or a tool with which to control, exploit or destroy human well-being, self-esteem, and self-reliance. The sex education message must also acknowledge the participation of sexuality in every aspect of the individual person and of human activity. Sexuality is foundational in human beings; sexuality is not limited to genital activity, and celibacy does not make people asexual. Sexuality affects the structure of our brains,¹ the way that we relate to persons,² the way we understand our world and attempt to structure our lives, our occupations,³ our choices around sexual activity,⁴ our personality traits,⁵ and our social status.⁶ It is morally tragic as well as socially disastrous that such a major constitutive part of human personhood is ignored, repressed, denied, or misunderstood in our society.

Moral Resources in the Christian Sexual Tradition

Traditional Christian sexual ethics has understood its basic resources for discerning the meaning in sexuality as scripture (for Protestants) and natural law buttressed by scripture (for Roman Catholics). One of the most obvious reasons for the inadequacy of Christian sexual ethics, as done in the churches today, is that recourse to both of these sources is seriously flawed. In this chapter, I will first briefly outline the case as developed by many others over the last few decades for how it is that scripture provides no clear, simple moral guidance in sexual ethics, and I will suggest how scripture can be used to support a responsible, human sexual ethic. I will then suggest how a radical historicization of natural law tradition can ground a responsible sexual ethic. Finally, I will use the institution of marriage, supported by both scripture and natural law interpretations, as an example of the consequences of inadequate method.

There are two basic kinds of objections to prevailing scriptural and natural law approaches to sexual ethics. One concerns consequences—what are the theological and ethical consequences of this use, and how well do they accord with Christian understandings of foundational Christian beliefs? The second kind of objection looks not to consequences, but rather critically examines the method itself, whether it is a scriptural or natural law approach, or a mixed approach. While the two kinds of objections are certainly related, it is important to develop them separately so as to maximize the force and clarity of the objections.

¹ N. MacLufsky and F. Naftolin, "Sexual Differentiation of the Central Nervous System," *Science*, 211 (1981): 1294-1303.

² For example, E. Macoby and C. Jacklin's study of research on sex differentiation, *The Psychology of Sex Differences* (Stanford, CA: Stanford University Press, 1974), noted that females tend to associate in smaller groups than males and to have much less clear and rigid dominance hierarchies than males (Chapter 6, especially pp. 225-226).

³ Laurie Arliss, *Gender Communication* (Englewood Cliffs, NJ: Prentice-Hall, 1991), Chapter 12, "Women at Work," especially p. 171; Rita Mae Kelly, *The Gendered Economy: Work, Careers, and Success* (Newberry Park, CA: Sage, 1991), Chapter Three, "Women, the Economy, and Careers."

⁴ Kelly, *The Gendered Economy*, 83; Kinsey and subsequent researchers, for example, found significant differences in rates of male and female masturbation: for boys 21% of 12-year-olds, and 82% of 15-year-olds; for girls 12% at 12 years, and 20% at 15 years old. Alfred Kinsey et al., *Sexual Behavior in the Human Male* (Philadelphia: Saunders, 1948); and *Sexual Behavior in the Human Female* (Philadelphia: Saunders, 1953).

⁵ Arliss, *Gender Communication*, 103; Macoby and Jacklin, *The Psychology of Sex Differences*, 274.

⁶ Kelly, *The Gendered Economy*, 86-92, 188-192; Arliss, *Gender Communication*, 208-209.

Scripture

The Protestant Christian tradition looked to scripture for its ethical norms as a way of avoiding the corruption which had crept into Christian practice, and therefore into Christian tradition. Scripture was understood at the time of the Reformation to historically precede the advent of corruption associated with the papacy and/or the establishment of Christianity as the official religion of the Roman Empire. Though there is variation between Protestant denominations, and not all have followed so strictly Martin Luther's insistence on "sola scriptura," there is no question that for Protestants scripture is popularly understood as the primary source of normative divine revelation. Even for Methodists the four Wesleyan sources of revelation—scripture, tradition, reason, and experience—are often reduced to the Bible.

While a case can be made for scripture as a primary source of revelation, it is impossible to defend a "sola scriptura" position, however we may sympathize with the intentions and situation of Martin Luther in the early sixteenth century. For scriptural scholarship has made clear, as Elisabeth Schüssler Fiorenza has frequently explained, that the Bible is not a book but a bookshelf.⁷ Those books, and frequently sections of books, were written by a variety of authors in varied historical periods, with various—and often conflicting—religious, political, and social intentions. Those writings are not so much history, in the sense of what objectively happened, as they are reflections on and interpretations of what happened, from particular self-interested perspectives, often written hundreds of years after the events which they treat. For this reason no verse, story, chapter, or book of scripture can be treated as self-explanatory, literal truth.

Episcopal Bishop John Shelby Spong, in an excellent chapter on using scripture in ethics ("The Case Against Literalism") in his book *Living in Sin? A Bishop Rethinks Human Sexuality*,⁸ argues that in order for scripture to shed any light at all the reader must ask questions such as: Why was the passage written? What interests did it serve within the author's socio-historical situation? To what is the passage opposed? What are underlying assumptions of the author? For the fact is that in scripture we have many inconsistencies, contradictions, and outright untruths, even regarding the most central of Christian beliefs. Not only do different parts of the Bible differ on such issues as the Resurrection, Ascension, and Pentecost, but New Testament writers disagreed even regarding the divinity of Jesus. Mark presents Jesus as divine from his baptism by John as an adult; Matthew and Luke present Jesus as divine by birth; and John projects the divinity of Jesus Christ back to infinity within the uncreated Word of God; while Paul, the earliest of the New Testament writers, does not define at all how Jesus is divine. As Spong asks, how can we possibly expect scripture to present us with universal sexual norms valid for all time when scripture presents such a variety of views about the divinity of Jesus Christ?

Accepting the historicity of scripture—that it emerges from a historical process, from specific individuals in specific situations and communities with specific interests and needs—sheds a radically different light on the traditional sexual norms the churches have lifted from scripture. Those norms of course prohibit all sexual activity outside of marriage, understanding marriage as the legal, sexual, and domestic union of a male and a female for purposes of reproduction, with a male role of headship and material provision, and a female role of child-bearer, child-rearer, and responsibility for the domicile. This union was understood to be both exclusive and more or less permanent. That is, Jesus was understood to overrule earlier practices of divorce and polygamy among the patriarchs. However, insistence on monogamy did not seem to create a single scriptural standard on marital fidelity and divorce; husbands were not held to the same rigorous standards as wives. Differing versions of the Gospels left open whether divorce could still be permitted by exception in the case of an adulterous wife, though there is no reciprocal openness in the case of adulterous husbands.⁹

Historicizing this scriptural tradition on sexuality makes clear how this set of norms served the interests of the communities involved. The reproductive emphasis resulting from excluding all nonmarital forms of sex and orienting marriage to reproduction served the obvious interests of a small people who were first nomadic and then settlers among foreigners: it maximized birth rates. Other pieces of Israelite sexual practice, such as Levirate marriage,

⁷ See the Introduction and Chapter One of Elisabeth Schüssler Fiorenza, *In Memory of Her. A Feminist Theological Reconstruction of Christian Origins* (New York: Crossroad, 1983).

