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**THE DEFINABILITY OF THE PROPOSITION:
THE INTENTIONAL KILLING OF AN INNOCENT
HUMAN BEING IS ALWAYS GRAVE MATTER**

by

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THE DEFINABILITY OF THE PROPOSITION: THE INTENTIONAL KILLING OF AN INNOCENT HUMAN BEING IS ALWAYS GRAVE MATTER

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Until very recently, all Catholics held that the intentional killing of an innocent human being is always grave matter. This paper outlines the case for thinking that this proposition is a definable doctrine which should be defined.

In treating the morality of killing, Christian teachers regularly set aside instances in which someone received a special divine command — e.g., Abraham to sacrifice Isaac. A solemn definition concerning intentional killing of the innocent would prescind from such instances, as well as from nonintentional killing and the killing of noninnocents.

The case for definability has two parts: first, that the proposition falls within the proper object of infallible teaching; and second, that its terms are definite enough in Catholic teaching for use in a solemn definition. The proposition proposed for definition falls within the proper object of infallible teaching because it pertains to divine revelation, as Scripture and the universal ordinary magisterium together attest¹.

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¹ The phrase, "pertains to divine revelation", is used in this paper as a technical expression, and is to be understood as having exactly the same meaning as the phrase used by Vatican II to specify the object of infallibility: "tantum patet quantum divinae Revelationis patet depositum, sancte custodiendum et fideliter exponendum". For an exegesis of this phrase, see FORD J.C. - GRISEZ G., *Contraception and the Infallibility of the Ordinary Magisterium*, in «Theological Studies», 39 (1978), pp. 263-271. The last five words are important, for they indicate that the Church can infallibly believe, teach, and define not only what can be called "revealed" in the strictest sense, but also truths closely connected with revelation, because necessary to fulfill the Church's mission of expounding and safeguarding revelation. Some moral theologians erroneously interpret Vatican II's specification of the object of infallibility (sometimes even deleting the last five words) as if the Council meant to limit the object of infallibility to what is explicitly revealed, or even to what can be established from Scripture interpreted in accord with the strictest exegetical canons. Even as competent a theologian as SULLIVAN F.A., *Magisterium: Teaching Authority in the Catholic Church*, Paulist Press, New York 1983, pp. 131-142, p. 150, interprets Vatican II's specification of the object of infallibility in a way which would exclude specific moral norms. For a reply, see GRISEZ G., *Infallibility and Specific Moral Norms: A Review Discussion*, in «Thomist», 49 (1985), pp. 255-271. For an argument very similar to Sullivan's to which the same reply serves, see FUCHS J., *Moral Truths — Truths of Salvation?*, in *Christian Ethics in a Secular Arena*, Georgetown University Press, Washington 1984, pp. 54-63. Fuchs' argument also depends on the logical mistake: The magisterium is not competent to speak definitively about *every* moral question; therefore, the magisterium cannot teach *any* specific moral norm definitively.

I

The sacred writers propose as a divine command, "You shall not kill" (*Ex* 20, 13; *Dt* 5, 17), and as a norm for judicial processes, "Do not slay the innocent and righteous" (*Ex* 23, 7)². The underlying reason is that God made human beings in his own image and likeness, and put the rest of the visible world at their disposal (*Gn* 1, 26-30; 9, 1-3). Hence, human beings themselves are not disposable: "Whoever sheds the blood of man, by man shall his blood be shed; for God made man in his own image" (*Gn* 9, 6).

God is the absolute Lord of life; he gives it and takes it away (see *Dt* 32, 39). But God did not make death (*Ws* 1, 13); it comes upon human beings through the devil's envy (*Ws* 2, 23-24). Satan, a murderer from the beginning (*Jn* 8, 44), seduces Eve by telling her that sin will not lead to death (*Gn* 3, 1-4).

The prohibition of killing the innocent is no mere cultural convention. It is central to the Noachic covenant (*Gn* 9, 6), which the sacred writer considers binding on all humankind. Thus, as St. Paul points out, by the law written in their hearts, even those ignorant of the law of Moses know the wrongfulness of murder (*Rm* 1, 29-32; 2, 14-15). "You shall not kill" is one of the stipulations of the second table of the Sinai covenant. Jesus teaches that these commandments must be kept if one is to enter eternal life (*Mt* 19, 16-18).

Developing Jesus' teaching concerning the primacy of love, St. Paul explains why these commandments remain valid: Love of one's neighbor sums them up and fulfills them (*Rm* 13, 8-10; cfr *Mt* 22, 40). Love of neighbor is essential to Jesus' new covenant, because this covenant brings human persons into human communion with him and one another, so that they can enter into his divine communion with the Father (*Jn* 15, 9-12). Hence, murderers even now do not have eternal life abiding in them (*1 Jn* 3, 15), and unless they repent will end "in the lake that burns with fire and brimstone, which is the second death" (*Rv* 21, 8).

Thus, the serious wrongness of killing the innocent follows both from the order of creation (humans the image of God) and from the purpose of redemption (the covenant communion to which humankind is called). The order of creation and the purpose of redemption are central to divine revelation. Hence, Scripture attests that the serious wrongness of killing the innocent pertains to divine revelation.

II

Some will agree that the sanctity of innocent life pertains to divine revelation, but deny that anything asserted by the sacred writers entails the doctrine that the

² For further theological reflections on relevant texts of Scripture: REGAN A., *The Worth of Human Life*, in «*Studia Moralia*», 6 (1968), pp. 215-225.

intentional killing of an innocent human being is always grave matter. In reply, one must grant that the proposition proposed for definition cannot be demonstrated from the Bible considered by itself, as a collection of ancient documents. However, Scripture should be read in the light of the Church's tradition and under the magisterium's guidance³.

A full study of the tradition would examine a vast body of materials⁴. Existing studies of abortion and contraception sample these materials and frequently allude to the moral norm concerning killing the innocent⁵. Having used some of these studies and sampled the body of source material, I believe that a complete survey will confirm the following summary⁶.

First, Catholic moral teaching on killing is regularly proposed as a revealed divine commandment. Second, the sin of killing the innocent is always considered grave. Third, the justifiability of killing the innocent in certain special cases sometimes has been suggested, not only recently but in former centuries; the

³ See *Dei Verbum*, n. 10 and 24. By its reference to Pius XII, *Humani generis* (DS 3886/2314), Vatican II indicates in *Dei Verbum*, n. 10, the proper exegesis of its very compact statement on the role of the magisterium in interpreting the word of God. Interpreted as it should be in the light of Pius XII's more ample exposition, *Dei Verbum*, n. 10, has very important implications for moral theological method; see GRISEZ G., *The Way of the Lord Jesus*, vol. 1: *Christian Moral Principles*, Franciscan Herald Press, Chicago 1983, pp. 7-11. Some today ignore these implications, and treat Scripture in isolation from the magisterium. See, e.g., FUCHS J., *Christian Faith and the Disposing of Human Life*, in «Theological Studies», 46 (1985), pp. 672-677. For a critique of Fuchs' method of using Scripture: GRISEZ G., *Moral Absolutes: A Critique of the View of Josef Fuchs, S.J.*, in «Anthropos», 1-2 (October 1985), pp. 186-192.

⁴ The materials to be studied would include writings of Church fathers and doctors, the provisions of canon law in effect at various times (since light matters were never treated as canonical crimes), the penitentials, authorized catechisms, approved textbooks of moral theology (through which the magisterium exercised its role, especially from around 1800 to 1960), and direct teaching by bishops, including the pope, and including conferences, synods, general councils, and so on. Before solemnly defining, the Church would want a virtually complete survey, but this could be done easily and quickly, by dividing the work among many scholars expert in diverse periods and kinds of sources.

⁵ See CONNERY J., *Abortion: The Development of the Roman Catholic Perspective*, Loyola University Press, Chicago 1977; NOONAN J.T., *Contraception: A History of Its Treatment by the Catholic Theologians and Canonists*, Belknap Press of Harvard University Press, Cambridge (Mass.) 1965. Connery's is an excellent work, which bears more closely on the subject of the present paper, since abortion is a type of killing the innocent. Noonan's is an honest and prodigious attempt, which suggests the vastness of material to be studied, and often mentions teaching concerning the killing of the innocent, since contraception is morally tantamount to killing. Still, Noonan's work on contraception, despite its value, seems to me flawed by many misreadings of sources.

