

«HUMANAE VITAE»: 20 ANNI DOPO

Atti del II Congresso Internazionale
di Teologia Morale

Roma, 9-12 novembre 1988

THE DUTY AND RIGHT TO FOLLOW
ONE'S JUDGMENT OF CONSCIENCE

by

GERMAIN G. GRIZEZ



Edizioni Ares/Milano

THE DUTY AND RIGHT TO FOLLOW ONE'S JUDGMENT OF CONSCIENCE

GERMAIN G. GRIZEZ*

I.

The duty to follow one's conscience is neither one specific responsibility among others nor a supreme responsibility which perhaps could conflict with and nullify others. For no matter what in particular one ought to do, one ought to follow one's conscience. That is so because the duty to follow conscience is reducible to the duty to do what is morally good. One's conscience simply is what one judges to be moral truth considered insofar as one has tried to know that truth, thinks one knows it, and compares one's prospective or past choices with it.

"One ought to do what is morally good" is true by definition. But although the duty to follow one's conscience is reducible to that tautology, we consider it interesting and informative to say: "One ought to follow one's judgment of conscience". Why do we consider that worth saying?

One says that one ought to follow one's judgment of conscience in the face of a temptation not to do so. A temptation to do what one believes to be wrong often is strengthened, especially if one is under pressure from others, by the thought that one's judgment of conscience could be mistaken. For example, a law-abiding citizen always hesitates to violate the law's requirements, and so if compliance with a law would be morally wrong, will reflect: "I know my access to moral truth is not infallible, but I am convinced that it would be wrong to comply with this legal requirement". In such a situation, "One's duty is to follow one's judgment of conscience" means: One ought not to do what one believes to be wrong, but,

* *Flynn* Professor of Christian Ethics, Mount St. Mary's Seminary, Emmitsburg (Maryland, USA).

having tried to know the moral truth and thinking that one knows it, one should choose and act, *despite every contrary pressure*, in conformity with the moral truth insofar as one has access to it. Thus, the point of saying that one ought to follow one's judgment of conscience is that one ought to try to do what is morally good by choosing in conformity with what one thinks to be moral truth, although one is aware that one's judgment of conscience could be mistaken.

Since the duty to follow one's conscience is reducible to one's duty to do what is morally good, the specific duty pertaining to conscience is to "form" it—that is, to do beforehand what one can to avoid making mistakes when one judges prospective or past choices by the standard of what one thinks to be moral truth. If one does what one thinks is morally good but has failed to form one's conscience, one does not really follow a judgment of conscience. Due to one's negligence, one's subjective opinion about what is morally good cannot be considered conscience, using "conscience" in an unqualified sense.

Christians and others who acknowledge Abraham as their father in faith believe that God's loving wisdom is the highest standard of morality, and that he guides those who believe in him not only by the natural light of reason but by faith. Therefore, in forming their consciences, they conform their judgments to moral truth derived from this source.

Among people of faith, some hold that God makes his plan and will known immediately to each individual by an inner light. Others recognize various external means by which God guides his people. All Christians believe that the illumination of the Holy Spirit and the inspired Scriptures should contribute to the formation of their conscience.

Catholics believe that divine revelation not only makes known specifically Christian moral norms which they could not know without faith but also clarifies and confirms those moral truths which human persons can know even without hearing the Gospel. Without diminishing the factors which all Christians recognize, Catholics believe that they receive divine revelation by believing what the Catholic Church believes and teaches, and that they can discern what the Church believes and teaches by attending to the magisterium. By the authorization of her divine founder, the Catholic Church speaking through her magisterium teaches all her members what they must do to be saved. So, faithful and clearheaded Catholics consider the moral guidance offered by the pope and the bishops in communion with him to indicate moral truths by which they must form their consciences.

Therefore, for faithful and clearheaded Catholics, the duty to follow one's judgment of conscience *cannot* conflict with the duty to live according to the moral teaching which the magisterium proposes. For unless they fulfill the

latter duty, they have only their own subjective opinion to follow, not an authentic judgment of conscience.

II.

