

Can the Church Recognize Homosexual Couples in the Public Sphere?

In his 2005 movie *Le Temps qui reste* the young French director François Ozon tells the story of a young gay photographer whose life changes completely when his physician tells him that a brain tumor leaves him just a few months to live. The man, called Romain, distances himself from almost all his family members – mother, father, sister, his partner, with the exception of his grandmother: She “is as close to death as I am”. As little as he understands the mysteries of his soul, we who are watching the scenes carved out of his life do not understand our own mysteries either. Masterfully, Ozon mirrors our opacity by only showing limited scenes of a life drawing to its end. We look into a broken mirror and therefore see just small parts of our own inner world. Step by step we have to acknowledge that we too stand between living our life and anticipating our death. Romain discovers that there was a lot of death in his previous life, successful as it was. He was living in the fast lane, an existence made up of traveling for photo shoots and using drugs for some comfort; sex with his younger partner was impossible without cocaine, we find him muttering to his father.

As he is mourning, he gradually discovers a lot of life in the days he has left. *Mors et vita duello*.¹ The moment after he has rudely dismissed his boyfriend from his house we see him visiting a gay bar. A younger man than Romain, apparently looking for sex, is shown for a moment. His face is exposed in limpid light; not a word is spoken. With the *Miserere* of the seventeenth-century composer Charpentier, its high pitched and solemn voices, Ozon parallels the short scene

and the moment of Christ’s deposition. The body of our Lord is taken off the cross while the bystanders who do not understand the meaning of the event plead for mercy. A wordless picture and the sacred music intensify the grieving.

We follow Romain on the way to the end of his life, step by step, until he lies down at the beach to die after having lit candles in a church. In a way he is filled with life, having done everything that he was able to. His loved ones are still at a certain distance, yet he courageously attempted to express his love as much as he could. This gay man was full of longing; he did not understand himself. He came to understand just a part of the mystery of life, and yet he accomplished what was within his abilities.

In this example, some readers might be scandalized by the approximation of the grieving bystanders at Golgotha with the longing and suffering of gays. Such a movie can be useful to moral theological reflection, not as presenting a moral argument, but as providing insight into “gay culture”. This culture is addressed, for example, in the 2005 declaration of the Congregation for Catholic Education on homosexuality and priesthood.² Gay culture is not monolithic. I do not intend to discuss the differences among gays

1 As is sung in the Sequence for Easter, *Victimae Paschali: Mors et vita duello conflixere mirando*, “death and life have contended in that marvelous combat”.

2 *Instruction Concerning the Criteria for the Discernment of Vocations with regard to Persons with Homosexual Tendencies in view of their Admission to the Seminary and to Holy Orders*, Nov. 2005, hereafter referred to as *Discernment of Vocations*.

and lesbians with regard to their interests and their political and religious convictions, or with regard to their sexual practices. These differences are real and morally relevant. Rather, in this article, I refer to the gay person's own self-criticism and the discoveries that gays and lesbians make in their personal and communal lives as they reflect upon their identity and sexuality. This can be illustrated by the comments of the famous young, gay singer-songwriter Rufus Wainwright, reflecting ironically but with serious implications about his self-described promiscuous lifestyle, on one of his songs "about a gay person who discovers Jesus and decides to forsake his sexual life, which at times seems like an option when dealing with men".³

We should realize that it is in practical wisdom that our awareness of good arises, through conflicts with given norms, images, and convictions.⁴ Here I am not referring to the verification of the good but to the genealogy of consciousness. Surely deception and self-deception may also arise, even when confronted with death. Such deception may certainly entail the definition of one's identity. I propose a reflection on the moral teaching of the Roman Catholic Church on homosexuality and use this existential and moral self-confrontation of gays and lesbians as an ethical point of reference. This reflection will highlight a contrast that encompasses differences and similarities in the object of the Church's concern. Ricœur speaks of a truthfulness that is not the same thing as truth itself; examining this difference will be helpful in regard to the Church's teaching. A moral position is best argued from its positive contribution rather than from a purely polemical stance.

In this article I raise the question whether the Church, which claims a universal validity for its anthropology of man and woman, can carve out a space in its moral teaching, both conceptual and practical, for the acknowledgment of a public status for gay and lesbian couples. The response to this question will also draw upon concepts from the Church's social teaching as well as from modern philosophy in regard to recognition. I will

concentrate on the theological anthropology of the Church. My point of reference in the following will be the truthfulness of the Church's moral teaching. How should we understand it? Can we indicate a space in the social ethical domain where the argument of the Church that homosexuality is not a public good can be understood?

To me, the problem seems to be that, while the Church has a rich teaching on sexuality, it is too modest in trying to convince others of the wisdom and truth that it contains. It seems that the kind of public discourse that operates in certain types of democracy found in Western Europe can be used to put forth the plausibility of the Church's teaching on homosexuality. In this article, I will first set forth my argument, then later elucidate the reasons behind it, where necessary.

