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### Keynote Address: The Value of the Religiously Affiliated Law School

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## **KEYNOTE ADDRESS**

### **THE VALUE OF THE RELIGIOUSLY AFFILIATED LAW SCHOOL**

MOST REVEREND JAMES T. MCHUGH, S.T.D.\*

My purpose today is to share some observations on the important role a religiously affiliated law school can play in our society. I am not a lawyer, professor, or university administrator; but as a member of the Board of Regents of a major Catholic university for ten years, I am familiar with the challenges and opportunities facing universities, colleges, and law schools affiliated with or sponsored by religious institutions. Much of what I say will be influenced by the fact that I come from the Roman Catholic tradition and, as a Bishop, I am keenly interested in the contributions that religion makes to our society. At the same time, I am aware of the religious pluralism of American society and of academe in particular. Accordingly, I will offer a series of observations and comments affirming the value of, and opportunities facing, religiously affiliated law schools.

1. The religiously affiliated law school can provide a context of respect for religious values and traditions, that is, a religious-friendly environment for the study of law. Perhaps reflecting the

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\* James Thomas McHugh was born in Orange, New Jersey on January 3, 1932, and ordained a priest for the Archdiocese of Newark on May 25, 1957. He earned a doctorate in sacred theology from the Pontifical University of St. Thomas Aquinas in Rome. His Holiness Pope John Paul II appointed him Auxiliary Bishop of Newark in 1987 and two years later Bishop of Camden. On January 4, 2000, he became the third bishop of the Diocese of Rockville Center on Long Island. Throughout his ministry, Bishop McHugh served as an eloquent spokesman for, and ardent defender of, the sanctity of human life, especially of the child in the womb. He was well known as an intelligent, honest, and unassuming bishop. After a courageous struggle with cancer, Bishop McHugh abandoned himself to Christ and passed into eternal life on December 10, 2000. At his Funeral Mass, His Eminence Bernard Cardinal Law remarked that few have done as much as Bishop McHugh in the defense of human life. The entire St. John's University Law School community and the Annual Meeting of the Religiously Affiliated Law Schools were honored to have him as our keynote speaker. May he rest in peace.

overall trends in our society, the study and practice of law has become increasingly secularized, relativistic, impersonal, and antagonistic to religion. People like Stephen Carter,<sup>1</sup> Gertrude Himmelfarb,<sup>2</sup> and James Wilson<sup>3</sup> lament the secularization of our culture and look for a culture that at least embodies respect for religious beliefs, attitudes, and institutions. In *One Nation: Two Cultures*, Gertrude Himmelfarb makes this point well:

To some people, the very word "religion" conjures up the dreaded image of the religious right. In his aptly titled *The Culture of Disbelief*, Stephen Carter explains that in our present secular culture, citizens are told, in effect, that "it is fine to be religious in private, but there is something askew when those private beliefs become the basis for public action." This argument, it has been pointed out, was not heard when the Reverend Martin Luther King led the movement for civil liberties, or when Protestant ministers denounced the Vietnam War, or when Catholic bishops called for a nuclear freeze, or when evangelicals rallied to the support of "born-again" Jimmy Carter. If religious conservatives are now accused of intruding improperly in political affairs, their defenders claim, it is not so much because they are religious as because they are conservative—because they do not subscribe to the conventional liberal positions on social or cultural issues.<sup>4</sup>

2. The religiously affiliated law school should provide courses in ethics, or at least provide an ethical perspective on public issues that necessarily involve more than a consideration

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<sup>1</sup> Stephen Carter is the William Nelson Cromwell Professor of Law at Yale University. He is a noted scholar in the field of constitutional law and in particular, the separation of powers. He is a critically acclaimed author who has written extensively on law and religion. His books include *Reflections of an Affirmative Action Baby* (1992), *The Culture of Disbelief* (1993), *Integrity* (1996), *Civility* (1998), and *God's Name in Vain* (2000).

<sup>2</sup> Gertrude Himmelfarb is Professor Emeritus at the Graduate School of the City University of New York, a member of the British Academy, the Royal Historical Society, and the American Academy of Arts and Sciences. She is a social and cultural critic, and an expert on Victorian society. Her books include *The Demoralization of Society: From Victorian Virtues to Modern Values* (1994) and *On Looking into the Abyss: Untimely Thoughts on Culture and Society* (1994).

