Part II *Applications*

Human Dignity and Homosexuality in Catholic Teaching: An Anthropological Disconnect between Truth and Love?

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Abstract

Catholic teaching proposes a definition of sexual human dignity that finds truth and love in the meaning of sexual acts between spouses in heterosexual marriage. For those acts to be moral between fertile couples, they must be potentially-reproductive acts, but that requirement does not hold for infertile couples. The Church proposes sexual norms and legislation based on that definition. We propose a definition of human sexuality that finds love and truth in all just and loving heterosexual, homosexual, and bisexual potentially-reproductive and non-reproductive acts, and we propose norms and legislation based on that definition. Underlying these different proposals are different sexual anthropologies and definitions of human dignity. In this paper we first briefly explain and then critique Catholic teaching on homosexual orientation, moral norms governing homosexual relationships, and legislative norms derived from these teachings and defended by the Church.

Keywords

anthropology – complementarity – discrimination – homosexual adoption – homosexual acts – human dignity – Pope Francis – sexual orientation

1 Introduction

Catholic teaching and Catholic ethicists espouse an objective meta-ethic, the good can be defined and is defined as human dignity. What facilitates human dignity is good and right, what frustrates human dignity is bad and wrong. A fundamental anthropological and ethical question arises immediately: how do we define human dignity? Catholic teaching has a conflicted recent history, on the one hand emphasizing and promoting human dignity and on the other hand denying homosexuals equal access to marriage, adoption, and employment on the basis of its teachings about the objective disorder in homosexuals. This conflict is very evident in Pope Francis' statements on homosexuality. On his return flight from the 2013 World Youth Day in Brazil he made his now famous statement: "If a person is gay and seeks out the Lord and is willing, who am I to judge?"¹ In his recent book, he explains that statement: "I was paraphrasing by heart the *Catechism of the Catholic Church* where it says that these people should be treated with delicacy and not be marginalized." "I am glad", he continues, "that we are talking about 'homosexual people' because before all else comes the individual person, in his wholeness and dignity. And people should not be defined only by their sexual tendencies: let us not forget that God loves all his creatures and we are destined to receive his infinite love."² He has also opposed legislation promoting same-sex marriage and adoption of children by homosexual couples.³ In Francis' statements in specific, and in Catholic teaching in general, there is a tension between promoting human dignity and God's unconditional love for all human beings and what Church teaching understands to be God's truth about the meaning of human sexuality. The connection between love and truth in relation to homosexual persons is forcefully articulated by the United States Conference of Catholic Bishops (USCCB).

In its 1997 document, "Always Our Children", the USCCB calls parents to accept and love their homosexual children "as a gift of God" and to accept "the

¹ See McElwee, *Francis Explains*.

² Francis, *The Name of God Is Mercy*, p. 61 et seq.

³ See New Ways Ministry, *The Many Faces of Pope Francis*.

full truth of God's revelation about the dignity of the human person" while, at the same time, accepting the full truth of "the meaning of human sexuality".⁴ That meaning is, according to Catholic teaching, that sexual acts are moral only between married couples. For naturally fertile couples, only potentially-reproductive sexual acts are moral; for naturally fertile couples and for homosexual couples, all non-reproductive type sexual acts, such as anal or oral sexual acts, are immoral by definition. The Document goes on to assert that "Within the Catholic moral vision there is no contradiction among these levels of acceptance, *for truth and love are not opposed*. They are inseparably joined and rooted in one person, Jesus Christ, who reveals God to be ultimate truth and saving love."⁵ We fully agree that truth and love are inseparably joined and that they are incarnated in Jesus. Our question is whether the love and truth the Church promotes for all people is promoted also in its definition of human dignity and the meaning of human sexuality for homosexuals.

Catholic teaching proposes a definition of human dignity that finds love and truth in the meaning of human sexuality limited to sexual acts in heterosexual marriage, and proposes norms and legislation based on that definition. We propose a definition that finds love and truth in the meaning of human sexuality that embraces all just and loving heterosexual, homosexual, and bisexual acts, and we propose norms and legislation based on that definition. Underlying these different proposals are different sexual anthropologies and definitions of human dignity. In this paper we first briefly explain and then critique Catholic teaching on homosexual orientation, moral norms governing homosexual relationships, and legislative norms derived from these teachings and defended by the Church.

2 Church Teaching on Homosexuality

The tension between the Church's teaching on human dignity and its teaching on homosexuality is evident in the language it uses to describe homosexual orientation, its moral norms governing homosexual relationships, and its advocacy for legislation to promote the common good regarding homosexual people. We consider each in turn.

Homosexual orientation is, the Church teaches, "objectively disordered" and homosexual acts are "intrinsically disordered". The former teaching means that homosexual orientation, though not sinful, "is a more or less strong tendency

⁴ USCCB, *Always Our Children*.

