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## FROM *HUMANAE VITAE* TO *AMORIS LAETITIA*: 50 YEARS OF CONTROVERSY OVER THE CHURCH'S DOCTRINE ON BIRTH CONTROL

**Martin M. Lintner**♦

*Free University of Bozen/Bolzano, Italy*

### Abstract

Like no other Pontifical document before and after the Encyclical *Humanae vitae* of Paul VI has unleashed ongoing controversial discussions. The discrepancies on the moral judgment on methods of birth regulation continue to exist until today, not only between spouses and theologians, but even amongst bishops. 50 years after its publication, with regard to the doctrine of the *sensus fidei* of God's people there is the serious question, if the continuous missing consent is not a signal towards doctrinal rethinking. The present article carefully investigates the genesis of the disputed Encyclical, studies its interferences with lively debates on the doctrine of marriage during the last session of the Second Vatican Council and critically examines the reception of *Gaudium e spes* in *Humanae vitae*. It also studies the reception of the Encyclical in the pontificates of John Paul II, Benedict

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♦**Martin M. Lintner, OSM**, born in 1972, is Professor of Moral Theology and Spiritual Theology at the *Philosophisch-Theologische Hochschule* in Brixen/Bressanone and Lecturer for Ethics at the Free University of Bozen-Bolzano (South Tyrol, Italy). He is member of the European Regional Committee of Catholic Theological Ethics in The World Church, former President of the European Society For Catholic Theology (2013–2015) and of INSeCT (International Network of Societies for Catholic Theology) (2014–2017). Since 2017 he is president of the Internationale Vereinigung für Moraltheologie und Sozialethik. Among his major book publications are *Den Eros entgiften: Plädoyer für eine tragfähige Sexualmoral und Beziehungsethik*, Brixen/Innsbruck: A. Weger/Tyroliä, 2012; *Der Mensch und das liebe Vieh: Ethische Fragen im Umgang mit Tieren*, Innsbruck: Tyroliä, 2017; *Cinquant'anni di Humanæ vitæ: Fine di un conflitto – riscoperta di un messaggio*, Brescia: Queriniana, 2018 (German: *Von Humanæ vitæ bis Amoris laetitiae. Die Geschichte einer umstrittenen Lehre*, Innsbruck: Tyroliä, 2018). Email: martin.lintner@hs-itb.it

XVI and Francis. Finally, the author takes up the challenge of *Amoris laetitia*, in which Pope Francis demands to rediscover the message of *Humanae Vitae*.

**Keywords:** *Amoris Laetitia*, Benedict XVI, Birth Control, Conscience, *Familiaris Consortio*, *Gaudium et Spes*, *Humanae Vitae*, Paul VI, Pope Francis, *Sensus Fidei*, Synodality

On 25 July 2018, the 50<sup>th</sup> anniversary of *Humanae vitae* (HV), Paul VI's Encyclical Letter on the Regulation of Birth, will be commemorated. It can be said without exaggeration that it is the most controversial pontifical document ever. Compared to HV the discussions on *Amoris laetitia* (AL), Pope Francis's Post-synodal Apostolic Exhortation on Love in the Family (2016), are relatively mild. Moreover, there are significant differences: HV was the result of an exclusive decision of Paul VI, who twice followed the vote of a minority of theologians and bishops, while AL – especially in the most discussed chapter VIII – widely quotes the final report of the Bishops' Synod on the Family in 2015. Paul VI did not permit the fathers of the Second Vatican Council to discuss and decide on the question of the methods of birth control.<sup>1</sup> There is no doubt that his decision was a decision of conscience after much reflection, but at the same time it also contravened the dynamics of the synodal process of Vatican II. Johan Bonny, Bishop of Antwerp, in preparation for the 2014 Bishops' Synod, wrote an extensive paper on his expectations for the Synod in which he hoped that this loss of synodality could be overcome:

It's not my place to judge the events of the past or how Pope Paul VI arrived at this decision. What does concern me, however, is the following: the absence of a collegial foundation led immediately to tensions, conflicts and divisions that were never to be resolved. Doors were closed on both sides of the fence that have since remained closed... The bond between the collegiality of the bishops and the primacy of the bishop of Rome that was manifest during the Second Vatican Council must be restored and without delay.<sup>2</sup>

Contrary to HV, AL is the fruit of a three-year synodal process that saw the involvement of lay people, spouses, and theologians from all

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<sup>1</sup>Cf. Note 14 of *Gaudium et spes*, 51: "Certain questions which need further and more careful investigation have been handed over, at the command of the Supreme Pontiff, to a commission for the study of population, family, and births, in order that, after it fulfils its function, the Supreme Pontiff may pass judgment. With the doctrine of the magisterium in this state, this holy synod does not intend to propose immediately concrete solutions."

<sup>2</sup>J. Bonny: "Synod on the Family: Expectations of a Diocesan Bishop," 1 September 2014; available at <https://www.associationofcatholicpriests.ie/wp-content/uploads/2014/09/SYNOD-ON-FAMILY-ENG.pdf> (accessed 24.02.2018).

over the world and two assemblies of the Bishops' Synod and, therefore, could be called a true expression of the synodal structure of the church.

The present paper<sup>3</sup> will retrace the most important steps in the history of HV from 1963 to 1968, the first controversial reactions to its publication, and its reception in the papacies of John Paul II, Benedict XVI, and Francis, especially in AL, where the current pope – quoting the final report of the 2015 bishops' synod – affirms: “We need to return to the message of the Encyclical *Humanae Vitae* of Blessed Pope Paul VI, which highlights the need to respect the dignity of the person in morally assessing methods of regulating birth” (82).

### 1. A Brief Genealogy of *Humanae Vitae*

Although the corresponding archives of the Vatican are not yet open to the public, a relatively detailed genealogy of the encyclical can be constructed by means of the available sources. The papal document is the fruit of years of discussion and research, whose beginnings date back to the Second Vatican Council. There are, above all, three bodies whose debates and work prepared the encyclical: The first body is the Pontifical Commission for the Study of Population, Family, and Births (Papal Birth Control Commission) created by John XXIII and continued by Paul VI. The second one is the Sub-commission on Marriage and Family, which was commissioned to draw up a draft on marriage and family issues within the framework of the “Schema XIII” (*De ecclesia*) of the Council. The result of its work is the first chapter of the second part of the Pastoral Constitution *Gaudium et spes* (GS), nos. 47-52. Finally, the third body is the Committee of Bishops set up by Paul VI in March 1966, which was assigned to examine the final report of the Papal Birth Control Commission.

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<sup>3</sup>This article was published first in *Marriage, Families & Spirituality* 24 (2018), 3–27, and is reprinted here in a slightly shortened version with the kind permission of the editor in chief. It is based on larger studies by the author on the genealogy of HV and its current significance: M. Lintner: “*Humanae vitae* – eine historisch-genealogische Studie”, in: J. Ernesti, ed., *Paolo VI e la crisi postconciliare: Giornate di Studio a Bressanone, 25–26 febbraio 2012*, Brescia: Istituto Paolo VI, 2013, 16-53; “Die Morallehre des Zweiten Vatikanischen Konzils: Kontinuität und Diskontinuität am Beispiel der Lehre über Ehe und Familie,” in: J. Ernesti/L. Hell/G. Kruck, ed., *Selbstbesinnung und Öffnung für die Moderne: 50 Jahre II. Vatikanisches Konzil*, Paderborn: Ferdinand Schöningh, 2013, 95-122; *Cinquant’anni di Humanæ vitæ: Fine di un conflitto – riscoperta di un messaggio*, Brescia: Queriniana, 2018 (German: *Von Humanae vitae bis Amoris laetitiae. Die Geschichte einer umstrittenen Lehre*, Innsbruck: Tyrolia 2018). The author wishes to thank especially Sr Joyce-Mary, OSM for the correction of the English text.