Insofar as the duty to follow conscience is reducible to the duty to do what is morally good, the right to follow conscience is reducible to the right to do what is morally good. Plainly, that is not one specific right among others. However, one does have certain specific and limited rights to follow one's judgment of conscience – rights which are entailed by the duties of others to take into account the fact that one is acting (or wishes to act) on a judgment of conscience rather than on some other basis, and therefore to limit themselves in certain ways.

Those who have power to control the behavior of another person should do so only in accord with their own judgment of conscience. In making this judgment, they must take into account what the other person may rightly do. They may never require the other person to act (or not to act) in a way which they themselves believe conflicts with moral truth. But they sometimes may require the other person to act (or not to act) in a way which the other person thinks conflicts with moral truth – that is, contrary to his or her own judgment of conscience. For instance, public authorities may prevent a religious body from practicing human sacrifice even if members of that body sincerely believe they ought to practice it.

However, whenever those who have power to control the behavior of another person bring it about that the other person acts contrary to his or her conscience, serious harm is done in three ways to basic human goods. (1) If the other person freely chooses to act contrary to his or her conscience, he or she commits sin. (2) Solidarity is harmed insofar as submission to or determination by coercion replaces voluntary collaboration. (3) Some sorts of acts, such as religious acts, are valueless if done unwillingly. For these reasons, those who have power to control the behavior of another person sometimes ought not to use their power for the precise reason that if they did so that person would act contrary to his or her conscience. For instance, within certain limits public authorities should not require anyone to act contrary to his or her conscience in matters religious.

Corresponding to such specific and limited duties of those who have power not to use it, when doing so would cause another person to act contrary to conscience, are specific and limited rights of that person to follow conscience. Therefore, one does have certain specific and limited rights to follow one's judgment of conscience, and *all such rights are immunities from coercion to act contrary to conscience*.

The magisterium of the Catholic Church is a teaching office, not a body with

the power to control behavior. So, the magisterium cannot compel anyone to act contrary to his or her conscience. Moreover, as explained above, for faithful and clearheaded Catholics, the duty to follow one's judgment of conscience cannot possibly conflict with the duty to live according to the moral teaching which the magisterium proposes. Others do not consider the moral guidance offered by the pope and other bishops in communion with him to indicate moral truths by which to form their consciences. For them, the magisterium simply is irrelevant in questions of conscience, and so they need no right to follow their judgment of conscience contrary to the magisterium's teaching. Therefore, *nobody* can have a right to follow his or her judgment of conscience contrary to the magisterium's teaching.

III.

Elsewhere I have argued that the Catholic Church's constant and most firm teaching concerning contraception and certain other moral questions not only is true but has been proposed infallibly by the ordinary magisterium. From this thesis, a second one follows: Theological dissent from such teachings is not justifiable. Here I address my reflection to those who either accept these two theses as established or, at least, are willing to grant them for the sake of argument.

Between June 1964 and the publication of *Humanae vitae* in July 1968, many Catholics came to believe that the Church's teaching concerning contraception was in doubt and that they might follow their own "conscience" in this matter. Three factors fostered this belief.

First, in June 1964, Pope Paul VI announced the famous Commission for the Study of Population, Family, and Births, but he never made clear the scope of its mandate. At that time and subsequently he also made statements which were widely taken to mean that a change in the Church's teaching concerning contraception was possible. In November 1965 he proposed amendments to *Gaudium et spes* which would have clarified the matter, but then allowed the relevant conciliar commission to modify those amendments in such a way that Vatican II also seemed to leave an opening for the approval of contraception. Moreover, even after documents of the papal commission were leaked and published in April 1967, and expectations that the teaching would change became more widespread and intense, Paul VI allowed fifteen more months to pass before he completed his evaluation of the commission's report and issued *Humanae vitae*.