<sup>3</sup> James Q. Wilson is the James Collins Professor of Management and Public Policy at UCLA. Prior to joining UCLA, Professor Wilson taught at Harvard University for twenty-six years. He is the author of twelve books and a well-known criminologist, economist, and political analyst. He recently won the James Madison Award for the American Political Science Association, its highest honor.

<sup>4</sup> GERTRUDE HIMMELFARB, *ONE NATION, TWO CULTURES* 101 (1999).

of the law or judicial decisions/opinions. Abortion may be the clearest example. We are constantly told that *Roe v. Wade*<sup>5</sup> is the law of the land, that it settled the abortion debate. Of course, that has never been the case, with strong opposition to *Roe* and *Doe*<sup>6</sup> from legal scholars from the very beginning. But my concern is Justice Blackmun's dismissal of the moral and ethical dimensions of abortion on the grounds that he did not know when life begins. Justice Blackmun wrote:

We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man's knowledge, is not in a position to speculate as to the answer.<sup>7</sup>

A careful reading of the opinions of the Court confirms the impression of this quotation; that is, that Justice Blackmun and his colleagues did not study or failed to understand the Roman Catholic tradition on the beginning of human life and the reasons for the prohibition of abortion. Accordingly, although Justice Blackmun asserted that the judiciary received no enlightenment from theology and thus could not resolve the question of when life begins or when personhood initiates, he adopted the view that life does not begin until live birth, and thus "the fetus, at most, represents only the potentiality of life."<sup>8</sup>

More to the point today, however, is the developing field of bioethics. Questions like cloning, surrogate parenthood, stem cell research, *in vitro* fertilization, the fate of frozen embryos, and the range of questions surrounding death and dying are intensely debated in our society by bioethical commissions, institutional review boards, and ethics committees. All are interdisciplinary. The lawyer should bring to these discussions more than an interpretation of the law or judicial precedents. Among the most knowledgeable lawyers in bioethics are Alexander Capron, Professor at the University of Southern California Law School and the first Executive Director of the Presidential Commission for the Study of Ethical Problems in

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<sup>5</sup> 410 U.S. 113 (1973).

<sup>6</sup> *Doe v. Bolton*, 410 U.S. 179 (1973).

<sup>7</sup> *Roe*, 410 U.S. at 159.

<sup>8</sup> *Id.* at 162.

Medicine and Biomedical and Behavioral Research,<sup>9</sup> and Lori Andrews, now Professor of Law at Chicago-Kent College of Law<sup>10</sup> and at one time, a full time specialist in bioethics for the American Bar Association.

In addition to bioethics, there are complex issues in international law, environmental law, and other fields that require an understanding of ethics.

3. The religiously affiliated law school might integrate an understanding of what is often called public morality or civil religion into discussions of law. James Wilson develops this theme somewhat in *The Moral Sense*,<sup>11</sup> as does Stephen Carter in *Civility*<sup>12</sup> and Gertrude Himmelfarb in *The De-Moralization of Society*.<sup>13</sup>

4. The religiously affiliated law school should provide some research and courses on the meaning and implications of religious freedom. Most often this is treated only in the context of the religion clauses of the First Amendment, which it seems are quite confused at the present moment. Considerably more academic research and writing is called for to better understand the historical development of the religion clauses and the possibilities for better contemporary understanding. In a law school that is part of a Catholic university, however, much more can and should be done. Study of the Second Vatican Council's *Declaration on Religious Liberty*<sup>14</sup> should be an important part of

<sup>9</sup> Alexander Capron is a professor of law and medicine at the University of Southern California. He is an expert on legal medical issues and biomedical ethics. He heads the Pacific Center for Health Policy, served on President Clinton's National Bio Ethics Advisory Committee, and has written seven books and over 100 articles.

<sup>10</sup> Lori B. Andrews is the Director of the Institute of Science, Law and Technology and has spent the past ten years as a senior scholar at the Center for Clinical Medical Ethics at the University of Chicago. She chaired the federal advisory group, The Working Group on Ethical, Legal and Social Implications of the Human Genome Project. She has authored seven books and over 100 additional articles.