1. The Public Situation of Homosexuals since 2000

As the French writer Claire Lesegretain wrote in 2004, at the beginning of the twenty-first century homosexuality remains the topic of impassioned discussions, raising many essential questions.⁵ Her study of homosexuality, conducted by interviewing Catholic gays and lesbians as well as Catholic psychoanalysts and spiritual directors working from different theoretical frameworks, reached the following conclusions. In many countries, legal sanctions against homosexual sex were repealed some time ago. This has contributed to a continued acceptance of homosexuality, such that the state moves from removing legal sanctions to establishing positive legal forms for the recognition of gay and lesbian couples. Ten years ago, a moral theologian still saw the tendency for an ever-more accepting society.⁶

The reality, however, turns out to be much more complicated. Rejection of homosexuality persists. In Western Europe the ongoing emancipation of homosexuals is challenged by several developments. There is a resurgence of violence against homosexuals. Immigrants from Northern Africa and Turkey publicly voice their disapproval

that arises from their own cultures and Islamic background. This does not endanger gay rights as such, but it does influence how gays and lesbians live publicly. It has become increasingly difficult to be an openly gay or lesbian teacher. Secondly, voices within the gay and lesbian community question previously-held gay political goals, without giving up rights already won. Thirdly, there is political opposition to laws that support gay rights, an opposition that is difficult for those with a liberal political outlook. An example of this unease is the case of the Italian Catholic politician Rocco Buttiglione, who was a candidate for EU commissioner. He voiced his moral opposition to homosexuality, making clear he saw a difference between a moral conviction and a legal position. It turned out to be difficult for critics to accept that Buttiglione would support a law that was contrary to his moral stance, despite his claims to the contrary.⁷

Homosexual relationships continue to be illegal in many places, while other places such as Poland call for a return to legal sanctions. Several countries in different parts of the world have adopted laws granting the partners of gays and lesbians rights with regard to housing, inheritances, pensions, social benefits, and the ability to legally represent their partner. In Europe alone, many countries have extended the institution of marriage to gay and lesbian couples: Belgium (2003), the Netherlands (2000), Denmark (1989), Norway (1993), and Sweden (1988). Other countries like Spain (2005) and the Czech Republic (2006) have merely created the possibility for a legal bond between two people of the same sex, thus establishing a means by which people who strive for a long-term relationship of caring for one another are given legal status in civil society. In 2000, French law gave this status the name *pacte civil de solidarité* (or PACS), a public agreement of solidarity.

2. Church Intervention in Politics

The Roman Catholic Church has opposed legal measures recognizing gay and lesbian couples⁸

because of its conviction that marriage, understood as a lifelong, exclusive relationship between a man and a woman for the purpose of having and raising children, is threatened by these developments. Repeatedly, the Church calls this relativism in regard to relationships arising from individualism a cause for serious concern. An acceptance of an idea of a human equality that would both approve of gays and lesbians living together and expressing their sexual longing for one another and give them legal rights to have this relationship endorsed by the state would mean that marriage is obscured, both culturally and legally. Behind this is the Church's conviction that condoning, in one way or another, homosexual practices means stripping sex of its very meaning, thus obscuring personal participation in God's life.

The Church argues that homosexual sex is "objectively sinful", as is all sexuality outside marriage, such as prostitution. Unlike other sinful sexual activities, homosexual acts are also intrinsically disordered. As the 1975 declaration on sexual ethics, *Persona humana*, says, "according to the objective moral order, homosexual relations are acts which lack an essential and

3 R. WAINWRIGHT: "The Maker Makes", 1998, on the 2005 DVD: *All I Want*: "One more chain I break / To get me closer to you... That only can the maker make a happy man of me."

4 I refer to P. RICŒUR: "Ethique et morale", in: *Lectures I*, Paris: Seuil, 1991, 256-269, and of course to his *Soi-même comme un autre*, Paris: Seuil, 1996, about the operation of practical wisdom.

5 C. LESEGRETAIN: *Les Chrétiens et l'homosexualité: L'enquête*, Paris: Presses de la Renaissance, 2004, 15: "un sujet extrêmement polémique et passionnel."

6 R. HOUDIJK: "Kerk en homoseksualiteit: Veranderende opvattingen en de aard van kerkelijke reacties", in: *Tijdschrift voor Theologie* 26 (1986), 259-281, here 259.

7 See www.thetablet.co.uk/cgi-bin/citw.cgi/past-00205.

8 For example, on 31 July 2003 the Congregation for the Doctrine of the Faith issued a statement proclaiming the opposition of the Church to all legal recognition of liaisons between homosexual persons, asking Catholic politicians to vote against such bills and to oppose them by all means available. In June 2003 the same Congregation published *Considerations Regarding Proposals to Give Legal Recognition to Unions between Homosexual Persons*, hereafter referred to as *Legal Recognition*.

indispensable finality”.⁹ Legal recognition of same-sex relations and gay marriage contribute to the obscuring of the meaning of marriage. Equally problematic is the current cultural claim that there is no real difference between men and women, because it denies the anthropological and civil basis for marriage. As a good for humanity, both for the person and for society, marriage should be supported by law. The state should not endorse arrangements that threaten this good. Put positively, marriage between a man and a woman, including the possibility of a family, deserves unreserved support from both society and the state. In this vein, the Church advocates an understanding of the human person based on the complementarity of male and female that can form the basis of a truly human society.

The Catholic Church has engaged in discussion both internally and in civil society about the meaning of homosexuality and the rights of gays and lesbians to be granted legal status and have rights acknowledged and endorsed by the state. In examining the Church’s position on homosexuality, for the purposes of this article I limit myself to discussing the teaching of the papacy,¹⁰ leaving aside for the moment the ample teaching by bishops. Key documents in this regard are *Persona humana*, with its important paragraph on homosexuality, the 1986 declaration on the pastoral care of homosexuals¹¹, and *Discernment of Vocations*, regarding the criteria according to which men with homosexual tendencies can be admitted to the priesthood. According to the Church, all talk about homosexuality must begin by talking about the sexuality of man and woman. The 1981 apostolic exhortation of John Paul II, *Familiaris consortio*, gives a good example of this. These different texts all base their reflections on the understanding of man and woman and how they relate to one another, even if they focus on different issues such as marriage in civil society or the priesthood, the latter being primarily a question *ad internam*, a matter of how the Church sees itself and its role of serving others.

