

COGNITIVE DISSONANCE IN THE CONTRIBUTION OF THE CATHOLIC CHURCH TO INTERNATIONAL HUMAN RIGHTS LAW DISCOURSE

ABSTRACT

On 10 December 2008, the world celebrated the 60th anniversary of the Universal Declaration of Human Rights ('the UDHR'). A formative influence on the UDHR was the Catholic social justice tradition and during his long pontificate, John Paul II described the UDHR as 'one of the highest expressions of the human conscience of our time.' John Paul II was repeatedly nominated for the Nobel Peace Prize for his emphasis on the importance of human rights.

However, after his death in April 2005, commentators began a concerted attack on the human rights record of the Church generally and John Paul II particularly. John Paul II had allegedly 'waged a ceaseless war against human rights', and had done 'more to spread AIDS in Africa than prostitution and the trucking industry combined'. These attacks were deeply ironic given John Paul II's consistently expressed fear that the liberal western democracies of North America and Western Europe were incubating a 'culture of death'.

This article investigates the immense gap between these two positions by demonstrating how extreme cognitive dissonance has developed in characterising the contribution of the Church generally and John Paul II particularly to international human rights discourse. It will examine how critics are attempting to resolve this dissonance in their favour through their attacks on both the Church's status in international law and on its teachings on particular human rights issues such as contraception and arresting the spread of the HIV/AIDS epidemic. This article will argue that these criticisms are characterised more by rhetoric than reason and as such, fail to understand the foundations of the Church's views. As a result, the Church's concerns about the ethical and philosophical underpinnings of various human rights initiatives of contemporary liberal democracies remain caricatured, misunderstood and ridiculed.

Given the prophetic nature of John Paul II's warnings against a flourishing culture of death, the paper concludes that the ability of

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stakeholders, governments and Non-Governmental Organisations ('NGOs') to engage seriously with the Church in its continued presence in international law and in its approach to the philosophical foundations of international human rights discourse remains seriously flawed.

I INTRODUCTION

On 10 December 2008, the world celebrated the 60th anniversary of the *Universal Declaration of Human Rights*, adopted by the United Nations General Assembly in 1948. One of the formative influences on the UDHR was the Catholic social justice tradition and Catholic philosophers such as Jacques Maritain were instrumental in drafting the UDHR.¹

During his long pontificate, Pope John Paul II described the UDHR as 'one of the highest expressions of the human conscience of our time.'² John Paul II was repeatedly nominated for the Nobel Peace Prize for his emphasis on the importance of human rights.

However after his death in April 2005, commentators began a concerted attack on the Church's position in international law as well as on the human rights records of both the Church generally and John Paul II in particular. One commentator stated that John Paul II had 'waged a ceaseless war against human rights.'³ Another said that John Paul II had done 'more to spread AIDS in Africa than prostitution and the trucking industry combined.'⁴ Yet another stated that John Paul II's papacy will 'be remembered as one that helped keep Africa disease-ridden, famished and disastrously undeveloped.'⁵

In different countries, the Church was accused of various hate-crimes in entering debate about social justice issues. In 2006, the City of San Francisco passed a resolution declaring the Church's teachings 'defamatory, ignorant and hateful'.⁶

How can there be such an immense gap between these two positions? The Church generally, and John Paul II particularly, cannot be champions of international human rights while also 'waging ceaseless war on human rights' with the blood

¹ Mary Ann Glendon, 'The Sources of 'Rights Talk': Some are Catholic' (2001) 128 (17) *Commonweal* 11.

² John Paul II, 'Address Of His Holiness John Paul II' (Speech delivered at the Fiftieth General Assembly Of The United Nations Organization, New York , 5 October 1995).

³ *Critics Attack Late Pope's Views* (2005) BBC News <http://news.bbc.co.uk/2/hi/uk_news/4405967.stm> at 21 September 2008.

⁴ Michela Wrong, 'Blood of Innocents on His Hands' *New Statesman* 11 April 2005.

⁵ *Ibid.*

⁶ *Major US City Officially Condemns Catholic Church: Instructs Members to defy 'Holy Office of Inquisition'* (2008) WorldNetDaily <<http://www.worldnetdaily.com/index>>, at 10 September 2008.

of countless innocents on their hands. Is there a process or framework that would enable us to both navigate and evaluate these wildly opposing statements about the Church's human rights tradition generally and, more specifically, John Paul II's contribution to that tradition?

The search for such an adjudicatory framework has significant implications. Both the Church and various human rights NGOs have vested interests in the public and private reception of their arguments. The Church is a significant presence in the international community with a position in the United Nations.

The Papacy carries enormous power to influence the thinking of not just the world's 1.4 Billion Catholic Christians but also Christians of other confessions. Likewise, NGOs attempt to gather moral and financial support for their own human rights agendas. Many of these NGOs appeal to religious believers for their support.

When there is a perceived conflict between the position of the Church and that of an NGO, both parties will seek to resolve that conflict through arguments advancing their respective positions. How are these conflicts to be evaluated and then resolved?

This article begins by examining the contribution of the Catholic social justice tradition to the eventual formation of the UDHR. It then notes the particular importance placed on the UDHR by John Paul II and Benedict XVI, and the many Peace Awards bestowed upon John Paul II for his advocacy of human rights. The paper then discusses the nature and content of the many criticisms directed against the Church as a subject at international law and against John Paul II's approach to the HIV/AIDS epidemic in Africa.

Further this article suggests that these criticisms can be understood and then evaluated through the lens of Cognitive Dissonance Theory ('CDT'). It demonstrates how extreme cognitive dissonance has developed in characterising the contribution of the Church generally and John Paul II particularly to international human rights discourse.

This article will also examine how critics are attempting to resolve this dissonance in their favour through their attacks on both the Church's status in international law and on its teachings on particular human rights issues such as contraception and the HIV/AIDS epidemic. Lastly it will argue that these criticisms are characterised more by rhetoric than reason and as such fail to understand the foundations of the Church's views. As a result, the Church's concerns about the ethical and philosophical underpinnings of various human rights initiatives of contemporary liberal democracies remain caricatured, misunderstood and ridiculed. It concludes that this failure diminishes the ability of stakeholders, governments and NGOs to engage seriously with the Church in both its continued presence in international law and in its approach to the philosophical foundations of international human rights discourse.

II THE CATHOLIC CONTRIBUTION TO THE UDHR

The contribution of the Catholic Church, through its teachings on social justice, to the formation of the UDHR is remarkable. Recent scholarship led by Harvard Professor of Law Mary Ann Glendon is demonstrating just how influential the Catholic social justice tradition was on the eventual creation of the UDHR.⁷

When it was drafting the UDHR the UN Human Rights Commission, chaired by Eleanor Roosevelt, drew upon many constitutions and rights instruments. The drafting committee relied most heavily on a document prepared by the American Law Institute and on the Latin American 1948 *Bogota Declaration of the Rights and Duties of Man* ('the *Bogota Declaration*'). The language and concepts expressed in the *Bogota Declaration* reflected earlier Catholic social justice teaching.⁸

One of the principal scholars on Roosevelt's drafting committee was Charles Malik, a Lebanese Arab of the Greek Orthodox Christian tradition. Malik's inspiration was drawn from his heavily underlined copies of *Rerum Novarum* (1891) and *Quadragesimo Anno* (1931), encyclicals on social justice issued by Popes Leo XIII and Pius XI respectively. In addition, Roosevelt had received a copy of the United States Council of Catholic Bishops 1947 document, *Statement on Human Rights*. Many passages in the UDHR are strikingly similar or identical to that document.