<sup>11</sup> JAMES Q. WILSON, *THE MORAL SENSE* (1993).

<sup>12</sup> STEPHEN L. CARTER, *CIVILITY: MANNERS, MORALS, AND THE ETIQUETTE OF DEMOCRACY* (1998).

<sup>13</sup> GERTRUDE HIMMELFARB, *THE DE-MORALIZATION OF SOCIETY: FROM VICTORIAN VIRTUES TO MODERN VALUES* (1995).

<sup>14</sup> VATICAN COUNCIL II, *Dignitatis Humanae (Declaration on Religious Freedom)*, in *THE DOCUMENTS OF VATICAN II* 675 (Walter M. Abbott, S.J., ed. & Joseph Gallagher trans., Herder & Herder Ass'n Press 1966) (1965) [hereinafter *Declaration on Religious Freedom*].

the overall curriculum. The *Declaration* was a landmark document of the Second Vatican Council, largely inspired and managed by American bishops such as Cardinal Spellman<sup>15</sup> and American theologians, principally John Courtney Murray, S.J.<sup>16</sup> A brief overview of the *Declaration* is in order here because it is based on major principles of Catholic teaching, on the work of Thomas Aquinas on the relationship of moral law to civil law, and because misinterpretations of the *Declaration* are widespread and undermine the efforts of the Church to address complex issues of morality and law.

There are three points that I wish to address briefly: (1) the primary intent and scope of the *Declaration*; (2) the precise understanding of "freedom of conscience" in the development of the *Declaration*; and (3) the positive basis for the public policy activity of the Catholic Church on contemporary social issues ranging from abortion and euthanasia to capital punishment, to social welfare issues, to delivery of health care services, etc.

First, I will address the primary intent and scope of the *Declaration on Religious Liberty*. While the *Declaration* is justifiably considered one of the major texts of the Council, not simply for its assertions regarding religious freedom but because, more than any other document, it raised the question of development of doctrine, the *Declaration* bases its assertions not on Revelation but on an understanding of the dignity of the human person and respect for the common good. These two concepts form the foundation for Catholic social teaching.

The dignity of the human person flows from the fact that the human person is created in the image of God, redeemed by Jesus Christ and thereby entitled to eternal life with God. The human person is endowed with intelligence which enables him or her to understand the natural law and make correct moral judgments, and with free will, which makes him or her responsible for personal actions. Freedom is not understood as unfettered

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<sup>15</sup> Cardinal Francis Spellman presided over the New York Archdiocese from 1939 to 1967. He was known to be a powerful political figure, on both the state and national levels, and was instrumental in helping to create educational opportunities for immigrant New Yorkers.

<sup>16</sup> John Courtney Murray, S.J., (1904–1967), served at the Second Vatican Council as a theological expert. He was a political philosopher and an expert in the area of public theology—the confluence of religion and political life. His writings attempt to reconcile American Constitutional Law with Catholic Natural Law.

liberty. Especially in the writings of John Paul II, freedom is rooted in truth—the truth about God and His relationship to human persons and the truth of moral obligation that begets personal responsibility for one's actions. This understanding of freedom or liberty is quite different from the popular American understanding of libertarianism or subjectivism that proceeds from a misplaced emphasis on individualism.

The common good is described briefly in the Second Vatican Council's *Gaudium et Spes (Pastoral Constitution on the Church in the Modern World)*:<sup>17</sup>

Every day human interdependence grows more tightly drawn and spreads by degrees over the whole world. As a result the common good, that is, the sum of those conditions of social life which allow social groups and their individual members relatively thorough and ready access to their own fulfillment, today takes on an increasingly universal complexion and consequently involves rights and duties with respect to the whole human race. Every social group must take account of the needs and legitimate aspirations of other groups, and even of the general welfare of the entire human family.<sup>18</sup>

Father Pietro Pavan, who served as a theological expert at the Council, particularly in the development of the *Declaration*, and was also one of the architects of John XXIII's encyclical *Pacem in Terris*,<sup>19</sup> argues that the *Declaration's* teaching on the importance of the common good is consistent with paragraph 60 of *Pacem in Terris*, which he cites:

