Enforcing the Encyclical

by Michael Dummett

The correspondence columns of the Catholic Press have carried frequent assertions of the duty of submitting to papal authority in the matter of contraception, and defences of the disciplinary measures taken against some priests to secure such submission. Few appear, however, to have raised any doubts about the justice of such exercises of authority, save those who have continued to deny the correctness of the papal teaching. My intention in this article is to conduct just such a scrutiny.

The claim of that traditional teaching on contraception which was upheld by the Pope's Encyclical was, of course, that contraception is contrary to the natural law, that is, that it is capable of being recognized as intrinsically and unconditionally immoral on the basis of ethical principles which can be arrived at by anyone who believes in God, independently of any special revelation. But, while a supporter of the traditional teaching is thus committed to holding that there are cogent arguments to such a conclusion taking only general moral principles as their starting-point, it is hardly to be supposed that even the most fervent adherent of that view claims that it is possible to achieve *certainty* on the point on that basis alone. Considered from the standpoint of ethical theory, the question is an intricate and subordinate one, requiring for its satisfactory solution a much firmer basis of general principle than philosophers and theologians have yet succeeded in providing: by relying purely on moral reasoning from general principles, no one could be expected to arrive at a conclusion to which he attached more than a limited degree of probability, and especially so when the question has such grave practical consequences. In common, I suppose, with the majority of Catholics, I had, until the Council, assumed that the constant teaching of the doctors, moral theologians, bishops and other pastors of the Church, and, in recent times, the weighty declarations of popes, constituted an exercise of the ordinary magisterium of the Church, against the presence of error in which we are safeguarded by divine guarantee, and that this therefore supplied that certainty of the correctness of the traditional view which the arguments from general principle could not, by the nature of the case, by themselves hope to attain. *The actions of the Council, and, more particularly, of the present Pope himself, in treating the matter as one requiring painstaking re-examination, destroyed the assurance. I do not mean that these actions showed definitely that the correctness of the traditional teaching was not guaranteed by the ordinary magisterium of the Church. They did show, however, that the question whether it was so guaranteed was itself problematic, not one that could be settled at once by a consideration of the known facts, and therefore not one to which one could be certain of the truth of an affirmative*

https://doi.org/10.1111/j.1741-2005.1970.tb02053.x Published online by Cambridge University Press

answer. A mathematical proof confers certainty upon the theorem which it proves: but only if one can, in turn, be certain that that proof is valid. In the same way, the infallibility of the Church confers certainty upon the doctrines which she has proclaimed with the full exercise of her authority: but, again, only in so far as one can be certain that she has indeed so proclaimed them. It was precisely this certainty which was destroyed by the plainly evinced attitude of Pope and Council that the matter was one requiring fresh examination.

The consequence of this destruction of a former certainty was, for many Catholics, that a grave moral choice had to be made. This dilemma did not face those married people who had themselves no very serious reason for practising contraception, even if it were morally permissible to do so. When one has to choose between two courses of action, one of which there is serious, though not compelling, reason to think may be impermissible, and the other of which there is no reason to think impermissible, though it may in fact be unnecessary, then one is surely bound in conscience to take the latter course. The dilemma did, however, face those married Catholics who did have a serious reason for practising contraception: by 'a serious reason' I mean one of such a kind that, if contraception were not unconditionally impermissible, then it would have been wrong of them not to practise it. The dilemma also faced all those—clergy, parents, doctors, health visitors, teachers and politicians—who had the responsibility, one way or another, of advising, influencing or affecting the lives of others. When there is moral uncertainty, one is bound for oneself to accept the burden of following the morally safe course, if there is one—that course of which one is certain that, by following it, one will not be doing wrong: but one has no right to impose upon others a burden which may be unnecessary and may be too great for them to bear. For people in these situations, a question which they had thought closed but which they were now told on the highest authority was not closed had been opened up: and they were not in a position to shelve it until the time was ripe for an authoritative pronouncement to be handed down. They could no longer take it as certain that contraception was morally wrong: they had, therefore, to decide afresh for themselves what the right moral view of the matter was. And they had to decide fairly quickly: for it was their present duty to direct penitents, advise children or patients, vote to block or to support Government schemes to promote birth control, or, perhaps, simply to conduct their married lives in any of those circumstances which would make a new pregnancy disastrous. In making this moral choice, they had of course to consider whether it was not after all the case that the traditional teaching was guaranteed by the ordinary magisterium of the Church: but, in a situation in which even the Pope did not know, this was a