### 1.1. The Papal Birth Control Commission

The Papal Birth Control Commission was created by John XXIII in March 1963.<sup>4</sup> At the beginning it consisted of six members, three clerics and three lay people. Originally, the commission, which was subordinate to the Secretariat of State and was, therefore, headed by Cardinal Amleto Giovanni Cicognani, had the task of preparing a papal message to the leaders of the United Nations on demographic problems, but not of studying the doctrinal moral questions concerning the regulation of birth. John XXIII was also prompted to set up this commission by the debate that had started in the United States and England on the moral admissibility of ovulation-inhibition. Already in 1963 there were different opinions from several theologians and bishops which were marked by the uncertainty as to whether the new pharmaceutical would be prohibited by the traditional doctrine of the exclusive moral permissiveness of periodic abstinence as a means of birth control or not. In the second case the question was whether these new pharmaceutical methods required a separate moral judgment, or whether the possibility of pharmaceutical contraception would lead to the necessity of redefining the doctrine of birth control. According to Pius XI (cf. *Casti connubii*, 1930) and Pius XII,<sup>5</sup> any use of a means for the purpose of contraception and not for therapy had to be morally condemned

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<sup>4</sup>For this section cf. F. von Gagern, *Geburtenregelung und Gewissensentscheid: Die bekanntgewordenen Dokumente der Päpstlichen Ehekommission, mit einer Einführung und einem Ausblick*, Munich: Rex, 1967, 61-67; M. Rouche, "La préparation de l'encyclique *Humanae vitae*: La commission sur la population, la famille et la natalité," in *Paul VI et la modernité dans l'Église: Actes du colloque de Rome (2-4 juin 1983)*, Rome: École française de Rome, 1984, 358-384; J. Grootaers, "De quelques données concernant la rédaction de l'encyclique *Humanae Vitae*," in *Paul VI et la modernité dans l'Église: Actes du colloque de Rome (2-4 juin 1983)*, 385-398; R. Kaiser, *The Encyclical that Never Was: The Story of the Commission on Population, Family and Birth, 1964-66*, London: Sheed and Ward, 1987; J. Smith, *Humanae Vitae, a Generation Later*, Washington, DC: The Catholic University of America Press, 1991; R. McGlory, *Turning Point: The Inside Story of the Papal Birth Control Commission, and How Humanae Vitae Changed the Life of Patty Crowley and the Future of the Church*, New York: Crossroad, 1995; M. Sevegrand, *Les enfants du bon Dieu: Les catholiques français et la procréation au XXe siècle*, Paris: Albin Michel, 1995, 221-229; B. Colombo, "Discussioni sulla regolazione della fertilità: Esperienze personali e riflessioni," in *Teologia: Rivista della facoltà teologica dell'Italia settentrionale* 28 (2003) 80-81; R. Fehring, "An Analysis of the Majority Report 'Responsible Parenthood' and its Recommendations on Abortion, Sterilization, and Contraception," in *Life and Learning* 13 (2004), 121-152; E. Genilo, *John Cuthbert Ford, SJ: Moral Theologian at the End of the Manualist Era*, Washington, DC: Georgetown University Press, 2007, 133-134.

<sup>5</sup>Pius XII dealt with this issue in various allocutions to midwives, urologists, and doctors (e.g. on 29 October 1951, 26 November 1951, 8 July 1953, 12 September 1958); cf. M. Lintner, "*Humanae vitae* – eine historisch-genealogische Studie," 20-22.

since the direct purpose of those means would be to prevent pregnancy. John XXIII entrusted this question, which had already led to discussions during the sessions of Vatican II, especially in the context of the debates on Schema XVII/b *De Familia et problemate demographico*, to the Commission, whose existence originally was not made known either to the bishops and council fathers or to the public.

The first meeting of the Commission took place in Leuven only in October 1963, i.e. after the death of John XXIII on 3 June 1963. His successor, Paul VI, confirmed and extended the commission, which met for the second time in April 1964. Among the members of the commission were the theologians Bernhard Häring, Pierre de Locht, Jan Visser, Marcelino Zalba, Josef Fuchs, and as a specialist for demographic issues, Bernardo Colombo, a brother of Bishop Carlo Colombo who was a theological advisor and a close friend of Paul VI. At this meeting one of the controversial questions was whether the traditional doctrine of the fecundity of the single marital act should be given up or not and whether the use of pharmaceutical contraception interferes only in the single act or rather damages marital love itself. At the end of June 1964, addressing the Cardinals on 23 June, Paul VI gave the public announcement of the existence and of the work of this commission which was working under the Secretary of the State and not the Holy Office. At the request of Häring and de Locht, Paul VI in autumn 1964 again enlarged the commission, appointing as members the Jesuit theologian John Ford and also spouses (including Patricia and Patrick Crowley, founders of the *Christian Family Movement*, CFM) and women. When the commission met in March 1965, John Ford alerted Paul VI and Card. Alfredo Ottaviani, head of the Holy Office, to the fact that a majority of the commission believed that hormonal contraception should be allowed because it does not interfere with the sexual act itself. Ford saw this as an error and, with Zalba, Stanislas de Lestapis, and Leo Binz, argued that the infallible and definitive teaching of the church excluded all forms of contraception. In response, Häring, Fuchs,<sup>6</sup> Philippe Delhaye, Michel Labourdette and others argued for the need to distinguish between immutable norms of divine law and different possible interpretations of norms drawn from natural law.

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<sup>6</sup>Fuchs originally held that the doctrine should not be changed at all, but after long conversations with doctor John Marshall and Mr. and Mrs. Crowley, he changed his mind. Cf. M. Graham, *Josef Fuchs on Natural Law*, Washington, DC: Georgetown University Press, 2002, 90.

## 1.2. The Teaching of GS, 51 on the Methods of Birth Control

Ford and his supporters, with the help of Card. Ottaviani and Bishop Carlo Colombo, tried to persuade Paul VI to intervene directly in the debates of the commission by affirming the infallibility of ecclesiastical doctrine on the question of the regulation of conception and thus effectively banning any questioning of the doctrine. The Pope did not intervene directly in the work of the commission, but indirectly he influenced its work during the very last discussions of Vatican II in November 1965 in the drafting of *Gaudium et spes*. Ermenegildo Lio<sup>7</sup> and Rosario M. Gagnebet, members of the Sub-Commission on Marriage and Family engaged in the drafting of GS were very concerned that the results of the Sub-Commission's work would change the doctrine on marriage and family by exaggerating the dimension of personal love and by redefining the aim of marital love which, according to traditional teaching, is primarily ordained for the procreation and education of children. They tried unsuccessfully to change some passages in the drafts of the text. Finally, they convinced the Pope himself to submit to the Sub-Commission four proposals for the modification of the text (so-called *modi*) which had been basically already accepted by the Conciliar Assembly on 24 November 1965. Two *modi*, written unmistakably by Ford and Colombo, were crucial: (1) referring to *Casti connubii*, any contraceptive means must be condemned as obscuring the divinely ordained sense of marriage; (2) a reference to *Casti connubii* and the address of Pius XII to midwives of October 29, 1951, was required, to point out that the faithful are not allowed to use means of contraception condemned by the Magisterium. The result of the Pope's intervention was the following assertion in GS, 51: "Sons of the Church may not undertake methods of birth control which are found blameworthy by the teaching authority of the Church in its unfolding of the divine law." A footnote to the text states that the Council Fathers would not take a position on modes of birth control. After affirming the doctrine of *Casti connubii* and Pius XII, the note says:

Certain questions which need further and more careful investigation have been handed over, at the command of the Supreme Pontiff, to a commission for the study of population, family, and births, in order that, after it fulfils its function, the Supreme Pontiff may pass judgment. With the doctrine of the Magisterium in this state, this holy synod does not intend to propose immediately concrete solutions.

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<sup>7</sup>Lio, together with Franz Hürth, was one of the authors of the two schemas *De ordine morale* and *De castitate, matrimonio, familia, virginitate*.

At a first sight this note might seem to be a compromise formula. It is indeed substantially quite an ambiguous text. On the one hand the doctrine of *Casti connubii* and Pius XII was integrated into the council's official position, but, on the other hand, it clearly says that "the doctrine of the Magisterium in this state" is not yet definitive but requires "further and more careful investigation."

### **1.3. Three Final Documents of the Papal Birth Control Commission and the Vote of a Bishop's Commission**

The Papal Birth Control Commission met again from March to June 1966 and, after very controversial discussions, it submitted to Paul VI a report, *Schema documenti de responsabili paternitate*,<sup>8</sup> which was signed by the vast majority of the members of the commission, including Josef Fuchs, Raymond Sigmond, Paul Anciaux, Alfons Auer, Michel Labourdette, and Pierre de Lochet.

