

What has Athens to do with Jerusalem?¹ Canon Law and Moral Theology in Biolaw

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At one time –and not that long ago– the disciplines of canon law and moral theology were seen as mutually inclusive. In 1969, Bernard Haring wrote, “some people regard the casuistic and canonist text-books of moral theology as a permanent and classical expression of Catholicism”². Haring traced this development to the Council of Trent and one of its emphases, that of strengthening the praxis of the sacrament of penance. As one consequence, the field of moral casuistry (now known as moral theology) developed in which emphasis was placed on the confessional, the roles of the confessor and penitent, and the subject and number of that which needed to be confessed³. This in turn led to the “quite uncritical juxtaposition of canonical precepts, State [i.e., civil] laws, principles of natural law and quotations from the bible...Legally established structures were very much in the foreground in this type of moral theology”⁴.

The Second Vatican Council (1961-1965) led to important developments both in moral theology and in canon law and to certain significant changes in both fields of study. Citing *Optatam Totius* 16, Cloutier states, “The council instructed moral theology to become more nourished by the Scriptures and to show forth the nobility of the Christian vocation of all the faithful”⁵. In reference to canon law, Pope John XXIII intended the revi-

¹ The phrase, originally by Tertulian, is now understood to indicate two disciplines which not only, have nothing in common with one and the other but in fact have nothing to contribute one to the other.

² Bernard Haring, “Moral Theology,” in *Sacramentum Mundi. An Encyclopedia of Theology* five volumes (New York, Herder and Herder 1969) 4: 122. On an anecdotal level, in the early 1990s, while teaching at a Catholic University, I was asked by an older priest colleague why I was not teaching moral theology as well as canon law.

³ *Ibid.*, 122-124.

⁴ *Ibid.*, 124. See also David Cloutier, “Moral Theology for Real People: Agency, Practical Reason and the Task of the Moral Theologian,” in *New Wine, New Wineskins*, ed. William Mattison (New York, Sheed and Ward, 2005) 119-120. On page 119, he states, “[...] the Tridentine paradigm fostered a focus on isolated acts, a minimalistic approach to the moral life, a focus on sin, and ultimately an anthropology caught between freedom and law”.

⁵ Cloutier, “Moral Theology,” 120. *Optatum Totius* is the decree of the Second Vatican Council on orienting priestly formation.

sion of canon law to flow from Vatican II⁶. As one consequence of the Council and the revision of law and positively speaking, moral theology and canon law are now recognized as separate disciplines, each with its own rules of development, interpretation, and application to the lives of the Christian faithful.

At the same time, however, such recognition may unfortunately lead – and, at times, has led – to such a sharp differentiation between the two disciplines that they seem at best to use two different languages and at worst to exist in opposition to each other. Nonetheless, assuming such a sharp dichotomy between the two does justice to neither field⁷.

This essay begins with the presupposition that the disciplines of moral theology and canon law should and must mutually complement each other. While each has its own language and each has developed specific technical language, tools and means of interpretation, both ultimately derive from the fundamental truths of the Catholic faith and must constantly refer back to those truths. In other words, the Catholic faith provides the theological basis from which both moral theology and canon law begin, explains their purpose or function both within the Church and within theology and ultimately articulates their teleological rationale. Neither discipline exists for and in itself but at the service of the faith and consequently of the community that professes that faith. As one consequence, moral theology and canon law are both abstract and particular, or, in other words, theoretical and practical. While theoretical principles are necessary in both disciplines, such principles must find practical expression and utilization or else they remain simply abstract principles.

Canon law finds practical expression in the application of a particular norm to a specific case. Such expression is intrinsic to the nature of universal laws, laws that have worldwide application. In moral theology, one theory holds that ethics constitutes the theoretical aspect, “the level of thinking that is prior to action” and morals “is concerned with answering the practical question, what should I do?”⁸. Understood in this way, bioethics enjoys a universal scope – life in totality as a divine gift – that must find practical application in a particular moral situation.

To understand some of the ways in which moral theology and canon law comple-

⁶ On 25 January 1959, Pope John XXIII announced to the cardinals gathered at the Basilica of St. Paul Outside the Walls that he would call a diocesan synod for Rome and an ecumenical council; the latter would “lead to the desired and long awaited modernization of the Code of Canon Law [...]”. See John XXIII, Allocution, “Questa festiva Ricorrenza,” in *The Pope Speaks* 5 (1958-1959) 400-401.

⁷For example, in reference to proportionalists in moral theology, Cloutier on page 122 notes that “their constant target is any form of legalism – which normally means the application of moral rules without regard for that they have termed the ‘principle of totality’. Legalism involves an uncritical (and, according to proportionalists, physicalist) adherence to and application of moral rules, particularly in the areas of sexual and medical ethics”. I do not wish to equate “legalism” and the “discipline of canon law” but rather to indicate one (negative) perception of rules and norms, which, while applied in moral theology, could also be applied in and/or to canon law.

⁸ Richard Gula, *What are They Saying About Moral Norms?* (New York, Paulist Press, 1982) 9-10. Gula here summarizes the thought of James Gustafson.

ment each other, this essay will first offer certain fundamental themes as one means for a systemic approach to understanding canon law as a theological discipline. In other words, these themes will provide insights into the nature of canon law as a specific field of study and its usefulness to the faithful. Specifically, the first three topics concern law in the Church in general: first, a description of canon law; second, the types of law presupposed by the Catholic Church's legal system and third, the particular forms in which law finds expression. From this foundation, the next two topics pertain to the application of the law: first, the concepts of *epikeia* and *aequitas*, and, second, the purpose or function of canon law.

These principles will in turn assist in discovering the relationship between canon law and moral theology in general and bioethics in particular. Upon reflection and analysis, this relationship shall demonstrate the inter-connectedness of the two disciplines and demonstrate this connection through key principles centered on the dignity of the human person. These principles, understood as essential to both disciplines, illustrate the central place and role of the human person *qua* person and *qua* believer in both moral theology and canon law.

I. CANON LAW: FUNDAMENTAL THEMES

I. 1. A description of Canon Law

I prefer using the term “description” rather than “definition” because the latter term better reflects the broad nature of canon law itself. In an introductory text on canon law, James Coriden states:

The Roman Catholic Church is a highly organized community of religious belief, worship, witness and action. “Canon Law” is the name for its church order and discipline, its structures, rules and procedures⁹.

The expression “canon law” (in Latin, *ius canonicum*) understood broadly denotes all the laws of the Church¹⁰. From this perspective, then, “canon law” refers to the ways in which the Church as an incarnate reality exists, develops and fulfills its divine given mission specifically within history and in the world. “Incarnate reality” means that the Church is one complex reality, consisting of a divine and a human element¹¹. Church law

⁹ James Coriden, *An Introduction to Canon Law* (New York / Mahwah, Paulist Press, 1991) xiii.

