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MORALITY IN RACE RELATIONS

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THERE HAS BEEN a general acceptance of the principle that racial discrimination is immoral. But there still remain the problems of implementing this and putting it into practice in individual instances as well as in institutionalized functions. After enunciating the dictum that compulsory racial segregation is immoral there still remain theological problems. Nor are these limited to the question "What am I obliged to do to avoid sin?", posed as a problem for the minimal function of the moral theologian, but also extend to the questions "What is more virtuous?"; "What can I do more to fulfill the law of charity?"; or "How can I best act to build up the Mystical Body?", as well as devising methods of inculcating, teaching, preaching, demonstrating, and motivating such reaction—in other words, the problem of putting our beliefs into practice.

To consider what is probably the most theologically involved problem, although at first glance it may seem least complicated, we raise the question of the previous silence of the Church regarding the moral issues involved in racial segregation. Nor should we think this is strictly an abstract and speculative question. Catholics who have lived in a society in which they not only beheld segregation practiced daily by their neighbors, but also practiced it themselves in their schools and churches, are now faced with a dilemma when they hear that actions which, as Catholics, they were able a short time ago to condone and even to practice, are now considered immoral and sinful. For example, sometime ago, following the historic cloture vote on the civil rights debate in the Senate, the press reported that Senator Richard Russell of Georgia had drawn attention to the support and activity of the clergy in behalf of the bill on the grounds that it was a moral issue. He raised the question as to why, if this involved moral issues, the clergy were two centuries late, declaring: "If it is a great moral issue today, it was a great moral issue at the ratification of the Constitution of the United

* S.T.L. (1957), S.T.D. (1963), Catholic University, Washington, D. C.

States.”¹ Considering the emotional elements necessarily involved in these situations, we must have, at least, a sympathy for those who are sincere in their confusion and questioning.

Historically it is impossible to deny that from the end of the Civil War until modern times, an almost universal silence regarding the moral issues involved in segregation blanketed the ecclesiastical scene. The American hierarchy and theologians remained mute, and this at a time when, according to C. Vann Woodward’s study, enforced segregation was growing and extending more and more into all areas of life.² An outstanding exception and an outspoken opponent of segregation on moral grounds was Archbishop Ireland of St. Paul, but he and a handful of his contemporaries stand practically alone in their vocal opposition.

What caused this silence? Was it merely disinterest in the welfare of the American Negro or disregard for important contemporary social issues and needs? Was it necessitated by the fear that contradiction of the practices and trends of the day would merely consolidate antagonism toward the Church and alienate the faithful who, because of social environment and pressures, were not ready or willing to hear or accept such teaching? Is this the same question of silence posed by Hochhuth’s controversial play, *The Deputy*?

I do not believe that these or similar explanations are sufficient to fully explain this silence. Rather, it would seem that the immorality of compulsory segregation was not known or realized at that time either

by the theologians or the ecclesiastical authorities. The principle of “separate but equal” had received legal approval in 1896 in the *Plessy v. Ferguson*³ decision when the Supreme Court made an unrealistic distinction between “political” equality and “social” equality before the law. This decision gave justification for the further distinction between racial discrimination and racial segregation which was in use for a half-century by the courts and resulted in decisions which held that, if an action were found to be segregation, it was lawful; but if it were found to be discrimination, it was unlawful.

The same distinction carried over into the area of morals, and, at least implicitly, it was held that discrimination against the Negro was immoral, but that compulsory segregation (provided, of course, that reasonably “equal” facilities were available) was not immoral. This was the principle used in formulating moral judgments by theologians and with few exceptions was universally accepted. Whether or not timidity in critically re-examining this principle and thus disturbing the *status quo* played a significant role in the continuance and predominance of the principle is impossible to show here historically. *What was lacking was the knowledge and the realization that all enforced and compulsory racial segregation was discrimination.*

Even during slavery, however, there was an awareness of the moral implications in race relations. For example, Bishop Auguste Verot, when he was Vicar Apostolic of Florida, in a sermon on slavery preached in St. Augustine in 1861, spoke against the activities of the abolitionists

¹ Washington Post, June 11, 1964.

² WOODWARD, *THE STRANGE CAREER OF JIM CROW* (rev. ed. 1957).