⁸ John Shelby Spong, *Living in Sin? A Bishop Rethinks Human Sexuality* (San Francisco: Harper and Row, 1988), Chapter 7. See also Chapter 6, "The Case Against Authority."

⁹ Mt. 19:9 and Lk. 16:18.

confirm this important function. The prohibition on female sexual activity outside marriage served not only to ensure men's recognition of and responsibility for their offspring. It also allowed fathers to charge husbands a bride price, which made fathers willing to raise daughters who would otherwise not contribute to their family, and gave husbands virgin wives in exchange for that bride price. Further, the taboo on all nonmarital forms of sex served to differentiate the Israelites from their neighbors, many of whom practiced heterosexual and/or homosexual cultic acts. This differentiation, cultivated in many other areas of life as well, served to prevent the assimilation of the Israelites and ensure their survival as a distinct people.

Within Christianity itself, the Jewish sexual ethic prevailed for a number of reasons. First, as far as we can tell from the New Testament evidence, sexuality was not a central aspect of Jesus' reforms of Judaism. There is virtually nothing in the Gospels themselves regarding sexual activity. The closest is perhaps Jesus' refusal to stone the woman caught in adultery, and it is never clear in that story whether Jesus' intended to make any statement about adultery at all; the major point clearly concerns not judging others.¹⁰ The one aspect of Jesus' teaching which concerned sexuality more broadly construed involved the role of women. It seems very clear today with contemporary sensitivity to issues of sex roles that Jesus legitimated very nontraditional roles for women among his followers. This is clear not only in such stories as Luke's account of Jesus with Mary and Martha,¹¹ but even more clearly in the fact that women traveled with Jesus' band,¹² were acknowledged in all the Gospels as the first witnesses of the Resurrection, and were, according to the Epistles, accepted in the earliest church as prophets, missionaries, deacons,¹³ and, according to Paul, even apostles (Junia).¹⁴ These nontraditional roles for women in the earliest Church are supported both by surviving traditions within local churches which trace their origins to the missionary work of women such as Mary Magdalene, and by many of the early extracanonical Christian writings. But these roles were more or less repressed after the first century, and we have no evidence as to whether or how more or less restrictive roles for women influenced Christian attitudes toward and regulation of sexual activity.

This is not all that surprising. After all, scholars like Elisabeth Schüssler Fiorenza point out that greater freedom for women in Christianity was always opposed in some quarters, especially within the more Jewish communities.¹⁵ In addition, the period of openness was relatively short, certainly less than 100 years. Moreover, this period of greater freedom for women corresponded more or less exactly to the time when the early church was most urgently focused on missionary activity, since it believed that the second coming of Christ was imminent. Just as Paul argued during this period that the shortness of time until the second coming should incline Christians to put off decisions about marrying and founding families so as to concentrate on announcing the Good News to others so they could prepare for the second coming,¹⁶ so it must have seemed to those early Christians that reconstructing norms for sexual behavior had no high priority, given the shortness of time for this world. By the time that the church had accepted that the second coming might be considerably in the distance, the church had already conformed itself to surrounding patriarchal understandings of women's roles, which reaffirmed the patriarchal sexual norms the church had inherited from Judaism. Thus when the Council of Jerusalem in the Acts of the Apostles names, through James, the three rules of conduct which should replace the entire Jewish law which had hitherto been required of Gentile converts, one of those rules is a ban on unchastity.¹⁷ That ban itself, by its very vagueness, assumes that everyone knows and understands patriarchal sexual norms.

In order to successfully argue for scripture as a primary source of revelation today, then, regardless of the specific issue involved, it is not only necessary to surrender the commonly accepted view of scripture as literally true. It is also necessary to understand that the revelation in some parts of scripture is not contained in the text itself, but in the interaction between the text and the critical examination of the reader. For example, Schüssler Fiorenza writes that scripture sometimes reveals through silence. By this she means that when we want to know how the early Christian community lived, and we take this concern to scripture, we will notice that there is a general silence about the lives of women in the Christian community. It is by reflecting on those odd silences, on the information Schüssler

¹⁰ Jn. 8:1-11.

¹¹ Lk. 10:38-41, Jn. 11, 12:1-3.

¹² Lk. 8:2-3.

¹³ See Chapter 5 in Schüssler Fiorenza's *In Memory of Her*, "The Early Christian Missionary Movement."

¹⁴ Rom. 16:7.

¹⁵ Beginning, Schüssler Fiorenza suggests, with the controversy in the early church of Jerusalem described by Luke in Acts 6 (*In Memory of Her*, 165-166).

¹⁶ I Cor. 7.

¹⁷ Acts 15:20.

Fiorenza gleans from the greetings and farewells attached to the Epistles, from careful rereading of those New Testament passages which do mention women, on the surprising prominence of women's leadership in those early Christian writings which were excluded from the canon of the New Testament,¹⁸ and from similar indirect sources, that we can piece together, or reconstruct, the actual life of the early Christian community which included both men and women.

This kind of approach to scripture, of course, has many problems. It requires a more or less specialized background in scripture scholarship. One of the basic reasons that Protestants turned to scripture was that it was understood to be clear and accessible to everyone, not dependent upon any special expertise, such as the Catholic church claimed for the magisterium in particular and for the clergy in general. Moreover, such dependence upon specialized scriptural expertise conflicts with popular Protestant, especially low-church Protestant, suspicion and rejection of casuistry, or any situational considerations in morality. That "old time religion" of which so many are fond is distinguished by insistence on the simplicity and absoluteness of its moral code.¹⁹ For example, if the destruction of Sodom and Gomorrah follows the threatening demand of a gang of men in the town for homosexual access to two visitors, and Lot, who protects the visitors, is saved by God from that destruction, then for most of the Christian community the moral of the story is that God hates and punishes homosexuals. The fact that the sex demanded was gang rape does not affect the interpretation of the story's moral at all; it only serves to suggest that homosexuals use coercion to obtain sex. This approach not only serves to confirm already-held misconceptions and prejudices about homosexuality, but it has the virtue—a very real virtue for teaching and evangelization—of being easy to understand and convey within a homophobic culture. Thus the conditions necessary for retaining scripture as a primary source of revelation more or less directly conflict with the ideological assumptions derived from the Reformation regarding the individual Christian as capable of independently being able to discern revelation directly from scripture.