⁵ USCCB, *Always Our Children*. Emphasis added.

ordered toward an intrinsic moral evil; and thus the inclination itself must be seen as an objective disorder.” The latter teaching affirms the tradition that “has always declared that ‘homosexual acts are intrinsically disordered’. They are contrary to the natural law and close the sexual act to the gift of life. They do not proceed from a genuine affective and sexual complementarity. Under no circumstances can they be approved.”⁶ On the basis of these definitions, the Church lobbies for civil legislation that prohibits same-sex marriage, homosexual adoption, and challenges non-discrimination legislation based on homosexual orientation and gender.

In addresses to pilgrims from Slovakia and Slovenia, Pope Francis expressed support for legislation prohibiting marriage equality and adoption rights for homosexual couples.⁷ The Congregation for the Doctrine of the Faith asserted in 2003, without any supporting evidence, that permitting legal adoption by same-sex couples is “gravely immoral” and “would actually mean doing violence to these children”.⁸ In 2014, Pope Francis emphasized fundamental differences between men and women that are “an integral part of being human”, and said heterosexual marriages were essential for good parenting.⁹ In the United States, the USCCB has vociferously resisted same-sex marriage, homosexual adoption, and non-discrimination legislation that would protect homosexual and transgender people from employment discrimination. To justify its positions, the Church relies on the anthropological claim that homosexual orientation is an objective disorder, on the normative claim that all homosexual acts are intrinsically disordered and are a threat to the common good, and the assertion that “every sign of *unjust discrimination* in regard [to homosexual persons] should be avoided”.¹⁰ The latter assertion implies the possibility in the Church’s judgment of *just discrimination* against homosexuals.

3 Anthropology, Human Dignity, and Homosexual Persons

We believe that Catholic teaching on homosexual orientation, the absolute norms it defends and the legislation it proposes reflect a distorted anthropology and violate human dignity. Drawing from reason and experience, recognized but largely ignored sources of ethical knowledge in Catholic teaching

6 *Catechism*, n. 2357.

7 See Shine, *Slovenia Rejects Marriage Equality*.

8 Congregation for the Doctrine of the Faith, *Considerations Regarding Proposals*, no. 7 (henceforth, *CRP*).

9 Scammell, *Children Need Heterosexual Parents*.

10 *Catechism*, no. 2358.

on homosexuality, we critique Catholic teaching and propose an alternative definition of human dignity. Like Catholic teaching, our proposal is grounded in the truth of God's unconditional love for all people. Unlike that teaching, it argues that the meaning of human sexuality recognizes *both* homosexual and heterosexual orientations as objectively ordered and that potentially-reproductive heterosexual and non-reproductive heterosexual and homosexual acts may be moral sexual acts. On the basis of this anthropology and norms, we argue for legislation to permit same-sex civil unions, adoption by homosexual couples, and non-discrimination legislation.

4 Human Dignity and Homosexual Orientation

First, there is a clear tension in Catholic language about homosexuality. The *Catechism* calls for "respect, compassion and sensitivity" towards homosexuals,¹¹ yet Catholic teaching continues to use language to describe homosexuality that is disrespectful, lacks compassion, and is insensitive. It labels homosexual orientation an "objective disorder". Mark Jordan makes an important association between original sin and homosexual orientation that is evident in a subtle, Vatican-approved revision to the USCCB's *Always Our Children*.¹²

In the original letter, sexual orientation is described as a 'fundamental dimension' of human beings; in the revised version, it is a 'deep-seated dimension' [...]. 'Fundamental' might suggest that sexual orientation is part of one's being as a divine creation, while 'deep-seated' only implies that sexual orientation is stubborn. Humanity [and human dignity] is fundamental; Original Sin is deep-seated. Homosexuality is more like Original Sin than like humanity.¹³

If Jordan's claim that the USCCB's identification of homosexual orientation with original sin is accurate, and we believe it is, then the claim that such an orientation is "objectively disordered" is not a morally neutral ontological assertion, as the Church claims, but a negative anthropological moral assertion. To have a homosexual orientation is to have a strong propensity towards intrinsically evil acts. The anthropological claim of homosexual orientation as a deep-seated dimension and objective disorder in homosexual persons is in serious tension with the claim that homosexual persons have human dignity;

¹¹ *Catechism*, no. 2358.

¹² USCCB, *Always Our Children*.

¹³ Jordan, *The Silence of Sodom*, p. 47.

the two claims clash. The anthropological claim is also in serious tension with what the sciences tell us about homosexual orientation.