3. Moral Teaching on Sexuality

As has been observed by several theologians, the Church’s teaching on sexuality often does not make an impact on our late modern culture.¹² This is even truer with regard to the teaching on homosexuality.¹³ Without denying the importance of wording and communication styles, and problems that have risen in this regard, I believe that it is the content of the teaching that is important and which therefore should be made clear. In order to understand this content, one must listen to the teaching with an openness to its possible truth, an openness that is frequently lacking. In regard to *Discernment of Vocations*, Dominican friar Timothy Radcliffe called attention to the accusatory tone that was used by some of the media; such prejudice obfuscates the content. He adds that the same tendency is present within the Church.¹⁴ Another Dominican friar, Gareth Moore, studying *Pastoral Care*, gives rules of engagement for a future debate on homosexuality.¹⁵ Moore argues that a theological debate has not even begun; public debate is avoided and there are only voices “in private and in muted tones”.¹⁶

Moore points to the importance of paying attention to the content of the Church’s teaching. There is the continual tendency to openly or covertly constrain the speaker or listener by using psychological language like “homophobic” in regard to church leaders or “materialist” and “non-spiritual” in regard to homosexuals.¹⁷ If such terms are not carefully and explicitly defined and defended, then their use can only cloud the issue. What is important is the fair consideration of both sides of the issue and the recognition of the seriousness of those who argue for both positions. Since the debate has often remained on this emotional level, the real contribution of the Church to the issue has been overlooked.

Church teaching is not primarily aimed at persuading the listener. It is concerned with setting forth a vision of life that it believes enables the unfolding of love, the possibility of a real care for others, and a living in the truth. These

existential matters are also the concern of gays and lesbians, policy makers, and the general public.

The Church's scrutiny of what is done (or omitted) in public life and politics comes out of its concern for humanizing humanity. Its moral teaching is about charting safe, life-giving paths through complicated existential matters. The Church's moral teaching on sex and homosexuality is not concerned with discussing sexual techniques and evaluating the moral value of different practices. If it were, it would take the form of earlier manuals of moral theology, discussions of canon law, and verdicts of ecclesiastical courts. These discuss in detail the various moral questions which concern anal sex, oral sex, petting, etc., in confrontation with the evidence of natural law. The teaching on homosexuality does not proceed on this level.

The central issue in the reflection and debate on the meaning of homosexuality seems to be the practice of the virtue of asceticism in ethical reflection,¹⁸ while acting critically within the public sphere. Making an ethical argument in democracy presupposes the ability to restrain oneself and at the same time to give recognition to the partners in the debate. I do not assume that Church teaching identifies the Church with a democratic society. Instead, the Church teaching engages the public square of democracy to convince those living within it of the value of its insights.¹⁹

I suggest that the reflection on homosexuality should be conceived of as a debate, precisely because it is a reflection on serious existential matters in which all involved are proposing arguments that they consider the best possible way for conceptualizing these matters. Thus, I want to avoid an idea of dialogue that implies that the partners in the dialogue are willing to easily let go of their convictions, an attitude that runs counter to the magisterium's claims. A debate can be developed between parties that both claim truth as long as all who are involved address the serious existential matters at stake.²⁰ In a debate, it is even possible to be devoted to shared analyses. This can only be possible were some kind of

intermediary structures to exist between the magisterium and gays and lesbians, in their respective ways of reasoning.

My second point is that the Church's teaching on personal matters like sex is social teaching at the same time. The anthropology used to characterize man and woman and their connection, which includes sexuality, is a social anthropology from the very beginning. Generally,

- 9 CONGREGATION FOR THE DOCTRINE OF THE FAITH: *Persona humana: Declaration on Certain Questions Concerning Sexual Ethics*, 8, abbreviated hereafter as *Persona humana*.
- 10 A list of Vatican documents between 1975-2002 is given by J. R. PRADA: "La Persona Homosexual", in: *Studia Moralia* 42 (2004), 293-336, here 306-307.
- 11 CONGREGATION FOR THE DOCTRINE OF THE FAITH: *Letter to the Bishops of the Catholic Church on the Pastoral Care of Homosexual Persons*, abbreviated hereafter as *Pastoral Care*.
- 12 John Harriott made the radical proposal that the Church should keep silent "after too much noise": J. F. X. HARRIOTT: "A Respite from Sex", in: *The Tablet*, 22 Nov. 1986, 1242. In the same vein, see J. GLEIXNER: *Moral im Überangebot? Neue Lehräußerungen der katholischen Kirche zu Themen der Moral*, Paderborn: Schöningh, 1997, 109.
- 13 J. F. KEENAN: "The Open Debate: Moral Theology and the Lives of Gay and Lesbian Persons", in: *Theological Studies* 64 (2003), 127-150, here 129-134.
- 14 T. RADCLIFFE: "Les homosexuels peuvent-ils être prêtres?", in: *Revue d'éthique et de théologie morale* 238 (2006), 113-116.
- 15 G. MOORE: *A Question of Truth: Christianity and Homosexuality*, London: Continuum, 2003. See the critical review D. MÜLLER: "Etude critique de Gareth Moore *A Question of Truth: Christianity and Homosexuality*", in: *Revue d'éthique et de théologie morale* 229 (2004), 132-138.
- 16 G. MOORE: *A Question of Truth*, 2.
- 17 Ibid. 5-10.
- 18 G. PFEIDERER: "'Achtung' als Grundbegriff neuzeitlicher Ethik", in: M.-J. THIEL (ed.): *Europe, spiritualités et culture face au racisme*, Münster: LIT, 2004, 407-431. See in particular 420-423 on asceticism in ethics.
- 19 J. B. HEHIR: "Catholicism and Democracy: Conflict, Change, and Collaboration", in: C. E. CURRAN (ed.): *Change in Official Catholic Moral Teachings*, Mahwah, NJ: Paulist Press, 2003, 20-37, here 35.
- 20 D. BILLY: "Dialoguing with Human Experience: A Challenge to Catholic Moral Theology", in: J. KEATING (ed.): *Moral Theology: New Directions and Fundamental Issues, Festschrift for James P. Hanigan*, Mahwah, NJ: Paulist Press, 2004, 69-87. This article seems to overlook the elements of equality and power in the practice of dialogue.