⁶ A study of any document's statements about abortion virtually always requires a study of its statements on homicide in general, and so the sources to which I refer in my study of abortion can be taken as the references supporting the summary offered here of common Catholic teaching: GRISEZ G., *Abortion: The Myths, the Realities, and the Arguments*, Corpus Books, New York 1970, pp. 127-184. The survey includes some coverage of the Jewish and Protestant traditions; such sources are useful insofar as they agree with and confirm Catholic teaching. (On parts of the history Grisez and Connery both treat, Connery's treatment is better and more reliable).

Church has eventually rejected all such suggestions. Fourth, the distinction between intentional and nonintentional killing has been refined progressively.

This summary is exemplified by the neat statement of Catholic teaching on killing in the *Catechism of the Council of Trent*⁷. The commandment forbidding killing “was the first prohibition made by God to man” after the deluge; “among the precepts of the Old Law expounded by our Lord, this commandment was mentioned first by him”, and in explaining it, “the Lord points out its twofold obligation” — prohibitory and mandatory. The exposition of the prohibitory part begins by listing kinds of killing not forbidden by the commandment: killing of animals, execution of criminals, killing an enemy in a just war, killing by accident rather than by intent or design (though such killing also can be wrong), and killing in self-defense. Setting aside these kinds of killing, “all other killing is forbidden, whether we consider the person who kills, the person killed, or the means used to kill”. Moreover, it is important “to form a just conception of the wickedness of murder. The enormity of this sin is manifest from many and weighty passages of Holy Scripture”.

Throughout modern times, virtually no Catholic bishop or theologian contradicted this teaching. Some theologians, thinking that the fetus is not ensouled early in pregnancy, allowed therapeutic abortion at that stage. But their view, never approved by the magisterium, was eventually rejected⁸.

Other theologians developed the distinction between killing by accident and killing by intent and design. The use of this distinction begins in Scripture. In the Pentateuch, willful murder punishable by death (*Ex* 21, 12-14; *Lv* 24, 17-21; *Nm* 35, 16-21; *Dt* 19, 11) is distinguished from unpremeditated manslaughter or accidental killing (*Ex* 21, 13; *Nm* 35, 22-23; *Dt* 19, 4-6). The killer who is not willful finds asylum in a city of refuge⁹.

⁷ *Catechismus ex decreto Ss. Concilii Tridentini ad Parochos, Pii V, Pont. Max., iussu editus* (Rome: Propagandae Fidei, 1839), 2:125-131 (on the fifth commandment). I do not cite the *Catechism of the Council of Trent* as if it were by itself decisive, but for its clear and brief formulation. Perhaps what is most nearly decisive is what is *common* to all the approved manuals of moral theology in use in the period just before Vatican II, for their consensus shows what every bishop in the world at that time wished his seminarians to learn and put into practice in the confessional.

⁸ The magisterium never ruled on the narrow issue of *therapeutic* abortion of the nonensouled fetus to save the mother's life, but did condemn abortion of the nonensouled fetus to save the mother's life from extrinsic threats, or to save her reputation; eventually, theological opinion ceased even to support the therapeutic exception. See CONNERY J., *Abortion*, cit., p. 148, pp. 189-190, 211, 306-307, etc. Connery makes the point (p. 312), which is decisive for the tradition's witness on the proposition proposed for definition, that in the whole history he surveys, not more than one author (Apicella, and he not certainly) “tried to justify abortion or embryotomy to save the mother's life as an exception to the prohibition against direct killing of an innocent person”.

⁹ Willfulness is inferred either from the use of a deadly instrument or from the killer's hatred toward the victim: *Ex* 21, 18; *Nm* 35, 16-21; *Dt* 19, 11. It is worth noting that on this basis, all or most killings considered indirect and permitted by modern Catholic teaching are not willful, for they are not done through hatred nor is a deadly instrument used on the individual killed.

Since a first principle of Christian anthropology is that human beings are the image of God, what God revealed about his own willing influenced the theological development of the concept of intentional human willing. The distinction between God's doing something properly and per se and his doing it only permissively is not explicit in Scripture. But one can be certain that it is revealed, for it is pivotal in one of the Council of Trent's canons:

"If anyone says that it is not in man's power to make his ways evil, but that God performs the evil works just as he performs the good, not only permissively but also properly and per se...: let him be anathema"¹⁰.

Corresponding to this distinction in God's willing is the distinction between our doing something intentionally and doing it nonintentionally. We do things nonintentionally not only when we, unlike God, bring about unforeseen effects, but also when we, like God, do things not properly and per se but by permitting foreseen side effects.

And so, theologians gradually clarified the distinction between intentional and nonintentional — or direct (per se) and indirect (per accidens) — killing. Acts which tended per se to heal and only per accidens to kill might be accepted¹¹. Eventually, this distinction, elaborated by approved theological authors, was employed by the magisterium. Thus, Pius XII formulated the doctrine concerning killing the innocent:

"As long as a man is not guilty, his life is untouchable, and therefore any act directly tending to destroy it is illicit, whether such destruction is intended as an end in itself or only as a means to an end, whether it is a question of life in the embryonic stage or in a stage of full development or already in its final stages"¹².

¹⁰ *Decree on Justification*, canon 6, DS 1556/816. Even God foresees and permits evils which he does not directly will. See St. THOMAS, *Summa theologiae*, I, q. 49, a. 2; I-2, q. 79, aa. 2-4; *Summa contra gentiles*, I, 96; III, 71. To deny this would be to deny either that there really is any evil or that God's will is holy or that his providence and causality are all-embracing. The point is essential to make sense of Scripture, e.g., on predestination: see SPICQ C., *Predestination*, in *Encyclopedia of Biblical Theology*, pp. 694-700. Hence it is an error to suppose that the distinction between choosing to bring about evils and accepting them as side effects becomes necessary only in virtue of the limitations of human causality or the brokenness of the fallen human condition. Some process theologians deny the significance of this distinction for God's willing, just as some moralists deny its significance for human willing. I suspect that a full metaphysical and theological analysis would show that there are necessary connections between the two positions.

¹¹ CONNERY J., *Abortion*, cit., pp. 124-129, traces the beginning of the development from Antonius de Corduba (1485-1578); he briefly summarizes the whole development, pp. 308-310. He also makes it clear that Sanchez developed the distinction from St. Thomas' treatment of killing *praeter intentionem* in self-defense, pp. 138-139.

¹² Pius XII, *Address to the St. Luke Union of Italian Physicians*, 12 November 1944, *Discorsi e Radio-messaggi*, 6 (1944), p. 191; quoted in Sacred Congregation for the Doctrine of the Faith, *Declaration on Procured Abortion*, 18 November 1974, 66 *AAS* (1974), 735, n. 15; trans. FLANNERY A. ed., *Vatican Council II: More Post-Conciliar Documents*, Costello, Northport, N.Y. 1982, p. 452.

Here, direct killing is explained as that in which the destruction of life is intended as an end or chosen as a means to some other end.

Pius XII also teaches that when killing is chosen as a means, the importance of the ulterior end is irrelevant; nothing can justify intentional killing¹³. As Pius XI had already pointed out, to justify an abortion by its good consequences would violate “the divine precept promulgated in the words of the Apostle: *Evil is not to be done that good may come of it*”¹⁴.

Thus, the ordinary magisterium has developed and defended what Scripture tells us about the sanctity of human life. Vatican II articulates criteria for the infallible exercise of the ordinary magisterium:

“Although the bishops individually do not enjoy the prerogative of infallibility, they nevertheless proclaim the teaching of Christ infallibly, even when they are dispersed throughout the world, provided that they remain in communion with each other and with the successor of Peter and that in authoritatively teaching on a matter of faith and morals they agree in one judgment as that to be held definitively”¹⁵.

Thus, if the entire ordinary magisterium proposes the same moral teaching to be held definitively, that teaching is proposed infallibly.

The gradually refined and developed moral teaching on killing proposed by the popes and bishops during modern times meets these conditions. They have

¹³ Pius XII, *Address to the Italian Catholic Union of Midwives*, 29 October 1951, 43 AAS (1951), pp. 838-839; trans. *Moral Questions Affecting Married Life*, National Catholic Welfare Conference, Washington, no date, 6: “Every human being, even the infant in the mother’s womb, has the right to life *immediately* from God, not from the parents or any human society or authority. Therefore there is no man, no human authority, no science, no medical, eugenic, social, economic or moral ‘indication’, that can show or give a valid juridical title for *direct* deliberate disposition concerning an innocent human life — which is to say, a disposition that aims at its destruction either as an end in itself, or as the means of attaining another end that is perhaps in no way illicit in itself. Thus, for example, to save the life of the mother is a most noble end, but the direct killing of the child as a means to this end is not licit”.