After the UDHR had been drafted and members of the Roosevelt Committee were lobbying nations for a final vote, Rene Cassin, an influential member of the lobbying group, relied heavily on the support of the then Papal Nuncio in Paris.⁹ In 1948, the Papal Nuncio in Paris was none other than Cardinal Angelo Roncalli, the future Pope John XXIII.

In his encyclical *Pacem in Terris* (1963), John XXIII referred to the UDHR by name, calling it 'an act of the highest importance.' John XXIII went on to convene the Second Vatican Council (1963–65). Although he died before the Council concluded, John XXIII played a pivotal role in securing the adoption of crucial Constitutions and Declarations.

One of the most important Declarations was *Dignitatis Humanae* (the Declaration on Religious Liberty). It stated

The right to religious freedom is based on the very dignity of the human person known through the revealed Word of God and by reason itself.¹⁰

⁷ Glendon, above n 1.

⁸ Mary Ann Glendon, 'The Forgotten Crucible: The Latin American Influence on the Universal Human Rights Idea' (2003) 16 *Harvard Human Rights Journal* 27.

⁹ Mary Ann Glendon, 'Propter Honoris Respectum: Knowing the Universal Declaration of Human Rights' (1998) 73 *Notre Dame Law Review* 1153.

¹⁰ Austin Flannery (ed), *The Basic Sixteen Documents, Vatican Council II* (1996), 551 at 553, quoting *Dignitatis Humanae* (Declaration on Religious Liberty), 7 December

This extract is very close to the wording of the UDHR in that:

Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

The Church's insistence on human rights grounded in inherent dignity enabled a significant degree of philosophical and practical collaboration between believers and non-believers.¹¹

III THE POPES ON THE UDHR

Earlier in 2008, Pope Benedict XVI addressed the United Nations. Speaking on the topic of human rights, His Holiness stated, 'The promotion of human rights remains the most effective strategy for eliminating inequalities between countries and social groups and for increasing security'.¹² This is because 'The victims of hardship and despair whose human dignity is violated with impunity become prey to the call to violence and they then become violators of peace'. According to His Holiness, the inherent dignity of people is based on 'universal values that transcend the diversity-cultural, ethnic or ideological-embodied in any institution.... Those values are at the base of human rights'.¹³

A similar message had been presented by his Holiness Pope John Paul II during his 1979 and 1995 addresses to the United Nations General Assembly. More than any other pope, John Paul II gave enormous emphasis to the notion of human rights, frequently referring to the UDHR. In his first encyclical, *Redemptor Hominis*, (The Redeemer of Man) John Paul II described the UDHR as a 'magnificent effort' to establish the objective and inviolable rights of persons, including the freedom of religion.¹⁴

During his October 1995 address to the UN, John Paul II referred to the UDHR as 'one of the highest expressions of the human conscience of our time.' During his 1998 message for World Peace Day, John Paul II counselled that the UDHR must be 'observed integrally both in spirit and in letter'.¹⁵

1965, Vatican Council II, at paragraph 2.

¹¹ George Weigel, 'The Catholic Human Rights Revolution' (1996) *Crisis Magazine* (July/August).

¹² Benedict XVI, 'Human Rights Must be Respected as an Expression of Justice', (Speech delivered at Meeting with the Members of the General Assembly of the United Nations Organization, New York, 18 April 2008).

¹³ Ibid.

¹⁴ John Paul II, *Redemptor Hominis* (1979), 17.

¹⁵ Quoted in Avery Dulles, 'Human Rights: Papal Teaching and the United Nations', (1998) 179 *America* 14, 15.

The relationship between the political and philosophical dimensions of the UDHR was fully explored by Pope John Paul II during his pontificate of 26 years. ‘Pontiff’ is derived from the Latin word ‘pontifex’ which means ‘bridge builder’. In this sense, John Paul II continuously sought to build bridges between the Church’s teaching on human rights and the wider world. John Paul II employed various encyclicals as the principal means for explaining the philosophical foundations of the Church’s human rights tradition and how that tradition might engage with the wider community. Beginning with his first encyclical, *Redemptor Hominis* (1979), and developed through *Laborem Exercens* (1981), *Sollicitudo Rei Socialis* (1987), *Centesimus Annus* (1991), but most prominently in *Veritatis Splendor* (1993) and *Evangelium Vitae* (1995), John Paul II constantly called attention to the transcendental basis of the inherent dignity of human beings.¹⁶

What is interesting is that in these encyclicals, John Paul II frequently refers to the *Dignitatis Humanae* Declaration from the Second Vatican Council. In doing so, John Paul II gave the Declaration what Weigel calls a ‘public dimension’ by insisting that the doctrine of religious freedom discloses important truths about the structure and operation of a rightly ordered political community.¹⁷ It was therefore no accident that John Paul II emphasised the relationship between human rights and religious freedom in then communist Poland, in Czechoslovakia, in the Philippines under the Marcos regime, in Chile and in Cuba. The result is what Samuel Huntington has termed the ‘Third Wave’ of democratization.

IV PEACE PRIZE AWARDS

For his tireless efforts in advocating for and promoting human rights, John Paul II was conferred with many awards by the international community. He was repeatedly nominated for the Nobel Peace Prize and, in 2004 was awarded the European Union’s ‘Extraordinary Charlemagne Prize’. The citation for this EU award noted that John Paul II had embodied ‘in his life respect for the dignity and freedom of humankind and more than any other, he stands for the inalienable nature of human rights’.¹⁸

The United States of America conferred upon John Paul II the Congressional Gold Medal in 2004. Congress noted that ‘His Holiness John Paul II has championed the cause of the poor, the weak, the hungry and the outcast. He has defended the unique dignity of the every life and the goodness of all life’.¹⁹

¹⁶ See Robert Araujo, ‘The Catholic Neo-Scholastic Contribution to Human Rights’ (2003) 1 *Ave Maria Law Review* 159; Renato Martino, ‘John Paul II and the International Order: Human Rights and the Nature of the Human Person’ (2007) 21 *Notre Dame Journal of Law, Ethics & Public Policy* 51.

¹⁷ *Ibid.*

¹⁸ Board of Directors for Award of the Extraordinary Charlemagne Prize, *Reasons of the Board of Directors for Award of the Extraordinary Charlemagne Prize to His Holiness Pope John Paul II* (2004), City of Aachen <http://www.aachen.de/EN/sb/pr_az/karls_pr/laureates/extra_declaration_04/index.html> at 2 October 2009.

¹⁹ *Pope John Paul II Congressional Gold Medal Act 2000*, 31 U.S.C § 5111 note (2008).