Currently, there is no scientific consensus on the origins of sexual orientation, homosexual, heterosexual, or bisexual. Catholic teaching recognizes this lack of scientific consensus; the psychological genesis of homosexuality “remains largely unexplained”.¹⁴ Despite this acknowledgement, basing itself largely on scripture and tradition, Catholic teaching continues to claim that a homosexual orientation is objectively disordered. Relying on science and experience, many Catholic ethicists challenge this claim.

Neuroscientific and genetic studies have evolved dramatically in their ability to identify areas in the brain that shape a person's sexual orientation and gender. Based on scientific research, Jacques Balthazart asserts that “sexual orientation is probably under the control of embryonic endocrine/genetic phenomena in which there is little room for individual choice.”¹⁵ This hypothesis has been substantiated by scientists employing different methodologies. Simon LeVay's extensive research on the origins of homosexual orientation begins with sexual orientation in humans and supports these specific observations in humans with animal studies.¹⁶ Balthazart's research comes from the other direction, beginning with sexual orientation in animals and then seeing how these studies apply to humans. Nonetheless, both scholars reach the same conclusion: “homosexuality in humans is to a very large extent, if not exclusively, determined by biological factors acting prenatally or soon after birth and that the social or educational environment plays at best a subsidiary role in this determinism”.¹⁷ Based on such studies, James Allison challenges the claim that a homosexual orientation is objectively disordered. “There is no longer any reputable scientific evidence of any sort: psychological, biological, genetic, medical, neurological – to back up the claim.”¹⁸

These studies provide scientific, biological explanations of the genesis of homosexuality and challenge the assertion that homosexual orientation is objectively disordered. David Matzko McCarthy presents a logical and theological explanation detailing why the Church's claim that homosexual orientation is objectively disordered is both inconsistent and inaccurate. Church teaching defines heterosexual orientation as normative, the *natural* explanation of the nuptial metaphor, and defines homosexual orientation as objectively

14 *Catechism*, no. 2357.

15 Balthazart, *The Biology of Homosexuality*, p. x.

16 See LeVay, *Gay, Straight*.

17 Balthazart, *The Biology of Homosexuality*, p. xi.

18 Allison, *The Fulcrum*, p. 9.

disordered. Homosexual orientation is objectively disordered in the *desire* for a person of the same-sex (“A homosexual orientation produces a stronger emotional and sexual attraction toward individuals of the same sex, rather than toward those of the opposite sex”),¹⁹ and because it creates a “strong tendency” towards homosexual *acts* that are intrinsically evil.²⁰ This emphasis on desire and act highlights the inconsistency in Catholic teaching in the term “orientation” when it comes to heterosexual or homosexual orientation. Whereas heterosexual orientation focuses on the complementarity of two embodied persons, biologically, affectively, socially, and spiritually,²¹ homosexual orientation focuses on desire and acts.

McCarthy provides a theological definition of homosexual orientation which, aside from heterogenital complementarity, is consistent with Catholic teaching’s understanding of heterosexual orientation. “Gay men and lesbians are persons who encounter the other (and thus discover themselves) in relation to persons of the same sex. This same-sex orientation is a given of their coming to be, that is, *the nuptial meaning of human life emerges* for a gay man in relation to other men and for a woman when face to face with other women.”²² In a steadfast interpersonal union, then, homosexual couples give their bodies to one another and are “theologically communicative”; that is, they are witnesses to the community of God’s “constancy and steadfast fidelity.”²³ In their witness, homosexual couples have *iconic significance* in their sexuality through embodied interpersonal union, just as heterosexual couples, both fertile and infertile, have *iconic significance* in their sexuality in their embodied interpersonal unions. Hetero-genital complementarity is not a determining factor. Rather, two embodied persons, heterosexual or homosexual, in permanent interpersonal union, who reflect God’s constant love and steadfast fidelity are the determining factor. In the case of fertile heterosexual couples, embodied interpersonal union is potentially procreative; in the case of infertile heterosexual and homosexual couples, embodied interpersonal union is not potentially procreative. Embodiment and the nuptial metaphor, however, are essential to all three interpersonal unions.

There is no doubt that all animals have genitals in order to reproduce. Human animals have added a second meaning to their genital activity, namely, to express in a bodily activity the personal love they have for one another, in

19 USCCB, *Always Our Children*; CDF, *Persona humana*, no. 8.

20 See CDF, *Letter to the Bishops*, no. 3, at p. 379; and, Vatican *List of Catechism Changes*, p. 257.

21 See CCE, *Educational Guidance*, no. 35, p. 13 (henceforth *EGHL*).

22 McCarthy, *The Relationship of Bodies*, p. 212 et seq. Emphasis added.

23 McCarthy, *The Relationship of Bodies*, p. 213.

the common phrase to make love. Even if scientific studies and theological explanations indicate that it is inaccurate to label homosexual orientation objectively disordered because it leads to a desire for persons of the same sex and to non-reproductive sexual acts, it still leaves open the question of whether homosexual acts, by definition, frustrate human dignity. To that we now turn.