¹⁰ Constant Van de Wiel, *History of Canon Law* Louvain Theological and Pastoral Monographs 5 (Peeters Press, Louvain, 1991) 11-13. Van de Wiel begins on page 11 with the statement, “Canon Law is a normative system that includes *canones, decreta, decretalia, constitutiones, praecepta, responsiones, rescripta, epistolae*, and legal customs.” All of these are juridic categories used through the centuries. Van de Wiel greatly expands this succinct summary and enters into great detail on historical changes, terminology, and content, all of which, while valuable, does not directly aid the purpose of this essay.

¹¹ See the Second Vatican Council, dogmatic constitution on the Church, *Lumen gentium*, 8, in Norman Tanner, ed., *Decrees of the Ecumenical Councils*, two volumes (London and Washington: Sheed and Ward

–in all its particular manifestations– must not only serve the mission of the Church but also its spiritual dimension.

Inasmuch as the Catholic Church is a human society, its “law” is analogous to civil “law” but inasmuch as the Church has been given a divine mission and purpose, “canon law” is quite different from “civil law”. Overemphasizing the similarity without recognizing the dissimilarity leads to a misunderstanding and, at times, misuse, of canon law. James Coriden summarizes this perspective:

The relationship between law in the context of Church and law in the context of civil society is not univocal but analogical. Univocity means that the term has the same meaning in both settings; analogy means that the meaning of the word is partially the same and partially different. Civil society provides the primary analogue of a legal system, and when transferred to the ecclesial context, it takes on a meaning that is more unlike than like civil law, a major dissimilitude¹².

This dissimilitude finds expression, for example, in the nature of canon law as primarily a theological and not juridical discipline. In other words, canon law is a legal system with theological roots¹³.

Understood broadly, “Canon Law” includes a variety of legislative acts. For example, the discipline includes law established by bishops for their own dioceses or by conferences of bishops for their territories; laws governing institutes of consecrated life or societies of apostolic life; special laws (such as those governing the election of the pope or the internal working of the Roman curia) and also liturgical law, that is, norms governing the celebration of the sacraments and sacraments and the public worship of the Church.

In a more narrow sense, “canon law” refers to a specific legal text, *The Code of Canon Law*. Two specific ‘collections’ of law exist in the universal Church – one, *The Code of Canon Law (Codex Iuris Canonici)*¹⁴ that governs the Latin Church and the *Code of Canons of the Eastern Churches (Codex Canonum Ecclesiarum Orientalium)*¹⁵ that governs the Eastern Churches in communion with the Bishop of Rome. *The Code of Canon Law* consists of 1752 canons (specific norms) organized in seven books, with various sub-

and Georgetown University Press, 1990) II: 854: “This society, however, equipped with hierarchical structures, and the mystical body of Christ, a visible assembly and a spiritual community, an earthly church and a church enriched with heavenly gifts, must not be considered as two things, but as forming one complex reality comprising a human and a divine element”.

¹² James Coriden, “Laws And Non-Laws,” *CLSA Proceedings* 45 (1983) 81.

¹³ See Libero Gerosa, *Canon Law*. (New York, Continuum 2002) 10: “[...] the theological nature and the juridical character of Canon Law are inseparable one from the other. If the former establishes the inalienable specificity of the law of the Church (expressed for example in the role of custom in the production of juridical norms or of canonical equity in the realisation of justice), the latter permits the understanding that in every expression of the particular attributes of such a law there persists elements (for example the order between human relations in a community or the interaction between liberty and ties that bind) common to every notion of law”.

¹⁴ *Code of Canon Law, Latin English Edition New English Translation* (Washington, D.C.: CLSA, 1998).

¹⁵ *Code of Canons of the Eastern Churches. Latin-English Edition* (Washington, D.C.: CLSA, 2001).

headings (parts, titles, chapters). The *Code of Canons of the Eastern Churches* contains 1546 canons organized in 30 titles with various subheadings (chapters, articles and paragraphs).

One further point needs to be recognized. In origin, the law of the Church is strongly influenced by Roman law, that system of law developed in the Roman Empire, the context within which the Church was first established¹⁶. Roman law is a specific legal discipline distinct from, for example, the system known as ‘common law’¹⁷. Recognizing this origin necessarily impacts upon the interpretation of canon law.

I. 2. The theory of law presupposed by canon law

In order to interpret and apply canon law correctly, some understanding of its underlying legal presuppositions – the types of law that exist – must first be grasped. These presuppositions while often only implicitly present nonetheless exercise a determinative influence on the correct interpretation and application of law in the Catholic Church.

Canon law recognizes that eternal law exists and is knowable, as is natural law. Eternal law is “God’s wisdom, inasmuch as it is the directive norm of all movement and action and to which is subject all that is in things created by God whether it be contingent or necessary”¹⁸. For its part, natural law is universal and necessary, inasmuch as it exists in each individual person *qua* person and each person can know the natural law through reflection on his or her own nature. “Natural law is the sum-total of natural laws which command that one should render every man his due, and hence that one should do harm to no man”¹⁹. Eternal law or divine law and natural law “are correlative; they exist in

¹⁶ See Coriden, *Introduction*, 12: “[...] the church could not help being strongly influenced by Roman law. It borrowed freely from the well-developed legal structures and procedures of the empire.” See also Albert Gauthier, *Roman Law and its Contribution to the Development of Canon Law* (Ottawa, Faculty of Canon Law, Saint Paul University, 1997). On page 15, Gauthier states, “The influence of Roman law on the Code of Canon Law of 1983 may appear to be less visible than was the case in 1917 [i.e., the first codification of Church law established in 1917]. Nevertheless, not only does the Code retain a number of ‘Roman’ traits of the former Code, it has also used Roman concepts and terminology in a number of important cases [...] It is remarkable that the legislator in such important issues has made use of Roman concepts (or of concepts developed from Roman sources), not assuredly with the mind of an antiquarian, but simply because the concepts did appear suited for the aggiornamento of the Code”.

¹⁷ Henry C. Black, *Black’s Law Dictionary*, 5th ed. (Saint Paul, West Publishing Co. 1979) 250-251: “Common law. As distinguished from law created by the enactment of legislatures, the common law comprises the body of those principles and rules of action, relating to the government and security of persons and property, which derive their authority sole from usages and customs of immemorial antiquity, or from the judgments and decrees of the courts recognizing, affirming and enforcing such usages and customs [...]”.