In addition to examining traditional methodological foundations of Christian sexual ethics, another method of criticism is to focus on the consequences of those ethics, and their compatibility with other aspects of Christian teaching and with the experience of those living within the Christian community. The consequences of basing sexual ethics upon scripture include, as could be expected from the earlier treatment of scripture: 1) inconsistency, depending upon which scriptural text was referenced and 2) patriarchalism, in that both the Old Testament and those portions of the New Testament which deal explicitly with sexuality arose out of patriarchal societies. Both scripture's inconsistency and its patriarchalism are problematic in terms of contemporary theologies of God, which tend to lean heavily on God as a just and loving creator.²⁰ Marie Fortune pointed out in her treatment of sexual violence as sin that one consequence of accepting the patriarchal understandings of sexuality is that God appears to have created women and children to be victims.²¹ Old Testament stories present women as booty in war, as sexually used and enslaved, as property sold from father to husband, as liable to being divorced and cast off by husbands without cause. The Old Testament also includes laws on rape which understood a woman's rape as injury to her owner rather than to her, and a law on incest which prohibited a man from sexual congress with any female relative by blood or marriage who belonged to another man, but failed to ban incest with his own daughter or son. Such stories and laws, when presented as the commands of God, create an image of Yahweh as complicit in victimization, as indifferent to the suffering of women and children. The Old Testament analogy of Yahweh as groom to Israel the bride further identifies Yahweh with males. Those aspects of the Christian tradition which understand Yahweh as inherently compassionate, unable to turn aside from the suffering of the Hebrews in Egypt, as a father who always cares for his children, who will not offer stones when the children cry for bread, and the divine son as the innocent who risks and accepts suffering and death as the cost of loving others, are implicitly called into question in a patriarchal sexual ethic. But not only is divine compassion called into question, but also divine justice. Can it be a just God who mandates that women's salvation comes through motherhood,²² and then makes motherhood for some women a biological impossibility beyond women's control? Can it be just to hold all persons accountable for their

¹⁸ Elaine Pagels, *The Gnostic Gospels* (New York: Random House, 1979), argues that an important criterion used in excluding prospective documents from the canon was treatment of women's leadership.

¹⁹ See James Hitchcock, "Two Roads to Secularization," and Carl F. H. Henry, "Dismantling a Noble Heritage," in William Bentley Ball, ed., *In Search of a National Morality: A Manifesto for Evangelicals and Catholics* (Grand Rapids, MI: Baker, 1992), 17-40.

²⁰ Kathryn Tanner's *The Politics of God: Christian Theologies and Social Justice* (Minneapolis, MN: Fortress, 1992), 127-32, explains how Christian theologies of the transcendence of a just and loving God rule out clear-cut hierarchies and other forms of domination.

²¹ Marie M. Fortune, *Sexual Violence: The Unmentionable Sin* (New York: Pilgrim, 1983).

²² 1 Tim. 2:15.

lives and actions, and then to deprive half the human race of the independence which would allow them to exercise responsibility for their actions?

Is it possible to reconcile either of the creation stories in Genesis—the first in which man and woman are created simultaneously and given joint command over the rest of creation,²³ or the second in which a generic (androgynous) human is divided into male and female²⁴—with the patriarchal stories in which women are property of men? How can the values of the creation stories be reconciled with stories of fathers whose fidelity to Yahweh is praised because they are willing to kill their sons and daughters, as in the stories of Abraham²⁵ and Jephthah?²⁶

Thus there is simply no way to avoid accepting the claim that scripture always requires interpretation, and that the interpretation requires not only information about the author's historico-social location, but also the use of normative criteria external to scripture. As Schüssler Fiorenza writes:

The historical theological insight that the New Testament is not only a source of revelatory truth but also a resource for patriarchal subordination and domination demands a new paradigm for biblical hermeneutics and theology I would therefore suggest that the revelatory canon for theological evaluation of biblical androcentric traditions and their subsequent interpretations cannot be derived from the Bible itself, but can only be formulated in and through women's struggle for liberation from all patriarchal oppression.²⁷

We cannot use one part of scripture to help us decide which of two conflicting scriptural texts is more true or revelatory, for that only raises questions about how we selected the original text as normative. To the extent that we can discern the movement and activity of the Holy Spirit within the struggle for liberation, our individual and communal experience of the struggle for liberation is the best source of criteria for guiding scriptural selection and interpretation.

Natural Law

Historically, invocation of natural law occurs within Roman Catholicism (and to a limited extent within Anglicanism) and within the framework of American civil religion with its rationalist, deist roots. Natural law is understood as the unwritten law embedded in all of creation, a law that reasoning humans can discern from observation of creation. For Protestantism as a whole, the claim that human reason can discern the creator's intentions has been rejected in the understanding that human reason was so corrupted by the fall that only God's grace allows humans to comprehend any part of the divine will. Roman Catholics have insisted that the Fall only forfeited humans their supernatural gifts, and not those gifts natural to human beings, such as reason, which retains the capacity, at least in principle, to discern the good. In fact, though these are the historic theological stances of Protestants and Catholics, political/historical factors since the Reformation have muddied the situation a great deal.

Within the American scene, the dominant Protestantism has been the standard carrier for not only the Enlightenment, with its insistence on the power of reason understood in terms of scientific reason, but also for liberal democracy, with its insistence on the rights of the individual to make decisions for him/herself. The theological insistence on the unreliability of reason and the human need for grace does not seem to have moderated in any way the political insistence of American Protestants regarding their right and duty to discern the divine will for their nation. Many commentators would suggest that the connecting link between these two somewhat conflicting stances is the understanding of the Bible as the sole source of revelation. So long as Protestant Americans saw themselves as operating out of a biblical framework—such as working out the new covenant in the new American Canaan—they did not feel they were too dependent upon a corrupted and therefore unreliable human reason.

For American Roman Catholics, on the other hand, the theological insistence on the capacity of reason to discern the good was subordinated to the historical reality of membership in a monarchical church undergoing a strong shift to

²³ The priestly version in Gen. 1:1-2:3.

²⁴ The Yahwist version of Gen. 2:4-2:24 ff. See Phyllis Bird, "Images of Women in the Old Testament," in Rosemary R. Ruether, ed., *Religion and Sexism* (New York: Simon and Schuster, 1984), 73.

²⁵ Gen. 22.

²⁶ Judges 11.

²⁷ Schüssler Fiorenza, *In Memory of Her*, 30-32.

centralize power in response to a hostile modern world.²⁸ Nativism in the American context only added local stress to the already-present tendencies toward sectarianism and the relegation of decision-making to clerical elites. It is only since Vatican II, which coincided in the U.S with the rise of the Roman Catholic population to economic and educational success, even prominence, that U.S. Catholics have come to be as individualist and independent as Protestant Americans. At the present time, in terms of sexual attitudes, the most discernible difference is the slightly greater reliance of Protestants in general to base their sexual attitudes on biblical texts. For most lay Catholics, the sexual grounding of their own tradition in natural law is largely unknown, and to the extent it is known it is understood so vaguely as to be indistinguishable from the rationalist/deistic natural law approaches of the Founding Fathers.