Second, during those four years, a growing number of theologians and a scattering of bishops expressed their opinion that the Church herself was in

doubt about the morality of contraception, and that faithful Catholics might rightly form judgments of conscience contrary to previous Catholic teaching on this matter. The arguments offered for this opinion were weak, but to those without theological sophistication they seemed strong, especially inasmuch as they were not authoritatively rejected. And so, some faithful and clearheaded Catholics became convinced that the Church no longer had a firm teaching concerning contraception. Many such Catholics had to make choices about contraception. Without violating their responsibility to form their consciences, many of them reached the judgment of conscience that they might use (or formally cooperate in others' using) contraception and they acted on that judgment.

Third, during those four years, some theologians and others began to spread in the Church a nontraditional conception of conscience.

The analysis in part I, above, makes it clear that for a faithful and clearheaded Catholic, there is no right to follow a judgment of conscience against the teaching of the magisterium. But in that analysis, "conscience" means what one judges to be moral truth considered insofar as one has tried to know that truth, thinks one knows it, and compares one's prospective or past choices with it.

However, dominant elements in the societies and cultures of all the affluent nations deny that there is any source of meaning and value beyond the human. Those who share that view give "conscience" an entirely different meaning, according to which conscience becomes merely subjective opinion. For the denial of any source of meaning and value beyond the human leads to relativism. According to this relativism, moral judgments cannot be objectively grounded, and moral norms are nothing more than the attempts of societies to control their members and of individuals to influence one another's behaviour. In this relativistic context, "conscience" refers to the individual's subjective judgment as to what is most authentic for himself or herself – what will best serve his or her interests in the face of pressures to conform to others' standards.

Thus, in all the affluent nations, the role in moral life which according to the Christian tradition rightfully belongs to conscience all too often is played today by merely subjective opinion. In this subjectivist perspective, the moral truths handed on throughout the Church's tradition seem to be no more than one body of opinion among others. To those who share this view, the magisterium seems authoritarian, for they think that it is trying to impose its opinion on the faithful in violation of their right to follow their autonomous conscience.

Catholics always are in danger of beginning to conform to the unbelieving world in which they live. By the time *Humanae vitae* appeared in July 1968, many Catholics in the affluent nations had become confused and more or less accepted the subjectivist perspective and its nontraditional conception of conscience. Such

Catholics came to think that even if the Catholic Church were in no doubt they could rightly follow their subjective opinion against the moral guidance offered by the pope and the bishops in communion with him. This position often was expressed by saying that Catholics rightly follow their own judgment of conscience even if it conflicts with “official” Church teaching.

Much of the theological dissent after *Humanae vitae* implicitly presupposed, applied, and so consolidated and spread the subjectivist conception of conscience which had begun to take hold in the Church. For example, one famous dissenting statement took for granted that the teaching reaffirmed in *Humanae vitae* is not infallible, claimed that it “is common teaching in the Church that Catholics may dissent from authoritative, non-infallible teachings of the *magisterium* when sufficient reasons for so doing exist”, and concluded that “spouses may responsibly decide according to their conscience that artificial contraception in some circumstances is permissible and indeed necessary to preserve and foster the values and sacredness of marriage”.

In this context, many episcopal conferences issued pastoral statements. Most discussed conscience, and several suggested that nonassent to or dissent from *Humanae vitae* might be licit under certain conditions. While virtually everything said in these statements about conscience and dissent has *some* true sense, still many people were misled by them. Why this happened can be understood from the following observation.

Normally, conscience becomes a subject of reflection when one is thinking about someone else’s action or one’s own past action, or when one must resist a temptation to submit to pressure to do what one believes to be wrong. In forming one’s conscience here and now, one pays attention to the relevant moral norms, not to conscience. It follows that when someone seeks pastoral guidance, he or she wants to know what the Church believes is truly the morally good thing to do. If one responds by saying that a person who follows a sincere conscience is morally blameless, the remark can be misleading. It is true, but the truth about conscience is not what is being asked for. The question is: What should I think I may do? The question is not: If I do what I think I should but happen to be mistaken, then how do I stand?

Thus, when an adviser in a pastoral situation talks simultaneously about conscience and about the moral norms proposed by the Church, the talk about conscience is likely to be mistaken for talk about one’s substantive moral responsibilities. The teaching on conscience does not form conscience (that is, help one to know the relevant moral truth); it merely says that if one blamelessly thinks doing X is morally good, then choosing to do X is blameless.