5 Human Dignity and Homosexual Acts

The anthropological claim that a homosexual inclination is objectively disordered is contingent, in large part, on whether or not homosexual acts are intrinsically immoral. According to the CDF, “Although the particular inclination of the homosexual person is not a sin, it is a more or less strong tendency ordered toward an intrinsic moral evil; *and thus* the inclination itself must be seen as an objective disorder.”²⁴ The central reason why homosexual orientation is labeled objectively disordered is that it provides a “strong tendency ordered toward an intrinsic moral evil”. If it can be established that homosexual acts are not intrinsically evil, then the anthropological claim that homosexual orientation is objectively disordered would have to be reconsidered.

The Church teaches that homosexual acts are intrinsically disordered for the following reasons: they “are contrary to the natural law”, the principles of which are reflected in human nature itself; “they close the sexual act to the gift of life”; and “they do not proceed from a genuine affective and sexual complementarity.”²⁵ We consider each of these teachings in turn.

5.1 *Natural Law Argument*

First, every human being has a nature that is always interpreted and socially constructed by reason. The result may be, therefore, different cultural interpretations of what constitutes human nature. The meaning of the phrase sexual orientation as part of nature is not universally agreed upon, but the Catholic Church distinguishes between “a homosexual ‘tendency,’ which proves to be ‘transitory,’ and ‘homosexuals who are definitively such because of some kind of innate instinct.’” It goes on to declare that “it seems appropriate to understand sexual orientation as a *deep-seated* dimension of one’s personality [or nature] and to recognize its *relative stability* in a person.”²⁶ Sexual orientation is predominantly heterosexual, homosexual, or bisexual. This natural, socially,

24 CDF, *Letter to the Bishops*, no. 3. Emphasis added.

25 *Catechism*, no. 2357; CDF, CRP, no. 4.

26 USCCB, *Always Our Children*. Emphasis added. See also CDF, *Persona humana*, no. 8.

and experientially revealed reality may be obscured by the statistical preponderance of persons of heterosexual orientation, but it is in no way negated by that statistical preponderance. We are in complete agreement with the CDF when it teaches that “there can be no true promotion of man’s [and woman’s] dignity unless the essential order of his [and her] nature is respected.”²⁷ We disagree with the CDF, however, on its exclusively heterosexual interpretation of that “essential order of [human] nature”.

Humans have no access to pure, unembellished nature. Nature reveals to their attention, understanding, and judgment, only its naked fact. Everything beyond that fact is the result of interpretation by attentive, intelligent, and responsible persons; we experience nature only as rationally interpreted and socially constructed. Our sexual anthropology, then, recognizes sexual orientation as an intrinsic dimension of human nature, and what is accepted as natural sexual activity will vary depending on whether a person’s orientation is homosexual or heterosexual. Homosexual acts are natural for people with a homosexual orientation, heterosexual acts are natural for people with a heterosexual orientation. They are natural because they reflect the person’s fundamental human nature as interpreted by right reason. To be ethical, we stipulate, every sexual act, homosexual or heterosexual, must be not only natural but also free, just, loving, and respectful of the human dignity and flourishing of both partners.

5.2 *Procreation Argument*

We consider, second, the claim that homosexual acts “close the sexual act to the gift of life”. If one explores the Catholic Church’s concept of “openness to the transmission of life” in biological terms, then potentially-reproductive and permanently or temporarily non-reproductive heterosexual acts are essentially different types of acts. “A sterile person’s genitals”, Andrew Koppleman points out, “are no more suitable for generation than a gun with a broken firing pin is suitable for shooting.” It is a conceptual stretch, he goes on, “to insist that the sexual acts of the incurably infertile are of the same kind as the sexual acts of fertile organs that occasionally fail to deliver the goods.”²⁸ Both gays and lesbians are naturally sexed human beings and their sexual activity is as incurably infertile as the acts of permanently infertile married heterosexuals, which the Catholic Church recognizes as legitimate and ethical. If we explore “openness to the transmission of life”, not in biological but in relational terms, then both

27 CDF, *Persona humana*, no. 3.

28 Koppleman, *Natural Law (New)*, p. 708.

homosexual and heterosexual couples can exhibit just and loving significance in their unions and sexual acts.²⁹

5.3 *Complementarity Argument*

We consider, third, the Church's teaching that gay and lesbian acts "do not proceed from a genuine affective and sexual complementarity". Catholic teaching posits an ontological gender binary between male and female that is God-given and uses the term "complementarity" to articulate its position. Complementarity intends that there are certain realities that belong together and that together produce a whole which neither produces alone. We note the following characteristics of complementarity. First, it is nearly always classified along masculine and feminine lines,³⁰ and this classification is used metaphorically, biologically, or in a combination of both. Second, it is often formulated by Pope John Paul II as a theology of the body or "nuptial hermeneutics", in terms of bridegroom and bride.³¹ Third, in its theological anthropology, Catholic teaching posits an "ontological complementarity" whereby men and women, though fundamentally equal and complete in themselves,³² are incomplete as a couple.³³ Heterosexual complementarity completes the couple in marriage and reproductive-type sexual acts by bringing the masculine and feminine biological and psychological elements together in a unified whole.