It seems to me that natural law offers a much more useful base for a sexual ethic than scripture. But both historical uses of natural law—by Roman Catholics and deists—are grossly inadequate. In the following section I want to suggest reasons for, and methods of, reconstituting a natural law approach.

In Chapter One, I alluded to some of the many inadequacies in inherited natural law interpretations. Among Catholics during the debate over contraception in the 1960s and early 1970s, it was often charged that the strong tendency to physicalism—to solely biological understandings of human nature—in Catholic natural law tradition was a severe weakness. That is, since the official church teaching looked only to human biology in determining divine will for human sexuality, it concluded that sex was naturally oriented to procreation, and condemned as immoral any human attempt to separate the procreative aspect from the use of the sexual faculties.

The revisionists who protested against physicalism were certainly correct that the human person is much more than his or her biological body, and that human rationality and the psychic structures that govern the use of rationality would seem to be at least as important as reproductive biology for understanding the divine will for humans. But it should be pointed out that the physicalism of the Christian sexual tradition was not only too narrow an approach to the human person, but was based on inadequate biology as well. In particular, the failure to understand female biology led to major errors in the understanding of human nature. Catholic natural law approaches to sexuality were, for the most part, in place by the end of the Middle Ages and reflected the development of science at that time. The female body was understood as genetically sterile—able to contribute only nurture and not form to new life. This task of providing sustenance to new life was understood as the purpose of female life, and females were also understood as lacking in rationality compared to the male, because sensibility and not rationality were necessary for childbearing and rearing. Furthermore, due to lack of knowledge of evolution, there was no awareness of the major evolutionary shift in human sexuality and in the sexuality of the great apes from which *homo sapiens* developed. That shift was a shift away from female estrus. Unlike other animals whose females are sexually available only during their fertile periods, in humans and apes sexual interest and activity became possible throughout the entire menstrual cycle, and not just when procreation is likely. Since there was no awareness of this evolutionary shift, there could be no attempt to understand the significance of this change away from sex oriented exclusively to procreation.

In a similar manner, the failure to examine embodied female sexuality combined with the tradition's fear and suspicion of sexual pleasure led to the tradition's ignoring the existence and significance of the female clitoris. A contemporary physicalist approach to natural law on sexuality must take into account that the female clitoris has no function save sexual pleasure—it has no reproductive, urological, or other function in the body. But the clitoris is the organ most sensitive to sexual pleasure. Within the twentieth century some commentators have suggested that the role of the clitoris is to provide pleasure to women as a reward for sex, as a way of ensuring the willingness of women to reproduce the species. But contemporary science has demonstrated that this attempt to link the sexual pleasure function of the clitoris to procreation is a failure. As stated above in other contexts, between 56 and 70 percent of women do not receive sufficient clitoral stimulation in coitus to reach the sexual satisfaction of orgasm;²⁹ the majority require direct stimulation of the clitoris. That is, the procreative act does not itself stimulate pleasure sufficient to act as reinforcement for engaging in sex for the majority of women. If the placement of the clitoris in the female body reflects the divine will, then God wills that sex is not just oriented to procreation, but is at least as, if not more, oriented to pleasure as to procreation.

²⁸ For a discussion of this centralization process, see my "Renewal or Repatriarchialization? Responses of the Roman Catholic Church to the Feminization of Religion," *Horizons: The Journal of the College Theology Society*, 10/2 (1983): 231-251.

²⁹ See Chapter 2, note 8, for sources.

This critique of physicalism as inadequately applied in the natural law tradition has been superseded by an even more radical methodological critique which rejects physicalism altogether. I want to develop two forms of the argument for rejecting physicalism. The first is the one originally developed in the late 1960s in the debate over contraception in the U.S. Catholic church.

The Human Person Is More Than Biology

The predominant argument of the revisionists was that it simply was not sufficient to deal with human biology as a way of understanding the sexual orientation of human nature.³⁰ While it is true that at a biological level sex is oriented to procreation as at least one of the ends of sexuality, this does not justify the principle that there can be no legitimate separation of procreation from coitus. For the human person is much more than a biological mechanism. Part of human biology is a psychic apparatus, a mind which not only thinks but feels. And the nature of humans in community includes not only the ability to reproduce themselves, but also to rear those human reproductions within intimate communities. Rearing demands of nurturers identification with offspring, loyalty to offspring, love, and willingness to sacrifice in the interests of offspring. There are, of course, limits to love, loyalty, identification, and sacrifice in every person—what we might call psychic limits. But these limits are never absolute, even within individuals, for they depend upon the circumstances in which the individual is immersed, the stage of personal development which the individual has achieved, and the level of support available from others. Those individuals whose caregivers extended identification, love, loyalty, and sacrifice to them in the past, and who continue to have networks of intimacy and support, will be able to maximize the limits on their own ability to parent. The intimacy and bonding which committed, mutually pleasurable sex can create may be conducive to the continuation of the individual's ability to extend himself/herself in love and loyalty to existing children.

In addition to psychic limits in our ability to parent, there are also limits to the social resources available to every caregiver. Individual reflection may make clear to individuals that they have reached their psychic limit, or the limits of their economic resources, or both, such that it would be unreasonable to procreate any more.

But that same individual is very probably in need of the grace—the intimacy and bonding, the affirmation of self, and the bodily pleasure³¹—which can be derived from sexual activity, and which is one important foundation for the individual's ability to nurture children well. Thus successful rearing, which seems to be a crucial aspect of procreation, sometimes indicates the cessation of procreation, and a continuation of sexual activity.

The second argument for rejecting physicalism arises, ironically enough, from sociobiology. The physicalist tendency in Catholic natural law theory shares some important aspects with sociobiology. Both tend to look not for new directions in which human nature may be moving, but rather to define human nature with reference to animal biology. The approaches differ as to why the connection with animals is stressed. Sociobiology assumes an evolutionary theory which historically roots human nature in animal nature, while Catholic natural law tradition classically associated the spiritual aspects of human nature with God and the angels, but the material bodily aspects of human nature with animals. The problem of Catholic Christianity with physicalism or with sociobiologist explanations of human nature which are biologically determined is that they undermine the moral demands of Christianity.

Much of Catholic moral theology, influenced as it has been by natural law thought, tends to see individual self-interest and the common good as related, though not identical.³² Much of Protestant moral thought, especially the Lutheran influences, have tended to see individual self-interest as opposed to both the good of another and the common good, and thus have often leaned toward identifying "love of neighbor" with sacrificing one's own

³⁰ For a discussion of this critique of physicalism, see Anthony Kosnick et al., *Human Sexuality: New Directions in American Catholic Thought* (New York: Paulist, 1977), 114-122. This text was commissioned by the Catholic Theological Society of America, and was later criticized by the Vatican.

³¹ Here I have slightly anticipated Chapters 4 and 5, which deal with the role of sexual pleasure and its relation to grace.