The majority report stressed the sacredness of marriage, the dignity of sex, and the importance of openness and generosity to new life, the notion that mutual love and support in marriage complement the couple's responsibility for having children. However, the report broke from Church teaching and tradition when the authors focused on the principle of "totality" where it stated that as long as a couple is generally open to having children, each and every marital act does not have to have a procreative intent. The authors of the document maintained that there is "almost an indivisible unity" between conjugal love and fecundity.<sup>9</sup>

Emphasizing the personal aspect of conjugal love, the report says:

The morality of sexual acts between married people takes its meaning first of all and specifically from the ordering of their actions in a fruitful married life, that is, one which is practiced with responsible, generous and prudent parenthood. It does not then depend on the direct fecundity of each and every act.<sup>10</sup>

Four theologians — John Ford, Jan Visser, Marcelino Zalba, and Stanislas de Lestapis — were not willing to sign this report but instead wrote a minority report (*Status quaestionis, doctrina Ecclesiae eiusque auctoritatis*) in order to express more strongly their disagreement with the commission's majority report and to explain their position that the ban on contraception should be maintained. Their main argument was the definitive infallibility of the teaching of

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<sup>8</sup>R. Fehring, "An Analysis of the Majority Report" offers a good presentation of the report.

<sup>9</sup>Fehring, "An Analysis of the Majority Report, 124-125.

<sup>10</sup>Fehring, "An Analysis of the Majority Report, 125.

*Casti connubii* and Pius XII. At the request of the commission's secretary, Henri de Riedmatten, Fuchs, Delhaye, and Sigmond wrote a theological-ethical statement on the minority document (*Documentum syntheticum de moralitate regulationis natiuitatum*).

Subsequently, Paul VI created a new commission of 16 Bishops, which included 7 Cardinals (including Cardinal Karol Wojtyła),<sup>11</sup> to examine the majority report. This commission met in Rome on 22-23 June 1966. Card. Wojtyła, for political reasons, was not able to attend the meeting; he was not allowed by the Polish government to leave the country. The 15 bishops who gathered together discussed the majority report intensively and with much discussion. The majority, however, considered it to be good, although difficult to understand. That is why they wrote a pastoral introduction (*Indicationes pastorales*), a kind of pastoral letter, which later became known as the "Model encyclical on humanae vitae." At the end, the bishops voted on whether artificial contraception is an *intrinsic dishonestum*, i.e. immoral in itself and, therefore, morally outlawed: 9 bishops voted against, while 3 voted in favour of this position and 3 abstained from voting.

After the recommendation of the majority of the bishops' commission to follow the majority report, four documents were given to the Pope on 28 June 1966:

- the majority report of the Papal Birth Control Commission,
- the minority report,
- the theological-ethical statement on the latter and, finally,
- the *Indicationes pastorales* and the recommendation of the Bishops.

It seems that Paul VI was made insecure by these controversial positions and documents. On 29 October 1966, in a public speech, he said that he was still unable to make a decision on the question of birth control and needed further studies. On 19 April 1967, all the documents were leaked to the press. This put immense pressure on the pope.

#### **1.4. The Influence of Karol Wojtyła**

At the same time, a group of moral theologians in Kraków, Poland, was charged by Card. Wojtyła to write their own report for the pope. The document, known as the "Kraków memorandum," was sent to Paul VI in February 1968 in French. The findings of this group of

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<sup>11</sup>The president of the commission was Card. Ottaviani, vice-presidents were Card. Julius Döpfner and Card. John Carmel Heenan, the secretary was Henri de Riedmatten, who was already secretary of the Papal Birth Control Commission.



moral theologians, as well as the memorandum, closely reflected the earlier writings of Karol Wojtyła and their foundational anthropology, especially his book *Love and Responsibility* (1960).<sup>12</sup>

### 1.5. The Final Drafting of *Humanae Vitae*

From 1966 to 1968 there were at least three more commissions who worked on the issue helping to prepare the papal document. At the beginning the members of these commissions and the advisers to the pope included members in favour of the “majority position.” A later verbal statement by Ermenegildo Lio suggests that, for a while, Paul VI considered endorsing the “majority position.”<sup>13</sup> It is significant that over the months the theologians who represented the “majority position” (e.g. Häring or Fuchs) were not allowed to meet with the pope any more, while theologians such as Lio, Visser, Zalba and others who supported the “minority position” were repeatedly granted papal audiences through the mediation of Card. Ottaviani. It is also known that Bishop Colombo and the French Jesuit Gustave Martelet played a key role in drafting the final text of the encyclical letter. The history of the remaining last months before the publication of HV will be revealed only after the respective archives of the Vatican are opened. Finally, on July 25, 1968, HV was released and presented to the world.

### 1.6. The Genealogy of *Humanae Vitae*: Not Only a Question of Birth Control

The genealogy of HV shows quite clearly that the issue under discussion was not only the moral question of the methods of birth control but that the debate on this moral question was overshadowed by controversial debates at the ecclesiological meta-level. It is significant that some members of the Papal Birth Control Commission who were not involved in the above-mentioned discussions at the time of Vatican II in November 1965 wrote a letter to the commission’s secretary, de Riedmatten, pointing out that the discussion had now reached far beyond the problem of birth control. They stated that it had become clear that questions of authority in the church and the changeability of doctrinal traditions were central to the commission’s task and should be clarified in advance.<sup>14</sup> It is also significant that Jan Visser, as a convinced representative of the “minority position”, had advised the pope in 1966 not to publish an

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<sup>12</sup>Cf. esp. M. Barberi/J. Selling, “The Origin of *Humanae Vitae* and the Impasse in Fundamental Theological Ethics,” in *Louvain Studies* 37 (2013) 364-389.

<sup>13</sup>Cf. B. Häring, *Meine Erfahrung mit der Kirche*, Freiburg i. Br.: Herder, 1990, 94.

<sup>14</sup>Cf. K. Nikolaus, “Die Enzyklika *Humanae Vitae* – vierzig Jahre danach: Einige Beobachtungen zur ihrer Vorgeschichte,” in *Orientierung* 72 (2008) 174-176, here 176.

encyclical letter so long as theologians were of such differing opinions on the issue.

## **2. Critical Reactions after the Release of *Humanae Vitae* by Many Bishops' Conferences, but also by Karol Wojtyła and Joseph Ratzinger**

From the moment of its publication, the reception of *Humanae vitae* focused on what it had to say about hormonal contraception. As a result, the encyclical came to me known as the "pill encyclical." Most of the immediate reactions were critical and negative, even dissenting from the teaching, and the secular media often responded maliciously.<sup>15</sup>

### **2.1. Bishops' Conferences**

There were worldwide 34 bishops' conferences that published their own comments and declarations on HV, trying to present a positive view on marriage and family in the encyclical. At the same time most of these statements affirmed that responsible parenthood and the method of birth control in the last instance is a question of conscience for the spouses. They were, of course, to consider seriously the doctrine of the church in order to make a good judgment of conscience. The Belgian Bishops' Conference, for example, stated that "we must recognize, according to the traditional teaching, that the ultimate practical norm of action is conscience which has been duly enlightened by all the factors presented in *Gaudium et Spes* (50, par. 2; 51, par. 3)."<sup>16</sup> According to Joseph Selling, "the significance of the statement... lies in what is not said, namely, that the practical norm of conscience is the teaching of HV."<sup>17</sup>

As there already exist comprehensive studies on these various comments and statements, a detailed presentation and analysis of them can be omitted at this point in order to be concise and not exceed the confines of this article.<sup>18</sup> In the following pages the

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<sup>15</sup>Cf. F. Joannes, *The Bitter Pill: Worldwide Reaction to the Encyclical Humanae Vitae*, Philadelphia: Pilgrim Press, 1970; L. von Geusau, "International Reaction to the Encyclical *Humanae Vitae*," in *Studies in Family Planning* 50 (1970) 8-12.

<sup>16</sup> Quoted from <http://www.catholicsandcontraception.com/humanae-vitae-major-episcopal-reactions-selling2/> (accessed 27.12.2017).

<sup>17</sup>J. Selling, *The Reaction to Humanae Vitae: A Study in Special and Fundamental Theology*, Louvain: University Press, 1977; quoted from <http://www.catholicsandcontraception.com/humanae-vitae-major-episcopal-reactions-selling2/> (accessed 27.12.2017).

<sup>18</sup>A. Günthör, *Die Bischöfe für oder gegen "Humanae vitae"? Die Erklärungen der Bischofskonferenzen zur Enzyklika*, Freiburg i. Br.: Seelsorge, 1970 (Wort und Weisung: Schriften zur Seelsorge und Lebensordnung der katholischen Kirche; 8), 11-12; P. Delhaye/J. Grootaers/G. Thils, *Pour relire Humanae Vitae: Déclarations épiscopales du monde entier: Commentaires théologiques*, Gembloux: Duculot, 1970; Selling, *The Reaction to Humanae Vitae*.

reactions of two persons will be emphasized: those of the later Popes Card. Karol Wojtyła and Joseph Ratzinger.