V THE BASIS OF JOHN PAUL II'S ARGUMENTS

To understand the basis for the Church's and John Paul II's arguments, it is important to keep two propositions in mind. First, the Church does not possess an inherent philosophical system of her own. In his 1993 encyclical *Fides et Ratio*, John Paul II points out:

Underlying all the Church's thinking is the awareness that she is the bearer of a message which has its origins in God. The knowledge which the Church offers to humanity has its origin not in any speculation of her own however sublime, but in the word of God.²⁰

Throughout history, the Church has drawn upon existing philosophical systems to explain and proclaim that message. St Augustine drew upon Neo-Platonic concepts while St Thomas Aquinas drew upon Aristotelian concepts. In the late 20th and early 21st Century, John Paul II drew upon the phenomenology and personalism of Max Schlerer and others.²¹ The second proposition flows from the first; the Church does not express an *a priori* preference for one form of political organisation or another.

In his 1991 encyclical *Centesimus Annus*, John Paul II stated:

The Church respects the legitimate autonomy of the democratic order and is not entitled to express preferences for this or that institutional or constitutional solution. Her contribution to the political order is precisely her vision of the dignity of the person revealed in all its fullness in the mystery of the Incarnate Word.²²

To be clear:

The Church's social doctrine is not a 'third way' between liberal capitalism and Marxist collectivism, nor even a possible alternative to the other solutions less radically opposed to one another; rather, it constitutes a category of its own.²³

However, for John Paul II and the Church, democracy is not a 'value neutral' enterprise. Nor does the mere existence of a democratic system of government guarantee the freedom of its citizens; 'give me liberty or give me death' is a bluff easily called.

²⁰ John Paul II, *Fides et Ratio* (1993), 7.

²¹ Kleetus Varghese, *Personalism in John Paul II* (2005); Jaroslaw Kupczak, *Destined for Liberty: The Human Person in the Philosophy of Karol Wojtyla/John Paul II* (2000); John McNerney, *John Paul II: Poet and Philosopher* (2004).

²² John Paul II, *Centesimus Annus* (1991) 47.

²³ John Paul II, *Sollicitudo Rei Socialis* (1987).

In his address to the Bishops of Texas, Oklahoma and Arkansas during their 1998 *Ad Limina* visit, John Paul II remarked:

[D]emocracy is itself a moral adventure, a continuing test of people's capacity to govern themselves in ways that serve the common good and the good of individual citizens. The survival of a particular democracy is imperilled when politics and law are sundered from any connection to the moral law written on the human heart.²⁴

This view stands in contrast to the generally accepted understanding of democracy, embodying John Stuart Mill's dictum that:

The only freedom which deserves the name is that of preserving our own good in our own way, so long as we do not attempt to deprive others of theirs or impede their efforts to attain it.²⁵

The 'freedom' to pursue our own good is considered value neutral; governments should not prefer or legislate for any one or other value system:

The public philosophy by which we live is that freedom consists in our capacity to choose our ends for ourselves. Politics should not try to form the character or cultivate the values of its citizens. Governments should not affirm, through its policies and laws, any particular conception of the good life; it should provide a neutral framework of rights within which people can choose their own values and ends.²⁶

The essence of the Church's and John Paul II's concerns about such a value free conception of democracy lies in their fear that the freedoms flowing from democratic societies have been untethered from objective truths. Their fears can be expressed as follows:

It must be observed that if there is no ultimate truth to guide and direct political activity, then ideas and convictions can easily be manipulated for reasons of power. As history demonstrates, a democracy without values easily turns into open or thinly disguised totalitarianism.²⁷

Essentially, if there is 'my truth' and 'your truth', then without any objective criteria by which to judge them, it is the most powerful party who can force their 'version' of the truth on weaker parties.²⁸ When this happens, a very modern form

²⁴ John Paul II, 'Moral Truth, Conscience and American Democracy' *The Pope Speaks* 44 (2) (1999) 96.

²⁵ John Stuart Mill, *On Liberty* (1954).

²⁶ Michael Sandel, 'America's Search for a New Public Philosophy' *Atlantic Monthly* (January 1996) 57.

²⁷ John Paul II, *Centesimus Annus* (1991) 46.

²⁸ George Weigel, *The Cube and the Cathedral* (2005), 78.

of ideological totalitarianism takes hold in which the individual is the centre of meaning and others become means to subjectively determined ends; and the people whose ends are met are the most powerful.²⁹

According to the Church and John Paul II, the consequence has been the gradual establishment of a 'culture of death' in western liberal societies. There is now an impressive body of literature devoted to the analysis of this phenomenon.³⁰ In essence:

Freedom attains its full development only by accepting the truth. In a world without truth, freedom loses its foundation and man is exposed to the violence of passion and to manipulation, both open and hidden.³¹

VI THE ATTACKS

However, shortly after he died in April 2005 a concerted attack began on the character and legacy of John Paul II. Some of these attacks were venomous. Homosexual activist Peter Tatchell of advocacy group 'OutRage!' alleged that 'John Paul II waged a ceaseless war against the human rights of women and gay people', and 'had condemned millions to die an agonising, needless death'.³²

Writing in *The Guardian* newspaper on 4 April, 2005 Terry Eagleton confidently declared that John Paul II's 'greatest crime' was:

The grotesque irony by which the Vatican condemned as a 'culture of death' condoms, which might have saved countless lives in the developing world from an agonising AIDS death. The Pope goes to his eternal reward with those deaths on his hands. He was one of the greatest disasters for the Christian Church since Charles Darwin.³³

Four days later and writing in the same paper, Polly Toynbee opened her assault under the tasteful title: 'How dare Tony Blair genuflect on our behalf before the corpse of a man whose edicts killed millions.' Polly went on to state her belief that 'Genuflecting before this corpse is scarcely different to parading past Lenin; they both put extreme ideology before human life and happiness at unimaginable cost'.³⁴

²⁹ Robert Tilley, *Benedict XVI and the Search for Truth* (2007) 59.

³⁰ William Brennan, *Confronting the Language Empowering the Culture of Death* (2008); Carson Holloway, *John Paul II and the Challenge of Liberal Modernity*, (2008); Derek Jeffreys, *Defending Human Dignity: John Paul II and Political Realism* (2004).

³¹ John Paul II, *Centesimus Annus* (1991) 46.

³² *Critics Attack Late Pope's Views* (2005) BBC News <http://news.bbc.co.uk/2/hi/uk_news/4405967.stm> at 21 September 2008.

³³ Terry Eagleton, 'The Pope has Blood on his Hands', *The Guardian*, (4 April 2005).

³⁴ Polly Toynbee, 'Not in My Name: How Dare Tony Blair Genuflect on our behalf before the Corpse of a Man who edicts Killed Millions?' *The Guardian*, (8 April 2008).

Writing in *New Statesman* in April 2005, Michela Wrong considered that John Paul II's papacy will

be remembered as one that helped keep Africa disease-ridden, famished and disastrously undeveloped...he did more to spread AIDS in Africa than prostitution and the trucking industry combined.³⁵

Going even further, in its 3 April edition, the *Scotland on Sunday* asked the question 'How long before someone accuses the Pope of having committed a crime against humanity?'