The Church consistently condemns homosexual acts on the grounds that they violate heterosexual and reproductive complementarity but it never attempts to explain why they also violate *personal* complementarity other than to assert, with no supporting evidence, that they "do not proceed from a genuine affective and sexual complementarity."³⁴ The Church may nowhere have confronted this question of affective complementarity but monogamous, just, loving, mutually-committed homosexual couples have confronted it experientially, and they testify that they do experience affective and personal complementarity in and through their homosexual acts.

29 For development and detail, see Salzman/Lawler, *Quaestio Disputata*, p. 631–635; and McCarthy, *The Relationship of Bodies*, p. 200–216.

30 It is important to note that the distinction between biological sex (male/female) and socially conditioned gender (masculine and feminine) is frequently absent in Magisterial discussions of complementarity. See Ross, *The Bridegroom and the Bride*, p. 56, no. 5.

31 Pope John Paul II, *The Theology of the Body*. See Ross, *Bridegroom and the Bride*; and McCarthy, *The Relationship of Bodies*, p. 206–210.

32 See John Paul II, *Authentic Concept of Conjugal Love*, p. 655.

33 See John Paul II, *Letter to Women*, p. 141, no. 7.

34 *Catechism*, no. 2357.

Some thirty-five years ago, while acknowledging that the question of same-sex relations is a question of dispute, Margaret Farley, focusing on experience as a source of ethical knowledge, noted the anecdotal experiences of homosexual couples and commented that we

have some clear and profound testimonies to the life-enhancing possibilities of same-sex relations and the integrating possibilities of sexual activity within these relations. We have the witness that homosexuality can be a way of embodying responsible love and sustaining human friendship.

More recently, she notes that the experiential testimonies of such couples witness “to the role of such loves and relationships in sustaining human well-being and opening to human flourishing.”³⁵ She concludes, logically, that “this witness alone is enough to demand of the Christian community that it reflect anew on the norms for homosexual love.”³⁶

Developmental psychologist Lawrence Kurdek has supported Farley’s anecdotal evidence with extensive research data on gay and lesbian couples that demonstrate social scientifically that they tend to have a more equitable distribution of household labor, demonstrate greater conflict resolution skills, have less support from members of their families but greater support from friends and, most significantly, experience similar levels of relational satisfaction compared to heterosexual couples.³⁷ On the basis of this supporting evidence, we conclude this section by endorsing Farley’s judgment.

Sex between two persons of the same sex (just as between two persons of the opposite sex) should not be used in a way that exploits, objectifies, or dominates; homosexual (like heterosexual) rape, violence, or any harmful use of power against unwilling victims (or those incapacitated by reason of age, etc.) is never justified; freedom, integrity, privacy are values to be affirmed in every

35 Farley, *Just Love*, p. 287. Vosman affirms this claim as well, noting that homosexuals contribute to the “social good” in terms of “mutual support, care, and justice”, (Vosman, *Can the Church*, p. 37).

36 Farley, *An Ethic for Same-Sex Relations*, p. 99 et seq. In her most recent book, Farley returns to the question of gay and lesbian experience and judges that “We do have strong witnesses to the role of such [gay and lesbian] relationships in sustaining human well-being and opening to human flourishing” (Farley, *Just Love*, p. 287).

37 See Kurdek, *What Do We Know*, p. 251; Kurdek, *Differences Between*, p. 509–528; Kurdek, *Are Gay and Lesbian Cohabiting Couples*, p. 880–900. See also, Savin-Williams/Esterberg, *Lesbian, Gay, and Bisexual Families*, p. 207–212. For further social scientific evidence on the character of gay and lesbian couples, see Salzman and Lawler, *The Sexual Person*, p. 228–230.

homosexual (as heterosexual) relationship; all in all, individuals are not to be harmed, and the common good is to be promoted.³⁸