Roman Catholic moral teaching has never yielded to an individualistic approach. Neither is it merely a social anthropology. At the core of the Church's teaching is a political-ethical theology about ordering relations. The Church has always granted the state its own responsibilities, through the development of its teaching on society. The Church has always given the state its own domain, never holding that the state simply apply natural law, let alone *simply apply* the Church's normative judgments. Certainly, over time, these separate domains were depicted differently.

The state deals with many issues that affect the personal and intimate life of its citizens, e.g., their health, their legal relationships, and the raising of children. To be more technical and precise, according to the Church, the state deals with a hierarchy of goods and must create space where specific goods can be cultivated. Goods in that hierarchy include justice; legal security for all those within its territory, not just its own citizens; space for agreements among citizens (the social good of *concordia*), not just a procedure for deciding on individual rights and goods; and the valuing of the proper domain for civic associations through the model of subsidiarity.²¹

In *Evangelium vitae*, John Paul II indicated a crucial point when he wrote that no laws should be passed that "undermine the very fabric of society...by disregarding the dignity of the person" (90). *Evangelium vitae* provides just one, clear example out of many from papal teachings. *Familiaris consortio*, in its discussion of the interface between a Catholic anthropology and pastoral care on the one hand and state and civil arrangements on the other (82), provides another example of the social and political-ethical character of personal ethics. The state is an institution, acknowledged by the Church, that recognizes the bond between man and woman and its civic importance.²² It is no surprise that the Church reacts negatively to policies of European states and cultural developments in the US – like that of gays and lesbians forming clubs on university campuses – that seem to weaken this importance.

In the European Community's 1997 Treaty of Amsterdam, article 13, the member states agreed to combat discrimination based on sexual orientation. That same year, the European parliament encouraged member states to establish the possibility of same-sex contracts. It is within this framework of the state and its role with regard to the hierarchy of goods that the question about gay relations can be revisited. One of the questions is, of course, whether a same-sex couple can legally be understood in the same way as a heterosexual couple. To indicate just two questions at this stage: In these matters, is the state evoking a moral position that the Church can accept, according to its own teaching on the autonomy of the state? Can the concepts of human dignity and non-discrimination serve this purpose on their own?

I now turn to a sketch of the anthropology of man and woman, limiting myself to the official Vatican documents mentioned above and using some insights from commentary on these documents in moral theology.²³ Secondly, I point to the possible impact of the concept of the common good, central to Roman Catholic social teaching and characteristic of it, in order to rethink the goods that are at stake. Thirdly, I reflect upon the meaning of recognition. As is known to ethicists and moral theologians, a debate is going on about the political-ethical importance of recognition, which involves authors like Avishai Margalit, Charles Taylor, Paul Ricœur, and Axel Honneth. I will use only the aspect of this wide-ranging debate that seems to be relevant to the question at hand, namely, that recognition (i.e., of the public existence of homosexuals) precedes knowledge (i.e., of the pre-moral and moral layers in homosexuality).

4. *The Meaning of Sexuality and its Impact*

Let me sketch the basic understanding of the Church with regard to sexuality. The French moral theologian Xavier Thévenot, who has studied the moral aspects of homosexuality for a long time,

seems to have it right: if every coupling is allowed, then differences can no longer appear, neither differences between parents and children (incest), nor differences between man and woman (homosexuality), nor differences between animal and human (bestiality). In its structure, homosexuality blurs the divisions given by God.²⁴ Guy Mansini in his reflection on homosexual unions voices the same concern, even if he concentrates on the concepts of human “nature” rather than difference: “the intellectual effort of modernity is systematically devoted to obscuring the very idea that human persons have a nature”.²⁵ The humanization of persons given by and desired by God is at stake, even if the vocabulary used by the Church and its commentators may change, as we will see.

Homosexuality is not seen by the Church as a sexuality of its own but as a deviation from sexuality as such, i.e., as a deviation from the loving and fertile relationship between a man and a woman. From the point of view of the Church’s morality, the specific nature of man and woman is fundamental. This nature is also foundational, in the sense that it is not dependent on culture or history, though some of its expressions may be. Paragraphs three and four of *Persona humana* state this emphatically.²⁶ At a fundamental level, sexuality is a matter of man and woman in their basic difference and in their elemental relatedness. As we shall see, this understanding structures Church teaching on homosexuality as such.

The point of departure is the understanding of man and woman as distinct and related beings. The well-known paragraph 11 of *Familiaris consortio* recognizes two ways of living a life of love: matrimony and virginity. Living out one’s sexuality takes place within marriage in the specific sense that “man and woman give themselves to one another through the acts which are proper and exclusive to spouses”. This sexuality “is by no means something purely biological, but concerns the innermost being of the human person as such. It is realized in a truly human way only if it is an integral part of the love by which a man and a woman commit themselves totally to one another until death.” The relation between phys-

ical self-giving and being a person is a very important part of the argument: “The total physical self-giving would be a lie if it were not the sign and fruit of a total personal self-giving, in which the whole person, including the temporal dimension, is present: if the person were to withhold something or reserve the possibility of deciding otherwise in the future, by this very fact he or she would not be giving totally.”