## 2.2. Card. Karol Wojtyła

Card. Wojtyła was, of course, in complete agreement with the decision of Paul VI to condemn artificial contraception as a moral evil and to allow exclusively the natural method of birth control, i.e. to observe the fertile and infertile times in the female cycle. However, in a commentary on HV in the *Osservatore Romano* of 5 January 1969,<sup>19</sup> while defending the normative doctrine in the document, there was also a subtle touch of criticism that the encyclical did not take a personalistic philosophical approach but used natural law argumentation.<sup>20</sup> Wojtyła emphasized the need of a correct view of the human being as a person since marriage is a communion of persons that arises from and is realized through the mutual gift and self-bestowal of two persons. Conjugal love is characterized by aspects which result from such a communion of persons and corresponds to the personal dignity of man and woman, the husband and the wife. It is a total love, i.e. a love which involves the commitment of the whole person, his sensitivity, his affectivity, and his spirituality, and, at the same time it must be faithful and exclusive.

## 2.3. Joseph Ratzinger

A statement made by Pope Benedict XVI follows the same train of thought. After his retirement as pope, in a conversation with Peter Seewald, he openly confessed that as young theologian he was dissatisfied with HV:

*Humanae vitae* was a difficult text for me. It was certainly clear that what it said was essentially valid, but the reasoning, for us at that time, and for me too, was not satisfactory. I was looking out for a comprehensive anthropological viewpoint. In fact, it was John Paul II who was to complement the natural-law viewpoint of the encyclical with a personalistic vision.<sup>21</sup>

At this point it is worthwhile recalling Ratzinger's 1966 comment on GS 47-52.<sup>22</sup> He spoke of a paradigm shift in the document from a view of marriage and sexuality that is primarily oriented towards the

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<sup>19</sup>K. Wojtyła, "La verità dell'*Humanae vitae*," in *Osservatore Romano*, 5 January 1969, 1-2.

<sup>20</sup>When comparing the "Kraków memorandum" and *Humanae vitae*, the difference in language and argumentation becomes clear. Therefore, the suggestion that Wojtyła is one of the ghostwriters of *Humanae vitae* does not appear to be tenable.

<sup>21</sup>Benedict XVI (with P. Seewald), *Last Testament in His Own Words*, London: Continuum, 2016, 157.

<sup>22</sup>Cf. J. Ratzinger: *Die letzte Sitzungsperiode des Konzils*, Köln: Bachem, 1966, 52-53.

biological nature of the human being to a doctrine of marriage and sexuality that is characterized by the dignity of the person. He stated that the elimination of the traditional categories of the interpretation of sexuality and marriage makes clear the radical change of the new ethical approach of GS. The new approach consists in a personalistic viewpoint instead of a generative one. Of course – Ratzinger continued – one can ask whether there has been more than a verbal change here and whether the recourse to the ecclesiastical magisterium has not, in practice, led to a situation where, despite new words, everything remains the same. This question is particularly relevant, according to the author, because the Council did not find a solution to the problem of birth control. It is simply not the same as when a person has to ask himself whether his actions correspond to the category of naturalness, or whether he has to ask whether it corresponds to the responsibility towards another person to whom he is married. Considering these reflections, it is understandable why Ratzinger was disappointed after the release of HV.

### **3. The Reception of *Gaudium et Spes* in *Humanae Vitae***

#### **3.1. *Humanae Vitae*: In Accordance with the Constant Teaching of the Church**

Paul VI emphasizes that HV is in continuity with tradition. This is already evident by the statement at the beginning of the encyclical that the church “has always issued appropriate documents on the nature of marriage, the correct use of conjugal rights, and the duties of spouses. These documents have been more copious in recent times” (HV 4). In the respective reference he quotes the Council of Trent, the *Roman Catechism* (1566), Leo XIII and his encyclical *Arcanum divinae sapientiae* (1880), the *Code of Canon Law* of 1917 (canons 1067, 1068 §1, 1076, §§1-2), Pius XI and his encyclicals *Divini illius magistri* (1930) and *Casti connubii* (1930), several addresses of Pius XII to Italian midwives, family associations, and physicians, John XXIII and his encyclical *Mater et magistra*, and, finally, the Second Vatican Council with GS, nos. 47-52. This is already a clear statement that Paul VI recognizes the doctrine of marriage and family of GS, but at the same time he does not recognize it as a significant further development with regard to the Church’s teaching in the previous decades and centuries. With regard to the question of human procreation he says that this “involves more than the limited aspects specific to such disciplines as biology, psychology, demography or sociology. It is the whole man and the whole mission to which he is called that must be considered: both its natural, earthly

aspects and its supernatural, eternal aspects" (HV, 7). The moral judgment on artificial methods of birth control regards demands of married love and of responsible parenthood, therefore "these two important realities of married life must be accurately defined and analysed. This is what We mean to do, with special reference to what the Second Vatican Council taught with the highest authority in its Pastoral Constitution on the Church in the World of Today" (HV, 7).

By quoting GS in HV, 7-10, Paul VI offers an integral view of marriage and marital love. Marriage takes its origin from God himself who is love (cf. HV, 8) and is a "mutual gift of themselves [of the spouses], which is specific and exclusive to them alone, developing that union of two persons in which they perfect one another, cooperating with God in the generation and rearing of new lives" (HV, 8). In paragraph 9, he writes that married love is "above all fully human, a compound of sense and spirit." In paragraph 10, Paul VI deals with responsible parenthood and states that "the exercise of responsible parenthood requires that husband and wife, keeping a right order of priorities, recognize their own duties toward God, themselves, their families and human society."

With reference to GS, 50-51 he speaks about the continuous teaching of the Church which spells out the very nature of marriage and its function. In order to safeguard the dignity and morality of the sexual activity "through which human life is transmitted [and which is,] as the recent Council recalled, 'noble and worthy' (cf. GS, 49)" (HV, 11), the spouses have to observe the natural law. In paragraphs 12-14, Paul VI explains the moral prohibition of "any action which either before, at the moment of, or after sexual intercourse, is specifically intended to prevent procreation – whether as an end or as a means" (HV, 14). The references at this point are exclusively to documents published before Vatican II.

### **3.2. *Humanae Vitae*: An Attempt to Undo Some Achievements of *Gaudium et Spes*, 47-52**

Even though Paul VI repeatedly quotes GS throughout the whole of HV, there is a clear tendency to insert GS into a context of long-standing tradition and not to interpret it as an essential further development of the church's doctrine. Perhaps this, too, is one of the reasons why many council fathers were disappointed after the release of HV. An example is that in an accurate study published a few months after the publication of HV, Philippe Delhaye, who was a member of the Papal Commission on Birth Control, critically analysed

the encyclical.<sup>23</sup> In a critical comparison of the two texts – HV and GS – he showed citations, omissions, and postponements of the council statements in HV. The author concludes in his study that, in the manner in which GS was received in HV, the partiality of the four papal *modi* of 24 November 1965, appears clearly.

The four *modi* – two of them were already mentioned above – are:

- Modus 1: to condemn any artificial contraceptive means as obscuring the divinely endowed sense of marriage.
- Modus 2: to introduce into the text of GS a reference to the teaching of *Casti connubii* and Pius XII.
- Modus 3: the sentence in the draft schema “matrimony itself and conjugal love are also ordained for the procreation and education of children” should be deleted.
- Modus 4: there should be added a note on the importance of marital chastity in order to overcome difficulties.

Modus 1 led to the formulation that “sons of the Church may not undertake methods of birth control which are found blameworthy by the teaching authority of the Church in its unfolding of the divine law” (GS, 51). The sub-commission, however, did not explicitly repeat the moral condemnation of any artificial contraception. Also in GS, 47, artificial contraception is not named as one of the distortions of the institution of marriage and conjugal love. GS, 47 speaks of polygamy, the plague of divorce, so-called free love, excessive self-love, the worship of pleasure, and illicit practices against human generation, but does not list explicitly artificial contraception.

Modus 2 led to reference 14 in GS, 51 with the reference to *Casti connubii* and to the address of Pius XII on 29 October 1951.