³ 163 U.S. 537 (1896).

and their claims, but he also indicated that the Church had condemned the slave trade and he re-emphasized the duties and rights of both slaves and masters. And although he maintained the strict property rights of owners to their slaves, nevertheless, he spoke of the rights of free Negroes and condemned as unjust state laws which constrained and impeded their liberty. He pointed out that it was as unjust to harass a free Negro because of his race as it was to harass the Irish or the Germans because of nationality or religion.⁴

However, a distinction between discrimination and segregation was made legally and morally, and it required the economic, educational, psychological, political, and social community experiences of a half-century to give proof that the distinction—no matter how valid speculatively—was not valid in practice. Full recognition of this was not made juridically or legally until the school decisions in 1954 and 1955, and theologically was not made explicit until Archbishop Rummel's statement in 1956 and the American hierarchy's statement *Discrimination and the Christian Conscience* in 1958. This latter indicated the identification of segregation and discrimination stating:

any form of compulsory segregation, in itself and by its very nature, imposes a stigma of inferiority upon the segregated people. Even if the now obsolete Court doctrine of "separate but equal" had been carried out to the fullest extent, so that all

⁴ This sermon was preached on January 4, 1861, and was entitled *A Tract for the Times: Slavery and Abolition*. The sermon received wide publicity and was quoted freely by the pro-slavery forces. Eventually its publication was suppressed by Secretary of State William Seward in Baltimore. It was published in two parts in *The Freeman's Journal*, June 18, 1864 and July 9, 1864.

public and semipublic facilities were in fact equal, there is, nonetheless, the judgment that an entire race, by the sole fact of race and regardless of individual qualities, is not fit to associate on equal terms with members of another race.

And the full recognition of this identity, and its acceptance both speculatively and practically, by *all* Christians is still the problem facing teachers of Christian doctrine.

I believe that this condemnation of segregation is the result of a greater and a deeper realization of personalist values and of human dignity, guided by and united with new and additional knowledge and data received from the various sciences—sociology, psychology, history, economics, and pedagogy. It does not involve or imply a change in moral teaching compelled or forced by social pressures or power politics. Can we not find a parallel situation obtaining in the moral questions involved in the problem of usury or "interest taking"; the right of the working man to form unions; the right of a son or a daughter to select their own spouses; the morality of prize fighting?

Public Accommodations Laws

How often have we heard: "You can't pass a law which will make me like some one," or "You can't legislate morality"? As these are applied to proposed civil rights and public accommodation laws, we can see that there is an underlying belief that the purpose of these laws is to compel the performance of virtuous acts by individual citizens. Nothing can be further from the truth. It is not the purpose of a human law to compel Mrs. Murphy in her rooming house to perform virtuous acts or even to refrain from sinning so that she will increase in holiness and virtue. The

goal of civil law is to protect, promote, and advance what theologians and philosophers call "common good"; what legislators and lawyers term "public policy." St. Thomas described the proper function of human law as: ". . . not commanding every virtuous act, but only those which can be ordered to the common good."⁵

A relationship between common good and a privately owned business is more apparent in the case of modern corporations which because of their size and services enjoy a quasi-monopoly in serving society, such as the telephone company, power and light companies, public carriers, etc. Here it can easily be admitted that these firms, even though privately financed and owned, are not free to select their customers on arbitrary grounds such as race or religion, but must serve the general public, even though the owners have a right to a reasonable profit and return from their capital investment. But in considering businesses of lesser size and importance, their relationship to common good becomes proportionately more difficult to see. And this is precisely why the opponents of public accommodations laws have seized on the question of Mrs. Murphy's boarding house. Two or three large hotel chains may be able to control the disposition and availability of accommodations in certain areas, and if and when their control is irresponsibly or selfishly utilized, the common good can be injured. But Mrs. Murphy's boarding house, with its three, four, or five tenants, is not the Hilton chain. Obviously, the manner in which she operates her establishment cannot have such an apparent and deeply felt impact on the housing available in the entire area.