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hard question for most of them to answer. If they decided that it was not, they still had to give full weight to the former unanimity of teaching on the point. But, given that one had decided that this teaching could not be held, taken as a whole, to have the seal of infallibility, it was surely, among considerations extraneous to purely theoretical moral principles, almost exactly balanced by those relating to the world's population problem. The apparently disastrous consequences of maintaining a moral principle have no bearing as long as one is certain that the principle is sound; but as soon as one loses that certainty, they may surely be legitimately invoked when one is seeking an indication of the true will of God in the matter. It is true that there are voices which proclaim that there is no population crisis: but, since these voices seldom come from those who do not have a prior commitment to rejecting contraception as immoral, anyone not an expert may be forgiven if he does not pay them much attention. And, while this difficult choice had to be made, little help was offered by those whose profession it is to provide such guidance. Propagandists for the traditional view rehearsed their well-known arguments, answered by propagandists for the new permissive view expounding their, too often extremely woolly, counter-arguments: no firm ground could be found in a clear and agreed moral theology of sex and marriage; even when he attempted to discover to what extent the traditional teaching had been endorsed by the authority of the Church, the layman found himself plunged into a welter of detail, subject to the most varying interpretations.

I do not mean to complain that moralists gave no better guidance: the matter was a difficult one; various new ideas were abroad; and it had not for long been apparent on what shaky philosophical foundation the whole theology of marriage had been built. Nor am I saying that the Council and the Pope should not have re-opened the question: if they thought it required investigation, it was their plain duty to say so. My intention is only to call to mind the moral choice with which a great many Catholics found themselves presented, and the circumstances in which they had to make it.

In a previous article[1] I expressed the view that the examination of the question conducted by the Papal Commission was not thoroughgoing enough: and I would add that, on the evidence of what is written in the Encyclical, the same applies to the Pope's reflections on the subject, considered only from the standpoint of an intellectual enquiry. The majority on the Commission simply failed to establish that it is consistent with what we are bound to believe of the Church that she should have propagated error in so practically important a matter for so long; conversely, the Encyclical throws no light on why the Pope who had previously not found it obvious that the Church was irrevocably committed to the traditional

[1] *New Blackfriars*, February 1969.

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teaching should have concluded that in fact she was. What is needed here is a careful and ruthlessly honest examination of the ways in which we are forced to concede that the Church has in the past been a source of error—the Church considered as a human institution, that is—and whether there is any instance that would be comparable to her teaching on contraception, if that teaching were to be held mistaken. Such an examination has not really been attempted. And, as far as the arguments on strictly moral grounds are concerned, the very foundations of Christian moral teaching concerning marriage need re-examination: the attempts so far made in this direction are palpably inadequate, while, of course, it is not the business of an encyclical to break new philosophical ground.

It is not the intention of this article to pursue this line of thought: its concern is, rather, with the justice of the exercise of authority represented by the Encyclical and the actions of the episcopate in response to it. The Encyclical represented the most solemn pronouncement, short of an infallible decree, that could have been made. It was stated in terms that required obedience, and required bishops and clergy to use the full weight of their authority in securing that obedience. Not all the bishops have responded as the Pope evidently intended them to do: but some have done so, with the result that priests have been suspended or compelled to retract under threat of suspension; and, wherever things have gone as the Pope meant them to, the ruling has been passed on to the laity in the confessional and elsewhere. And what is the position, in the face of all this, of anyone, priest or layman, who at the earlier moment of choice had decided that the traditional teaching had been wrong, and that the practice of contraception was in some circumstances permissible? Well, of course, any such person had the duty, when the Encyclical was published, to rethink his position once more in the light of what it said and of the fact that, after long reflection, the Pope had said it. But what if, having thought the whole matter through again, such a person found himself still convinced that his earlier decision had been right?