Respecting “the biological laws inscribed in their person” (as John Paul phrased it fourteen years later in *Evangelium vitae*, 97), man and woman surpass the purely biological order;²⁷ a “whole series of personal values” is involved (FC 11).²⁸ This idea of totality, encompassing

21 P. CARLOTTI: “*Evangelium Vitae*: La rilevanza teologico-morale”, in: M. TOSO (ed.): *Educare alla vita: Studi sull'Evangelium Vitae di Giovanni Paolo II*, Rome: LAS, 1996, 185-227, here 224.

22 *Familiaris consortio*, 82, treats the issue of Catholics in civil marriages. See also paragraph 30.

23 We can make good use of the publications on Catholic sexual ethics of the last decade by Bernhard Fraling, Regina Ammicht-Quinn, Lisa Sowle Cahill, William May, Alain Mattheeuws, and others. The works of Xavier Lacroix seem to me to be the most in-depth studies: X. LACROIX: *Le corps du chair: Les dimensions éthique, esthétique et spirituelle de l'amour*, Paris: Cerf, 2001; X. LACROIX (ed.): *L'amour du semblable: Questions sur l'homosexualité*, Paris: Cerf, 2001; and X. LACROIX: “Le terme *homoparentalité* a-t-il un sens?”, in: *Revue d'éthique et de théologie morale* 225 (2003), 131-162. See especially S. J. POPE: “The Magisterium’s Arguments against Same-Sex Marriage: An Ethical Analysis and Critique”, in: *Theological Studies* 65 (2004), 530-565.

24 X. THEVÉNOT: *Homosexualités masculines et morale chrétienne*, Paris: Cerf, 1985, 222-223.

25 G. MANSINI/L. J. WELCH: “Revelation, Natural Law, and Homosexual Unions”, in: *Nova et Vetera* 2 (2004), 337-366, here 365.

26 See *Persona humana*: “But all evolution of morals and every type of life must be kept within the limits imposed by the immutable principles based upon every human person’s constitutive elements and essential relations – elements and relations which transcend historical contingency” (3).

27 *Persona humana* uses a different language: “the principles and criteria which concern human sexuality in marriage, and which are based upon the *finality of the specific function of sexuality*” (5, italics added).

28 See F. J. H. VOSMAN: “Kirche und Homosexualität: Ein Lackmussprobe für den Glauben”, in: *IKZ* 91 (2001), 299. In my formulation I did not appreciate enough the biological dimension. The human body itself is a domain

“all the elements of the person” like the “appeal of the body and instinct, power of feeling and affectivity, aspiration of the spirit and of the will” (FC 13) is expanded with the idea of complementarity between man and woman.²⁹ Man and woman are made for each other, not only in a biological sense, but as persons. In acting according to their complementarity within marriage they bring together the two meanings of the sexual act, *unio* and *procreatio*, a meaning affirmed by *Gaudium et spes*, 49 (with a longer history) and used as an argument by Pope Paul VI in *Humanae vitae*.

Fecundity is a matter of serving life, thus allowing God to perfect his creation (FC 28). The other implication of the proposition is that couples who have recourse to contraception separate these meanings and commit “intrinsically immoral” acts (FC 32). John Paul II (as did Karol Wojtyła earlier) made use of a modern style of reasoning in opposing a Christian personalist approach to the use of another person as an object, in which the consent of the other does not render the act morally permissible. Sex that takes place outside the order of physically expressed personal love makes an object of the other, renders the other a thing instead of a human being.

Complete gift and complementarity are the main concepts, morally speaking, of the personalist approach. Complementarity should be seen as concerning both specific diversity and personal originality.³⁰ This possibility of self-gift and of complementarity is denied of homosexuals. Theologically, *Familiaris consortio* identifies the foundation of the bond of man and woman in the representation of the mystery of incarnation and the covenant between God and humans. John Paul II clearly underlined the christological dimension of this argument: Christ shows man and woman what giving is all about (FC 13). It is not only about sacrificing but also about becoming more one in heart and soul, thus representing God’s covenant. We encounter an aspect of this line of thought in *Discernment of Vocations*, characterizing who and what a priest is, living as he does the other form of a loving life, that of vir-

ginity: “the priest, in fact, sacramentally represents Christ, the head, shepherd and spouse of the Church”. The document also speaks about the priestly “configuration to Christ”. As such he is seen to exercise “spiritual fatherhood towards the Church community”.³¹ This is a theological, indeed a christological, way of expressing the meaning of the manliness of the priest. It implies that this is not possible for all men, but only for heterosexual men.³²

If one is familiar with the thought of John Paul II expressed at the beginning of his pontificate, when he gave an extended exegesis of Genesis 1-3, or with his books from before his pontificate, the specific personalism with which he articulated Church teaching is immediately recognizable. It provides a remedy to the objection of naturalism and biologism brought forward against the reasoning of *Humanae vitae*. With regard to homosexuality, the more personalist terms used are its lack of finality and its objectively and intrinsically disordered inclinations, tendencies, and acts. The tradition in which *Persona humana* stands witnesses to the use of these terms, without the deeper theological context of *Familiaris consortio*. In paragraph eight, *Persona humana* speaks of homosexual relations as acts that lack essential finality: “For according to the objective moral order, homosexual relations are acts which lack an essential and indispensable finality”. “Finality” as an argument is congruent with the concept used for matrimony. As others have already observed, “relations” is not a self-evident expression; in this context it probably means sexual encounters.