¹⁴ Pius XI, *Casti connubii*, 22 AAS (1930), p. 563; cfr PAUL VI, *Humanae vitae*, 60 AAS (1968), p. 491. It is important to notice that *Rm* 3, 7 is raising the question whether what *otherwise* would be evil — a lie or refusal of truth — might not be justified if it promotes God’s glory. So, in context, *Rm* 3, 8 is *not* excluding an act already assumed to be evil, but one whose morality is in question. Thus, a reasonable reading of St. Paul together with the magisterium’s interpretation of the text constitute a very important doctrine: There are moral absolutes, in the sense that some specific kinds of acts are always wrong.

¹⁵ *Lumen gentium*, n. 25; trans. FORD J.C. - GRISEZ G., *Contraception and the Infallibility of the Ordinary Magisterium*, cit., p. 263, with exegesis, pp. 263-277. The most serious critique of Ford and Grisez’s ecclesiological argument: SULLIVAN F.A., *Magisterium*, cit., pp. 119-152. Reply to Sullivan: GRISEZ G., *Infallibility and Specific Moral Norms*, cit., pp. 248-287. See also PIEGSA J., *Hat das ordentliche Lehramt zur Empfängnisregelung unfehlbar gesprochen?*, in “Theologie der Gegenwart”, 24.1 (1981), pp. 33-41; ably answered: HAACKE R., *Ein Widerlegungsversuch misslingt: Um das Lehramt und seine Aussage zur Empfängnisverhütung*, in *Nicht Unfehlbar?*, ed. BÖKMANN J., Josef Kral, Abensberg 1981, pp. 43-57. There are other attempts to rebut the Ford-Grisez thesis which do not call into question the adequacy of their interpretation of Vatican II’s teaching, but only their application of it to contraception.

agreed in one judgment: The intentional killing of the innocent is always grave matter. They have also proposed this judgment to be held definitively. For they have proposed it as part of God's revealed law, and what is proposed thus plainly is to be held definitively¹⁶. Moreover, they have made it clear that the sin of killing the innocent is grave. But popes and bishops would not unhesitatingly warn about grave sin if the teaching were not absolutely certain — to be held definitively¹⁷.

Therefore, the doctrine that the intentional killing of the innocent is always grave matter, is already infallibly taught, and so it is definable. Like the doctrine of Mary's Assumption, this teaching can be defined even if it cannot be demonstrated from the Bible considered by itself, for Scripture and the universal ordinary magisterium together attest that it pertains to divine revelation.

Someone might object that even if the popes and bishops have agreed in one judgment about the intentional killing of the innocent and have proposed it to be held definitively, still that judgment cannot be solemnly defined, for it concerns a specific moral rule, not a proposition which can be proposed for belief. This objection could have various meanings.

If it means that the intentional killing of the innocent is grave matter, as eating meat on Friday was, only by virtue of the Church's determination, that is plainly false.

If it means that divine laws are commands, not propositions which can be true or false, a distinction is needed. Laws of God can be considered either as acts in him or as given to us. As acts in God, divine laws perhaps are not true or false. But even if they are not, divine laws as given to us are an objective state of affairs, about which there can be true propositions. For example, the Council of Trent teaches definitively about polygamy: "If anyone says that Christians are permitted to have several wives simultaneously, and that such a practice is not forbidden by any divine law (cfr *Mt* 19, 4-9): let him be anathema"¹⁸.

But perhaps the objection is based on the theory, now accepted by some theologians, that no specific moral norm can be infallibly taught¹⁹. This theory

¹⁶ Note that I am *not* saying here that constant magisterial references to "Thou shalt not kill" as a divine command *prove* that the developed teaching is part of God's revealed will for our lives. That may be true, but my point is that when bishops and popes, like every other believer, thought that the Ten Commandments were revealed, and appealed to one of them to back up Catholic teaching on killing in its fully developed formulation, they clearly told the faithful: You must *believe* this teaching. And calling for an assent of faith in God revealing is calling for as definitive an assent as any can be. See FORD J.C. - GRISEZ G., *Contraception and the Infallibility of the Ordinary Magisterium*, cit., pp. 282-283; SULLIVAN F.A., *Magisterium*, cit., pp. 147-148; GRISEZ G., *Infallibility and Specific Moral Norms*, cit., pp. 283-285.

¹⁷ See GRISEZ G., *Infallibility and Specific Moral Norms*, cit., pp. 280-283, for an expansion of this argument, which profited from Sullivan's criticism, *Magisterium*, cit., p. 147.

¹⁸ DS 1802/972.

¹⁹ See SULLIVAN F.A., *Magisterium*, cit., pp. 148-152, 227, note 46; GRISEZ G., *Infallibility and Specific Moral Norms*, cit., pp. 256-258, 271-275.

is falsified by the counterexample of Trent's definition on polygamy. The theory also depends on a more basic position concerning specific moral norms: that they are only defeasible guidelines for realizing good and preventing evil. This position, called "proportionalism", has been criticized decisively by many Catholic theologians²⁰.

Moreover, Vatican II teaches that there are unexceptionable and permanently valid moral norms. After briefly describing certain contemporary phenomena, the Council begins its teaching on war:

"Contemplating this melancholy state of humanity, the Council wishes to recall first of all the permanent binding force of universal natural law and its all-embracing principles. Man's conscience itself gives ever more emphatic voice to these principles. Therefore, actions which deliberately conflict with these same principles, as well as orders commanding such actions, are criminal. Blind obedience cannot excuse those who yield to them. Among such must first be counted those actions designed for the methodical extermination of an entire people, nation, or ethnic minority"²¹.

²⁰ Proportionalism is named from its emphasis on the proportion in possibilities considered for choice of prospective good and bad — *not* moral good and evil, but other goods and bads, benefits and harms. According to proportionalists, an act which otherwise would be immoral can be justified morally if the overall good and bad involved in the action and its expected effects compares favorably with the overall good or bad of available alternatives. Thus, proportionalism's basic principle is the principle of the greater good — or lesser evil. An excellent summary of criticism of proportionalism's central defect, together with many fresh insights: KIELY B.M., *The Impracticality of Proportionalism*, in «Gregorianum», 66 (1985), pp. 655-686. For a more dialectical treatment, examining in detail proportionalists' arguments for their view and replies to objections against it, see GRISEZ G., *Way of the Lord Jesus: Christian Moral Principles*, cit., pp. 141-171. Among other critiques: CONNERY J.R., *Morality of Consequences: A Critical Appraisal*, in «Theological Studies», 34 (1973), pp. 396-414; *Catholic Ethics: Has the Norm for Rule-Making Changed?*, in «Theological Studies», 42 (1981), pp. 232-250; *The Teleology of Proportionate Reason*, in «Theological Studies», 44 (1983), pp. 489-496; ERMECKE G., *Das Problem der Universalität oder Allgemeingültigkeit sittlicher Normen innerweltlicher Lebensgestaltung*, in «Münchener Theologische Zeitschrift», 24 (1973), pp. 1-24; CITTERIO F., *La revisione critica dei tradizionali principi morali alla luce della teoria del "compromesso etico"*, in «Scuola cattolica», 110 (1982), pp. 29-64; COMPOSTA D., *Il consequenzialismo: Una nuova corrente della "Nuova Morale"*, in «Divinitas», 25 (1981), pp. 127-156; ZALBA M., *Principia ethica in crisim vocata intra (propter?) crisim morum*, in «Periodica de Re Morali, Canonica, Liturgica», 71 (1982), pp. 25-63 and 319-357; PINCKAERS S., *La question des actes intrinsèquement mauvais et le "proportionnalisme"*, in «Revue Thomiste», 82 (1982), pp. 181-212; ROACH R.R., *Medicine and Killing: The Catholic View*, in «Journal of Medicine and Philosophy», 4 (1979), pp. 383-397; QUAY P.M., *The Unity and Structure of the Human Act*, in «Listening», 18 (1983), pp. 245-259; ASHLEY B.M. - O'ROURKE K.D., *Health Care Ethics: A Theological Analysis*, Catholic Health Association of the U.S., St. Louis 1982, pp. 157-174; LAWLER R. - BOYLE J.M. - MAY W.E., *Catholic Sexual Ethics: A Summary, Explanation, and Defense*, Our Sunday Visitor, Huntington, Ind. 1985, pp. 77-97. Philosophical critiques: DONAGAN A., *The Theory of Morality*, University of Chicago Press, Chicago 1977, pp. 189-209; FINNIS J., *Fundamentals of Ethics*, Georgetown University Press, Washington 1983, pp. 80-120; Spaemann R., *Wer hat wofür Verantwortung? Zum Streit um deontologische oder teleologische Ethik*, in «Herder-Korrespondenz», 36 (1982), pp. 345-350, 403-408; *Nochmals: deontologische oder teleologische Moralbegründung?*, in «Herder-Korrespondenz», 37 (1983), pp. 79-84; GRISEZ G., *Against Consequentialism*, in «American Journal of Jurisprudence», 23 (1978), pp. 49-62.