5.4 *The Ethics of Homosexual Acts*

Sexual acts are ethical when they are natural, reasonable, free, and expressed in a truly human, just, and loving manner that promotes the human dignity and flourishing of both partners. All the terms of this articulation are important and must be carefully understood. Sexual acts are ethical when they are *natural*, and they are natural when they coincide with the *nature* of the human person.³⁹ For men and women who are by nature heterosexual, heterosexual acts are natural and therefore ethical when they are freely chosen, truly human, just, loving, and a promotion of the human dignity and flourishing of both partners; for them homosexual acts are unnatural, unreasonable, and therefore unethical, even if all other requirements for ethical acts are safeguarded. For those who are by nature homosexual, it is the reverse. For them, homosexual acts are natural, reasonable, and ethical when they are free, truly human, just, loving, and a promotion of the human dignity and flourishing of both partners; for them heterosexual acts are unnatural, unreasonable, and unethical, even when all other requirements for ethical acts are safeguarded. Sexual acts are ethical when they are *reasonable*, and they are reasonable when careful attention to and understanding of all the relevant human circumstances leads a person to make an informed judgment of conscience that a given sexual action is according to right reason and facilitates the human dignity and flourishing of both partners. Sexual acts are ethical when they are *truly human*, that is, when they fulfill all the requirements of orientation, interpersonal, and affective complementarities⁴⁰ and when they promote the human dignity and flourishing of both partners. Sexual acts are *just* when they are performed by mutual, *free* agreement and when they do no harm to either the persons involved or to the common good. Sexual acts are *loving* when each person wills the human dignity and flourishing of the other.

6 Human Dignity and Legislation

Theological arguments, science, and human experience all challenge both the Church's anthropology that understands homosexual orientation to be

38 Farley, *An Ethic for Same-Sex Relations*, p. 105.

39 See Pope, *Scientific and Natural Law*, p. 110 et seq.

40 See Salzman/Lawler, *New Natural Law Theory*, p. 182–205; Salzman/Lawler, *Quaestio Disputata*, p. 625–652; and Keenan, *Can We Talk?*, p. 113–131.

“objectively disordered” and its normative claim that homosexual acts are “intrinsically disordered”. They also challenge, therefore, the Church’s defense of legislation that rejects same-sex civil unions, adoption by homosexual couples, and non-discrimination legislation based on sexual orientation and gender. We consider each in turn.

6.1 *Church Opposition to Same-sex Civil Unions*

A much-debated issue in the contemporary world is the issue of same-sex civil unions,⁴¹ now legal throughout Europe, North America, and a large part of South America. South Africa is the only African country and Taiwan the only Asian country where it has been declared legal, though in Taiwan it has not yet been enacted into law. The normative conclusion that homosexual acts are not, by definition, destructive of human dignity has implications for legislative stances that the Catholic Church continues to promote in light of its anthropology on homosexual orientation and its norms prohibiting homosexual acts.

Pope Francis’s response to the two Synods on Marriage and the Family of 2014 and 2015, his Apostolic Exhortation *Amoris Laetitia*, demonstrates a softening of Catholic teaching toward homosexuals. To the question of same-sex civil unions he gives an unequivocal response: “*De facto* or same-sex unions [...] may not simply be equated with marriage”, and there are “absolutely no grounds for considering homosexual unions to be in any way similar or even remotely analogous to God’s plan for marriage and family.”⁴² His statement is consistent with other Catholic statements that support legislation against same-sex civil unions, but it is crucial to understand what he says and what he does not say. He says only that same-sex unions are not to be equated or thought to be analogous to heterosexual marriages; he does not say they are immoral. A long-traditional Catholic teaching, deeply rooted in the scriptural tradition, holds that “God is love” and that “if we love one another, God abides in us and his love is perfected in us” (1 John 4:8 and 12). We cannot imagine Francis denying that tradition by suggesting that God dwells in the love of heterosexual spouses but not in the love of homosexual couples; that would be a betrayal of Catholic tradition. No, if God is love, then God inevitably dwells in the love of homosexual partners. Their unions may or may not be called marriage in the Catholic Church, though they are so called by civil law across a wide swathe of the world, but there can be no doubt that God dwells in the love of the homosexual partners and that the mutual love of the partners images God’s love for

41 We use the phrase same-sex “civil-unions” rather than “marriage,” since we recognize that the sacrament of marriage in Catholic teaching is limited to heterosexual couples. Legal Civil-unions are distinct from Catholic sacramental marriages.

42 *Amoris laetitia*, no. 251.

humankind and impels them mutually toward God. Bishop Bonny of Antwerp, Belgium, writes correctly that “there is no way we can continue to claim that there can be no other forms of love than heterosexual marriage. We find the same kind of love between a man and woman who live together, in homo-pairs and lesbian couples.”⁴³ On this basis, he argues for blessing homosexual unions.