Then shouldn't small businesses be exempt from legal restrictions and regulations and allowed the exercise of a right to select their own customers? The proposed civil rights bill makes provision for this to a certain degree and has provided that rooming houses with no more than five tenants and in which the proprietor also makes his home, will be exempted. Here, however, the important thing to bear in mind is that every privately owned business, no matter how small, setting itself up to provide services or products to the public acquires by that fact a special relationship and responsibility to the common good. Now, such small businesses as Mrs. Murphy's or the shoeshine stand or corner newspaper dealer obviously cannot *individually* make a great impact on the common good. If these businesses, in individual cases, operate without concern for the common good and merely for personal or egocentric goals, we usually anticipate that the economic law of the market place will fill up the vacuum and other merchants will supply the service or product at least for economic motives. But, it should at the same time be apparent that if there is a proliferation of selfishly operated enterprises, it is possible and likely that the common good will suffer. For example, if a gas station owner refuses to sell gas and oil to Catholics, we know that the station in the next block will only be too glad to supply those needs. However, if all the owners adopt such a policy of refusal, either in concert by conspiracy or individually by happenstance, the situation would be different and Catholics in that area might well be demobilized and dependent on "shank's mare" for transportation. A similar parallel can be drawn in instances of other small businesses—news-

⁵ *SUMMA THEOLOGICA*, I-II q. 96, art. 3; see also I-II q. 96, art. 2.

stands, grocery stores, clothiers, etc. If a line is drawn exempting some of these from the ambit of the law, as has been done in the civil rights bill now being considered, it should be remembered that determination of that line is the result of a prudential judgment and it is not an absolute.

Civil Rights Demonstrations

One of the burning issues of the race problem today is the question of demonstrations and civil disobedience. A thorough theological study of the question of civil disobedience is needed not only as it applies to race relations, but also as pertinent to other areas of modern life. For our purposes today, we are limited to a few considerations. As a general principle, it must be said that not every form of demonstration is justified. It is immediately obvious that civil disobedience or demonstrations which involve wanton destruction of property or injury of innocent persons cannot be justified; marauding bands, whether of whites or Negroes, harassing and torturing defenseless victims, cannot point to the existence of other injustices as a title for their own existence, nor can bombings of homes, churches, or schools be considered within the ambit of licit or proper protests.

But in considering the morality of peacefully conducted protests and demonstrations and civil disobedience, it is necessary to weigh several factors. From experience, it is apparent that these protests, even when conducted according to the non-violent principles advocated by Martin Luther King, can be an occasion of riots, street fighting, and disturbances of the bond of peace. However, the moralist, in

judging the liceity of a demonstration, should not limit himself to a consideration of the data as to the likelihood or probability of such a disturbance. In other words, the danger to which the peace of the community is exposed and the pertinence of the protest to a definite objective should not be the *sole* considerations.

Other factors should and must be pondered. Some of these are (1) the success which such protests will achieve. This is not to be understood as indicative of a justification of means because of success, but that following the principle of the two-fold effect, the greater the chance of success the more easily we can risk a danger. Just as in medical practice, the greater the success of a drug, the more readily we can justify its use even though there is a risk of undesirable side effects. So too in civil rights protests, the greater the possibility of success, the more readily can the *de facto* common good be exposed to danger.

(2) The moral evaluation must also include consideration of the psychological effects of the protest on the Negro community. Participation in a peaceful and non-violent demonstration may be, for some Negroes, their first opportunity to assume and participate in social or civic adult responsibility. In the search for liberty, the demand or the protest can be considered the first actual step of liberty or the first exercise of a newly found freedom, and this will inevitably have profound psychological effects. Following the bus boycott in Montgomery, Martin Luther King reported that there was a complete and astonishing revitalization of the sense of human dignity in the Negro community there with a resultant increase of self-respect which brought new standards of deportment and

conduct throughout the Negro community.⁶ Such beneficial results, even though they are not so immediately apparent or are not the goal and purpose of the protest, must be included among the data considered in forming a moral judgment.

(3) There must be a prudential evaluation of the situation to determine whether or not a do-nothing attitude will persist if the protest does not occur. In speaking of the common good, we must remember that the exclusion of the Negro population from participation in the institutions and benefits of society means that this common good is actually what Fr. Gerald Kelly, S.J., calls the *de facto* common good as contrasted with the *de iure* common good in order to emphasize the dynamic character of common good and its susceptibility to continuous improvement.

The latter (*de iure*) is a state of well-being that *should* exist in a society; the former (*de facto*) is a state of well-being, perhaps far below the ideal, which *does* exist in a society. A *de facto* condition might indeed be called "good" only in the sense that it could be worse.⁷

The danger to be avoided is the consideration of common good as completely static, incapable of further perfection and an absolute, or even the formulation of a judgment on the morality of the effects of the protest or demonstration only in terms of what is actually only the "white man's common good"—that is, a privileged position in a social caste system for whose defense and retention he may or may not be willing to fight and upon this willingness or

unwillingness, the public peace and concord depend.