²¹ *Gaudium et spes*, n. 79.

Genocide is a specific case of intentional killing of the innocent. The permanently binding principle of universal natural law which the Council invokes here can be none other than that proposed for definition. The same principle underlies the Council's characterization elsewhere not only of genocide but of all types of homicide — including abortion, euthanasia, and voluntary suicide — as infamies²².

III

Even if there is an infallibly proposed norm on killing, the Church's magisterium cannot define it without first formulating it. But any formula proposed for definition will encounter objections: that it does not encapsulate exactly what has been infallibly taught, and that its terms are not definite enough for use in a solemn definition. The preceding analysis and arguments partly answer the first objection, and that answer will be completed in answering the second. Thus, it remains to consider the four key terms of the proposition proposed for definition: *intentional*, *innocent*, *human being*, and *grave matter*.

Some will argue that because there are different theories in Catholic theology about intentional and nonintentional killing, *intentional* is too indefinite for use in a solemn definition. To answer this objection, one must consider the different theories, which are of two kinds.

Catholics who reject proportionalism differ from proportionalists about the importance of the distinction. Nonproportionalists hold that the intentional killing of the innocent is always wrong. Proportionalists deny this, and hold that both the choice to destroy life as a means to some other end and the acceptance of death as a foreseen side effect of some other choice should be evaluated in the same way: by consideration of whether the good realized is proportionate to the evil of the destruction of life²³. This disagreement between nonproportionalists and proportionalists, however, presupposes the commonly accepted concept of *intentional*. Hence, while proportionalists will reject the proposition proposed for definition, their doing so does not mean that the distinction between intentional and nonintentional killing is too indefinite for use in a solemn definition.

The other relevant disagreement in Catholic theology is among nonproportionalists. It concerns the *application* of the distinction between intentional and nonintentional. As an index by which to recognize what is chosen as a means,

²² *Gaudium et spes*, n. 27, my translation.

²³ See CURRAN Ch.E., *Transition and Tradition in Moral Theology*, University of Notre Dame Press, Notre Dame 1979, pp. 220-227; McCORMICK R.A., *Doing Evil to Achieve Good: Moral Choice in Conflict Situations*, ed. McCORMICK R.A. - RAMSEY P., Loyola University Press, Chicago 1978, pp. 254-262; *Notes on Moral Theology: 1965 through 1980*, University Press of America, Washington 1981, pp. 511, 542, 713, 755-756, 764; *Notes on Moral Theology: 1981 through 1984*, University Press of America, Washington 1984, pp. 63-66.

many approved authors seem to use mediation in the order of physical causality, but some today rely instead on a phenomenological analysis of the content of the alternative adopted by choice²⁴. All nonproportionalists agree on clear-cut cases, such as those referred to by Pius XII:

“...if, for example, the saving of the life of the future mother, independently of her pregnant state, should urgently require a surgical act or other therapeutic treatment which would have as an accessory consequence, in no way desired or intended but inevitable, the death of the fetus, such an act could no longer be called a *direct* attempt on an innocent life”²⁵.

But in some other cases, it is harder to tell whether some foreseen effect, not sought as an end in itself, is a side effect or a means to the good end which is sought. The disagreement about the best index to use has arisen over the more difficult cases.

Difficulty in recognizing instances as falling under a concept is common to many terms, however, and in no way shows the concept itself indefinite. For example, the concept of the letter *a* is definite, but the recognition of instances of this letter — e.g., in a hastily written note — can be difficult. Similarly, the concepts of red and orange are definite, yet there are borderline cases. Just so, difficulties in applying the distinction between a means and a side effect do not show indefiniteness in the concept of what is done intentionally by being chosen as a means. Therefore, while there are different views about the best index by which to distinguish a side effect from a means, the concept of intentional killing is definite enough for use in a solemn definition.

The preceding clarification of the difference between difficulties in applying a concept and lack of definitive meaning for a term expressing the concept will resolve most of the questions likely to be raised about the other key terms of the proposition proposed for definition.

²⁴ The discernment between what is chosen as a means and what is accepted as a side effect is essential for use of the principle of double effect. For a brief summary: ASHLEY - O'ROURKE, *Health Care Ethics*, cit., pp. 187-190; for clear indications that mediation in the order of physical causality were pivotal for some early authors, see CONNERY J., *Abortion*, cit., pp. 131-132 (Vasquez) and 188 (Lugo). For a historical summary of double effect, see MANGAN J.T., *An Historical Analysis of the Principle of Double Effect*, in «Theological Studies», 10 (1949), pp. 40-61; GHOOS J., *L'Acte à Double Effect: Étude de Théologie Positive*, in «Ephemerides Theologiae Lovaniensis», 27 (1951), pp. 30-52. Ghoois is unjustifiably negative about the work of others; he does not show Mangan's study to be in error, although he does add material useful for additional insight into the history. For a development of the index of the analysis of the content of the alternative adopted by choice: see GRISEZ G., *Toward a Consistent Natural-Law Ethics of Killing*, in «American Journal of Jurisprudence», 15 (1970), pp. 87-90; *Way of the Lord Jesus: Christian Moral Principles*, cit., pp. 239-241, 297-300, 307-309. In support of this view: BOYLE J.M., *Toward Understanding the Principle of Double Effect*, in «Ethics», 90 (1980), pp. 527-538; «*Praeter Intentionem*» in Aquinas, in «The Thomist», 42 (1978), pp. 649-665.

²⁵ PRUS XII, *Address to Large Families*, 26 November 1951, *Discorsi e Radio-Messaggi*, 13 (1951), p. 417; *Moral Questions Affecting Married Life*, cit., p. 28.

As explained above, the distinction between killing the innocent and the noninnocent originates in Scripture (*Ex* 23, 7; cfr *Dt* 19, 10.13; 21, 8; 27, 25; *1 S* 19, 5; *Jr* 2, 34; 7, 6; 19, 4; 22, 3.17; etc.). Initially, the innocent are those guiltless of capital crime. But the Old Testament always considers Israel's enemies to be God's enemies; their blood is not innocent. When Christian teaching on war developed, enemies in a just war were considered noninnocent. However, a requirement of discrimination between innocent noncombatants and noninnocent combatants developed²⁶. Thus, only those who really participate in and contribute to the effectiveness of the enemy's military action are noninnocent. Similarly, in cases of legitimate self-defense, many approved authors consider unprovoked attackers noninnocent.

Given this history, "innocent" and "noninnocent" can be considered technical terms in Christian teaching on killing, and can be defined by the three kinds of cases in which direct killing has been considered justifiable, even without a special divine command. Execution of duly convicted criminals, killing of enemy combatants in a just war, and unavoidable killing in self-defense are killings of noninnocents; other killings are of innocents. Theological reflection elaborates various accounts of the distinction. One also can question whether the direct killing even of noninnocents is ever morally right²⁷. Nevertheless, the word "innocent" signifies

²⁶ See, e.g., BUSENBAUM H., in ST. ALPHONSUS LIGUORI, *Theologia Moralis*, ed. Gaude L., Ex Typographia Vaticana, Roma 1905, 1:663, who teaches that it is licit to kill enemies in a just war just insofar as necessary for the purpose of the war, but that one may not directly take the lives of innocents. He clarifies the concept of innocents in this context by means of a list: "children who cannot bear arms, women, old men, religious, clerics, foreigners, merchants, and rustics".