It is agreed that in our time the common good is chiefly guaranteed when personal rights and duties are maintained. The chief concern of civil authorities must therefore be to ensure that these rights are acknowledged, respected, coordinated with other rights, defended, and promoted, so that in this way each one may more easily carry out his duties. For to safeguard the inviolable rights of the human person, and to facilitate the fulfillment of his duties, should be the essential

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<sup>17</sup> VATICAN COUNCIL II, *Gaudium et Spes (Pastoral Constitution on the Church in the Modern World)*, in THE DOCUMENTS OF VATICAN II, 199–308 (Walter M. Abbott, S.J., ed. & Joseph Gallagher trans., Herder & Herder Ass'n Press 1966) (1965) [hereinafter *Gaudium et Spes*].

<sup>18</sup> *Id.* at 225.

<sup>19</sup> Pope John XXIII, *Pacem in Terris (Peace on Earth)*, in THE ENCYCLICALS AND OTHER MESSAGES OF JOHN XXIII 327 (The Staff of the Pope Speaks Mag. eds., 1964) [hereinafter *Pacem in Terris*].

office of every public authority.

This means that if any government does not acknowledge the rights of man or violates them, it not only fails in its duty, but its orders completely lack juridical force.<sup>20</sup>

One of the most fundamental rights is the right to religious freedom, noted above and emphasized in *Pacem in Terris*.

The primary thrust of the *Declaration* was the right to immunity from coercion in religious matters, specifically the right not to be impeded from seeking the truth in matters religious, nor to be restrained from an external manifestation of "those internal, voluntary, and free acts whereby man sets the course of his life directly toward God."<sup>21</sup> Indeed, the *Declaration* states: "Injury, therefore, is done to the human person and to the very order established by God for human life, if the free exercise of religion is denied in society when the just requirements of public order do not so require."<sup>22</sup>

My second point is the precise meaning of freedom of conscience in the *Declaration on Religious Liberty*. The first two drafts of the *Declaration* were part of the *Decree on Ecumenism*,<sup>23</sup> and the approach of these drafts was to base religious freedom on freedom of conscience. This approach, however, was abandoned in the third draft. As John Courtney Murray explains, the approach "encountered an unresolved dispute within the Church with regard to the 'rights of conscience.'"<sup>24</sup>

Murray goes on to note that "freedom of conscience" was also loaded down with objectionable historic connotations. It dates to the early post-Reformation era, when it was interpreted as

<sup>20</sup> *Id.* ¶¶ 60, 61 (citation omitted).

<sup>21</sup> *Declaration on Religious Freedom*, *supra* note 14, § 3, at 681.

<sup>22</sup> *Id.*

<sup>23</sup> See VATICAN COUNCIL II, *Unitas Redintegratio (Decree on Ecumenism)*, in THE DOCUMENTS OF VATICAN II 341 (Walter M. Abbott, S.J., ed. & Joseph Gallagher trans., Herder & Herder Ass'n Press 1966) (1965); see also JOHN COURTNEY MURRAY, *Introduction to Declaration on Religious Freedom*, in THE DOCUMENTS OF VATICAN II 672, 672 (Walter M. Abbott, S.J., ed. & Joseph Gallagher trans., Herder & Herder Ass'n Press 1966) (1965) ("The first text had appeared as Chapter V of the Decree on Ecumenism. The second text had appeared as a Declaration, but in an appendix to the Decree on Ecumenism.")

<sup>24</sup> JOHN COURTNEY MURRAY, *The Declaration of Religious Freedom: A Moment in its Legislative History*, in RELIGIOUS LIBERTY: AN END AND A BEGINNING 26 (John Courtney Murray ed., 1966).



“private judgment” in a non-Catholic sense. It was also part of the vocabulary of the nineteenth century laicism in which it connoted the idea of the “lawless conscience,” not subject to a transcendental order of truth. Thus, says Murray:

It is worth noting that the *Declaration* does not base the right to the free exercise of religion on “freedom of conscience.” Nowhere does this phrase occur. And the *Declaration* nowhere lends its authority to the theory for which the phrase frequently stands, namely, that I have the right to do what my conscience tells me to do, simply because my conscience tells me to do it. This is a perilous theory. Its particular peril is subjectivism—the notion that, in the end, it is my conscience, and not the objective truth, which determines what is right or wrong, true or false.<sup>25</sup>

My third point is that the *Declaration on Religious Liberty* provides a positive basis for the public policy activity of the Church on many social issues, especially on abortion and euthanasia. As indicated above, the concepts of public peace, public morality and public order justify government restriction of religious freedom when and if religious freedom is invoked as the basis for a permissive public policy on abortion as enunciated in *Roe and Doe*.