³² See, for example, Thomas Aquinas, *Summa Theologiae*, ed. and trans. Blackfriar Dominicans, 60 vols. (New York: McGraw-Hill Book Co., 1964), 2a2ae 26, 9-12, who argued that the proper objects of love are both those having a more excellent good, and those to whom we are more closely united. Aquinas followed Aristotle, who understood both love and friendship in terms of mutuality (*Nicomachean Ethics*, Bk. VIII, 1157b).

self-interest.³³ Sociobiology is not focused on the moral question, but does understand that the biological impetus of all organisms is to "multiply and fill the earth" with themselves. This holds true for macro-organisms such as humans, as well as for micro-organisms such as cells. Sometimes thus multiplication acts contrary to the common good, as when a cancer cell opportunistically multiplies and eventually kills the macro-organism. Sometimes this multiplication supports the common good, as when the injection of small amounts of toxins triggers the production of antitoxins throughout the body. So it is with macro-organisms from a sociobiological point of view.

Thus the male langur monkey, native to India and Sri Lanka, who challenges and defeats the male leader of a female harem, systematically sets about killing all the suckling infants over a period of hours or days in order to maximize chances for the birth and survival of his own offspring.³⁴ Without the sucklings, the females of the harem will come into heat sooner, and the offspring the new leader begets of them will not have to compete for resources with the offspring of the previous leader. While such behavior is common in species that exist in herds of a dominant male and his harem (such as wild horses and some lions), the langurs are distinct in that the new leaders do not, in addition to killing the sucklings, batter pregnant females into aborting. When confronted with a new harem leader, pregnant langurs display a remarkable "false" estrus which allows them to copulate with the new leader, after which he accepts the offspring they carry as his own.³⁵ Moving from animals to humans, sociobiologists point out that in human beings there are remnants of such motivation, and so point to the higher rate of child abuse among stepparents than natural parents, and to the many folktales which warn of stepparents.³⁶

Sociobiologists are most insistent upon the biological basis of human sexual behavior. Sociological data show that human males are much more likely than females to have multiple sexual partners. Many interpret this as an effective strategy for maximizing the number of male genetic offspring by scattering their seed as widely as possible. The lesser promiscuity of females is understood to be dictated by the fact that since women can only produce one pregnancy every nine months, regardless of excess sexual activity, their best chances of maximizing their progeny lie with concentrating on the survival and quality of the offspring, and not on maximizing sexual partners.³⁷

The tendency among much of early sociobiology to overstress the biological influence on human behavior was a clear reaction to the reigning social scientific stress in the 1960s and 1970s on a relatively plastic human nature endlessly open to social conditioning. Because of its attempt to stress a biological influence which was in tension with the changes in human relations and institutions proposed in the 1960s and 1970s, sociobiology was quickly seized as a scientific prop for many moral and social conservatives resisting the demands of the women's movement for social change in the direction of gender justice. But sociobiological theory does not support the continuation of patriarchal social structures. Sociobiology is based in scientific theory regarding evolution, and recognizes that human nature has become, through the process of evolution, less and less biologically determined. Deliberately chosen childlessness in postmodern society, for example, cannot be explained with reference to biological drives in organisms

Neither is Christianity compatible with any form of biological determinism, or any heavy stress on biological influence on human behavior. The basic moral teachings of Christianity regarding God's love and justice toward humans, and the resulting command of "love of neighbor," correspond in the sociobiological model of human nature not to the biological drives but to the sociocultural influences which have over time lessened the grip of biology on human behavior. Biology cannot explain why in a time of scarce resources one human community might endanger its survival by sharing its few resources with another human community ravaged by even worse disaster. Our conclusion must be that there is a certain degree of plasticity in human nature and behavior. When some communities were able to achieve a level of surplus which enabled them to recognize other imperatives than just survival, there developed new norms which, for example, allowed non-productive members—the aged, the severely

³³ See Anders Nygren's treatment of Luther on self-love as vicious, in *Agape and Eros*, trans. Philip Watson (New York: Harper and Row, 1969), 712-713, and also Søren Kierkegaard, *Works of Love*, trans. Howard and Edna Hong (New York: Harper and Row, 1964), 133-134. The Christian tradition before Luther did not exclude the self from consideration in love so rigorously.

³⁴ See David Barash, *The Whisperings Within: Evolution and the Origin of Human Nature* (New York: Penguin, 1979), 102-104, who credits Sarah Hrdy with the original research. Barash's book makes some of the more modest sociobiological claims for biological influence on human behavior.

³⁵ Barash, *The Whisperings Within*, 104.

³⁶ Barash, *The Whisperings Within*, 104-105.

³⁷ See, for example, Robert L. Trivers, "Parental Investment and Sexual Selection," in D. Campbell, ed., *Sexual Selection and the Descent of Man* (Chicago: Aldine, 1972), and Barash, *The Whisperings Within*, 46-88, 108-109.

injured, the defective newborns—to live, commanded hospitality for strangers rather than appropriation of their goods, and accorded social status to aesthetic contributions to the community even when they entailed no survival benefits for the community. We call such developments the beginnings of civilization.

Biologically, evolution occurs through two processes, natural selection of one possibility over other existing possibilities, or genetic mutation which proves adaptive within the process of natural selection. But the human race is not only somewhat biologically plastic, but also somewhat behaviorally plastic. Behavior depends upon a variety of variables: biology (genetics), unconscious drives, behaviors learned in the human socialization process, the ability to reason, the prior development of a self-conscious self, and the specific disadvantages and benefits in specific situations. Because there are so many variables, no one variable determines behavior. And in theological terms there is no reason to privilege the biological/genetic influence over the ability to reason, over the socialization process (which includes moral and religious socialization), or over the consciously created self. All of these have been elements of human nature, along with the biological/genetic component, since *homo sapiens* developed within God's creation.

These two very different arguments against physicalism seem to me to together demolish physicalism's privileging of biology as defining God's will for human persons.

The Basic Problem with Natural Law: History

Catholic natural law approaches to ethics have been largely ahistorical. Within the modern period the Roman Catholic church first tended to identify all change with sin.³⁸ Under John XXIII Church teaching shifted to a kind of Teilhardian optimism, within which change in the world tended to be regarded as moving toward greater justice and peace.³⁹ Since Paul VI, and especially since John Paul II, the Vatican perspective on change in the world has become much more critical.⁴⁰

The modern period did force the church in the twentieth century to accept evolutionary approaches to the origins of humanity.⁴¹ But the Catholic church has never really changed its philosophical understanding of the human person and human nature to include historicity. While the Catholic magisterium now understands that political and economic institutions and systems change, and that humans developed from apes, its approach to human nature is still static. Physicalism is, of course, a major reason for this static quality in some areas of teaching, as evolutionary change in human biology is so slow as to be irrelevant in recorded human history. Thus the results of privileging biology in the interpretation of human nature will have static results.