²⁷ See GRISEZ G., *Toward a Consistent Natural-Law Ethics of Killing*, cit., pp. 64-96; *Way of the Lord Jesus: Christian Moral Principles*, cit., pp. 216-222. This theory would exclude direct killing even as capital punishment or in war. Christian teaching has not insisted upon capital punishment, but has defended its licitness: ST. AUGUSTINE, *City of God*, i, 21; xix, 6; ST. THOMAS AQUINAS, *Summa theologiae*, 2-2, q. 64, a. 2; *Summa contra gentiles*, 3, 146; COLLEGIUM SALMANTICENSIS, *Cursus theologiae moralis*, vol. 3 (Venice: 1728), tr. 3, cap. 2, pp. 157-158. In 1210 Innocent III prescribed a declaration of faith for some who had accepted the Waldensian heresy, which included: "We assert concerning the secular power that it can carry out the death penalty without mortal sin, so long as it proceeds in imposing the death penalty not from hatred but from judgment, not carelessly but prudently" (DS 795/425). This statement does not seem definitive, but if it is, it concerns the *subjective* morality of the act. No doubt, at that time a Christian ruler of the best sort — a King Saint Louis, for instance — could carry out the death penalty with a good conscience. Pius XII, while insisting on the legitimacy of vindictive punishment imposed by public authority, states, 47 *AAS* (1955) 81: "...the words of the sources and of the living teaching power do not refer to the specific content of the individual juridical prescriptions or rules of action (see particularly, *Rom* 13, 4), but rather to the essential foundation itself of penal power and of its immanent finality". On early Christian attitudes toward war, see HORNUS J.M., *It Is Not Lawful for Me to Fight*, Herald Press, Scottdale, Pa. 1980, esp. pp. 158-199. It is noteworthy that the statements of recent pontiffs have sounded an increasingly negative note concerning war, and that Vatican II allows for justifiable war only when it is a defensive last resort — see *Gaudium et spes*, n. 79. The exclusion of direct killing in war is not the same thing as pacifism; war remains possible, just as individual self-defense is, by using deadly force as needed against those gravely violating just social order,

a concept definite enough for use in a solemn definition to mark off three sorts of cases of killing from which that definition prescind.

Problems will remain about how to apply the concept of innocent — e.g., how to discriminate between combatants and noncombatants. However, these problems about the concept's application do not show that the term is too indefinite for use in a solemn definition.

Human being plainly is definite enough for use in a solemn definition. All the questions which will be raised about this term concern the concept's application to its instances. The most important of these questions is whether a human embryo from its very beginning is really a human being. This question arose in the Middle Ages, when it was generally held that the spiritual soul is not present until after the first few weeks. Some raise the question again today — e.g., on the basis of arguable interpretations of biological evidence that an early embryo sometimes divides into two or more individuals, and that two or more distinct embryos can be fused²⁸. But as a problem of the application of a concept, the question whether the embryo is a human being from its very beginning need not be settled in order to solemnly define a proposition involving the concept.

However, as the Sacred Congregation for the Doctrine of the Faith explained in its *Declaration on Procured Abortion* (18 November 1974), Catholic bishops and theologians never denied that “procured abortion, even during the first days, was objectively a grave sin”²⁹. Moreover, to morally rule out abortion even at the earliest stage as the killing of a human being, one only needs a reasonable presumption that the embryo is a human being. For if one wills to kill an embryo reasonably presumed to be a human being, one wills to kill a human being³⁰. And there is a good reason to presume even the tiniest human embryos to be human beings: They are at every moment biological individuals belonging to the human species, even if sometimes some of these individuals divide or combine to form more or fewer human individuals. The same presumption should be made for any biologically identifiable human organism about which a question is raised

with the deaths which result accepted as a side effect. See REGAN A., *The Worth of Human Life*, cit., pp. 240-242; FINNIS J. - BOYLE J.M. - GRISEZ G., *Nuclear Deterrence, Morality and Realism*, Oxford University Press, Oxford 1987, ch. 11, sec. 5.

²⁸ See GRISEZ G., *Abortion*, cit., pp. 25-27; ASHLEY and O'ROURKE, *Health Care Ethics*, cit., pp. 223-225.

²⁹ SACRED CONGREGATION FOR THE DOCTRINE OF THE FAITH, *Declaration on Procured Abortion*, 18 November 1974, 66 *AAS* (1974), 734; Flannery, cit., 443.

³⁰ *Ibid.*, 738, n. 19; Flannery, 452. It is worth noting that given the embryology in the Middle Ages, it seemed that each new life began from *nonliving* matter, so that ensoulment *could not* be immediate, and thus there was a reasonable ground for presuming the very early conceptus not to be a human being. When the microscope showed the germ cells to be the media of new life, the ground for that presumption was destroyed forever. Current advocates of delayed animation offer no direct *factual* basis for their view; rather, they suggest *speculative* reasons why empirical data fully *compatible* with the embryo's being a human being from the beginning *might* also be interpreted as compatible with its not being such.

whether it is a human being or not. Thus, a solemn definition concerning the morality of killing the innocent could and probably should be complemented by a canon definitively teaching that each human organism, regardless of its age or condition, ought to be presumed to be a human being.

Grave matter also is definite enough for use in a solemn definition. Catholic teaching derived the concept of grave matter from that of mortal sin by abstracting from sufficient reflection and free choice, required on the agent's part for a sin to be mortal. In itself, this derivation is not challenged by anyone.

Of course, some today reject received concepts of mortal sin and venial sin. But the common Christian tradition prior to the reformation developed these concepts from Scripture, and the Council of Trent embedded them in definitive Catholic teaching³¹. Therefore, the concept of grave matter can be used in a solemn definition.

IV

Thus far, this paper has outlined the case for the definability of the proposition that the intentional killing of the innocent is always grave matter. But if the proposition is definable, is it opportune to define it?

Throughout the world, cultures once formed by Christian faith are being reshaped by various kinds of secular humanism. In many societies, the intentional killing of the innocent no longer violates accepted standards of conduct. This change of mores is not only reflected but encouraged by both the widespread legalization of abortion and the use of murder by various groups as a means of either resisting or bringing about a transformation of society. As the intentional killing of the innocent becomes an accepted solution to private and public problems, those who consistently refuse to kill the innocent pay an increasingly heavy price.

This situation has several consequences. First, it challenges the truth of Catholic teaching on the killing of the innocent and thus encourages dissent. Second, it scandalizes some of the faithful. Third, it puts at risk large numbers of innocent human beings. These consequences point to the opportuneness of the proposed definition.

Charles E. Curran, a professor of moral theology in the pontifical faculty of the Catholic University of America, was a leader in America of dissent from

³¹ The Council of Trent teaches that one can lose the grace of justification not only by sins directly against faith, which cause faith to be lost, but also by a variety of sins which, if unrepented, exclude even believing Christians from the kingdom. Sins other than infidelity also can be grave and enormous; Trent invokes St. Paul (see *1 Cor* 6, 9-10) in support of this teaching (see DS 1544/808, 1577/837). Trent also teaches that we must examine our consciences and confess all the mortal sins we find, according to species and number, and that we may but need not confess venial sins (see DS 1679-81/899, 1706-8/916-18).

Humanae vitae. In 1973 Curran wrote that “there is a sizable and growing number of Catholic theologians who do disagree with some aspects of the officially proposed Catholic teaching that direct abortion from the time of conception is always wrong”³². Curran personally held that “abortion could be justified to save the life of the mother or to avert very grave psychological or physical harm to the mother with the realization that this must truly be grave harm that will endure over some time and not just a temporary depression”. He also held that abortion could be justified in some conflict situations, such as that of certain “women in Bangladesh who were raped and would no longer be accepted in their communities if they bore a child out of wedlock”³³.

Very few Catholic theologians have published explicit opinions on abortion as permissive as Curran’s. However, those who subscribed to Curran’s dissent from *Humanae vitae* committed themselves to the following statement:

“It is common teaching in the Church that Catholics may dissent from authoritative, noninfallible teachings of the magisterium when sufficient reasons for so doing exist.

Therefore, as Roman Catholic theologians, conscious of our duty and our limitations, we conclude that spouses may responsibly decide according to their conscience that artificial contraception in some circumstances is permissible and indeed necessary to preserve and foster the values and sacredness of marriage”³⁴.

Many who did not subscribe to Curran’s formula but who dissented from *Humanae vitae* eventually expressed very similar views about conscience and dissent.

People who accepted the dissenting view quite reasonably generalized the principle underlying it and drew the conclusion that anyone may responsibly decide according to his or her conscience that acts of any of the kinds the Church has rejected as intrinsically evil are in some circumstances permissible and even obligatory to preserve and foster greater goods or avoid greater evils. Indeed, this general position embodied the proportionalism now accepted by many dissenting theologians, not only in the wealthier nations, where dissent from *Humanae vitae* centered, but also in Latin America, where some dissent from Catholic teaching’s rejection of class conflict and violence as means of pursuing social justice.