These criticisms are savage, emotive and largely devoid of substantive content. They do however make great headlines and no doubt generated many product sales. They certainly contradict the view of Paul Kurtz, who lamented the way:

The US mass media were whipped into line with obsequious devotion and with nary a critical comment. There was very little, if any, dissent about his (John Paul II's) role.³⁶

At least in the West, the criticism predictably focussed on our obsession with the pursuit and acquisition of sexual pleasure. For example, Polly Toynbee of *The Guardian* based her criticism on her stated premise that since human beings are sexual beings, celibacy is not a natural state and therefore any philosophy or theology of celibacy is just bizarre at best and dangerously pathological at worst.³⁷ In contemporary Western liberal societies, there is

the assumption that sexual activity should not be regulated in any way and that people have the right, from an early age, to engage in sexual activity as they see fit, provided there is no coercion involved.³⁸

It is little wonder that unlimited and unconstrained sexual behaviour, contraception, abortion and homosexual behaviour were, and continue to be predictable and intractable fault lines.

VII A COMBINATION OF PREJUDICE AND IGNORANCE

A careful review of the media and journal reporting on John Paul II displays a remarkable absence of recognition of, and comment, on his stance toward (for example) care of the poor, universal education, preventing the exploitation

³⁵ Wrong, above n 4.

³⁶ Paul Kurtz, 'Back to the Dark Ages: The Deification of John Paul II' (2005) 25(4) *Free Inquiry* 5.

³⁷ Toynbee, above n 35.

³⁸ Timothy Finigan, 'AIDS, Condoms and the Catholic Church' (Speech delivered at the Forum Christi Group, England, 21 May 2006).

of migrant workers, the protection of refugees and the need for humanitarian intervention to prevent starvation and genocide in yet another African failed state.

There is little recognition let alone substantive analysis of the philosophical views expressed by John Paul II in the encyclicals *Centesimus Annus*, *Evangelium Vitae*, *Fides et Ratio* or *Veritatis Splendor*. There is little attempt to work through the deeper reasoning behind John Paul II's various speeches and *Ad Limina* addresses in which he set out the foundations of a democratic society that placed the inherent dignity of men and women at the centre.

There is however a remarkable degree of both prejudice and ignorance at work which is beginning to be acknowledged by the Academy. For example, Professor Thomas Woods notes that:

In our media and popular culture, little is off limits when it comes to ridiculing or parodying the Church. My own students, to the extent that they know anything at all about the Church, are typically familiar only with alleged Church 'corruption', of which they heard ceaseless tales of varying credibility from their high school teachers. The story of Catholicism, as far as they know, is one of ignorance, repression and stagnation.³⁹

This ignorance and prejudice is often actively exploited. For example, Dr Bernard Nathanson was one of the founders of the United States 'National Association for the Repeal of Abortion Laws' ('NARAL') in 1968. Dr Nathanson states that he personally conducted 75 000 abortions before retiring. In his book *The Hand of God*, Nathanson describes two important tactics adopted by NARAL to change public perception of abortion laws:

We persuaded the media that the cause of permissive abortion was a liberal enlightened, sophisticated one. We systematically vilified the Catholic Church and its 'socially backward ideas' and picked on the Catholic hierarchy as the villain in opposing abortion. This theme was played endlessly. We fed the media such lies as 'we all know that opposition to abortion comes from the hierarchy and not from most Catholics.' And the media drum-fired all this into the American people, persuading them that anyone opposing permissive abortion must be under the influence of the Catholic hierarchy and that Catholics in favour of abortion are enlightened and forward looking.⁴⁰

So uncritically has this attitude been accepted that Pennsylvania State University's Distinguished Professor of History and Religious Studies, Philip Jenkins has concluded that, at least in Western liberal democracies, there is 'one remaining

³⁹ Thomas Woods Jr, *How The Catholic Church Built Western Civilization* (2005), 1.

⁴⁰ Bernard Nathanson, *The Hand of God*, (2001).

acceptable prejudice; anti-Catholicism.⁴¹ The evidence is compelling and a few more examples will illustrate the trend.

In 2005, Canadian Catholic Bishop Frederick Henry wrote to his parishioners outlining the Church's position on same-sex marriages – that it opposes them. A complaint was then filed with the Alberta Human Rights Commission alleging that the letter violated 'homosexual human rights'.⁴²

In 2006, the City and Council of San Francisco passed 'Resolution 168-08' that accused the Church of being a 'foreign country meddling with and attempting to negatively influence San Francisco's existing and established customs.'

When the Church responded by setting out its 2000 year old philosophical and theological foundations of its anthropology, the Resolution was amended to condemn those teachings as 'defamatory, ignorant and hateful', spitefully concluding that 100 years ago, the Church's Congregation for the Doctrine of the Faith was known as the 'Holy Office of the Inquisition'.⁴³

In 2008, and after a public debate concerning same-sex marriages, Catholic priest, Father Alphonse de Valk was reported to the Canadian Human Rights Commission for engaging in a 'hate act'. The alleged hate act was explaining the Church's philosophy and theology in relation to homosexuality during the debate.⁴⁴

In none of the above situations was any attempt by critics to engage with the Church's philosophical position on (for example) marriage. Nor was any attempt made to rebut the foundations of this philosophy, or the conclusions the Church draws from this philosophy on particular issues such as same sex marriage.

Critics lost the opportunity to reflectively engage the Church on these important issues. Instead, the process of engagement followed a depressingly familiar pattern; ignorance of the Church's philosophical argument, caricature of the Church's position, expression of indignation and outrage at a 'straw-case' argument, followed by resort to complaint and legal processes.

⁴¹ Philip Jenkins, 'Catholic-bashing: America's Last Acceptable Prejudice' (2003) *Catalyst Magazine*, 36.

⁴² *Human Rights Complaint Filed Against Catholic Bishop for Defence of Traditional Marriage*, (2005) LifeSiteNews <<http://www.lifesitenews.com/ldn/2005/mar/05033001.html>> at 5 September 2009.

⁴³ *Major US City Officially Condemns Catholic Church: Instructs Members to defy 'Holy Office of Inquisition'* (2008) WorldNetDaily <<http://www.worldnetdaily.com/index>>, at 10 September 2008.

⁴⁴ Pete Vere, *Catholicism – A Hate Crime in Canada?* (2008) Catholic Exchange, <<http://www.catholicexchange.com/2008/06/04/112780>> at 15 July 2008.

VIII THE CONTRAST IS EXTREME

These characterisations of the Church generally and John Paul II particularly could not be further apart. John Paul II cannot simultaneously be a champion of the inherent dignity of humans everywhere, repeatedly nominated for the Nobel Peace Prize and honoured the world over for living a life devoted to the highest principles of human rights yet also being another Lenin, perpetrating hate-filled dogma resulting in the agonising deaths of millions, with buckets of blood on his hands after waging ceaseless war against the human rights of children, women, homosexuals and for which he should be accused of crimes against humanity.

How does someone make sense of this mass of contradictions? Is it possible to create some normative criteria by which we can comprehend the simultaneous existence of radically opposing characterisations of John Paul II and the Church and also undertake some meaningful evaluation of them? Can we bring more light and less heat to the debates?

IX COGNITIVE DISSONANCE THEORY

I suggest that ‘Cognitive Dissonance Theory’ (‘CDT’) can function as the hermeneutic key that will enable us to both explain these opposing views and to unlock their contours for the purposes of evaluating them. CDT enables us to understand how radically opposing cognitions or conceptions operate to create a form of psychological tension in the mind of the person holding them. CDT explains how people experiencing this tension attempt to diffuse it by altering the competing cognitions or behaviours. This process enables us to explain how the contours of the debate shift and swing between competing cognitive positions. Finally, CDT enables us to attempt some evaluation of the integrity of the statements made by people as they attempt to modify the competing cognitions. Are these statements rational or merely rhetorical or emotive?