On the positive side, the Council Fathers explain the freedom the Church must have to accomplish her work for the salvation of mankind. “The freedom of the Church is the fundamental principle in what concerns the relations between the Church and governments and the whole civil order.”<sup>26</sup> Murray calls this one of the central doctrinal utterances of the *Declaration*. The Church, according to the *Declaration*, “claims freedom for herself in her character as a spiritual authority,”<sup>27</sup> and “in her character as a society of men who have the right to live in society in accordance with the precepts of Christian faith.”<sup>28</sup> This section of the *Declaration* should be read along with the affirmation of *Gaudium et Spes*<sup>29</sup> in regard to the relationship of the Church and the political order:

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<sup>25</sup> *Id.*

<sup>26</sup> *Declaration on Religious Freedom, supra* note 14, § 13 at 693.

<sup>27</sup> *Id.* at 694.

<sup>28</sup> *Id.*

<sup>29</sup> *See Gaudium et Spes, supra* note 17.

But it is always and everywhere legitimate for her to preach the faith with true freedom, to teach her social doctrine, and to discharge her duty among men without hindrance. She also has the right to pass moral judgments, even on matters touching the political order, whenever basic personal rights or the salvation of souls make such judgments necessary. In so doing, she may use only those helps which accord with the gospel and with the general welfare as it changes according to time and circumstances.<sup>30</sup>

The *Declaration* contributes to the developing tradition within the Church on the dignity of the human person and the responsibility of society to protect his or her rights. Accordingly, I contend that the Church has a right and an obligation flowing from religious liberty to speak out in behalf of the "inviolable rights of the human person," chief among which is "the right to Life."<sup>31</sup> Negatively stated, the Church should not be impeded in fulfilling this mission by charges that its efforts violate the *Declaration on Religious Liberty*, or that it simply attempts to establish Catholic teaching as public law.

In summary, the *Declaration on Religious Liberty* refers specifically to freedom from constraint or restraint in religious matters. It is not based on nor does it grant freedom of conscience in regard to moral or ethical decision-making. It cannot be cited as a basis for impeding governments from prohibiting or restricting abortion. Nor can it be cited as a basis for restraining the Church from persuading and motivating citizens—and the government—to adopt laws that will protect human life by prohibiting or restricting abortion or euthanasia.

I raise these points because there have been continual challenges to the religious freedom of the Catholic Church in regard to the abortion issue. Early on, in *Harris v. McRae*,<sup>32</sup> which involved a challenge to federal restrictions on the funding of abortion, the argument was made that any restriction on abortion is unconstitutional because it violates the First Amendment prohibition against the establishment of religion in that it adopts the moral teaching of the Roman Catholic Church

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<sup>30</sup> *Id.* at 288–89.

<sup>31</sup> POPE JOHN XXIII, *Pacem in Terris (Peace on Earth)*, § 9–11, in *THE ENCYCLICALS AND OTHER MESSAGES OF JOHN XXIII* 327, 329–30 (The Staff of the Pope Speaks Mag. eds., 1964).

<sup>32</sup> 488 U.S. 297 (1980).

as the basis of law.<sup>33</sup> Public support for restriction of abortion funding by the Roman Catholic bishops and other identifiably Catholic organizations were likewise construed as violations of the First Amendment. In *McRae v. Califano*,<sup>34</sup> Judge John Dooling rejected these arguments and asserted that the churches do have a right to speak out on issues that have both a moral and legal dimension. Specifically, Judge Dooling argued that "the healthy working of our political order cannot safely forego the political action of the churches, or discourage it," and "the spokesmen of religious institutions must not be discouraged, nor inhibited by the fear that their support of legislation, or explicit lobbying for such legislation, will result in its being constitutionally suspect."<sup>35</sup>

Judge Dooling found that restrictions on Medicaid funding were unconstitutional but was later reversed by the U.S. Supreme Court. His holding on the freedom of churches and religious organizations to speak out on public issues was upheld by the Supreme Court.