Most dissenting theologians prudently avoid listing kinds of cases in which they might or might not approve intentionally killing the innocent. But in summarizing proportionalism, as prudent a theologian as Josef Fuchs, S.J., makes explicit reference to human life:

“...moral theologians today maintain that no premoral good — and therefore no good except the divine and the (personal) moral good — is an absolute good for

³² CURRAN Ch.E., *New Perspectives in Moral Theology*, Fides Publishers, Notre Dame, Ind. 1974, p. 193.

³³ *Ibid.*, pp. 191-192.

³⁴ CURRAN Ch.E. et al., *Dissent In and For the Church: Theologians and “Humanae Vitae”*, Sheed and Ward, New York 1969, p. 26.

human beings. In the same way, no premoral evil is an absolute evil — that is, an evil that must be avoided absolutely. This also pertains to the human value ‘human life’..

The realization of an innerworldly and therefore premoral evil would not constitute an ‘intrinsic evil’ because it is not an absolute evil. To put it positively: because of the coexistence of premoral goods and premoral evils in every human act, we must determine the moral rightness or wrongness of an act by considering all goods and evils in an act and evaluating whether the evil or the good for human beings is prevalent in the act, considering in this evaluation the hierarchy of values involved and the pressing character of certain values in the concrete”³⁵.

Readers who understand the method proposed can use it, perhaps far more permissively than a prudent theologian might wish.

With the widespread dissemination of the proportionalist theory among Catholic clergy, catechists, and others, it is not surprising that many Catholics, influenced by the secular challenge to the sanctity of life, dissent from the Church’s teaching that the intentional killing of the innocent is always grave matter, and approve such killing in any difficult situation in which they feel it to be the lesser evil— an unplanned pregnancy, an innocent person whose destruction would be politically expedient, and so on³⁶.

³⁵ FUCHS J., *Christian Ethics in a Secular Arena*, cit., p. 82. Note also Fuchs’ examples, *Christian Faith and the Disposing of Human Life*, cit., pp. 678-679, and the long list of those “who would not absolutely exclude active euthanasia in borderline cases”, p. 679, note 32. McCORMICK R.A., *Health and Medicine in the Catholic Tradition: Tradition in Transition*, Crossroad, New York 1984, pp. 131-132, offers a formulation which he claims *summarizes* the “classical Christian moral position”: “1. Human life as a basic gift and good, the foundation for the enjoyment of all other goods, may be taken only when doing so is the only life-saving and life-serving alternative, or only when doing so is, all things considered (not just numbers) the lesser evil... 2. By ‘human life’ is meant human life from fertilization or at least from the time at or after which it is settled whether there will be one or two distinct human beings... 3. For an act to be life-saving and life-serving, to be the lesser evil (all things considered), there must be at stake human life or its moral equivalent, a good or value comparable to life itself. *This is not what the traditional formulations say*, but it is where the corpus of teachings on life-taking lead (for example, the issues of a just war and of capital punishment)”. (Emphasis added). McCormick and other proportionalists can only think that traditional teaching on just war and capital punishment can lead to approval of the intentional killing of the innocent because they assume two things: 1) that just war and capital punishment were traditionally justified by proportionalist considerations, and 2) that such a justification was sound. But one can answer: 1) capital punishment and just war were accepted because they were thought to be divinely authorized, and 2) if the justification had been proportionalist, it would have been as unworkable as every proportionalist argument is.

³⁶ SEGUNDO J.L., *Liberation of Theology*, trans. DRURY J., Orbis, Maryknoll, New York 1976, pp. 170-175, does not use the word “proportionalism”, but argues for the method, in what he calls a “situation ethics”. Less prudent than many proportionalists, he explicitly holds (p. 171) “that *the end justifies the means*” and (p. 173) that “any action *including stealing or murder*” can sometimes be permissible. He mentions as examples, acceptable in some unspecified circumstances, abortion, premarital sex, and violence against police (p. 175). (This book was based on a course given at Harvard). When the proportionalism of Segundo and Curran — and even the more prudently stated proportionalism of Fuchs and McCormick — is popularized, it becomes the justifying principle (“A large number of Catholic theologians hold that even direct abortion, though tragic,

To end confusion among the faithful and to inhibit their acceptance of false opinions, the magisterium should teach as clearly, firmly, and forcefully as possible that the intentional killing of an innocent human being is always grave matter. Its ordinary teaching about this is quite clear, firm, and forceful, but theological dissent is blocking its effectiveness.

Discipline could be used to remove this block, but not without making Church authority seem arbitrarily repressive. This is so because many Catholics have adopted the theological opinion that any nondefined moral teaching is a noninfallible guideline, not an obligatory norm³⁷. Accepting this view, they also

can sometimes be a moral choice”) in the *Catholic Statement on Pluralism and Abortion*, in «New York Times», 7 October 1984, reprinted in «New York Times», 2 March 1986, E-24: “Continued confusion and polarization within the Catholic community on the subject of abortion prompt us to issue this statement. // Statements of recent Popes and the Catholic hierarchy have condemned the direct termination of pre-natal life as morally wrong in all instances. There is the mistaken belief in American society that this is the only legitimate Catholic position. In fact, a diversity of opinions regarding abortion exists among committed Catholics: // * A large number of Catholic theologians hold that even direct abortion, though tragic, can sometimes be a moral choice. // * According to data compiled by the National Opinion Research Center, only 11% of Catholics surveyed disapprove of abortion in all circumstances. // These opinions have been formed by: // * Familiarity with the actual experiences that lead women to make a decision for abortion: // * A recognition that there is no common and constant teaching on ensoulment in Church doctrine, nor has abortion always been treated as murder in canonical history: // * An adherence to principles of moral theology, such as probabilism, religious liberty, and the centrality of informed conscience: and // * An awareness of the acceptance of abortion as a moral choice by official statements and respected theologians of other faith groups. // Therefore, it is necessary that the Catholic community encourage candid and respectful discussion on this diversity of opinion within the Church, and that Catholic youth and families be educated on the complexity of the issues of responsible sexuality and human reproduction. // Further, Catholics — especially priests, religious, theologians, and legislators — who publicly dissent from hierarchical statements and explore areas of moral and legal freedom on the abortion question should not be penalized by their religious superiors, church employers, or bishops. // Finally, while recognizing and supporting the legitimate role of the hierarchy in providing Catholics with moral guidance on political and social issues and in seeking legislative remedies to social injustices, we believe that Catholics should not seek the kind of legislation that curtails the legitimate exercise of the freedom of religion and conscience or discriminates against poor women. // In the belief that responsible moral decisions can only be made in an atmosphere of freedom from fear or coercion, we, the undersigned, call upon all Catholics to affirm this statement”. (// Marks the beginning of a new paragraph in the printed text). The first ad was signed by 97 persons, including a number of religious and clerics, which led to disciplinary efforts by the Vatican.

³⁷ See the dissenting statement quoted in the text at note 34 above; cfr SULLIVAN F.A., *Magisterium*, cit., pp. 119-152 (“particular norms of natural law are not object of infallible teaching”, p. 148), and pp. 170-171 (Catholics are to carefully attend to the Church’s moral teaching, but dissent “must surely be reckoned with as a possibility”). Sullivan claims that *most* theologians agree with him. Unlike the statement Curran and others published after *Humanae vitae*, Sullivan does at least stress that Catholics ought to *try* to assent to the teaching of the ordinary magisterium, and he leaves it to moralists to say whether the faithful may act upon their dissent. It is worth noticing that SEGUNDO J.L., *Theology and the Church: A Response to Cardinal Ratzinger and a Warning to the Whole Church*, trans. DIERCKSMIEIER J.W., Winston, Minneapolis 1985, p. 4, spells out the conditions under which solemn definitions are made, and correctly says that “it is a tenet of Roman

think they have the right to dissent from any nondefined moral teaching, and that Church authority unjustly infringes upon freedom if it disciplines anyone for dissenting³⁸. And so, the Church's teaching on the killing of the innocent can hardly be proposed more effectively without solemnly defining it. Therefore, a solemn definition is opportune now.