There is a substantial quantity of academic literature devoted to CDT and its implications for decision making.⁴⁵ What is CDT and how can it function as the hermeneutical key to this debate?

CDT was developed in 1957 by Stanford University social psychologist Leon Festinger. CDT is a distressing mental state experienced when people ‘Find

⁴⁵ Andrew Elliot and Patricia Devine: ‘On the Motivational Nature of Cognitive Dissonance: Dissonance as Psychological Discomfort’ (1991) 67(3) *Journal of Personality and Social Psychology* 382; Simon Draycott and Alan R. Dabbs ‘Cognitive Dissonance: An Overview of the Literature and its Integration into Theory and Practice in Clinical Psychology’ (1998) 37 *British Journal of Clinical Psychology* 37; Eddie Harmon-Jones & Judson Mills (eds), *Cognitive Dissonance: Progress on a Pivotal Theory in Social Psychology* (1999); Thomas Shultz & Mark Lepper: ‘Cognitive Dissonance Reduction as Constraint Satisfaction’ (1996) 103 *Psychological Review* 219; Elliot Aronson, ‘The Return of the Repressed: Dissonance Theory Makes a Comeback’ (1992) 3 *Psychological Inquiry* 303.

themselves doing things that don't fit with what they know, or having opinions that do not fit with the other options they hold'.⁴⁶ CDT therefore concerns relationships amongst cognitions and amongst cognitions and behaviour. Most cognitions are described as either 'cognitively irrelevant' or 'cognitively consonant'. That is, where two cognitions are unrelated to each other or fit harmoniously with each other. An example of the former might be 'the sky is blue and I think tonight's dinner will be special.' An example of the latter might be 'I like soft drink and I like Coca-Cola.' In both cases, there is no dissonance between the cognitions that can serve as the cause of inner tension in the person holding them.

However, Festinger also identified many instances where people experience dissonance taking the form of inconsistent cognitions or inconsistent cognition and behaviour. For example 'I know Coca-Cola is bad for my diet, but I still drink it anyway.' Festinger's insight was that a person who entertains dissonant cognitions experiences a state of unpleasant psychological tension. In this situation, CDT holds that the psychological tension possesses drive-like qualities similar to hunger and thirst. That is, the experience of cognitive dissonance will drive a person to reduce the dissonance in the same way that a thirsty person will be driven to reduce their thirst. Festinger noted that healthy people experience a need to experience and maintain a psychological homeostasis in their day to day lives.⁴⁷

How are people driven to reduce cognitive dissonance? Unfortunately it is not as simple as drinking a glass of water (or Coca-Cola for that matter). Festinger identified three principal mechanisms by which people attempt to reduce the psychological tension they experience as a result of cognitive dissonance.⁴⁸

First, people may alter the importance of certain cognitions. For example, I decide that Coca-Cola is really great and that I can't do without it because I work hard and it's a well-deserved little vice. In this way, my cognition of the value of Coca-Cola outweighs the importance of my dissonant cognition that Coca-Cola is bad for my diet. The psychological tension I have been experiencing is lessened by affirming the importance of one of my cognitions over the other.

Secondly, people can change cognitions to make one of them consistent with the other, or even eliminate one of the competing cognitions altogether. For example, I decide that Coca-Cola keeps me refreshed and alert. It revives me and contributes to my overall sense of well-being. In this way, my cognition that Coca-Cola contributes to my overall well-being is consonant with my cognition that what I ingest must contribute to my well-being.

Finally, people can change their behaviour to make it consistent with one of our cognitions. For example, I know that Coca-Cola is bad for my diet, so I stop drinking it altogether.

⁴⁶ Leon Festinger, *A Theory of Cognitive Dissonance* (1957).

⁴⁷ Elliot and Devine, above n 46.

⁴⁸ Shultz and Lepper, above n 46.

X HOW DOES CDT APPLY?

The *cognition* of the Church as a legal subject of international law and entitled to its current status and privileges at the UN is starkly dissonant with the *cognition* of the Church as failing to meet the basic requirements of international law justifying its position and privileges at the UN.

Likewise, the *cognition* of John Paul II as a champion of the inherent dignity of humans everywhere, repeatedly nominated for the Nobel Peace Prize and honoured the world over for living a life devoted to the highest principles of human rights is starkly dissonant with the *cognition* of John Paul II as another Lenin who perpetrated hate-filled dogma resulting in the agonising deaths of millions, with buckets of blood on his hands after waging ceaseless war against the human rights of children, women, homosexuals and for which he should be accused of crimes against humanity.

But who experiences these dissonances? And why does it matter anyway? Surely the Church is not suffering because no doubt it is convinced of the correctness of its position on human rights and sexual ethics. And surely the Church's critics are just as convinced of the correctness of their own criticisms? Where is the dissonance? In any case, isn't this just a cranky argument between parties that have little to do with the realities of the everyday lives of billions of peoples?

While the Church and its critics may not experience cognitive dissonance, they have a vested interest in ensuring that others do not also experience dissonance. For example, there are over a billion Catholics in the world. The Church has a presence at the United Nations and is a formidable presence in the international community. Likewise there are billions of non-Catholics and many NGOs who also seek to influence international policy.

Both the Church and its critics have a vested interest in eliminating or reducing the cognitive dissonance that their respective supporters may experience on the issue of (for example) contraception and sexual ethics. The ongoing spiritual, emotive and financial support of the world's peoples directly influences the human rights agenda that the Church and other NGO's seek to advance.

The example of the CFFC 'See Change' campaign concerning the legal status of the Holy See in international law is a clear example of this process. Another recent example, involving the message of the Church concerned the decision in 2007 of NGO Amnesty International to reverse its previous policy stance toward abortion. Both the Church and Amnesty International fought, and continue to fight, a protracted war over the human rights implications of this policy decision. The debate carries very real consequences as the Church attempts to mobilise Catholic world-wide to refuse to financially support the ongoing work of Amnesty International. For its part, Amnesty International has a vested interest in resolving cognitive dissonance experienced by its members by demonstrating how the Church's position is simply wrong.

The tactics employed by both the Church and its critics in seeking to resolve the dissonance experienced by their supporters during these debates reflects the process identified by Festinger. Both the Church and its critics have attempted to alter or change one of the competing cognitions experienced by supporters or have urged a change in behaviour such as refusing to financially support Amnesty International or to vote against the status of the Holy See in International Law.

