A RESPONSE TO JOHN T. NOONAN, JR. CONCERNING THE DEVELOPMENT OF CATHOLIC MORAL DOCTRINE

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John T. Noonan, Jr., the able philosopher, respected jurist, and prominent lay Catholic intellectual, could not have picked a better time—or a worse time to bring up crucial questions about the development of Catholic moral doctrine. In an article entitled, "Development in Moral Doctrine," Noonan considers the problems posed for Catholic teaching authority by the changes which have occurred in Catholic moral doctrine in the course of the centuries.

It is an appropriate time to consider Catholic moral doctrine because the primary heresies the Church faces today are heresies centered upon issues of moral doctrine. Although virtually every heresy can be found, at least in miniature, in every age, certain ages are marked by prominent heresies that deal with particular themes. In the early centuries, Christological heresies predominated. At the time of the Protestant Reformation, ecclesiological, soteriological, and sacramentological heresies held sway. Today, the scene of battle has moved to questions of moral theology, so that the dominant heresies of our age are moral heresies.

On account of the moral assault against the Church which rages today, therefore, Noonan's piece is both timely and potentially dangerous—dangerous because anything which opens a potential for doubt about the authority and reliability of the Church's teachings on moral matters will be exploited at once and ruthlessly by those who wish to undermine the Church's opposition to abortion, artificial birth control, divorce, what are euphemistically called "alternative life styles" (including gay marriage), euthanasia, pre-marital sex and "trial marriage," artificial insemination, in-vitro fertilization, surrogate motherhood, etc.

It should be noted that Noonan has no apparent sympathy with any of the aforementioned causes which seek to undermine the moral teaching authority of the ordinary and extraordinary Magisterium of the Church, with the exception of artificial birth control, which Noonan is on record as supporting. On the other hand, he has been a most resolute and scholarly opponent of abortion. His concern is precisely that in the climate of the times, with its unprecedented moral upheaval, the Church must have a clear and convincing explanation that deals with the changes (and/or seeming changes) which have historically been observed in Catholic moral teachings.
There are other areas of Catholic moral doctrine, however, where the history is more complicated, and the claim is often made that in these areas the Church's teaching has in some way changed. Let us examine the four specific cases of alleged alteration in Catholic moral doctrine presented by Noonan to see if we can get a better grasp on that challenge of mutation to which Noonan has alluded—moral doctrines concerning usury, dissolution of marriage, slavery, and religious freedom.

Next let us deal with the issue of slavery as it appears in Noonan. Slavery is a fairly complex matter, of course. We find it a simple issue today only because we are not forced by circumstances to consider all of its aspects clearly. First, let us note that numerous passages in the Old Testament justified slavery under conditions which were designed to ensure humane treatment and (under proper circumstances) ultimate freedom.[19]

In ancient times, slavery was seen as justly arising from one of three circumstances: (1) capture in war, (2) punishment for crime, and (3) obligation for debt. Enslavement for debt would be the least reconcilable to Catholic doctrine, although the Church had to deal with it as an historical reality in Roman law, reacting prudentially in order to mitigate the evil without creating greater ones. Regarding prisoners of war, however, more deserves to be said. Biblical slavery could be seen as a reform, a lesser evil made necessary by the inability of societies to hold war prisoners in idleness due to scarcity of resources. Release of prisoners was extremely impractical when wars lasted many generations, as did Israel's wars with her hostile neighbors, the Greek struggles with the Persian Empire, or the Punic Wars between Rome and Carthage. Humane slavery (always a Catholic requirement) was a superior option to the suicidal release of prisoners of war, the economic impossibility of simply imprisoning war captives, or the terribly inhumane alternative of executing captured enemies.

It is important to note that the Catholic Church in past centuries did not intend to endorse authoritatively any specific instances of slavery, but only the principle that slavery could be justified as the lesser of evils in certain circumstances. The situation surrounding ancient warfare illustrates one particular application of this principle. The same notion of the "lesser evil" was also applied to the question of the status of the children of slave mothers. As Noonan observes, "St. Antoninus of Florence followed St. Thomas in acquiescing in the civil law permitting slave status to follow birth to a slave woman,"[20] but in noting that the eminent Jesuit moralist Cardinal Juan De Lugo "found slavery 'beyond the intention of nature,' but 'introduced to prevent greater evils,'"[21] Noonan does not see the clear extension of that principle to the conveyance of the mother's status to the children.

One can easily see that if the Church had attempted to bestow freedom upon the
children of slaves, owners might well have denied the right of slaves to marry, with all the attendant evils that would involve, and owners might not have properly cared for the offspring of slaves—offspring over whom they would have enjoyed no property right.