¹⁸ Amleto Giovanni Cicognani, *Canon Law* (Philadelphia, The Dolphin Press, 1934) #16, 27. Cicognani here quotes Saint Thomas Aquinas. From another perspective, the concept of “eternal law” recognizes God as creator who wishes to involve himself in creation and therefore has chosen to reveal himself – to varying degrees – to that which has been created. See, e.g., *Lumen Gentium* 1-3, Tanner II: 849-850.

¹⁹ *Ibid.*, 22, Cicognani again quotes Saint Thomas Aquinas. See also Cicognani’s discussion on p. 30 and Van de Wiel, *History*, 14: Distinct from [divine law] is the *ius divinum naturale*, ‘*non scripta, sed nata lex*’ (Cicero), or the laws that are obvious (*naturale*) to every reasonable being.”

harmony. Divine law only completes and specifies the data of natural law, which itself is of divine origin. The Church, therefore, cannot bypass natural law”²⁰.

John Courtney Murray recognized the importance of a re-examination and a re-vitalization of the theory of natural law, stating,

[...]the doctrine of natural law offers a more profound metaphysic, a more integral humanism, a fuller rationality, a more profound philosophy of man in his nature and history. I might say, too, that it furnishes the basis for a firmer faith and a more tranquil, because more reasoned, hope for the future. If there is a law immanent in man – a dynamic constructive force for rationality in human affairs, that works itself out, because it is a natural law, in spite of contravention by passion and evil and all the corruptions of power – one may with sober reason believe in, and hope for, a future of rational progress²¹.

If natural law derives from the nature of the human person as such, “positive law” is “what is decreed by the free will of the legislator whether divine or human”²². In other words, “positive law” requires an actor (the legislator) who places (or posits) an action (the particular law enacted by the legislator). Divine positive law derives from God and finds expression in the Old and New Testaments and Revelation. Human positive law derives from a human legislator, either ecclesiastical or civil. Civil positive law includes those laws enacted for a particular civil entity by legitimate authority and binds those belonging to that entity. “Merely” (or “only,” Latin *mere*) ecclesiastical laws derive from a human legislator within the Church – a bishop, a conference of bishops, the Bishop of Rome and/or an ecumenical council – and serve to protect and elucidate divine law.

The discipline of canon law, therefore, includes various types of law: divine law, natural law, and human positive ecclesiastical law; thus, the correct application and interpretation of a specific norm necessarily requires an understanding of the category through which that law finds expression. For example, “merely ecclesiastical laws” bind those baptized into the Catholic Church or received into it after baptism whereas natural or divine laws – by their very nature – bind all human beings, irregardless of whether they are believers or not, baptized or not. This discussion of types of law leads to the next section, on literary forms.

I.3. Canon Law and literary forms

The above discussion on types of law within the discipline of canon law indicates that each norm, law or rule needs analysis to determine whether it is an expression of divine

²⁰ Van de Wiel, *History*, 15.

²¹ John Courtney Murray, “The Doctrine Lives: The Eternal Return of Natural Law,” in *We Hold These Truths. Catholic Reflections on the American Proposition* (New York, Rowman and Littlefield Publishers, Inc., 2005) 300.

²² Van de Wiel, *History*, 30.

law, natural law, or ecclesiastical law²³. This analysis of the structure through which law finds expression is one part of the process of determining the literary form of a particular norm. In other words, the norms expressed in *The Code of Canon Law* specifically carry

[...] the message of the legislator to those for whom the law was made. To understand the meaning of the message correctly, the subjects should know that they [...] have a collection of small literary pieces widely differing from each other in nature. To catch the meaning of each, the nature of each must be determined. The literary form of a given text is part of the meaning of that text²⁴.

Having determined the literary form of a specific norm influences a number of juridic factors: the force of the norm, the extent of its applicability (for example, to specific persons or groups of persons or particular places), its specific aim[s] and intention and interpretation and application to a particular situation.

Certain canons or laws are expression of Catholic belief; Örsy calls these “dogmatic statements”²⁵. For example, in the *Code of Canon Law*, each of the seven sections dealing with a specific sacrament begins with a theological statement summarizing Catholic teaching on that sacrament. The weight of dogmatic statements does not increase with their expression as a legal norm (nor, conversely, does their weight decrease without such expression) inasmuch as dogmatic statements must be interpreted theologically not juridically²⁶.

Rather than expressing dogma, some norms express theological or philosophical theories. Again, they are interpreted and utilized according to theological or philosophical principles. Still other norms express specific rights and duties; that is, they are truly law in nature and thus are interpreted juridically. “Some of these canons are directly concerned with establishing certain structures and keeping them intact; others are primarily norms of action imposed on all or some members of the community”²⁷. Further, if an individual fails in fulfilling his or her duties or illicitly deprives another of his or her rights, that individual may incur canonical penalties.

²³ The topic of literary form applies specifically to *The Code of Canon Law* in its more narrow sense as the text of laws for the Latin Church though could also be applied to the *Code of Canons of the Eastern Churches* as well as to other types of law in the Church.

²⁴ Ladislav Örsy, “4. Interpretation: Guiding Principles,” in *Theology and Canon Law. New Horizons for Legislation and Interpretation* (Collegeville, The Liturgical Press, 1992) 53. See also his article “Theology and Canon Law,” in *New Commentary on the Code of Canon Law*, ed. John Beal et al. (New York / Mahwah: Paulist Press, 2000) 2. See also Coriden, *Introduction*, 31-32.

²⁵ Örsy, “4. Interpretation: Guiding Principles,” 53. Coriden, *Introduction*, 31, calls them “doctrinal statements”.

²⁶ Nonetheless, denial of a specific truth that must be believed with divine and catholic faith may have juridic consequences but these consequences flow from the act of denial, not that which is denied. Thus, canon 751 defines heresy as “the obstinate denial or obstinate doubt after the reception of baptism of some truth which is to be believed by divine and catholic faith [...]”; canon 1364 describes the specific penalty incurred in committing the delict of heresy.

²⁷ Örsy, “4. Interpretation,” 56.

Another type of norm is an exhortation, that is, this type encourages a certain way of acting or they propose an ideal offered to the faithful. But an exhortation does not create a right and duty situation; rather it is an ideal presented to the individual but the individual has the choice to strive for it or not.

The nature of each norm or law or rule is intrinsically necessary to proper interpretation and application of the law. For example, treating one canon as a right and duty situation when in fact it is an exhortation means that the individual gives a meaning and an import to a rule that the legislator deliberately chose not to give to that rule. In other words, the legislator could have established a right and duty norm but chose instead to exhort; he did not choose to create a binding norm. Further, if a norm is of divine or natural law, it binds everyone and no one can dispense an individual from obeying or fulfilling or following it.

Literary forms are one means to assist in understanding the nature of a particular norm or canon; *epikeia* and *aequitas* as well as the teleology of canon law provide a means to assist in the interpretation and application of that law.