Medieval Treatment of the Jews

We can anticipate, even though there is presently some confusion as to the wording, that the issuance of a declaration by the Second Vatican Council on the Jews and anti-Semitism will remove one argument from the arsenal of the racial segregationist. For some time, it has been commonplace to point to the treatment of the Jews by the Church, especially the decrees of Paul IV and Pius V and the various conciliar enactments of the Third and Fourth Lateran Councils, as examples of papal and conciliar approval of segregation, with the ultimate intention to demonstrate that the present day theological teaching on the immorality of segregation contradicts the tradition and moral practices of the Church.

Omitting a survey of the history of anti-Semitism, I believe that the basic explanation of this situation is not only that these decrees, both papal and conciliar, do not involve Catholic dogmatic or moral teaching, but also that they merely represent implementation of a medieval concept of political society as a sacral and consecrated society which automatically placed non-Christians outside the mainstream of the community. It may well be, with hindsight, that we can say these medieval enactments were unjustified and may indeed now raise the question whether it would not be conducive to a better understanding to remove any vestige of doubt or ambiguity, if the present Council should explicitly withdraw and retract these earlier decrees. At any rate, it should be clear that such decrees were restrictions founded on religious differences in a non-pluralistic society and

⁶ KING, STRIDE TOWARD FREEDOM 187-88 (1958).

⁷ Kelly, *The Common Good and the Socio-Economic Order*, 7 CATHOLIC THEO. SOC. AM. 90 (1952).

not on racial differences such as the Nazi anti-Semitic policies. In the medieval society, a Jewish convert was fully accepted in the Christian community, with his rights protected. Even the Jewish community was enjoined from disbaring him from hereditary rights or privileges as can be seen in a decree of the Third Lateran Council.

If by the grace of God any should be converted to the Christian faith, they shall not be disinherited, for those so converted ought to be in better circumstances than before they received the faith. But if the contrary has taken place, we enjoin the princes and rulers of those localities under penalty of excommunication that they take action to the effect that their inheritance and possessions be restored to them *ex integro*.

Interracial Marriage

There can be no doubt but that the social acceptance or rejection of a married couple by family and friends can exert a great influence on the success or failure of the marriage. Ordinarily, in our society, the acceptance of a racially homogeneous marriage is determined solely on personality or social qualifications of the couple. The same cannot be said of the interracial marriage in the United States. In this instance, there is frequently a rejection of the couple, as husband and wife, even though individuals may still be acceptable to family or friends. It is usually the family of the white partner which persists in refusing to recognize such marriages, although in rarer instances and with a lesser degree of persistence and isolation, it may be the Negro family. Obviously, rejection is an added factor which must be considered in interracial marriage because in addition to the trials and problems which beset every marriage in our modern society, the inter-

racial marriage has this additional handicap. In fact, this has led some to question whether, under present circumstances, the hardships and rejection which such marriages will face, as well as the difficulties which confront the children, do not usually render such marriages imprudent.

In considering such marriages, I think we have to admit that there has been some amelioration and easing of the opposition to them. This is particularly true in larger cities which have educated and sophisticated populations. The large number of "war brides" from Japan, Korea, and other Asian nations have made interracial marriages more visible and more common, and the "shrinking of the world" through communication has made the appearance of other racial groups less rare. The result has been that, in the past twenty years, resistance to interracial marriage has been considerably lessened, particularly in reference to opposition after the marriage has been contracted, and it is rare to find a society so unalterably opposed that it would openly and totally isolate the offending partners today.

In considering the prudence of interracial marriage today, I do not feel that the isolation and rejection which arise carry as much weight as was evident twenty-five years ago. Obviously, there is still some and it must be considered, but it would seem that, except in rare instances, because of peculiar local or private circumstances, the opposition of society in general would not be a major deterrent to the prudential quality of such a marriage.

Further, although such sociological factors must be considered, they should not be over-emphasized. We must remember

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that we are talking of a sacrament capable of producing, during the entire existence of the marriage, those graces which will enable the couple to fulfill their Christian

commitment. If we overlook this gracious aspect of the sacrament of marriage or even minimize it, we are in danger of reducing the sacrament to a purely natural state influenced only by economic, social, or psychological pressures and motives.