The language—in fact the very name—of natural law theory inclines to the static. Nature has been understood in the West as that which is given, complete and fixed in itself. Even much of the popular environmentalism prevalent today understands nature as static apart from the activity of human persons which is assumed to defile and destroy it. Similarly, many natural law thinkers have not dealt at any length with evolution because they seem to have assumed that, though the world as we know it is the product of evolution, the process of evolution ended after reaching its goal—the development of *homo sapiens*. Though this static understanding of creation—of nature—historically enabled human beings to discern the divine will inherent in creation, it is not at all necessary. As Bernard Lonergan wrote:

Any deepening or enriching of our apprehension of man [sic] possesses religious significance and relevance. But the new conceptual apparatus does make available such a deepening and enriching. Without denying

³⁸ This was certainly clear in Pius IX's *Syllabus of Errors*. But even in the 20th century Pope Pius XI and Pope Pius XII took very negative positions regarding change. Christine E. Gudorf, *Catholic Social Teaching on Liberation Themes* (Washington, DC: University Press of America, 1980), 6-16.

³⁹ Gudorf, *Catholic Social Teaching*, 16-17.

⁴⁰ Paul VI's *Populorum progressio* and *Evangelii nuntiandi*, and John Paul II's *Sollicitudo rei socialis* and *Centesimus anno* are the definitive examples of this more critical attitude. English editions of all four are found in Thomas Shannon and David O'Brien, eds., *Catholic Social Thought* (Maryknoll, NY: Orbis, 1991).

⁴¹ Thus Pius XII in his August 1950 encyclical *Humani generis* accepted the theory of evolution for Catholics provided that it was understood as embracing monogenism and not polygenism (evolution producing one set of human parents, and not many simultaneous ones). *Acta Apostolicae Sedis* 42 (1950): 562-563; trans. A. C. Cotter, *The Encyclical 'Humani generis'* (Weston, MA: Weston College Press, 1952), #5-7.

human nature, it adds the quite distinctive categories of man [sic] as a historical being. Without repudiating the analysis of man [sic] into body and soul, it adds the richer and more concrete apprehension of man [sic] as incarnate subject.⁴²

If the essential form of humans, animals, or the ecosystem as a whole has significantly changed since creation, then humans can no longer work from absolute abstract principles, but must begin with concrete particularity, which includes the historically new.⁴³ Change in human history/nature has sometimes been viewed as contrary to the divine will, and therefore sinful, and sometimes as in accord with God's will, in which case God is the author of the change, and the direction and goal of the change represents the divine will. Accepting divine authorship of the evolutionary process requires facing the problem of how to go about discerning in creation God's wishes in a specific situation. For if human nature is in constant process of change, and the direction of that change is away from biological determinism and toward both greater freedom and greater responsibility to care for creation, then the moral expectations of humans are in flux, and will become more demanding over time. Clearly, for example, human societies must accept more responsibility for resource conservation and environmental protection than in 1500 CE, both because humans have more capacity for intervention and because human societies have squandered and endangered aspects of creation. But how do we decide how much responsibility is appropriate for humans to exercise, and how it is best exercised? Some degree of ambiguity is inescapable.

If we understand the nature of the human person as both integrated and embedded in a radically historical social situation, then natural law morality will be also historicized, and can no longer take the form of a code, or any longer direct humans to specific acts which are then understood as willed by God.⁴⁴ Instead, discernment will be oriented toward the complex and difficult task of understanding human nature in the present moment and situation, and also oriented to 1) assessing the direction of change, 2) deciding if that direction is in accord with the central and enduring insights of Christian revelation, and 3) affirming or opposing the direction of change based on that assessment. For if the present represents not creation as God made it, but that original creation as modified many times over by human interactions with the dynamic character which God placed within the nature of creation, then acting in accord with the present state of creation is no guarantee of acting in accord with God's will.

In our contemporary situation it is appropriate to return to the traditional teaching that natural law imperatives intersect with positive law and take three forms or levels of explicitness. Thomas Aquinas gives the example of property, in which the primary level of natural law reveals that God did not distribute property, but made creation to meet the needs of all humans. The secondary and derivative sociocultural level reveals that an efficient system of meeting social needs is distribution of property to individuals; the third and most differentiated level of natural law on property is that reflected in positive law, which regulates the distribution and transfer of property within a specific society's private property system. The argument is that while the primary level is absolute and unchangeable, the secondary level is open to modification over time but is relatively stable, but the third level of positive law regulation is frequently changed for the purpose of allowing more just distribution of property.⁴⁵

Today, taking historicity seriously in natural law approaches to sexuality, we might say that the primary level of natural law reveals that human nature is social, the secondary and social systemic level recognizes kinship as the basic form of social affiliation, and the third and most culturally determined level includes the varied forms and definitions of family and kinship which have prevailed in positive law and custom among different peoples and historical periods. It is two very different things to maintain that the family as modeled on Adam and Eve and their children is God's mandated form for sustaining human sociality, and to maintain that human beings are social creatures and only become fully human in community.

⁴² Bernard Lonergan, "Theology in Its New Context," in William F. J. Ryan and Bernard J. Tyrrell, eds., *A Second Collection* (Philadelphia: Westminster Press, 1974), 60f.

⁴³ For a discussion of this point in Catholic thought with reference to Lonergan, see Michael J. Himes, "The Human Person in Contemporary Theology: From Human Nature to Authentic Subjectivity," in Ronald P. Hamel and Kenneth R. Himes, OFM, eds., *Introduction to Christian Ethics: A Reader* (New York: Paulist, 1989), 54-56.

⁴⁴ This is a point made by sociobiologist E. O. Wilson, "Ethics and Sociobiology," in Jonathon Harrison, ed., *Challenges to Morality* (New York: Macmillan, 1993), 221. But the impossibility of a uniform code of ethics should not be interpreted as resulting in a weaker, less rigorous, or less meaningful ethics. Changeability in itself is not negative, either in the character of God or the character of creation, so long as there is some continuity and consistency within the change. Growth, dynamism, and development can all be understood as enhancing being.

⁴⁵ Thomas Aquinas, *Summa Theologiae*, 2a2ae, 66:2; 1a2ae 94:6; 1a, 98:1.

Once we admit the radical historicity of our world—the ongoing dynamism of all its parts, as well as of the whole—the discernment required of humans before action must be separated into two processes instead of one. Instead of discerning from the structures of the existing reality the will of God, we must first discern from human history up to and including existing reality the social, economic, political, biological, and environmental structures and trends in order to understand the processes at work in our world. This process of discernment has been called "reading the signs of the times." Then, in a second step, we turn to the discernment of value. For this second step we examine past history, our own experience, the experience of our own community and that of other communities in order to discern what is most valuable, what satisfies the basic needs and aspirations of all persons, what best respects our deepest understanding of the evolutionary potential embedded in creation. At a basic level, we must decide how we can act within the existing reality in ways that foster life—fullness of life for humans and the ecosystem now and in the future. For this fullness of life is that communion to which God has called all creation. It is by recognizing in our own experience the partial realizations of fullness of life and their absences that we come to recognize the presence of the Holy Spirit that Jesus promised to send to us. In the same way, for the first apostles and disciples it was by finding in Jesus' self and teachings the fullness of life to which the Hebrew Scriptures had pointed them that they recognized the Messiah.