Not only is the change in attitude toward same-sex unions in the Pope and some of his fellow bishops a significant Catholic development but also the reasons for this change are perhaps even more significant. For Bishop Bonny, the reasons for blessings civil unions are to incarnate *pastoral care* and *mercy*, signature emphases of Pope Francis’ pastoral approach. For Bishops Bode of Osnabruck and Geerlings of Münster, blessings are a sign of the pastoral accompaniment required by Popes John Paul II and Francis.⁴⁴ Pope Francis’ *new pastoral methods* in *Amoris Laetitia* provide a framework for bridging the gap between the truth of the meaning of human sexuality and God’s unconditional love for all people. This framework focuses on discernment, accompaniment, and the authority and inviolability of conscience⁴⁵ and moves away from the focus on Catholic doctrines that are too often used “as if they were stones to throw at people’s lives.”⁴⁶

6.2 Church Opposition to Homosexual Adoption

We reject the claim of the CDF and others that “as experience has shown the absence of sexual complementarity in [homosexual] unions creates obstacles in the normal development of children who would be placed in the care of [gay and lesbian parents].”⁴⁷ The Congregation provides no scientific evidence, here or elsewhere, to substantiate this claim, but there is abundant evidence to the contrary.⁴⁸ While acknowledging that research on gay and lesbian parents is fast evolving, especially with respect to gay fathers, Psychologist Charlotte Patterson summarizes the evidence available from twenty years of studies.

There is no evidence to suggest that lesbians and gay men are unfit to be parents or that psychosocial [including sexual] development among children of gay men or lesbians is compromised in any respect relative to that among offspring of heterosexual parents. *Not a single study* has found children of gay

43 See Smits, *Belgian Bishop*.

44 See Heneghan, *In Germany*.

45 See Salzman/Lawler, *Amoris Laetitia*, p. 634–652.

46 Francis, *Amoris Laetitia*, no. 305.

47 CDF, *CRP*, no. 7.

48 For a comprehensive list of these studies, see Cornell University, *What Does the Scholarly Research Say*.

or lesbian parents to be disadvantaged in any significant respect relative to children of heterosexual parents.⁴⁹

In her overview of the research, Professor of Social Work Joan Laird goes further to suggest that the scientific data indicate, in fact, that homosexual parents are somewhat more nurturing and tolerant than heterosexual parents and their children are, in turn, more tolerant and empathetic.⁵⁰

Convinced by the scientific data that there are no significant differences between the parental skills of heterosexual, gay, and lesbian parents,⁵¹ the Child Welfare League of America recommends that “Gay/lesbian adoptive applicants should be assessed the same way as any other adoptive applicant. It should be recognized that sexual orientation and the capacity to nurture a child are separate issues.” It further recommends that factual information about gays and lesbians should be provided “to dispel common myths about gays and lesbians”.⁵² The Church’s language of not-unjust discrimination, objectively disordered orientation, and intrinsically evil acts can promote such myths and subsequent discrimination, and should be avoided.⁵³ There are studies that detect negative impact like mental stress on the children of homosexual couples, but the stress, they conclude, is not a result of homosexual parenting but of the social discrimination towards them generated by the kind of myths propagated, among others, by the CDF.⁵⁴

6.3 *Church Opposition to Nondiscrimination Legislation*

The *Catechism* teaches that “every sign of unjust discrimination is to be carefully avoided”, and many Christians use this language as a rationale not to treat homosexual people with “respect, compassion and sensitivity” and to violate their human dignity. The suggestion that there can be *just discrimination* against homosexuals simply because they are homosexuals is a contradiction in terms, for discrimination against them on this basis is always unjust. A gay man can be discriminated against in employment if he is not qualified for the job, a lesbian can be denied a driver’s license because she is too young to drive safely, and they can both be discriminated against in the selection for a soccer team if they are not skillful enough, but there cannot be just discrimination

49 Patterson, *Lesbian and Gay Parenting*, p. 9. Emphasis added. See also Mattingly/Bozick, *Children Raised*.

50 See Laird, *Lesbian and Gay Families*, p. 316 et seq.

51 See Sullivan, *Issues in Gay and Lesbian Adoption*, p. 24–28.

52 Sullivan, *Issues in Gay and Lesbian Adoption*, p. 41.

53 See Editors, *Church Must Reconcile*, p. 1.

54 See Crouch/et al., *Parent-Reported Measures*, p. 1–12; and Bos/Gartrell, *Adolescents*, p. 559–572.

against gays or lesbians simply because they are homosexuals. That the Church would implicitly support discrimination of homosexuals simply because they are homosexual and engage in non-reproductive sexual activity is a fundamental violation of their inviolable consciences, human rights, and dignity. Yet the Church uses the principle of not-unjust discrimination to promote discrimination against homosexuals in legislation regulating marriage, adoption, and employment since, it claims, laws recognizing the legal legitimacy of homosexual relationships and acts are unjust and threaten the common good.