Another important concept in *Persona humana* with regard to homosexuality is the idea of homosexual acts being “intrinsically disordered” (8).³³ As paragraph two of *Discernment of Vocations* (2005) repeats from *Legal Recognition* (2003), not only are such acts disordered, homosexual tendencies are as well. Of course this is morally important: before one makes a normative judgment in regard to acts, there is a morally relevant layer, that of “tendencies”. Both are disordered in an objective sense. In *Legal Recognition*, the word

“tendency” was used to explain an inclination. In *Discernment of Vocations*, the word tendency is also preferred, thus leaving the Thomistic vocabulary (*inclinationes*): “Deep-seated homosexual tendencies, which are found in a number of men and women, are also objectively disordered”.³⁴ Before *Discernment of Vocations*, in paragraph three of *Pastoral Care* (1986), there were allusions to the idea of “deep-seated” tendencies as distinguishable from a “transitory” form.

Surely personalism brings with it the possibility of a much deeper understanding of sexuality. In *Persona humana*, which preceded *Familiaris consortio*, sex and homosexuality are mainly seen through a moral lens. *Familiaris consortio* offers a better opportunity to understand the moral teaching of the Church with regard to homosexuality because of its explicit theological anthropology inspired by personalism. This personalist moral and theological argument should be kept in mind when looking at the Church’s position on homosexuality.

5. Arguing about the Longings of Homosexuals

In an earlier article, I defended the view, as have other moral theologians like James Hanigan and Domenico Pezzini, that, in order to come to a fuller understanding of homosexuality, it is important to look at the similarities between heterosexuality and homosexuality and not just at the differences.³⁵ My argument for that stance, though, was not, as was Hanigan’s, based on the constitutive meaning of relationship (rather than an ontological type of reasoning on the nature of man and woman). Mine was more unobtrusive, an argument taken from Paul Ricoeur about the pre-moral layers in sexuality.³⁶

Erotic longing, including sex as such, is volatile, without natural, self-evident, fixed, given meanings. We observe this phenomenon in all human sexuality. With the term “meaning” I am referring to what Pope Paul VI in *Humanae vitae* (12) called *significationes*. This does not mean that meaning cannot be found or observed in sexual-

ity. Indeed the biblically-nourished personalism that the Church holds rightly points to the meaning of human union and human procreation (thus including the readiness to raise children in a real community), while respecting “the biological laws inscribed in their person” (*Evangelium vitae*, 97).³⁷ Such a law is the possible fecundity of man and woman that requires an honoring of one’s own body.

This “biological law” is not a reduction to biology; it is a terrible misunderstanding to conceive of human sexuality in a naturalistic way. There is no automatism directing this possibility of bodily union and fecundity to a final cause. It is the broken final cause that has to be retrieved in the personal love of man and woman that respects “biological laws” in the continual openness of one’s life to love and to possible new human life. Homosexuals share in the volatile nature of sexuality. If the argument is raised that, as a fact of their nature, they are not capable of being loyal to one other, then that seems, in effect, a consequentialist argument. While sociological research shows that older gay men have

of meaning. The concept of complementarity honors the meanings in bodily reality.

29 Also used in the *Catechism of the Catholic Church*, 372, 2335 and, with regard to homosexuality, 2357.

30 C. WEST: *The Theology of the Body Explained: A Commentary on John Paul II’s “Gospel of the Body”*, Leominster: Gracewing, 2003, 319.

31 *Discernment of Vocations*, 1.

32 See the 1992 exhortation of John Paul II, *Pastores dabo vobis*, 29, 50. Also, T. RADCLIFFE: “Les homosexuels peuvent-ils être prêtres?”, 115.

33 An analysis of the idea of ontology, metaphysics, and objective order is given by – among others – R. HOUDIJK: “Kerk en homoseksualiteit”, 271–276. A short and clear analysis of these concepts in the writings of Karol Wojtyła is found in K. JÜSTEN: *Ethik und Ethos der Demokratie*, Paderborn: Schöningh, 1999, 179–188.

34 *Discernment of Vocations*, 2.

35 F. J. H. VOSMAN: “Kirche und Homosexualität: Ein Lackmussprobe für den Glauben”; J. R. PRADA: “La Persona Homosexual”, 314.

36 Ricoeur first makes this point in 1960. See P. RICŒUR: “La sexualité: La merveille, l’errance, l’énigme”, in: *Esprit* 28 (1960), 1665–1676.

37 This is a position of the Church to which I can fully subscribe.

great difficulties in sustaining a relationship, this does not have implications for the natural instability of homosexual relationships. Apart from the fact that the argument should be limited to men (since lesbians have more success in this regard), it seems to be a weak argument. What if recent research shows that young gay men, living in a somewhat less threatening and suppressing social context than the older generation, have longer lasting, personally satisfying relations? The argument of unfaithfulness simply is not supported enough to be used precisely *as an argument* in the Church's teaching. Relating the argument to anthropology and indeed to ontology (in this order), thus avoiding the critical use of sociological analyses of social and political influences, does not make the argument stronger. On the contrary, deontology is weakened by seemingly supportive consequentialist arguments. This is even more so when the anthropological argument is supported by psychological theory, as it is argued by Tony Anatrella.