In such an approach, neither nature as originally created nor nature as currently examined is normative. What is discerned is not so much nature only, but nature in history, and what is learned from discernment is not so much which specific acts to do or avoid, but what of the common good is endangered and should be supported by individuals as well as the society. Discernment at this level can lead to a variety of different responses for individual action, and many of these may well be different ways of moving society in the same direction.

The Case of Marriage and Family

It is not necessary to turn either to the distant Christian past or to conservative evangelical or fundamentalist Christians to find examples of patriarchy in Christian treatment of marriage and family. Many analysts understand both marriage and family as essentially patriarchal institutions in both their origins and their present structures. The sociologist Jessie Bernard, for example, argued extensively that U.S. marriage works for the benefit of men at the expense of women, and that this is true not only in terms of objective measures of education, career advancement, social status, and economic security, but also in terms of mental health. She demonstrates that while proportionately more married women report themselves as "happy" than do single women, married women actually describe themselves as considerably more phobic, passive, and depressed than do single women. At the same time, married women suffer from worse mental health than do married men, experiencing higher rates of psychological anxiety, feelings of inadequacy in marriage, negative or ambivalent self-perceptions, and expectations of impending nervous breakdown.⁴⁶ Married women have, according to Bernard, accepted the adjustment version of women's mental health advocated by doctors and psychologists for many decades: women must be happy if they have adjusted to their social role—even if doing so makes them depressed, anxious, and fearful.

Christian ethicist Mary Hobgood presents married sexuality in Western culture as defined by heterosexism, monogamy, and organized around child-rearing.⁴⁷ Hobgood argues that one of the major supports for traditional marriage is that it is vital to capitalism. Capitalists benefit from the unpaid labor of wives who reproduce and rear the workforce, and take care of all the personal and household maintenance tasks of the workers, thus allowing employers to set hours of work and pay scales which would be otherwise impossible.

Most of the religious defenses of traditional marriage have focused on children's need for stable homes. This is not surprising, since for most of the Christian tradition, as we have seen, the primary purpose of both marriage and sexual activity has been procreation. The social need for children to be materially supported and cared for in relatively stable situations was sufficient in most Western cultures to restrict sexual activity to marriage or to situations in which marriage could result from pregnancy. Of course, there were always other factors which supported this restriction of sexual activity to marriage in the West in premodern times. Demographer S. Ryan

⁴⁶ Jessie Bernard, "The Paradox of the Happy Marriage," in Vivian Gomick and Barbara K. Moran, eds., *Woman in Sexist Society: Studies in Power and Powerlessness* (New York: New American Library, 1971), 145-162.

⁴⁷ Mary Hobgood, "Marriage, Market Values, and Social Justice: Toward an Examination of Compulsory Monogamy," in Susan E. Davies and Eleanor H. Haney, eds., *Redefining Sexual Ethics* (Cleveland: Pilgrim, 1991), 115-126.

Johansson,⁴⁸ examining the seventeenth, eighteenth-, and nineteenth-century European family, reminds us of the much later sexual maturation of both men and women, of high rates of venereal disease for which there were no effective treatments (much less cures), of high rates of infant mortality and of 1-2% maternal mortality, of the unpleasantness and ineffectiveness of available contraception, and of the burden that each pregnancy put on the comparatively fragile health of women.⁴⁹ All of these factors, as well as the cultural dominance of the Christian prohibition on nonmarital sex, discouraged persons in earlier ages from having sex outside the culturally and religiously approved context for child-rearing, which was marriage.

While the demands of child-rearing have clearly influenced the division of labor between men and women, it is not accurate to say that the needs of children were most influential in determining the structure of marriage and family. The economy has that honor. Since the beginning of the modern period the changes in both the shape of the economy and the structure of the family have changed too rapidly, and in too many linked ways, for there to be any doubt about the power of the economy to dictate changes in the family. Beverly Harrison's "The Effect of Industrialization on the Role of Women," for example, recaps how the Industrial Revolution moved production out of the home where it had occupied both souses and older children, and into factories where men worked.⁵⁰ Over time the greater and greater productivity of factories led to the banning of child labor, one of the last of the elements in the social construction of "childhood" as we think of it today. Between the late eighteenth and late nineteenth centuries the social construction of childhood as a time of innocence and nurture, which historian Philippe Aries describes as beginning in the thirteenth century,⁵¹ combined with the exclusion of most women from economic production to produce the child-centered family, in which the chief role of woman was the care and nurturance of children. Today it is still true that the requirements of child-rearing dictate much of the thinking about marriage.

While much of the concern today about high rates of unwed teen pregnancy involves the inability of teens to materially provide for children, it is also widely recognized that the immaturity of many teens renders them incapable of both providing the nurturance and care that children require and maintaining stable adult-child relationships. The fact that much of the modern focus in marriage has been on the needs of children has drastically affected contemporary understandings of the role of women. Because women's role in the family has been understood for two centuries now in terms of child-rearing, the tendency to focus on the needs of children when considering proposed shifts in women's role or the structure of marriage has severely disadvantaged women.

It is clear that the modern Western emphasis on freedom and liberty as the human condition, the general shape of contract theories of governments, and the resultant focus on human rights have affected men and women differently. There is a strong tendency for the rights of (male) humans to be defined individually, in terms of autonomy, and separately from their relationships, which is not true for women. A pivotal issue in the UN meetings in Vienna in June 1993 on universal human rights was whether universal human rights apply to women. On the face of it, the issue is absurd. If women are human, then human rights inhere in women as well as men. But historically the question of whether women have human rights is relevant and critical. For the role—and therefore the rights—of women have historically been defined in terms of women not as ends in themselves, not as autonomous, as men are, but as instruments, as necessary for the well-being of both children and men. This instrumental understanding has changed little. Women are still subjected to arguments as to why generally accepted rights—such as control over one's body must be modified with regard to women. Persons and organizations who demand that women need permission of their husbands to be sterilized or aborted, or in some cultures to be issued contraceptive means, do nothing to ensure that men need permission of wives to be sterilized, much less that men who do not have the consent of their wives to sex are charged with legal violation of the wife's right to bodily autonomy. Persons and organizations who oppose the employment of women and advocate various forms of discrimination against working women on the grounds that children need full-time mothers in the home never advocate any modifications in the

⁴⁸ S. Ryan Johansson, "The Moral Imperatives of Christian Marriage: Their Biological, Economic, and Demographic Implications in Changing Historical Contexts," in John Coleman, S.J., ed., *One Hundred Years of Catholic Social Thought: Celebration and Challenge* (Maryknoll, NY: Orbis, 1991), 135-154.