Catholic social teaching is indisputably clear that discrimination is immoral. The *Catechism* teaches that:

The equality of men [and women] rests essentially on their dignity as persons and the rights that flow from it: 'Every form of social or cultural discrimination in fundamental personal rights on the grounds of sex, race, color, social conditions, language, or religion must be curbed and eradicated as incompatible with God's design' (no. 1935).

The *Catechism* does not include sexual orientation or gender in this list of grounds and the Church has vehemently resisted employment non-discrimination legislation on the basis of sexual orientation and gender. There are several responses to this resistance.

First, the Church asserts that such legislation would promote sexual immorality that threatens the common good. There is, however, no scientific or experiential evidence to support the claim that homosexual acts, by definition, frustrate human dignity and, therefore, threaten the common good. Besides, the Church is selective in what sexual immorality it opposes; it does not support legislation to allow not-unjust discrimination against cohabiting couples, married couples who use contraceptives, or couples who use reproductive technologies, all of which the Church teaches are immoral and frustrate human dignity. That it does not support such legislation implies that immoral sexual acts are not its primary concern; the primary concern is homosexual or transgender persons who may or may not be sexually active. Directly targeting people based on their sexual orientation or gender damages human dignity and promotes unjust discrimination.

Second, by rejecting ENDA legislation, the USCCB is actually violating the protection of individual human dignity and, therefore, the common good on the basis of an unsubstantiated generalization that homosexuals *might* engage in immoral sexual activity. This generalization promotes unjust discrimination against celibate homosexuals who do not engage in any sexual activity.

Third, there is a more fundamental response to the USCCB's concern with homosexual orientation and acts, one that challenges the claim that homosexual acts are intrinsically immoral and destructive of human dignity. The Church has consistently taught that homosexual acts are intrinsically immoral, but that teaching and its theological bases are now seriously challenged and many surveys show that the majority of contemporary Catholics do not accept it. The fact that the majority of Catholic faithful do not accept Catholic teaching on the immorality of homosexual acts is not an argument for their morality, which is never determined by majority consensus. The burden of proof, however, is on the Church to make a compelling argument that convinces Catholic and non-Catholic citizens that the teachings are true.

Professors David Hollenbach and Thomas Shannon advise, and we agree, that "the church should not ask the State to do what it has not been able to convince its own members to do."⁵⁵ It should not ask the State to enforce a teaching against homosexual acts that it cannot convince the majority of its own members to accept. The burden of proof is on the Church to demonstrate that homosexual acts are destructive of human dignity and cannot serve "the good of the person or society", and so far, it has not offered any compelling argument. An unproven assertion should not be advanced as the basis for preventing or repealing ENDA legislation and imposing the Church's morally questionable doctrine on the broader society. The Bishops have every right to advocate for their moral position and to protect religious institutions from participating in what they perceive as immoral activity, but they do not have the right to impose their moral teachings legislatively in a pluralistic society. That, we conclude, would be the very worst kind of proselytism.

7 Conclusion

Church teaching on the truth of the meaning of human sexuality, that homosexual orientation is objectively disordered, that homosexual acts are intrinsically disordered, and that legislation preventing same-sex civil unions, adoption by homosexual parents, and employment discrimination based on sexual orientation and gender is deeply flawed and violates human dignity and the truth of God's unconditional love for all people. It is also driving young people away from the Church, doing serious emotional, psychological, relational and spiritual damage to our LGBTQ brothers and sisters, and unintentionally

55 Hollenbach/Shannon, *A Balancing Act*.

legitimizing hate-speech and violence against them. The Church must be open to redefine the meaning of human sexuality, allowing science and experience to inform its anthropology and formulate revised norms that reflect that anthropology. Such norms must base the moral evaluation of all sexual relationships on principles such as justice and love, rather than on a flawed biology, inaccurate interpretation of human experience, and a strict gender binary. These revisions in the definition of sexual human dignity and norms must, in turn, guide the Church's stance towards legislation regarding homosexual persons in civil marriage, adoption, and employment. Pope Francis has made some progress in this direction, but there is much work to be done, especially among many of his brothers in the episcopate, to truly and fully unite the two truths of God's unconditional love for all people and of the meaning of human sexuality.

Biography

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Together, they have published *The Sexual Person: Toward a Renewed Catholic Anthropology* (Georgetown, 2008); *Sexual Ethics: A Theological Introduction* (Georgetown, 2012); *The Church in the Modern World: Gaudium et spes Then and Now* (Liturgical Press, 2014); *Virtue and Theological Ethics: Toward a Renewed Ethical Method* (Orbis, 2018); and *Introduction to Theological Ethics: Foundations and Applications* (Orbis, 2019). They have also published a number of scholarly articles in *Theological Studies*, *Heythrop Journal*, *Louvain Studies*, *Horizons*, *Irish Theological Quarterly*, *America*, and *Commonweal*.

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