I.4. The Application of the Law

I.4 a. Epikeia and Aequitas

The concepts of *epikeia* and *aequitas* are essential to a correct understanding of canon law, serving as a counterbalance to any trend towards legalism²⁸. Canonically understood, *epikeia* finds expression in

The benign application of the law according to what is good and equitable, which decides that the lawgiver does not intend that, because of exceptional circumstances, some particular case be included under his general law. [...] It is law tempered with the principles of natural justice; and such application of law is legal, that is, lawful, although it disagree with the strict letter of the law and deflect from legal justice²⁹.

Epikeia consists in the specific application of the law in a concrete case³⁰. *Epikeia* presumes that the legislator did not intend this specific result (usually harmful to an individual or to the community as such) deriving from a law that was established and promulgated. Further, *epikeia* assists to assure that [human] law does not lead to injustice.

Aequitas (equity) serves a similar function in reference to [human] law. Cicognani, quoting the Roman jurist Paulus, states, "Not everything that is permitted by law is

²⁸ See note six above.

²⁹ Cicognani, *Canon Law*, 15-16. See also Lucius Rodrigo, *Praelectiones Theologico-Morales Comillenses. Tomus II Tractatus de Legibus* (Santander, Sal Terrae, 1944) #390: "*Epiqueiae notio. Definiri ea potest benigna legis mitigatio in casu particulari contra legis verba, sed secundem mentem legislatores*".

³⁰ As such, *epikeia* cannot be applied to divine positive law or natural law. See Petrus Palazzini, *Dictionary Morale et Canonicum*, 4 volumes (Romae: Officium Libri Catholici, 1965) II: 264.

morally right [*non omne quod licet, honestum est*]” and, consequently, *aequitas* may be understood as the “correction of statute or written law”³¹. Therefore the practice of law is an art, “*ars boni et aequi*, the art of all that is good and equitable” and this art “ought to consist in a correction of the strict letter of law that works an injury, or when a positive human law is not in harmony with the principles of natural justice, or again when it is in itself so deficient that what is legally right becomes morally wrong”³². This position finds summary expression in the last canon of *The Code of Canon Law*, canon 1752, that states in part, “...the salvation of souls [...] must always be the supreme law”.

Libero Gerosa summarizes the concepts of *epikeia* and *aequitas* as follows:

In as much as it is corrective and complements the law, *aequitas canonica* allows the ecclesiastical authority to overcome the divarication between the abstractness of the norm and the concrete case, realizing a superior form of justice (entered into relationship with the *caritas* and the *miser cordia* of God) and developing an analogous function – on the objective level – to that developed by *epikeia* on the subjective level of the conscience decisions of the individual faithful. It was not by chance that Paul VI defined *aequitas canonica* as “one of the most delicate expressions of pastoral charity,” which must guide the legislator in the promulgation of laws, the interpreter in explaining them, the judges and the individual faithful in their application³³.

Aequitas and *epikeia* demonstrate once again that the law is not an end in and of itself; further, the concepts ultimately derive from the purpose or teleology of the law, the next topic in this essay.

I. 4 b. The Teleology of Canon Law

Given the above insights into the nature of law in the Catholic Church, the logical question that follows concerns the teleology or purpose of the law in the Church. A proper understanding of its purpose is necessary to appreciate that which the law strives to foster within the community of faith.

Pope John Paul II promulgated *The Code of Canon Law* –the primary legal text for the Latin Catholic Church – in 1983. In his apostolic constitution promulgating *The Code, Sacrae disciplinae leges*, John Paul II states:

As the Church’s principal legislative document founded on the juridical-legislative heritage of revelation and tradition, the Code is to be regarded as an in-

³¹ Cicognani, *Canon Law*, 13-14. The second quotation concerning correction derives from Aristotle.

³² *Ibid.*, 13.

³³ Gerosa, *Canon Law*, 77. The canonical concept of dispensation while more limited is related to the concepts of *aequitas* and *epikeia*; a dispensation is “a relaxation of a merely ecclesiastical law in a particular case” and is granted by “those with executive power within the limits of their competence.” [*The Code of Canon Law*, canon 85]. Spiritual benefit must result for the valid granting of a dispensation. These concepts recognize that the spiritual good of the individual may take precedence over the [ecclesiastical] legal norm.

dispensable instrument to ensure order both in individual and social life, and also in the Church's own activity³⁴.

Nonetheless, at the same time,

[...] it appears sufficiently clear that the Code is in no way intended as a substitute for faith, grace, charisms, and especially charity in the life of the Church and of the faithful. On the contrary, its purpose is rather to create such an order in the ecclesial society that, while assigning the primacy to love, grace and charisms, it at the same time renders their organic development easier in the life of both the ecclesial society and the individual persons who belong to it³⁵.

The Code, therefore, is one of the instruments or tools through which the Church fulfills her mission in the world. Law in the Church should not become an end in and of itself because from such a perspective law would take priority over God's revelation. At its most fundamental level, law prevents anarchy in the Church (as it does in civil society) but beyond that negative view law in the Church serves primarily as a means to ensure that all the Christian faithful, the members of the Church, have the means and assistance necessary to work for the salvation of one another, of all men and women, and of the world.

In reference to the place and role of law in the Catholic Church, Ladislav Örsy states,

The *purpose* of canon law is to assist the Church in fulfilling its task which is to reveal and to communicate God's saving power to the world. Law can help by creating order in the community, an order that leads to tranquility and peace: a good disposition for the "assembly" to become "light to the nations". The law can also be a teacher to the people as the *Torah* once was, guiding them toward the kingdom³⁶.

He summarizes his perspective by stating:

[Law] is part of the external visible sacramental structure of the Church; there it shares the composite nature of the community. In its provisions it can be human; it can display the limitations and weaknesses of our nature. It can also represent divine wisdom and thus testify that God is present among his people. It is contingent and in constant need of reform in order to be in harmony with the rhythm of life of the Church and of the surrounding world; it is constant as far as it gives effect to the word of God³⁷.

Canon law, as reflective of and integral to the Church that is both divine and human, is itself divine and human. Libero Gerosa expresses this interrelationship as follows: "... the

³⁴ John Paul II, apostolic constitution *Sacrae Disciplinaes Leges*, January 23, 1983, English translation in *The Code of Canon Law*, xx.

³⁵ *Ibid.*, xix.

³⁶ Ladislav Örsy, "Theology and Canon Law," 2.

³⁷ *Ibid.*, 3.

ultimate end of Canon Law is not simply to guarantee the *bonum commune Ecclesiae* [i.e., the common good of the Church] but rather that of realizing the *communio Ecclesiae*³⁸. Inasmuch as law is an instrument to aid the Church in fulfilling its God-given purpose, the law is best utilized by those who are familiar with its purpose, its strengths and weaknesses, its interpretation and its application to a particular situation.