XI THE PROBLEM OF PROCESS

However, when the substance of these attempts is analysed, it becomes apparent that many of the arguments used by critics of the Church to alter cognitions are more rhetorical, emotional and prejudicial rather than reasoned, well-supported and cogently constructed. This represents a serious problem for evaluating the Church's contribution to international human rights discourse. It also represents a serious problem for engaging with the Church on debates concerning fundamental human rights issues. Australian philosopher James Franklin most accurately describes the problem:

Not everyone approves of the conclusions the Pope draws from his philosophy. But the attempted answers to him have mostly been disappointing. If one does not like some of the deliverances of his philosophical thought – for example, his policy on condoms and AIDS – then it is not satisfactory to condemn it as outmoded or patriarchal, or out of touch with reality, or reactionary, or pig-headed, or clerical or Polish. It or some of those promoting it may or may not suffer from those defects, but that does not bear on whether the philosophy itself or the conclusions from it are true.⁴⁹

It is vastly easier for critics like Peter Tatchell of *OutRage!* and Michela Wrong of the *New Statesman* to simply assert that John Paul II condemned millions to die an agonising death, or that he did more to spread AIDS in Africa than prostitution and the trucking industries combined, than it is to engage critically with the Church's philosophical position. As Franklin concludes:

They [the Church] put forward a philosophy and arguments for it [eg sexual ethics] and answers to them must be in the same terms – either an explanation of why the principles of that philosophy are wrong, or argument that the conclusions deduced about particular cases from those principles do not follow. A dryer task than expressing indignation, perhaps, but the only relevant way to proceed.⁵⁰

Everyone has the right to their private opinions about the Church and its policies. Additionally all people and institutions have the right to engage with the Church in critical public debate about human rights issues. However, if a person or institution

⁴⁹ James Franklin, 'Traditional Catholic Philosophy: Baby and Bathwater' (Paper presented to the Aquinas Academy Jubilee, Sydney, 9 March 2005), 3.

⁵⁰ Ibid.

makes the decision to engage the Church publicly, whether through the media, through NGO advocacy or other mechanisms, then that task has to be undertaken with integrity and intellectual honesty.

But isn't it enough to appeal to the belief that everyone has the right to make a comment about what interests them? Well, yes and no. Whether it is explicitly appreciated or not, people and institutions make important distinctions about the 'weight' given to what other people say. Otherwise how would we know what to believe or not?

For example, we would expect that a university student writing a research essay about the Church, would draft their paper with greater intellectual rigour than if the same student were writing a letter to a friend about her views of the Church. Likewise, we would expect that when someone seeks to influence public debate about the Church, through lobbying, media addresses or other intellectual campaigns, to go about it differently than if the same person were talking to friends about these issues during a dinner party (thus transgressing the advice to avoid sex, politics and religion as dinner party conversation topics!)

Different standards apply because of the different contexts and consequences that follow the statements. The student writing a critical essay is writing in a context in which she expects her arguments to be assessed and evaluated. The public campaigner undertakes her campaign in the context of a concerted effort to persuade people or institutions to modify their behaviour based on the content of the campaign.

It is therefore simply unacceptable for critics to enter public debate about the Church's human rights philosophy on the basis of rhetoric, emotional indignation and just plain ignorance. It is incumbent on critics to educate themselves as to the philosophical foundations of the Church's teachings and to engage with that philosophy through the process identified by Franklin. Cross-talking, straw-casing and other rhetorical or false attempts to persuade do not contribute to the serious debate concerning the Church's stance on vitally important human rights issues. Such tactics may sell papers, books and journals, but they are rightly ignored in any meaningful debate intended to persuade people and institutions to a certain point of view and/or to change their behaviour based on that point of view.

An observation of the recently retired Justice Kirby in relation to the often heated and equally misinformed debate concerning genetic science is apposite:

Ignorance is not bliss. If you want to make an intelligent contribution to this argument, you need to lean at least some genetics...fact has to be distinguished from scarifying fantasy.⁵¹

⁵¹ Michael Kirby, 'Book Reviews' *The Economist* (London), 14 November 1998, 11.

XII ILLUSTRATING THE PROBLEMS

This process can be illustrated by examining two very specific issues; first, the way in which the Church generally and John Paul II specifically have been attacked in relation to HIV/AIDS in Africa and secondly the attacks on the Church as a subject of international law.

The first issue demonstrates how the debate about the Catholic Church and the HIV/AIDS crisis has degenerated to the point of belligerence. The second issue demonstrates how the debate about the Catholic Church's status in international law can initially degenerate but, with careful reconstruction, be conducted in a more enlightened fashion.

Both issues demonstrate the extent to which cognitive dissonance can be generated and then exploited to further the agenda of one or other of the parties. The difference between them lies in the way that dissonance has been addressed in the issue of the Church's presence in international law. I argue that the process adopted in this instance most appropriately permits evaluation of the competing arguments.

XIII JOHN PAUL II & AIDS IN AFRICA

The Catholic Church is in an unusual position in relation to HIV/AIDS. On the one hand, it provides one quarter of world-wide health care given to victims, through its various agencies and health care institutions. On the other hand, it is also accused of genocide with the blood of millions of innocents on its hands.

Recall the apparently serious question posed by a commentator earlier: 'how long before someone accuses the Pope of having committed a crime against humanity?'

A Where is the Cognitive Dissonance?

Cognition one might go something like this: 'The Church is at the very forefront of the fight against HIV /AIDS, providing over a quarter of world-wide health care for victims. Please continue to support the Church and give generously to Catholic charities.'

Reading the current criticisms, the opposing cognition might go something like this: 'The Church's intransigent attitude toward contraception is responsible for the death of untold millions in Africa. The Pope has committed a crime against humanity. Never listen to a Catholic Church that is still stuck in the Middle-Ages, support another NGO with more compassionate and realistic policies.'

Both the Church and its critics seek to reduce the cognitive dissonance in the minds of the public through concerted public information campaigns in the media and academy. These campaigns are intended to alter one of other of the opposing cognitions in the favour of either the Church or another interest group.

B *What is the Content of these Media Campaigns?*

Similar sentiments have been expressed by some of John Paul II's more critical biographers. Biographers, but particularly those who purposefully write with the intent to persuade their readers to adopt a certain view of their subject, have a special duty to the rigour and integrity of their arguments. This is intensified in the context of the biographer's profession as a journalist or an author who receives payment for their efforts. John Cornwell is one such biographer who set out to write a biography with the stated agenda of demonstrating that John Paul II's papacy was

deeply flawed, where John Paul II turned to the religious paranormal, millennial prophecy and forms of supernatural realism to undermine human responsibility in community.⁵²

Predictably therefore, Cornwell concluded that:

His insistence that condoms should not be used in any circumstances condemned untold numbers of Catholics at risk of HIV infection to almost certain death.⁵³

David Yallop, well known for his conspiracy theories surrounding the death of John Paul I stated:

For many throughout Africa, the late Pope's vehement opposition to the use of condoms in the fight against the spread of the HIV/AIDS virus...ensured the premature death for an unquantifiable number of Africans.⁵⁴

Yallop's attempts to address and rebut the philosophy behind John Paul II's attitude toward contraception is starkly absent, except for his assertion that John Paul II demonstrated a

total absence of compassion [where] Vatican Council II was invariably put to one side and forgotten as the Pope mentally moved back through the nineteenth century, only pausing to pick up the worst legacy of Vatican Council I, the declaration of Papal infallibility.⁵⁵

⁵² John Cornwell, *The Pope in Winter: The Dark Face of John Paul II's Papacy* (2004), front flap.

⁵³ *Ibid*, xii.

⁵⁴ David Yallop, *The Power and the Glory: Inside the Dark Heart of John Paul II's Vatican* (2007), 484.

⁵⁵ *Ibid*, 403.