Anatrella turns logic upside down by claiming that "in many countries, homosexuality is seen as a normal quality, although it is always a problem in the psychological organization of sexual life...it is not a social value and even less a moral value that could help in civilizing sexuality...therefore, the Church is urged to reaffirm that homosexuality is contrary to marital life, family life, and priestly life".³⁸ The importance of marriage, both anthropological and moral, can stand on its own feet and does not need to depend upon arguments from another social reality.³⁹ If a psychological theory is used to justify the facts of an ontological position, it weakens the position of the Church's moral teaching.⁴⁰ It seems to me that the utmost care has to be taken when going from one domain, like psychology, to another, whether anthropology or normative ethics. Lapses can occur, as for instance when psychologists do not reflect upon the gnoseological status of their findings.

If psychological research on gay men results in the discovery that their self-ascribed gayness is a deception, they are "simply 'homosexual'", as the American therapist Joseph Nicolosi puts it, this

research is of great interest if and only if normal scientific questions can be answered seriously.⁴¹ What can be concluded drawing inferences from the pathological to the normal? What is the impact on the domains of anthropology and normative ethics of a psychological assertion about identity? After giving his findings on homosexuality and pathology in an intellectually clear way, the psychologist Stanton Jones, who preceded Nicolosi with quite a similar position in the 1970s and 80s, asked, "what does it mean for the Church to use the social sciences as tools?".⁴² As with any scientific approach, we are in the realm of hypothesis. Psychoanalysis, of whatever school whether naturalist or Lacanian, cannot escape that. Neither, as I suggest, can the psychological and phenomenological theory of the under-determinedness of human sexuality.

Hypotheses can prove to be false (as can mine). "Unwelcome" facts must be welcomed and accounted for, until a primary hypothesis is finally overthrown because it cannot encompass new facts. The use of scientific hypotheses within moral theology, to restrict myself here, must answer two questions. First, can a theory (like a theory from mainstream psychology, with facts seen through the lens of that theory) help to better explain what the Church's moral teaching is getting at? In this regard, the Congregation for Catholic Education on 1 November 1983 requested psychological and physiological findings on the causes of homosexuality in different areas in order to evaluate them. This kind of knowledge will not replace or even supplement the Church's arguments in the area of a Christian anthropology within its normative guidelines.

Persona humana indicated the problem that arises when one moves from psychological theory to moral judgments. My suggestion would be to avoid the use of psychology in the moral domain in either arguments for or against homosexual longing and homosexual sex. To try and give a better explanation and a better understanding of the Church's moral teachings is a task for moral theology. The moral and psychological domains must then be meticulously distinguished.

Second, can we, by using carefully selected hypotheses, soundly analyze phenomena in order to come to normative pronouncements?⁴³ It is not the task of moral theology to give normative judgments, in the proper sense of the words “moral judgment”, only to show their plausibility. If moral theology, in regard to homosexuality, leaves this track, it can become either ideology or a sermon (and, alas, not a very good one).

6. *The State, the Common Good, and the Legal Recognition of Homosexuals*

When we accept the judgment that “there are absolutely no grounds for considering homosexual unions to be in any way similar or even remotely analogous to God’s plan for marriage and family”,⁴⁴ two moral theological questions arise. First, what place can homosexuals have in that other path to love, virginity, when their tendencies and acts are intrinsically bad? A profile of virginity when one is thus incapacitated sexually would be important to develop. Second, and this is what I will concentrate on for the rest of the article, is a theological question. What place can homosexuals have in public life and in the civil order? A place as individuals, it may be assumed, but can they also occupy a place as a group with its own needs? I do not only have in mind needs in regard to the protection from violence and discrimination but also the need to live as free citizens who contribute to society, providing care for others and one another, taking responsibilities, and fighting for justice in many domains.

We are coming to the point of the hierarchy of goods that represents the space of homosexuals in public life. With regard to the role of the state as seen from the point of view of the Church, the state employs moral principles, but within limitations. John Courtney Murray’s proposal is that the state may focus on just those moral goods (and the protection against those evils) that are necessary for public order. Stephen Pope recently reviewed Murray’s thesis.⁴⁵ We are just one step

further, because I would ask: what kind of public order would this be, how wide-ranging? Murray advocates a minimal, rather liberal view of public order. The Church’s argument with regard to homosexuals in the public sphere is that their relationships are not a social good because the underlying reality of the homosexual act lacks this. Even more, it ruins a series of social goods that do build up, within a hierarchy of goods, the public order, goods that weave a fabric that individuals and society can rely on such as marriage, family (including the care for elderly people), and the advocacy of life as a good in itself.

The Church’s argument concentrates on the concept of the dignity of the person. These goods are social goods not only in a direct way, but also indirectly. Respecting the dignity of the person humanizes society. This is what the tenet of the common good is about; the unfolding of a social good reinforces the good of the whole. The sum of the common good is not an addition of various goods, not even of social goods. The common good is about goods through which people and

38 T. ANATRELLA: “Riflessioni sul Documento”, in: *L’Osservatore Romano*, 30 November 2005, 5-6, here p. 5, par. 2. “Preme *dunque* alla Chiesa...” (italics added).

39 In F. J. H. VOSMAN: “Kirche und Homosexualität”, I defended the idea that marriage should not be attacked on a moral level by gay theorists and that the social reality of gay and lesbian unions should, as a reality, not be despised.

40 See the clear analysis by Janet Smith of Aquinas on homosexuality. As always, she carefully develops her argument within the domain of ontology, thus making a very tightly defined case: J. E. SMITH: “Thomas Aquinas on Homosexuality”, in: C. WOLFE (ed.): *Homosexuality and American Public Life*, Dallas: Spence, 1999, 129-140.

41 J. NICOLSI: “The Gay Deception”, in: C. WOLFE (ed.): *Homosexuality and American Public Life*, 98-105. The article is written to defend one point of view, which in itself is not a problem. It is, however, unscholarly not to present counter evidence and unintellectual not to raise self-critical questions.