For his part and from a similar perspective, James Coriden summarizes his understanding of the role of canon law as follows:

Canon Law is a species or subset within the genus of ecclesial ministry, not a species within the genus of law or lawyering. Canon Law is a vital ministry in the life of the Church's communities. Canon Law is also an academic discipline, an ancient tradition, and even a sacred science. But what is essential to grasp and hold is that Canon Law's primary identity is that of a church ministry. As ministry, Canon Law is grounded in theology, yet adapted to the pastoral needs of God's people in specific places and times, under the guidance of God's Spirit. It stands for the freedom of the faithful and strives for good order in their communities as it embodies Christ's authority as service³⁹.

Thus described, canon law serves the Christian faithful in their lives of faith and service. "Moral Theology" – that is, in general, as a discipline – also serves the Christian faithful but differently and with other means. The specific relationship between the two disciplines – the ground or presuppositions common to both – forms the next section of this essay.

II. CANON LAW AND MORAL THEOLOGY

In his article, "Bioethics and Christian Anthropology", Germain Grisez recognizes that biomedical technology may be used and used well, or it may be misused or even abused. To avoid such misuse or abuse, individuals must recognize the reality of moral truths that arise from the sanctity and dignity of human life and which find expression through the gospel of life preached by Jesus Christ⁴⁰. As one consequence of these moral truths,

[...] there are objective principles for ethics, including bioethics. Those principles, applied to possible human acts, entail moral norms – truths about what is right and wrong, good and bad, for human societies and individuals. Absolutely everyone – including health care professionals and those they serve, scientific investigators and government officials – either conforms to those moral truths or

³⁸ Gerosa, *Canon Law*, 46; the phrase *communio Ecclesiae* refers to the nature of the Church as one undivided reality, consisting both of a divine and a human element. See also footnote 9 above. Gerosa's first chapter, "The Theological Foundation of Canon Law," 5-47, gives a comprehensive overview of the place of law in the Church.

³⁹ James Coriden, *Canon Law As Ministry: Freedom and Good Order in the Church* (New York / Mahwah, Paulist Press, 2000) 20.

⁴⁰ Germain Grisez, "Bioethics and Christian Anthropology," *The National Catholic Bioethics Quarterly* (Spring, 2001) 33-34.

deviates from them. There are only two possibilities. Either people act uprightly and pursue what truly fulfills human beings or they violate moral truths and so injure both themselves and others⁴¹.

In addition, each individual has his or her own personal vocation, that is, a personal relationship with God that finds manifestation in and through the life and activities of a person. In this way, the individual participates in God's salvific plan.

In reference to the role of Scripture on bioethics, Richard Gula states that moral theology has been strongly influenced by biblical renewal, particularly since Vatican II. Thus,

[...] the Christian moral life is the expression of one's relationship to God manifest in and through one's relationship with others... Furthermore, the biblical renewal has given to moral theology and to the moral life its basic structure of call – response: God takes the initiative to call us into relationship with him; we are free to respond to God in and through our responses to the persons and events that make up our life. The moral life can be understood in this way as the response to the word and work of God manifest in and through Christ and the Spirit⁴².

Ideally, moral norms, revelation, and vocation should all work together in the unity of the person. If they do so, then,

One's personal vocation therefore becomes an important standard for determining one's affirmative responsibilities – that is, what one should do as distinct from what one should refrain from doing. That is true both in bioethical matters as well as in others. When using biomedical technology, one not only must treat everyone concerned fairly and refrain from violating any good intrinsic to persons. One also must protect and promote one's own and others' lives and health according to the requirements of one's personal vocation and within the limits of that vocation⁴³.

The particular ways in which individuals “protect and promote” lives and health may be approached from a variety of perspectives, including moral theology, bioethics and (or “and even”) canon law.

The Code of Canon Law includes certain principles that assist in demonstrating the means by which individuals “protect and promote” the lives and health of themselves and of others. These principles include the fundamental dignity of the human person; the context in which the Christian faithful exercise their rights and obligations within the Church; and the Christian faithful's participation in the functions [*munera*] of Jesus Christ. Ultimately, these principles fundamental to canon law may also be seen as fundamental to bioethics inasmuch as the latter begins with the dignity of the human person. We believe the person has been fundamentally changed through the life, death and resurrection of Jesus Christ and

⁴¹ *Ibid.*, 35.

⁴² Gula, *What are They Saying*, 29-31.

⁴³ *Ibid.*, 37.

that belief strongly impacts not only the Catholic Church's legal norms but necessarily its ethical world view and practical applicability.

III. THE FUNDAMENTAL DIGNITY OF THE HUMAN PERSON

The Second Vatican Council *Declaration on Religious Freedom* begins by stating,

The dignity of the human person is a concern of which people of our time are becoming increasingly more aware. In growing numbers they demand that they should enjoy the use of their own responsible judgment and freedom, and decide on their actions on grounds of duty and conscience, without external pressure or coercion. They also urge that bounds be set to government by law, so that the limits of reasonable freedom should not be too tightly drawn for persons or social groups. This demand in human society for freedom is chiefly concerned with the values of the human spirit, above all with the free and public practice of religion.⁴⁴

This dignity, inhering in the human person *qua* human, deserves recognition in the civil and religious realms. In the Catholic Church, this fundamental dignity of the human person includes both being human and being Christian as well as the recognition of certain natural rights in distinction to rights and obligations that derive from the reception of baptism and entrance into the community of faith. In other words, "The message of the Gospel is the dignity of the individual. The role of canon law in affirming human rights is therefore a significant one [...] As the basis for its pronouncements, the Church looks to the Gospel of Jesus Christ and the centrality of the dignity of the human person"⁴⁵. Bioethics must necessarily also reflect this dignity of the person in making decisions that impact, for example, the quality of life or whether or not certain procedures should be utilized.

Among the rights that *The Code of Canon Law* specifically mentions are the right to protect one's own privacy and the obligation not to harm illegitimately the good reputation of another person (canon 220); the right to freedom from coercion in choosing a state of life (canon 219); the right to associate (canon 215) and the right to defend oneself from penalties (canon 211, §1). Among the ecclesial rights given explicit recognition by *The Code* are the right to proclaim the gospel message (canon 211), the right to receive spiritual assistance from the pastors of the Church (canon 213); the right to promote and sustain apostolic action (canon 216); and the right to a Christian education (canon 218).