Modus 3 was not accepted by the sub-commission, but GS, 48 says: “By their very nature, the institution of matrimony itself and conjugal love are ordained for the procreation and education of children, and find in them their ultimate crown.” Here, only the word “also” was deleted.<sup>24</sup> GS affirms that there are two major ends for the institution of marriage and of conjugal love (loving union and procreation), but at the same time does not rank them. The 1917 *Code of Canon Law* stated that the primary end of marriage was the procreation and education of children, its secondary end is mutual help and the

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<sup>23</sup>Cf. P. Delhaye, “Die Lehre über die Ehe in *Humanae vitae* und am Konzil,” in *Orientierung* 32 (1968) 250-252; “L’encyclique *Humanae Vitae* et l’enseignement de Vatican II sur le mariage et la famille (*Gaudium et Spes*),” in *Bijdragen: Tijdschrift voor filosofie en theologie* 29 (1968) 351-368.

<sup>24</sup>Cf. P. Delhaye, “Die Lehre über die Ehe,” 251.

allaying of concupiscence.<sup>25</sup> GS, in paragraph 50, does not speak of primary and secondary ends but says:

Marriage and conjugal love are by their nature ordained toward the begetting and educating of children... Hence, while not making the other purposes of matrimony of less account, the true practice of conjugal love, and the whole meaning of the family life which results from it, have this aim: that the couple be ready with stout hearts to cooperate with the love of the Creator and the Saviour... Marriage to be sure is not instituted solely for procreation; rather, its very nature as an unbreakable compact between persons, and the welfare of the children, both demand that the mutual love of the spouses be embodied in a rightly ordered manner, that it grow and ripen. Therefore, marriage persists as a whole manner and communion of life, and maintains its value and indissolubility, even when despite the often intense desire of the couple, offspring are lacking.

Finally, *Modus 4* was integrated in the text of GS, 51: The goal of true love “cannot be achieved unless the virtue of conjugal chastity is sincerely practiced.”

It is quite evident from the results that the pope’s intervention through the four *modi* did not have the strong impact on the final text of GS, 47-52 that those theologians who stood behind this papal action (John Ford, Ermenegildo Lio, Carlo Colombo, Card. Ottaviani, et al.) were expecting. These theologians were not at all satisfied that the sub-commission only partially accepted the amendments of Paul VI. Viktor Heylen, secretary of the Conciliar Sub-Commission on Marriage and Family, reported that through the manner in which the papal modes were incorporated, the sub-commission wanted to avoid an unaltered affirmation of the doctrine of Pius XI and Pius XII.<sup>26</sup> In the end, GS, 47-52 did not explicitly condemn artificial contraception, and the supremacy of the procreative over the unitive end was even rejected. Even though Paul VI in HV did not question GS, the manner in which GS was received in HV and which passages were quoted emphasizes those aspects of the four *modi* that were not considered sufficiently by the sub-commission in the opinion of the aforementioned group of theologians. It was exactly those theologians who were close to Paul VI in 1966-1968 and, therefore, had a strong influence on the editorial process of HV.

There is one more small, but significant, detail: GS, 51 states that objective moral standards are based on the “nature of the human person and his acts” (*personae eiusdem actuum natura*). It is also this

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<sup>25</sup>Cf. can. 1013 § 1: “Matrimonii finis primarius est procreatio atque educatio proles; secundarius mutuum, adiutorium et remedium concupiscentiae.”

<sup>26</sup>Cf. J. Reuss, *Verantwortete Elternschaft*, Mainz: Matthias-Grünwald Verlag, 1967 (Probleme der praktischen Theologie; 7), 85 n. 9.

formulation which marks the shift from an act-centred to a personalistic morality, which was the object of debate by a minority of theologians. They tried to change it through the submission of the *modi* expressing the desire to speak of “the nature of acts,” not of the person’s nature. The sub-commission rejected these *modi* in order to strengthen a personalistic view of the conjugal acts. Marital acts should not be judged by their purely biological aspect, since moral values are inherent in the human person and the dignity of those marital acts spring from the personalistic values of the spouses.<sup>27</sup> Given this background, it is revealing that HV again speaks of “the very nature of marriage and its use,” i.e. its acts (*matrimonii eiusque actuum natura*). While GS through a personalist paradigm tried to overcome the traditional tendency to evaluate *morality* in terms of individual *acts*, HV again focuses on the single act and, therefore, stands for an act-centred approach to morality and for a physicalist paradigm.<sup>28</sup> In the natural-law argumentation in HV 12-14, this approach is fundamental for the emphasis on the “inseparable connection, established by God, which man on his own initiative may not break, between the unitive significance and the procreative significance which are both inherent to the marriage act” (HV, 12) – to each single act.

#### 4. The Reception of *Humanae vitae* in the Papacies of John Paul II and Benedict XVI

##### 4.1. John Paul II

It is well known that John Paul II strictly insisted on the normative aspect of HV, i.e. on the condemnation without exception of any artificial contraception as intrinsically dishonest and evil. At the same time, he felt it his task to explain better the anthropological basis of this norm and to illustrate more clearly the biblical foundations, the ethical grounds, and the personalistic reasons behind this doctrine (cf. *Familiaris consortio* [FC], 31). In his Wednesday audiences from September 1979 to November 1984, he delivered 129 addresses on issues of sexuality, marriage, and family.<sup>29</sup> The last addresses from July to November 1984 were dedicated to a rereading of HV.

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<sup>27</sup>Cf. B. Häring: “Kommentar zum ersten Kapitel des zweiten Teils von *Gaudium et spes*,” in *Lexikon für Theologie und Kirche* 21968, *Das Zweite Vatikanische Konzil: Dokumente und Kommentare*, vol. 3, 442-443.

<sup>28</sup>For the difference between a personalist and a physicalist paradigm see J. Bretzke, *A Morally Complex World: Engaging Contemporary Moral Theology*, Collegeville, MN: Liturgical Press, 2004, 239-240.

<sup>29</sup>Cf. John Paul II: “The Redemption of the Body and Sacramentality of Marriage (Theology of the Body),” available online at [http://www.catholicprimer.org/papal/theology\\_of\\_the\\_body.pdf](http://www.catholicprimer.org/papal/theology_of_the_body.pdf) (accessed 27.12.2017).



John Paul II developed his so-called “theology of the body” as the basis of the anthropological and philosophical approach that already characterized his early work as an ethicist: *Love and Responsibility* (1960) and *The Acting Person* (1969). The main themes of his teaching are:

- (1) the inseparable bond between union and procreation in every single sexual act;
- (2) the interpretation of human love in the divine plan as communication between persons, i.e. as a bodily communication of mutual total acceptance and self-giving of the spouses;
- (3) the condemnation of artificial contraception as a contradiction of the divine plan, the natural law, and the mutual self-giving of the spouses.<sup>30</sup>

With this background it is understandable that he expressed himself harshly in his address on 12 November 1988 to the participants at an international conference on moral theology on the occasion of the 20<sup>th</sup> anniversary of HV (sponsored by the Pontifical John Paul II Institute for Studies on Marriage and Family and the University of the Holy Cross, run by Opus Dei).<sup>31</sup> He equated opposition to the doctrine of HV with the rejection not only of the divine plan but with questioning the holiness of God himself.<sup>32</sup> According to the Pope, the questioning and the non-reception of HV reveals an incorrect understanding of conscience that sees conscience seeking its own norm rather than being obliged by a particular negative precept.

John Paul II returned to this issue in his encyclical *Veritatis splendor* (VS; 1993). Even though he did not name the issue of the methods of birth control, this problem – together with the one of divorced and remarried couples – supports the reflections on conscience in VS, 54-64. He laments and rejects the “attempt... to legitimize the so-called ‘pastoral’ solutions contrary to the teaching of the Magisterium, and justifying a ‘creative’ hermeneutic according to which the moral conscience is in no way obligated and in every case replaced by a particularly negative precept” (VS, 56).

According to John Paul II, “conscience is not an independent and exclusive capacity to decide what is good and what is evil. Rather

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<sup>30</sup>A good summary of this position can be found in FC, 32.

<sup>31</sup>See “*Humanae vitae*” – 20 anni dopo: *Atti del II Congresso Internazionale di Teologia Morale* (Roma, 9-12 novembre 1988), Milano: Ares, 1989.

<sup>32</sup> Cf. [http://w2.vatican.va/content/john-paul-ii/it/speeches/1988/november/documents/hf\\_jp-ii\\_spe\\_19881112\\_tologia-morale.html](http://w2.vatican.va/content/john-paul-ii/it/speeches/1988/november/documents/hf_jp-ii_spe_19881112_tologia-morale.html) (accessed 03.12.2017).

there is profoundly imprinted upon it a principle of obedience vis-à-vis the objective norm which establishes and conditions the correspondence of its decisions with the commands and prohibitions which are at the basis of human behaviour" (60). Quoting from *Dignitatis humanae* (DH), the Second Vatican Council's declaration on religious freedom, the Pope states that

in the formation of their consciences, the Christian faithful ought carefully to attend to the sacred and certain doctrine of the Church. For the Church is, by the will of Christ, the teacher of the truth. It is her duty to give utterance to, and authoritatively to teach, that truth which is Christ Himself, and also to declare and confirm by her authority those principles of the moral order which have their origins in human nature itself (DH, 14; cf. VS, 64).