Moreover, with the present secular challenge to the sanctity of life and with confusion in the Church about dissent and conscience, even otherwise faithful Catholics who encounter a difficult situation are strongly tempted to put dissenting opinions into practice. For example, many people have obtained abortions, helped others to procure them, or otherwise cooperated in abortion, at least by condoning it as the best solution to a friend's problem. Again, many people have approved violence against the innocent for political purposes, even if they have not personally engaged in such violence. Some advisors, including priests, tell people who are thinking about killing, to weigh all the values involved, especially those which are more pressing in the concrete³⁹. Such advice can encourage choices to kill

Catholic faith that such a magisterium is infallible". He then immediately asserts: "On the contrary, and with the same universality, it is understood that the ordinary magisterium of the Church, despite the respect it deserves and the sincere obedience it demands, is *fallible*. In other words, it is subject to error". This unqualified denial of infallibility to the ordinary magisterium contradicts both Vatican II, *Lumen gentium*, n. 25, and Vatican I, *Dei Filius* (DS 3011/1792). By the words "with the same universality" in the context of his previous statement, Segundo seems to assert that his erroneous position is a matter of faith, while actually, insofar as it flatly contradicts the definitive teaching of Vatican I, this view is contrary to the faith.

³⁸ The point here is *not* that any theologian claims an undifferentiated and unlimited right for Catholics to dissent, or holds all discipline of dissent to be unjust infringement of freedom. Most if not all theologians suggest *some* limits and conditions. However, CURRAN Ch.E. et al., *Dissent In and for the Church*, cit., vigorously defended the legitimacy of their dissent from *Humanae vitae*, and insisted that any discipline to themselves would be unjust. Most theologians who publicly dissented from *Humanae vitae* agreed with them, and took the same view of their own dissent on other questions. Finally, theological popularizers within the Church and the public media of communication generalized this *theological* self-defense into an undifferentiated right for all Catholics to dissent, and duty of authority to tolerate dissent. Thus, the ad published by the Committee of Concerned Catholics, in «New York Times», 2 March 1986, E-24, has the headline: "We affirm our solidarity with all Catholics whose right to free speech is under attack". It mentions disciplinary actions attempted by Church authority and then states: "Such reprisals cannot be condoned or tolerated in Church or society. We believe that Catholics who, in good conscience, take positions on the difficult questions of legal abortion and other controversial issues that differ from the official hierarchical positions act within their rights and responsibilities as Catholics and citizens". (This statement is somewhat disingenuous, because the earlier ad, quoted in full in note 36 above, was concerned with the morality of abortion as much as with its legalization). In the North Atlantic nations, this attitude toward Church authority is, no doubt, deeply influenced by liberal democratic ideals for political society, but a very similar attitude exists with a different ideological basis: BOFF L., *Church: Charism and Power: Liberation Theology and the Institutional Church*, Crossroad, New York 1985, pp. 32-46, 60-63, 84-88, 95-99, 138-143.

³⁹ No doubt, when prudent theologians such as Fuchs and McCormick (see note 35 above and accompanying text) propose the proportionalist method, they do *not* desire, urge, or even expect its use to rationalize killings which they themselves would not feel fully justified by quite

the innocent or to condone killing them — choices not admitted to be sinful, but rationalized as choices of lesser evils. Yet grave guilt can be incurred, for the law of God is written in the heart, and conscience cannot easily ignore that law if one kills an innocent human being or becomes a murderer in one's heart.

Nevertheless, those who have sinned in this way are inhibited by their very rationalization from admitting their guilt and seeking God's forgiveness. Tension arises between the almost conscious bad faith of the self-deceived conscience and trust in God's mercy. This tension causes a severe temptation to set aside the truths of faith which arouse anxiety in sinners, to lessen practice of the faith, and finally to abandon it entirely.

The magisterium of the Church has a pastoral responsibility to do all in its power to prevent the faithful from blinding their own consciences and losing their faith. By reducing present confusion about the truth and obligatoriness of the grave moral norm absolutely forbidding the intentional killing of the innocent, the magisterium could impede the rationalization of killing, which leads to self-blinded consciences. However, as already explained, present confusion can hardly be reduced without a solemn definition. Therefore, a solemn definition is opportune now.

Furthermore, when the magisterium teaches about the dignity of the weak and vulnerable, and makes clear how they should be treated, it does on their behalf what it most appropriately can do. Such teaching often saves or mitigates the misery of potential victims. The clearer, firmer, and more forceful such teaching is, the more effective it is likely to be. At present, the magisterium's witness concerning the sanctity of innocent life is quite clear, firm, and forceful. Yet confusion within the Church detracts from this witness. A solemn definition would help to reduce confusion, and save some innocent lives which otherwise will be destroyed. Thus, a definition is opportune.

When the Nazis were committing genocide, the magisterium did speak out — e.g., in a Decree of the Holy Office (27 November 1940)⁴⁰. Later on, many people thought that the magisterium should have spoken more clearly, firmly, and forcefully. Their view perhaps influenced Vatican II's condemnation of genocide. But Vatican II was too late, not only to save victims of the holocaust, but even to manifest the splendor of the charism of the magisterium as it would have been manifested, if a condemnation of genocide in Vatican II's terms had been issued as a solemn definition in 1940.

special and unusual circumstances. However, since proportionalism is impractical and one cannot rationally *judge* what is the greater good or lesser evil in cases in which proportionalists say one should (see the critiques of proportionalism listed in note 20 above), their prudently intended methodological advice becomes in practice a way of rationalizing whatever anyone *feels* to be the lesser evil in a difficult situation. See GRISSEZ G., *Against Consequentialism*, cit., pp. 63-72.

⁴⁰ See DS 3790/2284. The point here is not to criticize Pius XII. Perhaps a solemn definition in 1940 phrased as Vatican II's condemnation of genocide would have risked very bad consequences, and certainly Pius XII violated no absolute moral requirement by proceeding with restraint.

Today's secular trend to slaughter the innocent cannot continue forever; eventually some worldwide collapse or catastrophe will make clear how terrible a wrong is being done. When that day comes, if the magisterium has solemnly taught the sanctity of life, there will be no room for anyone to say it should have done more. Humankind will admire the Catholic Church's charism of teaching and see that she truly is the light of the nations.

V

Some will object that it is not now opportune to solemnly define the proposition that the intentional killing of the innocent is always grave matter, because there is no consensus today among Catholic theologians that this proposition is a truth pertaining to revelation ⁴¹. However, a consensus of contemporary theologians is unnecessary for a solemn definition. What is necessary is that the point to be defined pertain to the Church's faith; that it does, is determined by the magisterium as it prepares to define and in the very act of solemnly defining. In reaching its determination, the magisterium can judge that the opinions of some of today's theologians are outweighed by the better arguments of others.

Some will argue that a definition is inopportune because the Church has seldom if ever solemnly defined any specific moral norm. However, there is at least one clear precedent: Trent's definition concerning polygamy. And one can easily explain why there have not been more definitions in the moral field. In the past moral norms have normally not been contested within the Church so much as they have been violated in practice. Exhortation to live up to accepted teachings has been more appropriate than definition of their truth. Thus, until now the dogmatic definition of moral norms as truths of faith seldom has been necessary.

⁴¹ If such a consensus were necessary for a definition, the magisterium could never settle any serious dispute in the Church by defining. But it plainly has done so — for example, in the christological controversies. If theological methods could settle all such controversies, they would not arise and persist, and a magisterium would be unnecessary. What is *morally* required of the magisterium is that it be fully informed of the cases for both sides of important issues which theologians cannot resolve among themselves. Then, if these issues affect essential points of faith and morals, the magisterium must judge the theological evidence and arguments, applying in doing so further criteria drawn from its own special expertise in forming the Church as communion and preaching the faith, as well as its own *sensus fidei*, based on the personal lives of faith and worship of members of the magisterium, and assisted by the grace of the Holy Spirit. When the theologians he had put to work on birth control remained significantly divided, Paul VI did precisely what the magisterium should do. He was attacked, however, for not following the *majority* opinion. But that was a political argument, lacking theological warrants, and ignoring the possibility that those who helped the Pope organize the commission were able to guarantee a majority by nominating at the start a sufficient number whom they knew (but the Pope did not know) to favor acceptance of contraception. In any case, numbers do not make a poor theological argument into a strong one, nor weaken a strong theological argument in favor of a less popular position.

Someone might object that the solemn definition of one moral norm, even so important a one as that concerning killing, would tend to lower the status of other norms. There is no logical reason why this should be so. But, no doubt, some would argue sophistically that since the Church had solemnly defined the teaching concerning killing but not solemnly defined teachings concerning contraception and other matters, the doubtfulness of these other norms was tacitly conceded. Moreover, in some people there would be a psychological tendency to respect all nondefined norms less than the newly defined one.