These examples illustrate the fundamental importance of the human person, an importance highlighted by Pope John Paul II in his encyclical, *Evangelium Vitae* ["The Gospel of Life"]. The Pope states,

[...] every person sincerely open to truth and goodness can, by the light of reason and the hidden action of grace, come to recognize in the natural law written in

⁴⁴ Second Vatican Council, Declaration on Religious Freedom, *Dignitas Humanae*, in Tanner, II: 1002.

⁴⁵ Kevin McKenna, *The Ministry of Law in the Church Today* (Notre Dame, Indiana, University of Notre Dame Press, 1998) 33.

the heart (cf. Rom 2:14-15) the sacred value of human life from its very beginning until its end, and can affirm the right of every human being to have this primary good respected to the highest degree. Upon the recognition of this right, every human community and the political community itself are founded⁴⁶.

Church law proceeds from a recognition and acceptance of this value (assumed as a fundamental presupposition rooted in natural law) and offers a variety of means to ensure that the person's dignity is fostered and protected. The role of law – both within the Church and within civil society – has a similar purpose: to serve and protect the dignity of the person. Similarly, so does the practice of bioethics. Pope John Paul expressed this belief as follows:

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” (1 Tim 2:2). 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 being⁴⁷.

While the pope was directly addressing civil law in this context, the same holds true for the law of the Church. Canon law – in general and specifically as expressed in *The Code of Canon Law* – is at the service of the person, both as an individual and as a member of the community of faith. Civil law must also recognize that bioethics is at the service of the person and guarantee the protection of fundamental rights that impact upon ethical decisions.

In reference to those who belong to the community of faith,

The canons on rights and obligations form part of the description, of the very identity of the Christian faithful. Immediately after the code defines who are the members of the Church (canons 204 and 205), it sets forth the implications of that membership: the rights and obligations of those who are fully incorporated, fully in communion. Prior to the treatment of sacred ministers, before the rules on the hierarchical structure of the Church, and well before the regulation of religious institutes, comes this threshold articulation of what it means to be a fully participating member of our Church. In sum, the contextual situation of these canons shows them to be of foundational significance. To call them constitutional is not an exaggeration⁴⁸.

If the context of the canons demonstrates their constitutional significance, context also influences the exercise of rights and obligations within its specific ecclesial context.

⁴⁶ John Paul II, encyclical *Evangelium Vitae*, March 25, 1995 in *Origins* 24 (April 6, 1995) #2, 691.

⁴⁷ *Ibid.*, 71.

⁴⁸ James Coriden, “A Challenge: Make the Rights Real,” *The Jurist* 45 (1985) 8.

III. 1. The context of the rights and obligations of the Christian faithful.

The process of revising the 1917 *Code of Canon Law* in light of the teaching of the Second Vatican Council led to new inclusions in the 1983 *Code of Canon Law*, one of which is entitled “The Obligations and Rights of All the Christian Faithful” (canons 208 to 223). Given their location in their Code, these obligations and rights are considered fundamental although they do not exhaust the canons dealing with rights and obligations⁴⁹.

Certain rights and obligations derive from natural law while others depend upon the reception of the sacrament of baptism; nonetheless, the Christian faithful exercise their rights and obligations *within* the specific context of the community of faith and this context exercises a determinative influence on those rights and obligations⁵⁰. The Second Vatican Council Constitution on the Church, *Lumen gentium*, states:

It has pleased God, however, to sanctify and save men and women not individually and without regard for what binds them together, but to set them up as a people who would acknowledge him in truth and serve him in holiness⁵¹.

In his salvific plan, God intended a community of faith. The mission of the Church, therefore, is not exercised by men and women as individuals but rather exercised by them within a unified community in which all the faithful participate and work for their salvation and the salvation of others⁵². As one consequence, for canon law as for bioethics, the person of Jesus Christ essential: “What makes Christ the central moral norm is not any explicit moral teaching, but who Jesus was and who he is as the Christ⁵³. Further, discipleship – the following of Christ – occurs within the community of faith.

This perspective finds elaboration in the Code itself. Canon 208 states:

In virtue of their rebirth in Christ there exists among all the Christian faithful a true equality with regard to dignity and the activity whereby all cooperate in the building up of the Body of Christ in accord with each one's own condition and function.

⁴⁹ See, for example, canons 224 – 231 that concern “The Obligations and Rights of the Lay Christian Faithful;” canons 273-289, “The Obligations and Rights of Clerics;” and canons 662-672, “The Obligations and Rights of Institutes and their Members.”

⁵⁰ For fuller treatment of this context for obligations and rights, see Robert Kaslyn, “Title I. The Obligations and Rights of All the Christian Faithful,” in *New Commentary on the Code of Canon Law* J. Beal, J. Coriden and T. Green, eds. (New York / Mahwah, Paulist, 2000) 254-258.

⁵¹ Second Vatican Council, Dogmatic Constitution on the Church, *Lumen gentium*, 9 in Tanner, II: 855.

⁵² Even a hermit or one engaged in a apostolate without the explicit assistance of others nonetheless is acting as a member of the community of faith and relies on the other faithful for spiritual and other assistance.

⁵³ Gula, *What are They Saying*, 112.

This fundamental equality, which does not deny diversity, derives from the nature of the person. At the same time, however, the individual does not live in isolation; therefore, each individual must remain in communion with the Church (canon 209) and, at times, the common good can take precedence over individual rights (canon 223).

These two canons, the obligation to maintain communion and the priority of the common good, together form a frame for exercising, interpreting and applying individual rights and obligations. For example, all of the Christian people have the duty and the right to proclaim the good news of salvation (canon 211) and must promote the growth of the Church and its sanctification (canon 210). These activities must occur within and with the community of faith, not independently of it or without concern for the different conditions and functions within that community. Natural rights – such as the right to protect one’s own privacy, canon 220 – find their proper context in the community of faith. In other words, the right to privacy does not exist as an absolute in isolation but only in reference to the community of faith and in relationship with the other Christian faithful.

The Church exists in order to fulfill the mission entrusted to her by Jesus Christ; this mission provides the specific context for a discussion of ecclesiology, that is, the nature of the Church and for the exercise of rights and obligations as well as for making good moral choices. Moral choices are not made in isolation but within the framework of the community of faith. This framework receives further specification through a discussion of the faithful’s participation in the triple *munera* of Jesus Christ.

III. 2. The participation of the Christian faithful in the triple *munera* of Jesus Christ.

Canon 204 §1 of the Code of Canon Law expresses certain effects deriving from the reception of baptism:

The Christian faithful are those who, inasmuch as they have been incorporated in Christ through baptism, have been constituted as the people of God; for this reason, since they have become sharers in Christ’s priestly, prophetic and royal office [*muneris*] in their own manner, they are called to exercise the mission which God has entrusted to the Church to fulfill in the world, in accord with the condition proper to each one.