C *What is the Problem with these Views?*

Are these views colourful? Yes they are. Are they accurate? That is doubtful in the extreme. Do they adequately address and rebut the philosophy underpinning the Church's attitude toward contraception? Not at all.

Yallop's treatment and attempted criticism of John Paul II's attitude toward contraception resembles the 'poster child' of Franklin's 'how not to argue with integrity' suggestions outlined above. Assertion, rhetoric, and emotional indignation underpin the effort.

Even those who do not profess to be scholars and who also do not think highly of John Paul II can see that these tactics are less than honest. For example, Brendan O'Neill, writing in popular blog 'Spiked' read the views of those I have quoted above and concluded:

I find it unconvincing. It looks to me like a conspiracy-theory version of events, a quick and lazy way to have a pop at the Pope and blame a complex social and medical problem on One Evil Man. And it is fuelled by more than a few prejudices of its own about Africans.⁵⁶

D *How Should it be Done?*

It is helpful to recall Franklin's comment:

They [the Church] put forward a philosophy and arguments for it [eg-sexual ethics] and answers to them must be in the same terms – either an explanation of why the principles of that philosophy are wrong, or argument that the conclusions deduced about particular cases from those principle do not follow. A dryer task than expressing indignation, perhaps, but the only relevant way to proceed.⁵⁷

So this suggests at least two possibilities for attacking the Church's stance on contraception. Critics can firstly attempt to demonstrate that the basic principles of the Church's philosophy are incorrect, or secondly, that the conclusions the Church draws about the particular case of condom use in HIV/AIDS infections does not follow from that philosophy.

Again, this is far less exciting than inciting the International Criminal Court to indict the Pope for 'crimes against humanity'. And it is certainly less sensational than asserting that the Church has the 'blood of countless millions' on its hands,

⁵⁶ Brendan O'Neill, *Did the Pope Spread AIDS in Africa? The Evidence is Less than Compelling* (2005) Spiked Online, <<http://www.spiked-online.com/index.php?site/article/1125/>> at 10 September 2008.

⁵⁷ Franklin, above n 49, 50.

or that the ‘antiquated and patriarchal Church waged ceaseless war on the human rights of women and homosexuals.’

Getting to the truth is far more systematic and intellectually difficult and therefore less sensational and less capable of ‘dumbing down’ to generate popular support, and product sales.

There are at least two dimensions to the process; firstly, the factual or quantitative; and secondly, the philosophical or theological dimension. Neither of these dimensions can be omitted from the debate.

E *At the Factual/Qualitative Dimension*

At the factual or qualitative dimension, we should expect critics to identify and then ensure there is a causal relationship between facts and stated conclusions. To assert that John Paul II visited Africa where he repeated the Church’s teachings about contraception and then later thousands of Africans contracted the HIV virus, is to commit the very basic flaw of confusing cause and effect. O’Neill colourfully but accurately describes the reasoning; ‘It is simply asserted that the Pope says something about condoms and – boom! – another few thousand get AIDS.’⁵⁸

Such reasoning commits a flaw in reasoning that is so old and common that it has even been given a name; *post hoc ergo propter hoc* (it happened after therefore it was caused by). This fallacy ‘arises from taking the temporal order of events as sufficient evidence for a causal connection.’⁵⁹ While there may be a causal relationship between the two elements, that relationship is not established *per se* by the temporal order of events.

Accordingly, if someone were attempting to argue that there is a causal nexus between the Church’s teachings on contraception and the rates of HIV/AIDS infection, then we would expect facts to be provided in response to some fairly basic questions such as:

1. What are the HIV/AIDS infection rates in African countries?
2. How many people in those countries are Catholic?
3. How many of those Catholics are victims of the HIV/AIDS virus?
4. How many of those infected Catholics subjectively decided to follow or ignore the Pope’s teachings on contraception?

However, in relation to the media allegations that John Paul II spread HIV/AIDS in Africa, O’Neill in his 8 April 2005 blog noted:

⁵⁸ Ibid.

⁵⁹ Jill LeBlanc, *Thinking Clearly: A Guide to Critical Thinking*, (1998) 271.

None of this is interrogated. The most striking thing about these articles claiming the Vatican makes Africans die of AIDS is the dearth of factual material. Michela Wong's piece elevating the Pope over prostitution in the AIDS-spreading stakes doesn't even ask, never mind answer, questions you might expect of a journalistic endeavour.⁶⁰

When the facts are actually interrogated, a different picture emerges. Hilary White undertook such an analysis in March 2007 using the World Factbook of the US Central Intelligence Agency. Those facts demonstrated that African countries with large Catholic populations experience significantly lower rates of HIV/AIDS infections. White concludes that the 'Church's accusers have not done the homework or are deliberately misreporting the facts.'⁶¹

More recent statistics from International AIDS charity NGO 'Avert' notes that the African countries of Swaziland and Botswana have the highest rates of adult HIV infection, with 38.8% and 37.3% respectively of the adult population infected with the virus.⁶² Yet in Swaziland, only about 10% of the population is Catholic and in Botswana only about 5% of the population is Catholic. In South Africa, where the HIV infection rate is at about 20% of the adult population, only around 7% of the population is Catholic.

Do these facts establish that the rate of HIV/AIDS infection in the adult population of Swaziland, Botswana and South Africa is the direct result of the Church's teachings on contraception? Do these facts establish that the Church and John Paul II have the 'blood of millions' on their hands? Do these facts give pause for people to ask whether John Paul II should have been hauled before the International Criminal Court to be accused of crimes against humanity? Put this way, the allegations seem like nonsense.

F *At the Philosophical/Theological Dimension*

At the second or philosophical dimension there is simply no attempt by critics to address the Church's philosophy on contraception generally, nor to address the particular conclusions drawn by the Church from that philosophy on condom use in HIV/AIDS affected countries. At best, it is suggested that the Church's arguments concerning the relationship between the premise of natural law theory and the conclusion drawn from the premise concerning contraception is flawed. This flaw is said to lie in the belief that the Church does not take account of changes in culture and hence is not 'up to date'.

⁶⁰ O'Neill, above n 57.

⁶¹ Hilary White, *While Critics Blame Catholic Church for AIDS Deaths, Stats Show Just the Opposite* (2007) LifeSiteNews, < <http://www.lifesitenews.com/ldn/2007/mar/07030610.html>> at 9 December 2008;

⁶² *Sub Saharan Africa HIV & AIDS Statistics*, (2007) AVERT <<http://www.avert.org/subadults.htm>> at 8 December 2008.

Underpinning this criticism is the view that the Church's insistence that ethical action must rest on natural law is mistaken because it is impossible to posit ethical behaviour apart from the society that determines what is ethical or not. However, this reasoning is an example of what Stove calls 'the worst argument in the world'. According to Franklin, it is:

[an] argument that we can only know things through our perceptual organs, or through our cultural understanding or whatever, therefore we cannot know things as they are in themselves. It is like saying that the display on a calculator is just caused by its wiring, so there is no reason to believe it is right. Or even more bluntly, it is like saying 'we have eyes, therefore we can't see.'⁶³

To honestly critique the Church's views on this issue, it seems necessary for critics to demonstrate at least one of two conclusions. Firstly, that natural law theory as a premise does not support the conclusion that contraception to prevent the spread of HIV/AIDS is prohibited. Or secondly, the conclusion that contraception to prevent the spread of HIV/AIDS is prohibited by natural law theory is an incorrect conclusion to draw from that premise.