But this truism is likely to be taken as significant and to be misinterpreted to mean: “If you think doing X is morally unobjectionable, and if you are blameless

in having come to think so, then I, as your pastor, assure you that you may do X blamelessly". In other words: "If you think anything is morally good, then it is morally good for you". Thus, inappropriate talk about conscience is likely to be understood by the faithful as an endorsement of subjectivism.

Several of the statements issued by bishops' conferences in response to *Humanae vitae* were widely understood in this way. Two factors reinforced this understanding: first, some of the statements were poorly formulated and/or included approval of dissent; second, many dissenting theologians invoked the bishops' statements to support theological dissent and the subjectivism it fostered.

Bishops' statements which did not approve dissent and which spoke carefully of conscience were not misinterpreted. Dissenting theologians quietly ignored those statements which clearly taught that one's duty is to form one's conscience and that for Catholics that means conforming to the divine law, which is unfolded by the magisterium. But several of the collective bishops' statements were framed in such a way that they could be read as suggesting that a Catholic who had formed a judgment of conscience at odds with the teaching which *Humanae vitae* reaffirmed could rightly continue to follow that judgment simply because it had been a judgment of conscience. The bishops who made these statements avoided dissenting openly from what Paul VI reaffirmed, but in doing so they unintentionally encouraged subjectivism.

Many dissenting theologians claimed that at least some of the bishop's statements amounted to an endorsement of their dissent, including that dissent's encouragement that Catholics consider their subjective opinion to be a judgment of conscience which they might rightly follow against the magisterium. This claim of the dissenting theologians gained credibility, because time passed and the confusion created by the bishops' statements never was cleared up – either by the episcopal conferences, by the synod of bishops, or by the Holy See.

With the magisterium of the Church in this state, dissenting theologians were able to consolidate their position. Eventually, many theologians, including some of the best known in the world, argued that the magisterium's lack of unity and its toleration of theological dissent constituted consent by silence both to theological dissent and to the subjectivist conception of conscience dissent had fostered.

Once these positions were established, theological dissent quickly spread to many other received Catholic moral teachings related to sex, marriage, and innocent life. Eventually, many dissenting theologians claimed both that no specific moral norm can be taught infallibly and that every specific moral norm is open to exceptions.

IV.

As the analysis of part I, above, showed, faithful and clearheaded Catholics will find no inconsistency between their duty to follow their judgment of conscience and their duty to live according to the teaching which the magisterium proposes. And neither for such Catholics nor for anyone else does it make sense to talk about an authentic right to follow conscience against the magisterium's teaching, since the magisterium cannot coerce anyone. Nevertheless, many Catholics today are uncertain or confused about their duty to follow their judgment of conscience formed by the teaching the magisterium proposes.

In the midst of dissent and the confusion to which it led, Popes Paul VI and John Paul II continued to propose received Catholic moral teaching firmly and clearly. The present Pope also has worked hard to explain and clarify those moral norms which have been attacked most heavily. In doing so, he has made a powerful case that the norm concerning contraception pertains to the moral order revealed by God. Some bishops and groups of bishops also have taught clearly and firmly enough to leave no doubt that they believe that the Church's moral teaching on contraception and on other disputed matters is true and that the faithful should conform their consciences to it.

However, the clarity and firmness of this substantive teaching does not help those many Catholics who have adopted a subjectivist notion of conscience. For them, the moral truth which the Church teaches is merely a set of opinions from which they can pick and choose. Sometimes, perhaps, such subjectivism is a sign of bad faith and an expression of an apostate heart; nothing the magisterium can do is likely to help such Catholics to regain their moral balance. But sometimes subjectivism is a sign of poor catechesis and more or less innocent confusion, and in such cases the magisterium needs to do better than it has during the past twenty-five years.