Through reception of the sacrament of baptism, all the Christian faithful are called to share in the triple *munera* (*munus*, *munera*, the Latin term often translated as function, task or responsibility) of Jesus Christ who is priest, prophet, and ruler. The Christian faithful participate in varying ways in these *munera*, depending upon their state in life (single or married, ordained, as a member of an institute or society) and other factors such as age and personal capacity and ability⁵⁴.

⁵⁴ The theological construct of “the triple *munera* of Jesus Christ, priest, prophet and ruler” experienced a revival particularly since the Second Vatican Council but is found, e.g., in the *Institutes of the Christian Reli-*

Such participation necessarily influences one's personal vocation – the necessity to refrain from violating any intrinsic good and, positively, “protecting and promoting” one's own and others' lives and health⁵⁵. The moral life is as much a part of who the individual Christian is inasmuch as it too derives from our faith and belief in the salvific life, death and resurrection of Jesus Christ. Consequently,

Everyone has an obligation to be at the service of life. This is a properly “ecclesial” responsibility, which requires concerted and generous action by all the members and by all sectors of the Christian community. This community commitment does not however eliminate or lessen the responsibility of each individual, called by the Lord to “become the neighbor” of everyone: “Go and do likewise” (Lk 10:37). Together we all sense our duty to preach the Gospel of life, to celebrate it in the Liturgy and in our whole existence, and to serve it with the various programs and structures which support and promote life⁵⁶.

From the perspective of bioethics,

Discipleship, following Christ, is what is at the heart of claiming Christ as the norm of the moral life. We number ourselves among generations of Christians who have found most compelling in Jesus the fact that he was one of us. He is one who has known our pain and our joy and reveals our deepest possibilities. Jesus lives his life with his heart set on one thing – the Father and the kingdom. The core of the mission of Jesus was to proclaim the kingdom of God⁵⁷.

If bioethics is rooted in discipleship inasmuch as it requires following Christ, then participation in the triple *munera* of Jesus Christ is the fundamental form of discipleship from a canonical perspective.

In other words, discipleship is exercised in a variety of ways; certain specific possibilities will be suggested, following the model of the participation of the Christian faithful in the triple *munera* of Jesus Christ, priest, prophet and ruler.

Using such a model applies equally to the disciplines of canon law and bioethics:

Evangelization is an all-embracing progressive activity through which the Church participates in the prophetic, priestly, and royal mission of the Lord Jesus. It is therefore inextricably linked to preaching, celebration and the service of charity. Evangelization is a profoundly ecclesial act, which calls all the various workers of the Gospel to action, according to their individual charisms and ministry. This is also the case with regard to the proclamation of the Gospel of life [...] ⁵⁸.

gion by John Calvin. The expression attempts to convey the ministry of Jesus as priest or sanctifier, as teacher or prophet, and as ruler (which for Jesus is servant leadership). See, for example, Robert Kaslyn, “Part I. The Christian Faithful [cc.204-329]” in *The New Commentary*, comment on canon 204, 245-247.

⁵⁵ See the discussion above under II. Canon Law and Moral Theology.

⁵⁶ John Paul II, *Evangelium vitae*, #79, 717.

⁵⁷ Gula, *What are They Saying*, 113.

⁵⁸ *Ibid.*, #78, 716.

Both the practice and interpretation of canon law as well as the process leading to Christian ethical thinking and decisions are ecclesial activities, inasmuch as both exist in reference to the community of faith. Particular examples of each *munus* will further explicate the interconnection between the two disciplines.

III.2.a. Participation in the prophetic munus of Jesus Christ

Various ways exist in which the faithful participate in the prophetic or teaching *munus* of Jesus Christ. For example, canon 218 states, “Those engaged in the sacred disciplines have a just freedom of inquiry and of expressing their opinion prudently on those matters in which they possess expertise, while observing the submission due to the magisterium of the Church”. Lay people specifically have the “particular duty to imbue and perfect the order of temporal affairs with the spirit of the gospel and thus to give witness to Christ” (see canon 225 §2). Further, they have the right to acquire knowledge of the sacred sciences and thus become “qualified to receive from legitimate ecclesiastical authority a mandate to teach” these subjects (canon 229 §2). Lay persons, due to their baptism and confirmation, “are witnesses of the gospel message by word and the example of the Christian life; they can also be called upon to cooperate with the bishop and presbyters in the exercise of the ministry of the word” (canon 759). Lay persons can preach in certain circumstances (canon 766). All the faithful must have solicitude for catechesis (canon 774 §1) and, in particular, parents “are obliged to form their children by word and example in faith and in the practice of the Christian life” (Canon 774 §2).

Such participation in the teaching *munus* of Christ pertains to the area of bioethics as well:

The Church’s teachers are charged with carrying on Jesus’ prophetic mission by clarifying and emphatically proclaiming the truth about human good. But all Christ’s faithful are charged with bearing witness to that same truth by imitating Jesus’ self-sacrificing love. And though we often fail to speak and act as we should, some of the Church’s teachers and members are clear-headed, courageous and holy. Such good pastors and faithful Christians serve humankind well by concretizing moral truths so that they remain understandable and inspiring⁵⁹.

Through word and example, all the Christian faithful testify to the dignity of the human person; further, their teaching role is needed in the area of moral decisions:

Where can ordinary Catholics find a social space [...] where plain persons can examine their actions and commitments not *qua* role but *qua* human person? This seems to me to be a promising account of what our classrooms might attempt to be.

⁵⁹ Grisez, “Bioethics and Christian Anthropology,” 36.

Hopefully in the long run, parishes or other forms of local Christian community can be spaces where this sort of examination can go on⁶⁰.

The Christian faithful, through reception of the sacraments of baptism and confirmation and by leading lives of faith, and with the necessary capabilities, can be a means for the Church to educate people about moral norms and, more specifically, the broader basis fundamental to bioethics.

At the same time, as noted above, the Christian faithful must exercise their rights and obligations within the communion of the Church and with concern for the common good of the Church as a whole. Therefore, their participation the teaching or prophetic *munus* occurs within the community of faith and in due respect for the magisterium (teaching authority) of the Church. Thus, while the faithful have the right and even the duty “to manifest to sacred pastors their opinion on matters which pertain to the good of the Church and to make their opinion known to the rest of the faithful” such exercise must protect “the integrity of faith and morals,” indicate reverence toward the pastors of the Church and take cognizance of the dignity of all persons (see canon 212 §3). Once again, the context of the exercise of a right as well as a participation in one of the three *munera* must be done in the context of the community of faith.