However, to a great extent such tendencies and sophistical arguments could be offset by suitable catechesis. Moreover, those involved in the process of solemnly defining the norm concerning killing would be compelled to think through and reject the central theory shared by those who dissent from the Church's constant and very firm teaching on other moral issues. For if the intentional killing of the innocent is *always* grave matter, proportionalism is false. Thus, this one solemn definition would tend to undercut most dissent in the moral field. Moreover, by changing the social dynamics of the present relationship between moral theologians and the magisterium, the process of solemnly defining the norm on killing would make it easier, if necessary, to define other points of moral teaching.

Some will argue that it now is inopportune to define anything, because doing so would only further divide the Church, contrary to the spirit of Vatican II, which avoided solemn definitions and condemnations. However, the prudential decision of John XXIII and Vatican II about the situation twenty-five years ago should be reconsidered today. When Vatican II opened, there seemed to be no dissension within the Church about essential teachings, and so the magisterial task was to find a better way of presenting this body of truths, not to clarify the norm of Catholic faith⁴². Today, however, the magisterium must deal with serious

⁴² The reformulation Vatican II undertook must be understood rightly. In a famous statement at the beginning of the Council, John XXIII called for a suitable restatement of Catholic teaching, but he pointed out that this is only possible because "the deposit or the truths of faith, contained in our sacred teaching, are one thing, while the mode in which they are enunciated, keeping the same meaning and the same judgment, is another", 54 *AAS* (1962), 792. By making this statement its own (see *Gaudium et spes*, n. 62), Vatican II enhanced its importance. However, this statement of Pope John's often has been mistranslated and misrepresented. He is making it clear that the propositional truths of faith are distinct from their linguistic expression. The phrase, "keeping the same meaning" usually is omitted by those who misinterpret this statement, because it would block the misinterpretation. This phrase is a clear allusion to the classic statement of St. Vincent of Lerins, which Vatican I cites when it teaches that the "meaning of the sacred dogmas that has once been declared by holy Mother Church, must always be retained; and there must never be any deviation from that meaning on the specious grounds of a more profound understanding" (DS 3020/1800; cfr 3043/1818). Plainly, John XXIII is not opening the door to a merely verbal fidelity which would give the Church's definitions of faith and her common, even if nondefinitive, ways of expressing her belief a meaning different from the one the Church understood when those expressions were used prior to the opening of Vatican II. Anyone who claims only to reformulate the Church's beliefs yet seems to deny any aspect of their substance should be asked: Is yours the

dissension within the Church. The norm of Catholic faith is under challenge, especially insofar as it bears upon moral questions. Since the signs of the times have changed, solemn definitions are again opportune.

Nor would a solemn definition of the norm concerning killing further divide the Church. Many who have accepted dissenting opinions would reconsider and submit to a teaching on this matter if it formally called for their assent of faith. Some, no doubt, would pay no more attention to a solemn definition than they now do to the teaching of the universal ordinary magisterium. Their relationship to the Church and the harm they cause her unity would not be worsened. Others, who took a solemn definition seriously but refused to submit to it, would be forced to make it clear that they stand outside the Church. But their clarification of their position would not further divide the Church. Rather, it would limit division, by lessening their influence on the Church, from whose unity they already separate themselves.

Some will argue that a solemn definition is inopportune because it would posit a fresh obstacle in the way of ecumenism. One answer to this objection is that the magisterium's fulfillment of its responsibility should not be compromised for the sake of progress toward Christian unity. But there is another and better answer.

Many who are counted as members of the Catholic Church and of other Christian churches and ecclesial communities doubt or deny the reality of the Holy Trinity, the Incarnation, Jesus' redemptive death and resurrection, or heaven and hell. Such people lack Christian faith. Not surprisingly, many such people accept secular humanist views of the human person and the value of human life. But believing Christians separated from communion with the Catholic Church take God's word seriously and conform their consciences to it. They reject secular humanist ethics, defend the sanctity of innocent human life, and accept in substance the doctrine proposed for definition. Therefore, the defining of this moral truth, so universally rejected by nonbelievers and so much a part of Christian life, could serve as a necessary catalyst in the process of ecumenism, by clarifying the difference between believers and unbelievers, both inside and outside the Catholic Church.

Moreover, the solemn definition could help to overcome a very serious obstacle to the ecumenical process — namely, hostility on the part of many

only reformulation of this doctrine or are there possibly others? In any case in which the deceptive procedure is used, there can be plural stories, each of them inconsistent with the others. The next question is: By what standard is your reformulation to be judged better or worse than any alternative? If the answer is: By the standard of the witnesses of faith, interpreted as the Church understands them, then one is dealing with a legitimate theological effort. If the answer is: By the standard of modern science, or by the standard of credibility to the contemporary mind, or by the standard of relevance to current problems, or by the standard of the number of theologians who agree, or anything of this sort — anything except the witnesses of faith understood as the Church understands them — then one is dealing with something other than a legitimate theological effort.

evangelical Christians toward the papal and episcopal offices. Many such evangelical Christians are no less dedicated than any Catholic to the cause of innocent life. And they suffer greatly because their own communions, having no magisterium to overcome dissension, are failing to keep the faith. If these Christians see that the Catholic Church's magisterium can solve this problem, they will begin to see its value. Thus, the proposed definition could help to overcome the hostility of evangelical Christians toward the papal and episcopal offices, and so remove a major obstacle to their full communion with the Catholic Church.

Finally, some will object that a solemn definition is inopportune because such a definition could hardly be made without a collegial consensus, and that consensus would be difficult or impossible to achieve. Plainly, there would be many disadvantages to calling a general council for this purpose. And suppose that with a view to teaching *ex cathedra*, John Paul II were to poll the bishops of the world concerning the definability and opportuneness of defining the proposition that the intentional killing of the innocent is always grave matter. Some theologians would do their best to persuade bishops to reply negatively to both questions. They would have the full support of powerful secular humanist molders of public opinion. The Pope's project could be thwarted. If it were, the magisterium would be further weakened.

The first thing to be said in answer to this objection is that it underestimates the bishops' integrity and ability to think for themselves. Since Vatican II, there has been a worldwide challenge to the sanctity of life, but virtually every episcopal statement bearing on the morality of killing has been in full accord with the Church's constant teaching. Nor is there any reason to doubt the bishops' sincerity in making these statements. Thus, there is good reason to think that almost all bishops consider the proposition proposed for definition a true and essential norm for Christian life.

True, some theologians would argue that the proposition, even if true and essential, is not definable. But the Pope, in proposing the project, could articulate in detail the case for definability, including objections to it and replies to them. Few bishops would be so weak and docile that they would unthinkingly reject the Pope's case. Instead, they would study the matter, considering both sides very carefully. The Holy Spirit would enlighten and strenghten them. If the case for definability is sound, it would prevail on its merits.

As the first step in such a project, or even as a preliminary inquiry with no commitment to go further, the Pope could use the Synod of Bishops to conduct a collegial study. Initially setting aside the question of opportuneness, he could organize an extraordinary session of the Synod as a forum, in which theologians favoring and opposing definability would be given equal opportunities to present and defend their views. The bishops could question both groups of theologians thoroughly, without having to express their own views prematurely. But when the theological debate ended, they could assume a role proper to Catholic bishops,

by making and expressing their own well-informed judgments of the theological opinions and arguments.

Last but not least, if the proposition proposed here for definition really is a truth already infallibly taught, the argument that it is inopportune to try to define it because the project might fail is a prophecy of doom — the sort of thing John XXIII brushed aside at the opening of Vatican II. True enough, the history of Christianity since the Enlightenment provides a natural cause for profound pessimism about the ability of the Church's collegial magisterium to take a united and definitive stand against the challenge of secular humanism, to proclaim Catholic moral teaching clearly and effectively, and so, against the worldwide tide of unbelief, to lead believers and other people of good will to prefer the Christian way of life on its own intrinsic merits.

However, Jesus remains with his Church. The collegial magisterium and all who stand firmly with it should subordinate their well-grounded natural pessimism to even better grounded supernatural hope. In the struggle against secular humanism, the Lord is on our side, and we should trust him. We can and must complete the work begun by Vatican II. If we ask the Father in Jesus' name for the Holy Spirit's power, we will have it. Then, with the new Pentecost Pope John hoped for, the Church will write another book of acts, no less glorious than the one which ends with the apostle Paul under arrest here in Rome, "teaching about the Lord Jesus Christ quite openly and unhindered" (*Ac* 28, 31).