More recently, the opposition to Catholic involvement regarding abortion and euthanasia has become more systematic and more highly publicized. There is a nationwide effort by advocates of abortion and family planning to challenge any affiliation or working relationship between a Catholic hospital and a non-Catholic hospital on the grounds that Catholic hospitals do not provide a full range of reproductive health services, that is, abortion and sterilization. In the State of New York, the Attorney General has established a special section within the Attorney General's office specifically to challenge all such hospital relationships or ventures on the grounds that abortion and sterilization are not included. In many states, public health programs include provisions of abortion and sterilization but usually include a conscience clause which allows the religiously sponsored hospital to follow its own moral principles. These mechanisms are being opposed or challenged in the courts. A resolution was brought before the Convention of the American Medical Association attempting to condemn or

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<sup>33</sup> See *id.* at 319.

<sup>34</sup> 491 F. Supp. 630, 741 (E.D.N.Y. 1980) *rev'd sub nom.* *Harris v. McRae*, 448 U.S. 300 (1980).

<sup>35</sup> *Id.* at 741.

prohibit conscience protection. The resolution ultimately failed. A recent debate in the District of Columbia City Council raged for five hours, during which the most abusive attacks on the Catholic Church and the Archdiocese of Washington, D.C., and all other Catholic institutions in the District of Columbia were expressed by Council members. These and other such efforts underscore the determination to deny First Amendment protection to religious institutions on matters of conscience. The determination, anti-Catholic bias, and huge amounts of money being provided, often by well-known philanthropic foundations, are a warning that these are not isolated incidents nor will they cease. Of course, this is not limited to abortion, but extends also to any government aid to religiously sponsored schools, to government funding of social services, and other issues. The student in the religiously affiliated law school certainly should be aware of these matters and should hear both sides of the debate. At present, news reports are far from objective or accurate.

I conclude this section with a short quote from Pope John Paul II in *The Gospel of Life*:

Consequently there is a need to recover the *basic elements of a vision of the relationship between civil law and moral law*, which are put forward by the Church, but which are also part of the patrimony of the great juridical traditions of humanity.

Certainly *the purpose of civil law* is different and more limited in scope than that of the moral law. But "in no sphere of life can the civil law take the place of conscience or dictate norms concerning things which are outside its competence," which is that of ensuring the common good of people through the recognition and defense of their fundamental rights, and the promotion of peace and of public morality. The real purpose of civil law is to guarantee an ordered social coexistence in true justice, so that all may "lead a quiet and peaceable life, godly and respectful in every way." Precisely for this reason, civil law must ensure that all members of society enjoy respect for certain fundamental rights which innately belong to the person, rights which every positive law must recognize and guarantee. First and fundamental among these is the inviolable right to life of every innocent human being.<sup>36</sup>

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<sup>36</sup> Pope John Paul II, *The Gospel of Life: Evangelium Vitae* § 70 (United States Catholic Conference 1995) (1995) (citation omitted) [hereinafter *Evangelium Vitae*].

As a final brief note, I recommend that those in law schools sponsored by Catholic institutions be given a competent understanding of three specific encyclicals of John Paul II.

The first of these is *Veritatis Splendor (The Splendor of Truth)*<sup>37</sup> issued in 1993. This document focuses on a renewal of moral theology, a review of fundamental principles, and a critique of various moral methodologies that have been proposed in the last decade or so. The encyclical focuses initially on the moral law, that is, the eternal law which "has its origin in God and always finds its source in him."<sup>38</sup> This leads to a discussion of the relationship of freedom to truth, which is the beacon of security as a person makes moral decisions. The encyclical then addresses the importance of natural law as immutable, universal and discoverable by human reason. Reason is enlightened by faith and an understanding of the Divine Law and enables the human person to discern good from evil. Yet reason is not autonomous, separated from faith, nor can each person create values and moral norms on the basis of insight or personal experience. Human reason uses science, experience, the wisdom of ages in pursuing moral choices, but it also relies on God's revelation, the moral wisdom of the philosophers, and Catholic Church teachings, particularly the moral principles applying teachings to specific contemporary moral problems.