XIV THE CHURCH AS A LEGAL PERSONALITY IN INTERNATIONAL LAW

The Church in the form of the Holy See enjoys non-member Permanent Observer status at the UN and, as at 8 January 2009, the Holy See maintained full diplomatic relations with 177 States.⁶⁴ It is a member of seven UN Agencies and Organisations and is an observer in another eight. Following the 2008 World Youth Day in Sydney, the Australian Government appointed Mr Tim Fisher as its first ambassador to the Holy See.

The Church maintains that it has a legal personality in international law and that this personality, in the form of the Holy See, is entitled to a presence in the UN General Assembly and to participate in its debates. During an audience in February 2009 commemorating the 80th anniversary of the Vatican City State, Pope Benedict XVI affirmed the international mission of the Vatican, through the initiatives of the Holy See. Benedict XVI affirmed the

absolute independence of the Holy See has been and is a centre of radiation of constant action in favour of solidarity and the common good, (holding) a great patrimony for humanity as a source of goodness, solidarity and hope.⁶⁵

⁶³ James Franklin, 'Stove's Discovery of the Worst Argument in the World, *Philosophy*' (2002) 77 *Philosophy* 615.

⁶⁴ Vatican, *177 States Have Relations with Holy See*, (2008), Zenit Publications <<http://zenit.org/article-24719?l=english>> at 10 January 2009.

⁶⁵ Vatican, *Pontiff Affirms Mission of Vatican City State*, (2009), Zenit Publications <<http://www.zenit.org/article-25106?l=english>> at 23 October 2009.

While the Vatican might consider its presence in international law to be a source of benefit to humanity, a significant number of NGOs profoundly and heatedly disagree.

In 1999 a Washington-based NGO called ‘Catholics For a Free Choice’ (‘CFFC’) began a campaign with the dedicated aim of removing or reducing the presence of the Holy See at the UN. Its campaign, titled ‘See Change’ maintains that:

the hierarchy of the Roman Catholic Church has allowed outdated doctrinal concerns to take priority over the lives of real people. Nowhere is that more evident than in the UN where the Holy See insists on foisting its limited and largely rejected view of gender, sexuality and reproductive health on a world intent on creating a more progressive personal ethic that is respectful of the common good.⁶⁶

According to its 2001 position document: *‘The Catholic Church at the United Nations: Church or State?’*⁶⁷ the effect of eliminating or downgrading the Holy See’s status at the UN will:

- (a) ensure that only countries can decide policy, thus keeping an effective separation between Church and State;
- (b) save countless women’s lives by ensuring that it cannot vote against abortion on demand; and
- (c) assist in reversing the HIV/AIDS epidemic, particularly in Africa.

At the time, little attempt was made by critics to engage in debate about the legal status of the Catholic Church, in the form of the Holy See, at international law. Instead, the criticism was characterised more by the expression of emotional indignation than reasoned criticism. Perhaps not surprisingly, the campaign failed to persuade. In July 2000, the US House of Representatives passed a resolution condemning efforts to remove the Holy See’s influence in the UN. The resolution commended the Holy See ‘for its strong commitment to fundamental human rights.’

However, there is a real need to engage this issue as it is not at all clear exactly what status the Holy See enjoys in international law. Since 1999, the debate has become more measured and thus represents a genuine attempt to examine the real issues at stake.

Thoughtful critics of the Holy See set aside expressions of emotional and righteous indignation in favour of a critical examination of international law. They assert that the Holy See does not satisfy the requirements for membership of the UN

⁶⁶ *The Catholic Church at the United Nations: Church or State?* (2001) Catholics For Choice [5] <<http://www.catholicsforchoice.org/topics/international/documents/2001sechangebriefingpaper.pdf>>.

⁶⁷ *Ibid* 5–6.

under Article 4 of the UN Charter or the criteria for statehood at international law according to the *Montevideo Convention on the Rights and Duties of States*.⁶⁸

Accordingly, some international law scholars maintain that this is fatal to the continued presence and participation of the Holy See at the United Nations.⁶⁹

Engaging with the Church at this level of legal reasoning, has enabled other international law scholars to respond with the point that the position of the Holy See at international law is far more complex. These scholars argue that just because the Holy See does not meet the traditional requirements required of usual subjects of international law, it is far too simplistic to assert that the Holy See does not therefore have international legal personality.⁷⁰

On this issue, meaningful debate has shifted from the expression of rhetoric to an analysis of substantial legal principles. The debate is no longer played out in the tabloid newspapers but discussed in position papers and journal articles. NGOs and other stakeholders are being lobbied on the basis of well considered positions. Echoing Franklin, no doubt this is a dryer task than expressing indignation, but the only meaningful way to proceed.

XV CONCLUSION

The Catholic Church is an ancient institution that, for better and at times for worse has exercised a profound influence on the development of Western civilization. The Church has thought very seriously about moral and ethical philosophy and has developed profound views concerning what it means to be human and to live a life of dignity. Perhaps the most profound recent contributor to that tradition was Pope John Paul II and for which the international community honoured him with awards and prizes.

In the international sphere, the Church considers that it has a vital role to play in prophetically calling attention to those practices that threaten people's capacity to live a life of dignity befitting them. Accordingly, it exercises that role in the United Nations and in various diplomatic initiatives, committees and projects throughout the world.

Despite advocating these positions, the Church generally and John Paul II particularly have been severely attacked both in the Church's very existence in international law for and for its stance on international human rights issues. In this

⁶⁸ 165 LNTS 19.

⁶⁹ Yasmin Abdullah, 'The Holy See at United Nations Conferences: State or Church?' (1996) *Columbia Law Review* 1835; Matthew Bathon, 'The Atypical International Status of the Holy See' (2001) 34 *Vanderbilt Journal of Transnational Law* 597.

⁷⁰ Robert Araujo, 'The International Personality and Sovereignty of the Holy See' (2001) 50 *Catholic University Law Review* 291; See also Kurt Martens, 'The Position of the Holy See and Vatican City in International Relations' (2006) 83 *University of Detroit Mercy Law Review* 729.

paper, I have argued that these attacks can be analysed and then evaluated through the lens of cognitive dissonance theory.

Since one of the principal ‘drivers’ of CDT is the need to reduce the dissonance produced by two inconsistent cognitions, critics have attempted to reduce the dissonance by arguing against the integrity of the Church’s position. I have argued that these attempts are largely founded on ignorance of the Church’s actual philosophy and thus miss the opportunity to engage the Church in deeper and critical debate on vital human rights issues.

Like any other enormously influential participant in world affairs, the Church’s contributions to international human rights issues need to be carefully analysed and evaluated. Unlike other participants, the Church has an ancient and continuous philosophical heritage upon which it draws in making those contributions.

To summarily dismiss that heritage because it is too difficult to attempt to understand, or does not agree one’s personal or party politics is to respond with ignorance. And to respond with ignorance is to seriously diminish both the responsibility to carefully analyse the Church’s contribution and the opportunity of dialogue with an entity that can proclaim a 2000 year heritage of thinking deeply about what it means to live in human dignity.