Conscience, therefore, applies the truth; it does not establish it. The truth that conscience leads the person to obey must come from the objective and universal law (cf. VS, 60). A person must learn the truth from revelation and other sources, primarily from the Magisterium. Since the Magisterium of the church has been appointed by Christ to illuminate the conscience, the appeal to conscience mainly in order to contest the doctrine proclaimed by the Magisterium, is, according to John Paul II, a rejection of the Catholic view of both the Magisterium and moral conscience. "It follows that the authority of the Church, when she pronounces on moral questions, in no way undermines the freedom of conscience of Christians... The Church puts herself always and only at the service of conscience" (VS, 64).

These reflections make clear that the issue of the methods of birth control is strongly linked to the questions of the authority of the Magisterium and the concept of moral conscience.

#### **4.2. *Benedict XVI***

It has already been said that Joseph Ratzinger, neither as Prefect of the Congregation for the Doctrine of the Faith nor as Pope, put a strong emphasis on the normative doctrine of HV. Remembering his comment on GS, 47-52 and his candid criticism of the theological method underlying Paul VI's HV (see above), this is not at all surprising.<sup>33</sup>

An exception during his time as head of CDF is the Instruction on Respect for Human Life in its Origin and on the Dignity of Procreation, *Donum vitae* (1986). The document quotes HV, 12, i.e. the

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<sup>33</sup>Cf. M. Faggioli, "Benedict's 'Last Conversations': Reshaping the Ratzinger Legacy?," in *Commonweal* (14 September 2016), available online at <https://www.commonwealmagazine.org/benedict%E2%80%99s-%E2%80%99last-conversations%E2%80%99-reshaping-ratzinger-legacy> (accessed 17.12.2017).

passage on the “inseparable connection, willed by God and unable to be broken by man on his own initiative, between the two meanings of the conjugal act: the unitive meaning and the procreative meaning” (cf. chapter 4/a). But there is shift of intention: While HV is about not excluding fecundity from sexuality, *Donum vitae* is about not excluding sexuality from reproduction.<sup>34</sup>

Worth mentioning are two statements made at two congresses on the occasion of the 40<sup>th</sup> anniversary of the publication of HV on 10 May<sup>35</sup> and 2 October 2008.<sup>36</sup> Even though Benedict XVI acknowledges HV’s “topicality,” “prophecy,” “far-sightedness” and “unchanged truth,” there are also shifts in the emphasis. The pope expressly acknowledges that John Paul II had illuminated the anthropological and moral foundation of the doctrine of HV (a reminder of the above-mentioned criticism that, in his opinion, the encyclical lacks a comprehensive anthropological viewpoint). Benedict XVI places less emphasis on the inseparable unity of sexuality and reproduction but draws attention to the connection between love and sexuality in his interpretation of HV. The key to understanding the doctrine of HV and to entering coherently into its content is “love.” Personal love between the spouses, respect for the dignity of the person, and respect for life become the hermeneutic key to interpret not only HV, but also the fertility of married love. It is significant that Benedict, when referring to “the essential nucleus of the teaching” of Paul VI does not quote the passage on unlawful birth control methods (HV, 14) but rather HV, 17: “If the mission of generating life is not to be exposed to the arbitrary will of men, one must necessarily recognize insurmountable limits to the possibility of man’s domination over his own body and its functions; limits which no man, whether a private individual or one invested with authority, may licitly surpass.”<sup>37</sup> With regard to the methods of birth control, he states:

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<sup>34</sup>Cf. K. Arntz, “Liebe und Sexualität,” in K. Hilpert, ed., *Zukunftshorizonte katholischer Sexualethik*, Freiburg i. Br.: Herder, 2011 (Quaestiones disputatae; 241), 86-102, here 101.

<sup>35</sup>Benedict XVI, “Address of His Holiness Benedict XVI to Participants in the International Congress Organized by the Pontifical Lateran University on the 40th Anniversary of the Encyclical ‘*Humanae Vitae*,’” 10 May 2008, available online at [https://w2.vatican.va/content/benedict-xvi/en/speeches/2008/may/documents/hf\\_ben-xvi\\_spe\\_20080510\\_humanae-vitae.html](https://w2.vatican.va/content/benedict-xvi/en/speeches/2008/may/documents/hf_ben-xvi_spe_20080510_humanae-vitae.html) (accessed 24.02. 2018).

<sup>36</sup>Benedict XVI, “Message on the Occasion of the 40th Anniversary of Paul VI’s Encyclical *Humanae Vitae*,” 2 October 2008, available online at [https://w2.vatican.va/content/benedict-xvi/en/messages/pont-messages/2008/documents/hf\\_ben-xvi\\_mes\\_20081002\\_isi.html](https://w2.vatican.va/content/benedict-xvi/en/messages/pont-messages/2008/documents/hf_ben-xvi_mes_20081002_isi.html) (accessed 24.02.2018).

<sup>37</sup>Cf. Benedict XVI, “Message on the Occasion of the 40th Anniversary of Paul VI’s Encyclical *Humanae Vitae*.”

It is true, moreover, that serious circumstances may develop in the couple's growth which make it prudent to space out births or even to suspend them. And it is here that knowledge of the natural rhythms of the woman's fertility becomes important for the couple's life. The methods of observation which enable the couple to determine the periods of fertility permit them to administer what the Creator has wisely inscribed in human nature without interfering with the integral significance of sexual giving. In this way spouses, respecting the full truth of their love, will be able to modulate its expression in conformity with these rhythms without taking anything from the totality of the gift of self that union in the flesh expresses. Obviously, this requires maturity in love which is not instantly acquired but involves dialogue and reciprocal listening, as well as a special mastery of the sexual impulse in a journey of growth in virtue.<sup>38</sup>

In the book *Light of the World* (2010), Benedict XVI states that Paul VI's main vision was that "sexuality becomes arbitrary if we separate sexuality and fecundity from each other in principle, which is what the use of the pill does... The basic lines of *Humanae Vitae* are still correct. On the other hand, finding ways to enable people to live the teaching is a further question."<sup>39</sup>

If one compares the statements of Benedict XVI with those of John Paul II, on the one hand, the similarity in terms of the anthropological perspective and, on the other hand, the linguistic difference and the absence of normative and pastoral severity in Benedict XVI are remarkable.

## **5. *Humanae Vitae* at the Bishops' Synods on Marriage and Family 2014 & 2015 and in *Amoris Laetitia* (2016)**

### **5.1 *The Bishops' Synods on Marriage and Family 2014 & 2015***

HV already played an important role in the preparation for the two bishops' synods on marriage and family in 2014 and 2015. In the preparatory questionnaire, several questions were related to HV.<sup>40</sup> Not surprisingly the answers were quite clear:

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<sup>38</sup>Benedict XVI, "Message on the Occasion of the 40th Anniversary of Paul VI's Encyclical *Humanae Vitae*."

<sup>39</sup>Benedict XVI (in conversation with Peter Seewald), *Light of the World: The Pope, the Church, and the Signs of the Times*, San Francisco: Ignatius Press, 2010; quotation from <https://www.americamagazine.org/issue/757/100/pope-benedict-speaks> (accessed 13.12.2017).

<sup>40</sup>See III Extraordinary General Assembly of the Synod of Bishops, *Preparatory Document*, 2013, question 7, on The Openness of the Married Couple to Life, available online at [http://www.vatican.va/roman\\_curia/synod/documents/rc\\_synod\\_doc\\_20131105\\_iii-assemblea-sinodo-vescovi\\_en.html](http://www.vatican.va/roman_curia/synod/documents/rc_synod_doc_20131105_iii-assemblea-sinodo-vescovi_en.html) (accessed 24.02.2017).