Moreover, clear and firm moral teaching by the popes and some of the bishops, while essential and quite helpful, has not been adequate to the needs even of those Catholics who have avoided subjectivism and remained faithful and clearheaded. For they look to the magisterium both for guidance in forming their own consciences and for support in teaching and handing on the way of the Lord Jesus to others, especially to children. But they find the guidance and support they look for obscured and weakened by the lack of unity in the magisterium itself.

What bishops and conferences of bishops, theologians and groups of theologians said in 1968-69 has not gone away. It remains with us today as a heritage of division and confusion. The 1980 session of the Synod and the splendid apostolic exhortation, *Familiaris consortio*, superseded the inadequate or defec-

tive elements contained in some of the pastoral statements published soon after *Humanae vitae*. Yet that splendid collegial effort failed to restore solidarity even to the magisterium itself, because the reality and depth of division never was frankly acknowledged, much less confronted and overcome.

But the division in the magisterium is real. Against the clear and firm moral teaching of the popes and some of the bishops, some other bishops quietly but clearly accept and foster dissenting opinions. They never straightforwardly and firmly assert Catholic teaching on the disputed questions, and if they do not openly reject that teaching, they do consult and follow the advice of dissenting theologians, invite such theologians to instruct their priests, appoint these theologians to teach their seminarians and direct their marriage preparation programs, and make it clear that they reject the "narrowness" and "rigidity" of "official teaching" in favor of a pluralism which admits dissenting opinions and encourages subjectivist consciences to follow them.

Somehow and sometime, the collegial magisterium, under the leadership of John Paul II or a later pope, must confront and overcome this division. The issues raised in 1968-69 must be clarified and resolved. Only then will a reunified magisterium be able to propose more credibly the true meaning of the duty to follow one's judgment of conscience and so help to save the faithful from the quicksand of subjectivism into which so many have been led by theological dissent and by the inadequacies of the magisterium's response to it.

Furthermore, pending reunification of the magisterium, that part of it which continues to hold and teach the Church's constant and most firm moral teaching – and in what follows I shall be concerned only with those who make up that part of the magisterium – needs to avoid crossing the fine line which divides justifiably tolerating dissent from unjustifiably cooperating with it. Despite everything, some Catholics have resisted subjectivism and have remained faithful and clearheaded. The question is: Just how much can a bishop accept without failing in his duty to help such Catholics to form their own consciences and to meet their responsibility of handing on their Christian way of life to others?

First, one must recognize that many things are done in a diocese which simply are beyond the control of the bishop, and similarly many things are done in the Catholic world which simply are beyond the control of the pope. Whenever that is literally true, no question even of toleration arises, since one cannot tolerate that over which one has no control. In such cases, bishops must choose between denouncing error and not mentioning it but serenely, clearly, and firmly teaching and explaining the truth. The latter course has many advantages, but when it is chosen and the Church's constant and most firm moral teaching is reaffirmed, its authoritativeness and exclusive legitimacy ought to be emphasized. Otherwise, dissenting theologians will say – and even some faithful and clearheaded Catho-

lics will be led to believe – that the error which is not expressly denounced is a licit theological opinion which may be followed in practice.

Second, many actions are carried on in a diocese or in the Catholic world which are in various ways subject to the bishop's or pope's authority but do not precisely participate in and exercise his authority. For example, in some parts of the world many Catholic media of communication and institutions of higher education are autonomous entities whose operations clearly are in no way operations of the bishops. In a different but analogous way, the acts of other bishops are not the acts of the pope. In such cases, pastoral leaders must choose between using the authority they have to try to prevent or put a stop to dissent and not using that authority and so tolerating dissent. Plainly, as long as division in the magisterium continues, the Holy See has little choice but to tolerate widespread dissent. Regarding the Holy See as their model of pastoral leadership, other bishops naturally tend not to use their authority against dissent, but rather to try to contain it by exhortation and administrative maneuvers.

But third, no one legitimately teaches in the Church except by sharing in the teaching authority of the popes and other bishops. Many priests and others who openly dissent from the Church's constant and most firm moral teaching exercise teaching roles in the Church by virtue of episcopal authorization. Can a bishop be acting consistently if he tolerates dissent by those who share by virtue of his authorization in his own teaching office?