⁴⁹ Poorer nutrition was the basic reason for comparatively lesser health, and it was responsible for later maturation, smaller stature, longer (infertile) recovery periods between pregnancies, higher miscarriage and maternal mortality rates, and smaller babies with higher infant mortality. (S. Ryan Johansson, "The Moral Imperatives," in *One Hundred Years*, 138-140.)

⁵⁰ Beverly W. Harrison, "The Effect of Industrialization on the Role of Women," in Beverly W. Harrison, *Making the Connections: Essays in Feminist Social Ethics* (Boston: Beacon, 1985), 42-53.

⁵¹ Philippe Aries, *Centuries of Childhood* (New York: Vintage, 1960).

work roles of men to accommodate the needs of their families. In comparison to women, men and to some extent children are considered ends in themselves, while women are only means. For this reason, until recently all attempts to reform the structure of the family, whether they emanated from the right or the left, tended to focus on changing the role of women. The Catholic church throughout the twentieth century has insisted on a return to the "traditional" female role—women not working outside the home, subject to the headship of men, with men controlling women's property.⁵² The attempt of the New Religious Right to persuade women to return to this traditional role sometimes took on a new look—the housewife who greets her husband at the door wrapped in Saran wrap à la Marabel Morgan—but was, at the core, the same submissive, supportive, instrumental role.⁵³ From the left, on the other hand, though the proposal was different, it too presumed that the problem in marriage was the role of women. Women were, according to Marx and Engels, to be liberated by a revolution which would both abolish private property and restore women as income earning producers, not merely consumers and home maintenance workers.⁵⁴ The unpaid, low-status, traditional women's work was to be restructured, socialized, and paid. However, in the eastern European restructuring of marriage and family under Communism, only women's role changed.⁵⁵ The problem of marriage was "the Woman problem." It was not considered necessary to rethink the roles of men or children in the family, even though the initial assumption of the left was that marriage was a kind of slavery for women.⁵⁶ Is it really possible to abolish any kind of slavery without affecting the lives and roles of slave owners? Historically, of course, socialist/communist societies never succeeded in socializing traditional female work, but did insist on women's participation in the paid workforce, where internal discrimination was less prevalent than in capitalist systems. But women in the workforce in these nations, like women in capitalist nations, continued to carry the almost exclusive burden of housework and childcare in addition to paid work.⁵⁷

Many of the changes going on in the American family today are traceable to changes in the economy. The fact that the average wage, adjusted for inflation, has been consistently weaker in purchasing power since the late 1960s has been a major factor in the huge increase of married women working.

In rethinking the structure of the family today, some things are clear, and others are still obscure. We should have clarity that:

- 1) Marriage and the family are historically conditioned institutions which can and should be restructured with a concern for justice understood as treating the needs/desires of women on an equal par with those of men and children;
- 2) Marriage and the family are conditioned by race, class, and other sociocultural factors as well: the role of married women, for example, varies a great deal within the U.S. depending upon whether the family is, for example, upper-middle-class white professional, rural black tenant farmers, or inner-city on ADC (whether black, white or Hispanic). Such sociological factors influence every aspect of marriage and family.
- 3) The greater involvement of women in reproduction does not legitimate infringing upon women's bodyright. (In Chapter 6 I will make a case for bodyright as foundational for the development of selfhood, including moral responsibility in the self.) Women will have something more than men to say about human reproduction because divine providence, operating in biological creation/evolution, gave women more involvement in and responsibility for reproduction. This is an excuse neither for excluding men from those decisions about reproduction which are appropriate to their level of participation and responsibility, nor for usurping from women and giving to men control over women's bodies in the name of reproductive equality (because men can't bear children but should be equally involved).

⁵² For a complete survey of papal teaching on the role of women, see my *Catholic Social Teaching on Liberation Themes* (Washington, DC: University Press of America, 1980), Chapter Five.

⁵³ For an overview, see Randall J. Hekman, "The Attack on the Family: A Response," in Wm. Bentley Ball, ed., *In Search of a National Morality: A Manifesto for Evangelicals and Catholics* (Grand Rapids, MI: Baker, 1992).

⁵⁴ Karl Marx, *Capital*, vol I (New York: Modern Library, 1936), 536, and Marx and Frederick Engels, *The Communist Manifesto*, in *A Handbook of Marxism* (New York: International Publishers, 1935), 42.

⁵⁵ See Hilda Scott, *Does Socialism Liberate Women?* (Boston: Beacon Press, 1979), especially Chapters Eight and Nine.

⁵⁶ See Sheila Rowbotham's discussion of marxist socialism on the family and sexuality in Chapter 13 of *Hidden from History: Rediscovering Women in History from the 17th Century to the Present* (New York: Vintage, 1974), especially 67-68.

⁵⁷ *Ibid.*, Chapter Nine.

- 4) Roles in the family are not biologically dictated. Because women nurse babies does not mean they are meant to be food preparers and servers. Because men have more upper body strength does not mean they are disciplinarians. No one marital or family pattern is normative, and all others defective in some way.⁵⁸ Families do not need to include children. Families need not include blood kin. Families need not be based on marriage. Families can be collections of persons who are committed to the physical, moral, spiritual, social, and intellectual development of other members of the collective unit in an ongoing way.
- 5) Marriage can take many shapes and forms. Institutions such as churches and states should allow various forms of marriage, and should be open to any marital roles/patterns which are non-abusive, just, and socially responsible.

Social acceptance of these points would require changing many of our social practices, from census regulations regarding families and households, through laws governing inheritance, guardianship, taxation, and insurance. That is a huge agenda for change. But there are still a number of areas in which our thinking about sexuality in relation to marriage and family is still in major flux. Is there a purpose and content to marriage once it is no longer about the ownership and control of women and children, once both entering and remaining within marriage are fully voluntary? Is there a purpose for couples to marry apart from producing and rearing children? Do the monogamy and the sexual fidelity which have been traditional (at least for women) in the West serve any purpose in sexually egalitarian marriage? In the present post-modern world monogamous marriage understood in terms of an intimate interpersonal relationship meets a variety of human needs which have been met historically, and in other cultures even in the present, in other ways. This should not be understood as an argument that this is the form that marriage should take now or in the future, or that there is anything in human nature, or human sexuality itself which dictates any specific form of sexual interaction or relationship. We live in a world in which culture changes slowly. Most of us will look to satisfy our individual needs and desires for touch, affection, intimacy, and bonding within the marital kind of relationship we have been socialized to accept. For this reason most societies do well to reform general structures such as marriage and family in the direction of justice and tolerance.

⁵⁸ See in particular the discussion around Daniel Moynihan's "The Negro Family" and the more recent examples of the same phenomena in Margaret Cerullo and Marla Erlien, "Beyond the 'Normal' Family: A Cultural Critique of Women's Poverty," in Rochelle Lefkowitz and Ann Withom, eds., *For Crying Out Loud: Women and Poverty in the U.S.* (New York: The Pilgrim Press, 1986), 248-261.