When treating a couple's openness to life and their knowledge of the Church's teaching, with particular reference to *Humanae Vitae*, the responses clearly admit that, in the vast majority of cases, the positive aspects are unknown. Those who claim to know the Church's teaching belong, for the most part, to associations and Church groups actively involved in parishes or programmes of spirituality for the family. A vast majority of responses emphasize how the moral evaluation of the different methods of birth control is commonly perceived today as an intrusion in the intimate life of the couple and an encroachment on the autonomy of conscience. Clearly, believers hold different positions and have diverse attitudes on this subject, depending on the different parts of the world where they live and their local surroundings, including those who find themselves immersed in highly secularized and technically advanced cultures and those who live a simpler life in rural areas. Many responses recommend that for many Catholics the concept of "responsible parenthood" encompasses the shared responsibility in conscience to choose the most appropriate method of birth control, according to a set of criteria ranging from effectiveness to physical tolerance and passing to a real ability to be practiced.<sup>41</sup>

The final report of the synod of 2014 states that Paul VI in his "*Encyclical Humanae Vitae*, displayed the intimate bond between conjugal love and the generation of life."<sup>42</sup> In the chapter on the Transmission of Life and the Challenges of a Declining Birthrate, the bishops claim that "in this regard, we should return to the message of the Encyclical *Humanae Vitae* of Blessed Pope Paul VI, which highlights the need to respect the dignity of the person in morally assessing methods in regulating births."<sup>43</sup> All the following documents of the Synod of 2015 and even Pope Francis in *Amoris laetitia* use this very same language of the "message" – not of the doctrine or norm – of HV that ought to be rediscovered and that "highlights the need to respect the dignity of the person in morally assessing methods in regulating births." This new language may be a result of what the *Instrumentum laboris* of 2014 claimed with regard to HV: "From the pastoral point of view, the responses, in very many cases, see the need to make better known what was stated in *Humanae Vitae* and to propose a coherent anthropological vision in revitalized

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<sup>41</sup>III Extraordinary General Assembly of the Synod of Bishops, *Instrumentum laboris*, 2014, 123; available online at [http://www.vatican.va/roman\\_curia/synod/documents/rc\\_synod\\_doc\\_20140626\\_instrumentum-laboris-familia\\_en.html](http://www.vatican.va/roman_curia/synod/documents/rc_synod_doc_20140626_instrumentum-laboris-familia_en.html) (accessed 24.02.2017).

<sup>42</sup>III Extraordinary General Assembly of the Synod of Bishops, *Relatio synodi*, 2014, 18; available online at [http://www.vatican.va/roman\\_curia/synod/documents/rc\\_synod\\_doc\\_20141018\\_relatio-synodi-familia\\_en.html](http://www.vatican.va/roman_curia/synod/documents/rc_synod_doc_20141018_relatio-synodi-familia_en.html) (accessed 24.02.2017).

<sup>43</sup>III Extraordinary General Assembly of the Synod of Bishops, *Relatio synodi*, 58.

language.”<sup>44</sup> It is worth mentioning that the bishops did not repeat either the normative prohibition of artificial contraception, nor did they mention the distinction between artificial and natural methods of birth control.

Significantly, the *Instrumentum laboris* for the bishops’ synod of 2015 linked the question of birth control to the issue of conscience:

In relation to the rich content of *Humanae Vitae* and the issues it treats, two principal points emerge which always need to be brought together. One element is the role of conscience as understood to be God’s voice resounding in the human heart which is trained to listen. The other is an objective moral norm which does not permit considering the act of generation a reality to be decided arbitrarily, irrespective of the divine plan of human procreation. A person’s over-emphasizing the subjective aspect runs the risk of easily making selfish choices and an over-emphasis on the other results in seeing the moral norm as an insupportable burden and unresponsive to a person’s needs and resources. Combining the two, under the regular guidance of a competent spiritual guide, will help married people make choices which are humanly fulfilling and ones which conform to God’s will.<sup>45</sup>

The crucial problem of the tension between norm and conscience is discussed here, which – as has become clear from the above statements on the reactions of the different bishops’ conferences to HV, as also on VS – has accompanied the discussion on HV since its release but was never pointedly mentioned in a document of the universal Magisterium. The fact that this is a neuralgic point of the theological and ethical reflection of both HV as well as VS is shown by the petition of a group of moral philosophers and theologians<sup>46</sup> who asked Pope Francis to delete no. 137 from the *Instrumentum laboris* of 2015 and to confirm the teaching of the two encyclicals mentioned above. The authors argued that the passage in question (no. 137) would demonstrate serious inadequacies and contradict the doctrine of the Church on morality and conscience because it would create a contradiction between personal conscience and objective norms.

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<sup>44</sup>III Extraordinary General Assembly of the Synod of Bishops, *Instrumentum laboris*, 2014, 128.

<sup>45</sup>Synod of Bishops XIV Ordinary General Assembly, *Instrumentum laboris*, 2015, 137; available online at [http://www.vatican.va/roman\\_curia/synod/documents/rc\\_synod\\_doc\\_20150623\\_instrumentum-xiv-assembly\\_en.html](http://www.vatican.va/roman_curia/synod/documents/rc_synod_doc_20150623_instrumentum-xiv-assembly_en.html) (accessed 24.02.2018).

<sup>46</sup>See D. Crawford/S. Kampowski, “An Appeal: Recalling the Teaching of *Humanae Vitae* (and *Veritatis Splendor*),” in *First Things* (10 September 2015); available online at <http://www.firstthings.com/web-exclusives/2015/09/an-appeal> (accessed 24.02.2018).

Even though the final report of the synod of bishops of 2015 does not cite this passage and no longer speaks of “two principal points,” it echoes that there may be a tension in the relationship between norm and conscience. In the chapter on generative responsibility, the report states:

In conformity with a conjugal love based on the nature of the person and a humanly completed act, the just way for family planning is that of a consensual dialogue between the spouses, respect for the times of fertility and consideration of the dignity of the partner. In this sense, the Encyclical *Humanae Vitae* (cf. 10-14) and the Apostolic Exhortation *Familiaris Consortio* (cf. 14; 28-35) ought to be taken up anew so as to awaken in people an openness to life in contrast to a mentality which is often hostile to life. We repeatedly urge young couples to be open to life.<sup>47</sup>

With these words, the bishops refer to the important role of conscience:

The choice of responsible parenthood presupposes the formation of conscience, which is “the most secret core and sanctuary of a person. There each one is alone with God, whose voice echoes in the depths of the heart” (GS, 16). The more the couple tries to listen in their conscience to God and his commandments (cf. Rom 2:15), and are accompanied spiritually, the more their decision will be intimately free from a subjective arbitrariness and the adaptation to people’s conduct where they live.<sup>48</sup>

The aim of recalling HV and FC is significant: not the implementation of a moral norm but the promotion of life and an openness to children and the awakening of this openness to life. The bishops call for the overcoming of a “subjective arbitrariness” and the “adaptation to people’s conduct where they live” by listening to God’s commandments and by the dialogue between the spouses as well as with a person who accompanies them spiritually and helps them to recognize the will of God. Thus, there is not an objective norm and a subjective conscience that form two opposite poles, but an objective norm and a subjective arbitrariness or adaptation to “what one does.” The judgment of conscience enlightened by the divine law is, therefore, not only a simple “unification” of an objective and a subjective pole. The task is rather to form a judgment of conscience in the context of the challenges, possibilities, and limits

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<sup>47</sup>Synod of Bishops XIV Ordinary General Assembly: *Final Report of the Synod of Bishops to the Holy Father, Pope Francis*, 24 October 2015, 63, available online at [http://www.vatican.va/roman\\_curia/synod/documents/rc\\_synod\\_doc\\_20151026\\_relazione-finale-xiv-assemblea\\_en.html](http://www.vatican.va/roman_curia/synod/documents/rc_synod_doc_20151026_relazione-finale-xiv-assemblea_en.html) (accessed 24.02.2018).

<sup>48</sup>Synod of Bishops XIV Ordinary General Assembly: *Final Report of the Synod of Bishops to the Holy Father, Pope Francis*.

of a concrete situation (cf. GS, 50), i.e. to find moral solutions which, in the light of the objective norm, are morally responsible and, at the same time, appropriate to the situation of the subject.