III.2.b. The participation of the Christian faithful in the sanctifying munus of Jesus Christ

In addition to their participation in the teaching *munus* of Jesus Christ, all the Christian faithful participate in the sanctifying *munus* as well. In other words, according to canon 210, “All the Christian faithful must make an effort, in accord with their own condition, to live a holy life and to promote the growth of the Church and its continual sanctification”. They have the right “to worship God according to the prescripts of their own rite” (canon 214) and the lay faithful who are married “are bound by a special duty to work through marriage and the family to build up the people of God” (canon 226 §1). The Christian faithful “have their own part in the function of sanctifying by participating actively in their own way in liturgical celebrations, especially the Eucharist” (canon 835 §4).

Participation in the sanctifying *munus* necessarily impacts upon the moral realm as well as Pope John Paul II states:

As part of the spiritual worship acceptable to God (cf. Rom 12:1), the Gospel of life is to be celebrated above all in daily living, which should be filled with self-giving love for others. In this way, our lives will become a genuine and responsible acceptance of the gift of life and a heartfelt song of praise and gratitude to God who has given us this gift. This is already happening in the many different acts of

⁶⁰ Cloutier, “Moral Theology,” 133.

selfless generosity, often humble and hidden, carried out by men and women, children and adults, the young and the old, the healthy and the sick⁶¹.

The sanctifying *munus* finds expression not only in the worship of God but also in the celebration of life, which necessarily impacts upon moral decision making. Through service of one another the Christian faithful worship God; through a respect for life and for the moral law, the faithful render thanks to God for the gifts he has given to them.

III.2.c The participation of the Christian faithful in the ruling [shepherding] munus of Jesus Christ

In virtue of their baptism, all the Christian faithful have the right to participate in the shepherding function of Jesus Christ, following His example of understanding “ruling” in terms of service (see, for example, John 13: 1-20). Thus the Christian faithful possess “the right to promote or sustain apostolic action even by their own undertakings” (canon 216); the lay Christian faithful can hold “ecclesiastical offices and functions” for which they are qualified (c. 228 §1) and can provide expertise and advice (canon 228 §2). The lay faithful who devote themselves to service in the Church have the right “to decent remuneration appropriate to their condition” (canon 231 §2).

The proper understanding of the ruling [shepherding] *munus* requires an understanding of ruling, or better, authority in the Church: “[...] authority as service goes to the very essence of what power is within the church. It reveals the nature of Christ’s mission”⁶². In other words, all authority should be understood as service, whether participation in this authority pertains to the ordained or to the laity. In reference to this *munus*, therefore, two aspects may be distinguished: the first, service of charity, the second, direction of the Christian faithful.

The first, the service of charity, is directly addressed by John Paul II:

By virtue of our sharing in Christ's royal mission, our support and promotion of human life must be accomplished through the service of charity, which finds expression in personal witness, various forms of volunteer work, social activity and political commitment. [...] In our service of charity, we must be inspired and distinguished by a specific attitude: we must care for the other as a person for whom God has made us responsible. As disciples of Jesus, we are called to become neighbors to everyone (cf. Lk 10:29-37), and to show special favor to those who are poorest, most alone and most in need. In helping the hungry, the thirsty, the foreigner, the naked, the sick, the imprisoned-as well as the child in the womb and the old person who is suffering or near death-we have the opportunity to serve Jesus. He himself said: "As you did it to one of the least of these my brethren, you did it to me" (Mt 25:40)⁶³.

⁶¹ John Paul II, *Evangelium Vitae*, #86, 718.

⁶² Coriden, *Canon Law as Ministry*, 111.

⁶³ John Paul II, *Evangelium Vitae*, #87, 719.

Demonstrating the authority of Jesus Christ as He exercised it, in service of men and women and their particular needs and situation, is intimately connected to the discipline of bioethics rooted in the Gospel and in the life and actions of Jesus Christ. As already noted, discipleship implies Jesus Christ as the norm of the moral life.

In reference to the second aspect, participation in the ruling *munus*:

Authority in the churches is necessarily participative. The necessity arises from the nature of the Church as a communion of the faithful and as a people who are fundamentally equal. Those who belong to this people have the right and duty to be actively engaged in the direction of the church, just as all are to be active participants in its actions of worship⁶⁴.

Participation in the *munus* of ruling or shepherding – as with the other two *munera*, sanctifying and teaching – derives from reception of the sacrament of baptism and is directed towards service and mission.

CONCLUSION

The canonical explication of the laity's participation in the triple *munera* of Jesus Christ – ruling, sanctifying, and teaching as He shows us by example – necessarily derives from the sacrament of baptism and therefore the exercise of triple *munera* must be done within the context and at the service of the community of faith. That community of faith has as its purpose or reason for existence the mission entrusted to it by Jesus Christ and therefore all activities of that community must relate to that mission, that is, either as deriving from it or considered necessary for its fulfillment and presupposing the presence of the Spirit as guarantor of fidelity to that mission.

This same community of faith is also the specific context within which fundamental moral principles are sought, meditated upon and appropriated in a particular historical situation. Bioethics encompasses life in all its manifestations, from birth to death and includes the broad expanse of humanity as it exists in this particular historical situation and place. Jesus Christ is essential to the community, both as founder and as goal; Jesus Christ is essential to bioethics inasmuch as human life can only be understood in reference to the life, death and resurrection of Jesus Christ. Further, inasmuch as the Gospel – the proclamation of the good news of Jesus Christ – is essential to the community, then that Gospel is essential not only to its structures and its laws – the discipline of canon law – but is also essential to its discipline of moral theology. Canon law and moral theology derive from the same revelation of God and ultimately exist at the service of that same re-

⁶⁴ Coriden, *Canon Law as Ministry*, 122-123. Perhaps especially in reference to the ruling / shepherding *munus*, this understanding may seem to some to exist as an ideal rather than as a reality in a given situation of the Christian faithful today. But the Church is a pilgrim people, and as it progresses through history under the guidance of the Spirit, such ideals will become more and more explicit until they reach fulfillment in the reign of God.

relation and therefore they should be at the service of each other and not perceived in a contradictory way. If the 'salvation of souls' is the purpose and goal of canon law, no less is that same salvation the proper goal of moral theology:

[...] although the *telos* of canon law is expressed with the words "salvation of souls," it should serve the whole person on every level because that corresponds to the *telos* of creation and redemption. For canon law it implies that the application of norms takes place while the law and the particularity of a case are placed in a hermeneutical relationship governed by the principle of mercy⁶⁵.

As Jesus says (quoting the prophet Hosea) in the Gospel of Matthew 12:6 "I desire mercy and not sacrifice".

⁶⁵ Myriam Wijlens, "*Salus Animarum Suprema Lex: Mercy as a Legal Principle in the Application of Canon Law?*", *The Jurist* 54 (1994) 590.