The damage that might have been done to the infant growth of the new-born—or re-born—notion of collegiality may well have been a compelling reason for the Pope not to have issued an infallible decree on contraception. But, from the standpoint of justice, if he had done so, no one could have had any complaint. A person in the position just described would then have had a clear choice before him: if he found that his certainty that the Pope's teaching on contraception was wrong outweighed his faith in the Catholic Church, and the belief in her inerrancy that is involved in such faith, then his painful but plain obligation would have been to leave the Church; if, on the other hand, he found that his faith in the Church outweighed the certainty of his conviction about contraception, then

equally his plain though painful obligation would have been to accept the papal teaching, in theory and in practice, even though he could not see its grounds in natural law. But, since an infallible decree was not issued, the position was very different for such a man. In essence the situation was unchanged for him. He had already made up his mind that disagreement with the very solemn pronouncement on the subject by Pius XI was consistent with membership of and faith in the Catholic Church: another papal pronouncement with exactly the same status—solemn but not infallible—could hardly alter the position in principle. If it had not been obvious, when the Pope originally announced that the question was going to be investigated, that the traditional teaching was irreversible, then the Encyclical did not make it any more obvious—it is only guaranteed that a reversal, if it ever came, was going to be rather more embarrassing for the Church. And yet the pressures which the Pope had intended should be applied, and in many cases have been applied, were precisely those which it was fair to apply only if it were possible to be certain that acceptance of contraception as on occasion permissible was irreconcilable with faith in the Church.

In a television discussion soon after the publication of the Encyclical, an English bishop complained that among those who objected to it were many who had reproached Pius XII for failing to make a public condemnation of the Nazi massacres of the Jews: he thought this an inconsistency on their part. The very ineptitude of this comparison brings out very sharply the point I am making. It needed no Papal Commission to decide whether or not killing people by the million on the grounds of their race was contrary to Christian morals. If he had spoken out on these horrors, Pius XII would not have been settling a disputed question of moral theology: it would be ludicrous to complain that he would have been placing an unfair burden on the consciences of Nazis who would be unable to be certain that his teaching was correct. Anyone who approved of those massacres already had a corrupt conscience and was due no consideration: no one in good faith could have had a moment's doubt that this was a monstrous evil. By contrast, circumstances had developed in such a way that without doubt very many who, at the time when the question of contraception became an open one within the Church, decided against the traditional view did so in perfectly good faith. They are now being required to act as if they could be certain that they had been mistaken, *without having been provided with the grounds for any such certainty:* and it is in this that the injustice of this exercise lies. People are being pushed into choosing between ceasing to be Catholics and acting in a way which they sincerely *and inculpably* believe to be wrong, without being put in a position to know that, if the Catholic faith is true, then their belief is mistaken: It makes no difference to the injustice of this that those who are pushing them believe that they themselves do know.

What makes this the more distressing is that the exercise of authority in this matter is disproportionate with the leniency with which heterodox views are treated on matters far more central to the faith, almost as if the prestige of the Papacy were of more importance than the integrity of the Catholic faith. There must, at least in America and the Netherlands, be hundreds of priests who openly teach that the Resurrection presence of Christ was not a physical presence and that his body remained in the tomb, and that therefore Christ's body is present in the Eucharist only in virtue of the communion with one another of the participating Christians who make up that body, rather than their union with one another being a consequence of their communion with him. Among priests who deliver this teaching to their congregations are many good and sincere men, who have much to give to the Church: yet it is difficult to see their teaching as doing less than subverting the whole Christian religion; if the apparatus of ecclesiastical discipline is still to be brought into operation, would not this heresy constitute a more urgent subject for its application than continued uncertainty about the traditional view on contraception? More, there is at least one honoured lay professor of theology at a Catholic university who has published the view that the compelling reason for not leaving the Church is that such a formal act would be to acknowledge some reality to a structure that has in effect simply ceased to exist: that the institutional churches have already passed away, the boundaries between Catholic and Protestant dissolved, to leave the real war to be fought out between progressives and conservatives of whatever denomination. What sense can it make to tolerate stuff of this kind, but bring the full weight of the ecclesiastical machine down upon some priest who cannot accept the Encyclical?

Nothing I have said rules out the possibility that all along the traditional view on contraception *is* guaranteed by the ordinary magisterium of the Church, as manifested by teaching that until very recently was unanimous, and that therefore the question was in one sense never really open at all. If someone is still attracted to this view, it remains a perfectly reasonable one. All that I have argued is that, by treating the question as one that demanded prolonged investigation, the Pope and the Council made it possible for Catholics in good faith to decide that the traditional teaching did not have that guarantee, and, indeed, inevitable that many would; and that, until it becomes possible for an infallible pronouncement to be made on the subject, justice demands that their consciences be respected.

https://doi.org/10.1111/j.1741-2005.1970.tb02053.x Published online by Cambridge University Press