Of course, he can remain consistent if he does not know that his authorization is being abused to teach dissent or if, knowing about the abuse, he simply cannot withdraw the authorization which he previously gave. But setting such cases aside, I do not see how a bishop can be acting consistently if he tolerates dissent by those who share in his teaching office with his own continuing authorization. For when a pastor continues to *authorize* others to teach and preach, knowing what they are doing, he is personally responsible for what they do with his authorization. Acting in and through those who teach and preach with his authorization, the pastor somehow cooperates with dissent when he continues to authorize the teaching and preaching of those whom he knows very well to be engaging in it.

Sensing this to be so, the faithful and even the nonbelieving world assume that bishops do not unconditionally exclude those positions which they knowingly allow others to teach with their authority. The inconsistency is especially plain when theologians who openly dissent from the Church's constant and most firm teaching are continued in their posts, year after year, in seminaries and ecclesiastical faculties. True, not every dissenting theologian has been allowed to continue teaching with the authorization of his bishop.

But many have been. In this matter, too, other bishops who personally hold and teach what Rome does tend to consider acceptable what they see being done in Rome.

My point is not that dissenters who exercise various offices in the Church are abusing those offices and should be disciplined for doing so. That may be true, but it also may be true that most dissenters are in good faith and do not deserve punishment. My present point is not even that those who dissent from the Church's teaching on sex, marriage, and innocent life are denying truths which pertain to faith and leading people into sins and other great evils. I believe that is so, but the point I am now making would hold even if the Church's teaching were false and the opinions which dissent from it were based on a fresh divine revelation – as some who hold those opinions suggest by their talk of the Holy Spirit's work in the "sense of the faithful".

My point, rather, is that a pastor who believes the Church's teaching true and who faithfully teaches and preaches it also simultaneously himself undercuts that teaching when he does not withdraw his authorization to teach and preach from those whom he knows are using it to teach and preach dissenting opinions. Such a pastor is hardly acting consistently, and I can think of no justification for that inconsistency. Moreover, inconsistency in this matter is grave, for by it a pastor both personally calls the faithful to conform their lives to difficult norms which concern grave matters and allows his authority to be abused by others whose dissent encourages the same faithful to do what their pastor continues to teach to be a grave sin. (Of course, only God knows the state of a pastor's heart; like anyone else, he may be guilty of little or nothing due to lack of sufficient reflection).

Consequently, I believe that the following is a true moral norm: Every one of the Church's pastors should make it clear to all those who have his authorization to preach and teach that he cannot and will not tolerate their using that authorization to dissent from Catholic teachings which he himself accepts. Instead, as soon as it becomes evident that anyone having his authorization preaches or teaches dissenting opinions, he will withdraw the authorization, not to punish the dissenter but to act consistently as a pastor. I respectfully ask only this of the pastors of the Church: that they consider whether this norm is indeed true and binding on their consciences.

In a letter to Charles Curran, 17 September 1986, Cardinal Ratzinger, as Prefect of the Congregation for the Doctrine of the Faith, wrote: "It must be recognized that the authorities of the Church cannot allow the present situation to continue in which the inherent contradiction is prolonged that one who is to teach in the name of the Church in fact denies her teaching" (*Origins*, 15 [1986], 668). I believe Cardinal Ratzinger's argument is entirely sound. Indeed, what I

have been trying to show is that every one of the Church's pastors should apply a similar argument in respect to every individual whom he in any way authorizes to share in his pastoral ministry of teaching and preaching. Inconsistency which Rome rightly finds intolerable in Washington can hardly be tolerable in any other part of the Church, least of all in Rome itself.

Despite everything that has happened, faithful and clearheaded Catholics who have not been seduced by subjectivism still know that to fulfill their duty to follow their judgment of conscience, they must form their conscience by conforming to God's law, submissive to the magisterium which interprets that law in the light of the Gospel. Yet they find it nearly impossible to teach and hand on the way of Jesus to others, especially to children, when even the part of the magisterium which continues to proclaim it clearly and firmly also inconsistently continues to authorize those who teach dissenting opinions.