42 J. S. SIKER (ed.): *Homosexuality in the Church: Both Sides of the Debate*, Louisville, KY: John Knox, 1994, 93-115, here 112.

43 The series of articles on homosexuality in *L’Osservatore Romano* of fall 1986 was excellent in the sense that almost all authors were scientists.

44 *Legal Recognition*, 4.

institutions sustain the very possibility of living together in an ordered, just, and merciful way. Both the state and the society that are advocated by the Church belong to the same community. As such, however, this does not make the Church's arguments and objections to same sex relations less pressing in a democracy.

Democracies, as we know them in the Western European varieties, are pluralistic. This does not mean that arguments derived from an anthropology have to be dismissed or that they necessarily boil down to the lowest common denominator. I will not address the political moral-theological reflections that present themselves; thinking simply along the lines of the Church's social teaching, same-sex relations and their legal recognition can be objected against. The Church can also rally against legal measures in the political domain. Such action is not without restraint, however. There is a rather classic "solution" in the moral traditions of the Church, that is, urging Catholic politicians to vote against immoral laws (and to abolish or change them when they are already in effect). There are many examples of such interventions. But we are well advised not to overlook the fact that a view on the state and its autonomy is still included; its not just about individual politicians and the guidance of their conscience.⁴⁶

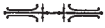
My suggestion is that the Church, while refusing any legal and civil acknowledgment to homosexual unions and upholding the uniqueness of the institution of marriage (between man and woman, including openness to new life and raising children in a given society), because of the weight of its argumentation, could allow, on the basis of its *own moral argumentation*, some conceptual recognition for homosexuals and their unions in the public sphere. This could be a vital bridge in the debate about plausibility in a pluralistic democracy. It is a fact that gays and lesbians do take on social responsibilities, do take

care of others. They do take care of their friends and relatives that survive them. It is a simple fact that homosexuals, both as individuals and in an organized way, battle against injustice. To put it another way, they do, in fact, make contributions to the social fabric. This could be acknowledged, not just in pastoral practice, but in the domain of *moral reasoning itself*. What in fact is a good can be acknowledged, insofar as it is a good. To press the argument: it is not only a pastoral but primarily a moral matter to participate in other people's public existence. As Axel Honneth writes (analyzing relationships in late-modern society), recognition precedes knowing about what touches others.⁴⁷ It is possible to recognize the mere *existence* of others, to acknowledge what social goods they help to enact, and then to take the position of the other person's perspective. I would argue that this can be seen within the theory of the common good. I even see it as necessary to come to these elementary levels of recognition. If homosexuals have disordered practices and the plausibility of other ways of life (like virginity) is to be shown, then recognition is required on the level of moral argument. Within socially given circumstances the Church might support the public recognition of homosexuals while being true to her message about sexuality and marriage.

45 See S. J. POPE: "The Magisterium's Arguments against Same-Sex Marriage", 542.

46 There are four principles with regard to this restraint: the doctrine of *cooperatio ad malum*, the principle of a lesser evil that can be tolerated, the principle of legitimate defense, that might be applicable also to disturbances *inside* one's state, and the principle of double effect. See S. FRIGATO: *Vita in Christo e agire morale: Saggio di teologia morale fondamentale*, Bologna: Elledici, 1999, 219-233.

47 See A. HONNETH: *Verdinglichung*, Frankfurt: Suhrkamp, 2005, 46 and 41; A. HONNETH/A. MARGALIT: "Recognition", in: *The Aristotelian Society Supplementary Volume* 75 (2001), 111-126, here: 115 and 124.



• Summary

Can the Church Recognize Homosexual Couples in the Public Sphere?

Frans J. H. Vosman, born in 1952, is professor of Moral Theology at the Faculty of Theology and Religious Studies, University of Tilburg, the Netherlands. He studied moral theology in Nijmegen, Rome, and Paris. He completed his thesis under the direction of the French moral theologian Louis Vereecke, CSsR. He has published several articles on ethical questions with regard to homosexuality, chastity, and related subjects. Among his publications: *Perspectieven op vriendschap*, Utrecht: SCP, 2004; (ed. of) *Leven in Christus en moreel handelen: Inleiding in de moraaltheologie*, Budel: Damon, 2002; (ed. of) *De nieuwe achteeloosheid*. Kampen: Agora, 2001; *De orde van het geluk: inleiding in de algemene moraaltheologie*, Baarn: Gooien Sticht, 1997.

The moral teaching of the Catholic Church with regard to sexuality contains a theological anthropology that understands the relationship between a man and a woman as complementary, each having a specific diversity and personal originality. Drawing on that anthropology, the Church criticizes the legal recognition of homosexual unions. This article argues that the issue is best framed as a debate between unequals within a democratic society. It also argues that the Church should explain its moral teaching on homosexuality and look for the plausibility of this teaching in the late modern context rather than try to justify the teaching by means of recourse to one of the human sciences, such as psychology. The debate thus remains carefully framed. The

article expounds the moral teaching of the Church in order to draw out its wisdom and truth, and proposes the idea that within the moral (and not just the pastoral) practice of the Church it is possible to give recognition to the existence of homosexuals in the public sphere and acknowledge that they contribute to the social good. Values exhibited in the lives of gays and lesbians, such as mutual support, care, and justice, actually contribute to the well-being of society. Within the hierarchy of goods this can be recognized by the Church. What is a good in fact can be acknowledged insofar as it is a good. The article concludes by invoking the concept of the common good: the unfolding of a social good reinforces the good of the whole.