In 1995, John Paul II issued the second encyclical of this trilogy, *Evangelium Vitae (The Gospel of Life)*.<sup>39</sup> Described by the Pope as "a precise and vigorous reaffirmation of the value of life and its inviolability, and at the same time a pressing appeal to each and every person in the name of God: respect, protect, love and serve life, every human life,"<sup>40</sup> the encyclical addresses a number of issues that threaten human life—war, violence, poverty, human experimentation, and capital punishment. The most important feature of the encyclical, however, is that on three specific issues, the taking of innocent human life, direct abortion, and euthanasia, the Pope exercised his authentic teaching authority as the successor of Peter. In each case, John

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<sup>37</sup> Pope John Paul II, *The Splendor of Truth: Veritatis Splendor* (United States Catholic Conference 1993) (1993) [hereinafter *Veritatis Splendor*].

<sup>38</sup> *Id.* § 40.

<sup>39</sup> *Evangelium Vitae*, *supra* note 36.

<sup>40</sup> *Id.* § 5.

Paul II used the strongest possible language short of a formal infallible declaration. For clarity and emphasis, he invoked the formula of *Lumen Gentium*<sup>41</sup>—by the authority which Christ conferred upon Peter and his successors and in communion with the bishops of the Church, “I confirm” or “I declare.” It was John Paul II’s clear intent to assert the doctrinally binding character of the Church’s moral teaching on each of these issues. This is a strong reminder that dissent is not permissible and it is a reminder that all faithful Catholics must live by and profess the Church’s teaching.

*The Gospel of Life* also addressed the relationship of moral law to civil law, the responsibility of society to build structures of justice that ensure protection of human life and the values and shortcomings of the democratic process. There is also an extended section providing advice on how to deal with the less than perfect law, advice that is helpful to legislators.

The third encyclical is *Fides et Ratio (Faith and Reason)*,<sup>42</sup> issued in 1998. This document deals with the search for truth, the importance of philosophy and its relationship to theology, and a critique of some modern philosophic systems that have failed and have also done great damage. Considerable attention is given to the importance of human reason, informed by faith, in the search for truth and the ability to communicate what is true and enduring in a world that is preoccupied with the immediate and with constant change. John Paul pays special homage to Thomas Aquinas for his contributions. Finally, the Pope also emphasizes the link with *Veritatis Splendor*:<sup>43</sup>

There is a further reason why I write these reflections. In my Encyclical Letter *Veritatis Splendor*, I drew attention to “certain fundamental truths of Catholic doctrine which, in the present circumstances, risk being distorted or denied.” In the present Letter, I wish to pursue that reflection by concentrating on the theme of *truth* itself and on its *foundation* in relation to *faith*. For it is undeniable that this time of rapid and complex

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<sup>41</sup> VATICAN COUNCIL II, *The Light of the World: Lumen Gentium* § 25 (Vatican City 1995) (1995).

<sup>42</sup> See Pope John Paul II, Encyclical Letter *Fides et Ratio* of the Supreme Pontiff John Paul II to the Bishops of the Catholic Church on the Relationship Between Faith and Reason (United States Catholic Conference 1998) (1998) [hereinafter *Fides et Ratio*].

<sup>43</sup> *Veritatis Splendor*, *supra* note 37.

change can leave especially the younger generation, to whom the future belongs and on whom it depends, with a sense that they have no valid points of reference. The need for a foundation for personal and communal life becomes all the more pressing at a time when we are faced with the patent inadequacy of perspectives in which the ephemeral is affirmed as a value and the possibility of discovering the real meaning of life is cast into doubt.<sup>44</sup>

I conclude by stating again my conviction that there is a great need for religiously affiliated law schools in our society. Such schools create an environment of respect for religious traditions and values; they challenge scholars and faculty to deepen their own research and writing on these topics and perhaps most importantly, they motivate students to develop a sense of values and a moral sense that broadens their study and hopefully, enriches them in the practice of law.

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<sup>44</sup> *Fides et Ratio*, *supra* note 42, at 11.