Thus, we can see the complicated case for accepting slavery as a social condition arising from prolonged periods of warfare. John Locke's justification of slavery in his late 17th-Century work, *Two Treatises on Civil Government*, contains the same rationale as has been given here.[22] It will be recalled, of course, that much of modern slavery did not so originate, since innocent and non-belligerent persons were set upon (usually in Africa) and impressed into slavery without moral justification and in the most inhumane of conditions.

Finally, classical morality accepted the legitimacy of *slavery for crime*. This form of slavery, it would seem, can be easily justified, and under a different name, *this penal slavery is still the practice of most nations*. It is not accidental that in the aftermath of the American Civil War, the framers of the Thirteenth Amendment to the U.S. Constitution wrote into that amendment an exception to the prohibition on involuntary servitude. The text of the 13th Amendment states, "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist...." Prisoners may be compelled to work, their liberties are often seriously curtailed, and although the vast majority remain in this condition for only a limited period of time, "life without parole" is an increasingly used option, as are finite sentences of such duration as to ensure that they constitute *de jure* life imprisonment.

The change of the Church's attitude toward slavery reflects the changed circumstances of the world more than it reflects any revolution in moral theology. *Wars tend to be of shorter duration in the modern world (though often of far greater severity); nations often possess surpluses out of which they can feed and care for prisoners of war who are held as prisoners rather than as slaves as would have been the case in previous times, and most importantly, perhaps, civil authorities are willing, in general, not only to abolish slavery, but to extirpate those greater evils the avoidance of which made slavery's existence permissible. In this new environment, the Church may put greater emphasis on its statements that "slavery is evil"—but it had never judged otherwise. The Church had done no more than proclaim that in other sets of social and historical circumstances, slavery represented the lesser of evils.*

*If we were to posit a science-fiction scenario, we might hold that if the Church were to find itself in a devastated, post-nuclear world, as in the excellent novel *A Canticle for Leibowitz*.[23] where conditions identical to those in ancient Israel, the European Middle Ages, or the early modern era existed, then in those circumstances, the Church might again have to accept (prudentially, as the lesser of evils) the reinstatement of slavery. However, one would naturally expect the Church's historical experience to facilitate her efforts to mitigate, restrict, or eliminate the*
more serious evils attendant upon this lesser evil.

... 

Noonan summarizes his analysis by noting what appears to be a dramatic shift in the Church's moral doctrine: "In the course of this displacement of one set of principles, what was forbidden became lawful (the cases of usury and marriage); what was permissible became unlawful (the case of slavery); and what was required became forbidden (the persecution of heretics)." Furthermore, he laments that "...no great theologians have immersed themselves deeply in these mutations of morals."[29] In all of these seeming shifts in moral doctrine, however, we have seen that the key moral principles of the Church have remained intact; only judgments of circumstances in the world have altered.

Noonan delineates some of the perplexing problems offered by the history of moral theology, but his own approach to these problems is altogether too ready to see radical transformations of doctrine where none exist, and to call for bold new theories of the morphology of moral theology where none are necessary. What is necessary to understand and appreciate the essential consistency of the Magisterium's pronouncements on the doctrines of moral theology is merely a more intricate application of already existing principles and a more careful analysis of their historical context.

Endnotes

1 <Theological Studies> 54 (1993) 662-677; a more developed version of the Thomas Vernon Moore Lecture, sponsored by St. Anselm's Abbey, September 29, 1990, at the Catholic University of America.


5 "Development in Moral Doctrine," p. 670.
6 E.g., Lev. 25:35-37, Ezek. 18:5-9, Ps. 14:5 (directly); and Amos 8:46 and Deut. 15:7-10 (by interpretation).

7 Lk. 6:35.

8 Lk. 18:20-27.


11 This does not partake of the fallacy of "denying the antecedent," because the Church's judgment that the charging of interest is permissible is based not only on the denial of the antecedent, which simply prevents the conclusion of impermissibility, but also on the absence of support for any conclusion of impermissibility.


14 Ibid., p. 675.

15 Mt. 26:69-75.


17 "Development in Moral Doctrine," p. 664.

18 <Power to Dissolve>, p. 374.

19 E.g., Ex. 21:1-11; Lev. 25:11, 47-55; Deut. 23:15-16.


21 Ibid.


24 St. Augustine to Boniface, <Epistula> 185 (PL 33.803); St. Thomas Aquinas,
<Summa Theologica> 11-11, Q. 11, A. 3; A. 4 ad 1.


26 E.g., Lucius II, <Ad abolendam (Decretales Gregorii IX> 5.7.9) [as paraphrased by Noonan].


28 Vatican II, <Dignitatis humanae personae> no. 2, Second Vatican Council, <Constitutiones> 55.


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