With regard to the method of birth regulation, the bishops write:

The use of methods based on the “laws of nature and the incidence of fertility” (HV, 11) are to be encouraged, because “these methods respect the bodies of the spouses, encourage tenderness between them and favour the education of an authentic freedom” (CCC, 2370). Emphasis needs to be placed more and more on the fact that children are a wonderful gift from God and a joy for parents and the Church. Through them, the Lord renews the world.<sup>49</sup>

The spouses are encouraged (!) to use the natural methods which can have positive effects for a couple’s conjugal life and love. The meaning of the fundamental openness to children is expressed again. Once more there is no repetition that artificial methods are exclusively outlawed or that the natural methods are the only morally acceptable ones. “In another context, this may seem insignificant. However, this is not insignificant for the interpretation of ecclesiastical texts because the reception and change of ecclesiastical perceptions derive also from dealing with ‘predecessor texts’.”<sup>50</sup>

## 5.2 Pope Francis and *Amoris Laetitia* (2016)

In the Post-synodal Apostolic Exhortation *Amoris laetitia*, Pope Francis follows the final report of the 2015 synod of bishops. The passages in which HV is mentioned or quoted are citations from this report (cf. AL, 68, 82, 222) and thus take up the above argumentation. Reflecting on the matter that no sexual act can deny the importance of fertility, Francis refers to HV: A child

does not appear at the end of a process, but is present from the beginning of love as an essential feature, one that cannot be denied without disfiguring that love itself. From the outset, love refuses every impulse to close in on itself; it is open to a fruitfulness that draws it beyond itself. Hence no genital act of husband and wife can refuse this meaning (cf. HV, 11-12) even when for various reasons it may not always in fact beget a new life (AL, 80).

Pope Francis emphasizes openness to the transmission of life but does not expressly point out the prohibition of artificial contraception

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<sup>49</sup>Synod of Bishops XIV Ordinary General Assembly: *Final Report of the Synod of Bishops to the Holy Father, Pope Francis*.

<sup>50</sup>H. Schlögl, “Humanae vitae nach den Bischofssynoden zur Familie und *Amoris laetitia*,” in *Theologie und Gegenwart* 59 (2016) 299-231, here 302 (English translation: ML).



or that any sexual encounter should be open to the transmission of life. However, he does not explicitly dispute these two points.<sup>51</sup> Finally, the understanding of conscience in AL is crucial.<sup>52</sup> In AL, Pope Francis (like the *Instrumentum laboris* of 2015 and the final report of the 2015 synod of bishops) expressly refers to conscience which must be well formed with regard to the question of the transmission of life and of responsible parenthood. Finally, citing GS, 50, Pope Francis states that “the parents themselves and no one else should ultimately make this judgment in the sight of God” (AL, 222).

In no. 37, Pope Francis laments that the church finds “it hard to make room for the consciences of the faithful, who very often respond as best they can to the Gospel amid their limitations, and are capable of carrying out their own discernment in complex situations.” He reminds the church that “we have been called to form consciences, not to replace them.” In no. 303, he claims that recognizing the influence of many concrete factors, “individual conscience needs to be better incorporated into the Church’s praxis in certain situations which do not objectively embody our understanding of marriage.” Therefore, the formed conscience of the faithful and its concrete moral judgment can be an important source of moral knowledge within the Church. Todd A. Salzman and Michael G. Lawler summarize that “without specifically abrogating Paul VI’s much-controverted teaching, Francis comes down on what to some is a new, but in reality is an old though recently magisterially ignored, Catholic principle of the absoluteness and inviolability of an informed conscience.”<sup>53</sup> In his study on the understanding of conscience in AL, Antonio Autiero also concludes that “the explicit and implicit connection with Vatican II is a strength of AL, and the anthropologically dense and open vision of conscience reappears again after it had been somewhat withdrawn in other magisterial documents.”<sup>54</sup>

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<sup>51</sup>Schlögl, “*Humanae vitae* nach den Bischofssynoden zur Familie und *Amoris laetitia*.”

<sup>52</sup>See A. Autiero, “*Amoris Laetitia* und das sittliche Gewissen: Eine Frage der Perspektive,” in S. Goertz/C. Witting, ed., *Amoris laetitia – Wendepunkt für die Moraltheologie?*, Freiburg i. Br.: Herder, 2016 (Katholizismus im Umbruch; 4), 95-113; E. Faber/M. Lintner, “Theologische Entwicklungen in *Amoris Laetitia* hinsichtlich der Frage der Wiederverheiratet-Geschiedenen,” in S. Goertz/C. Witting, ed., *Amoris laetitia – Wendepunkt für die Moraltheologie?*, 279-320, esp. 301-313.

<sup>53</sup>T. Salzman/M. Lawler, “*Amoris laetitia* and the Development of Catholic Theological Ethics: A Reflection,” in T. Knieps-Port Le Roi, ed., *A Point of No Return? Amoris Laetitia on Marriage, Divorce and Remarriage*, Münster: LIT Verlag, 2017, 30-44, here 40.

<sup>54</sup>Cf. A. Autiero, “*Amoris laetitia* und das sittliche Gewissen”, 105 (English translation: ML).

## 6. Concluding Remarks

According to Eberhard Schockenhoff, “the tragedy of Pope Paul VI’s pontificate lies in the fact that he basically committed only one single serious mistake and, in the course of the preparations for the encyclical *Humanae vitae*, he was influenced unilaterally by the arguments of a minority group in the expert commission he appointed. This decision had fatal, long-term effects.”<sup>55</sup> For Schockenhoff, the lack of adherence of so many spouses, theologians, and even bishops to HV and the ongoing discrepancy between the normative doctrine of HV and the moral convictions of many faithful with regard to the methods of birth control is a clear sign that in the sense of the *sensus fidei fidelium* this moral doctrine has to be reviewed. The 50-year-long non-reception of HV has caused a deep gap between the Roman Magisterium and too many faithful all over the world and has also been the basis for a deep loss of trust in the church with regard to issues of sexuality, marriage, and family. Herbert Schlögl expresses his hope that the method with which the two synods of bishops of 2014 and 2015 dealt with HV, and how the encyclical was finally received in AL, has brought the struggle over the question of methods of birth regulation to a conclusion. Consequently, this offers a new possibility to rediscover those aspects of HV that were obscured by the ongoing controversial discussions on the methods of birth control.<sup>56</sup>

As the present article has tried to show, 50 years after the release of HV it is necessary to recognize where HV took a backward step with regard to the doctrine on marriage and family and of Vatican II by emphasizing some elements in line with the traditional doctrine and by obscuring other aspects which form the paradigmatic shift from a physiological and biological understanding of sexuality and from a juridical view of the conjugal contract to a personalist vision of sexuality and marriage. Furthermore, the assessment of those members of the Papal Commission on Birth Control, who by reason of the contentious processes at the end of November 1965 (when a small minority tried to change some passages in the schema of GS, 47-52 thanks to the intervention of Paul VI) has been proved truthful. They wrote a letter to the commission’s secretary pointing out that

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<sup>55</sup> E. Schockenhoff: “Der Glaubenssinn des Volkes Gottes als ethisches Erkenntniskriterium? Zur Nicht-Rezeption der kirchlichen Sexualmoral durch die Gläubigen,” in: *Theologie und Philosophie* 91 (2016) 321-362, here 322 (English translation: ML).

<sup>56</sup>Cf. H. Schlögl: “*Humanae vitae* nach den Bischofssynoden zur Familie und *Amoris laetitia*,” 311.

the discussion on birth control regards also questions of authority in the church, of the further development of doctrinal traditions, and the understanding of moral conscience. The time has come to recapture the whole and integral doctrine on marriage and family of GS, 47-52 and to restore conscience to its rightful place in the teaching of the Church in line with GS, 16 and DH, 14.<sup>57</sup>

In order to return to the message of HV, as affirmed by the vast majority of the global episcopate and Pope Francis, we must overcome the impasse of the normative reduction of HV. Since the papacy of Benedict XVI, a significant change and shift of language is perceptible. The strict normative ban of any artificial method of contraception is not continuously repeated, but, rather, there is preferred a language which encourages reflection on the positive effects of the natural methods of birth control for spouses. The use of methods based on the laws of nature and the incidence of fertility are to be encouraged, but not imposed. The bishops of two synods and Pope Francis demand respect for the dignity of the person when morally assessing methods of regulating birth. This opens consideration not primarily for the issue of natural or artificial methods, but rather of personalist criteria such as: general openness for parenthood, respect for the freedom of the partners, safeguarding their health, and the capacity to love. By overcoming the narrow focus on the ban on artificial contraception, the obscured message of HV could become evident again, e.g. Paul VI's strong opposition to forced family planning programs, his fight against abortion, his awareness for human vulnerability with regard to sexuality, marriage and family, his concern that a hedonistic culture would make sexuality an object of consumption, his sensitivity to the danger that (western) society would lose its life- and child-friendly mentality and that many spouses would no longer be open to having children... All these concerns are legitimate, but most probably Paul VI was wrong in linking them so strongly to the issue of methods of birth control.

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<sup>57</sup>Cf. J. Bonny, "Synod on the Family: Expectations of a Diocesan Bishop," 6-10.