A Burden of Means: Interpreting Recent Catholic Magisterial Teaching on End-of-Life Issues

James T. Bretzke, S.J.

This essay first presents general guidelines for interpreting magisterial documents using Lumen gentium’s triple criteria of considering the character, manner, and frequency of magisterial teaching in order to better determine its relative authority and weight. Next, these criteria are applied to a close reading of Pope John Paul II’s various documents that deal with end-of-life issues, especially his controversial March 2004 address to the participants in the International Congress on Life-Sustaining Treatments and Vegetative State: Scientific Advances and Ethical Dilemmas. This analysis concludes that the pope did not in fact assert that artificial hydration and nutrition had to be used in virtually every medical case, such as patients diagnosed to be in a persistent vegetative state.

"The Pope Has a Feeding Tube; Why Can’t Terri?" was one of the placards seen in the last days of Terri Schiavo’s life as the acrimonious debate raged over the withdrawal of her feeding tube. Both Terri Schiavo and Pope John Paul II died in Easter week of 2005, and although their respective fatal illnesses were quite different, in many people’s minds their situations were seen as not only intimately intertwined but as almost identical from a bioethical standpoint on health care decisions.

In fact, Terri Schiavo’s parents, Bob and Mary Schindler, in one of their last efforts to wrest control of her care from Terri’s husband, Michael Schiavo, asserted that as a good Catholic girl Terri would want her feeding tube maintained because this is what Pope John Paul II had supposedly called for in a talk given in March 2004. Though this address of the pope sparked considerable attention and controversy, an extensive, close contextual analysis of the address itself and its relative magisterial authority has not yet been made. This sort of investigation would be very helpful in determining if in fact the pope said or meant what the Schindlers and so many others believe him to have asserted. The bulk of this essay, then, attempts such an in-depth analysis. But I begin by

laying out some general guidelines for what I call “exegesis” of the teachings of the Roman Catholic magisterium.

Guidelines for Exegesis and Interpretation of Magisterial Teaching

I begin by listing briefly six correctives to common misinterpretations of magisterial texts. First is the basic premise of hermeneutics that no text is self-evident, self-interpreting, or self-applying. Thus, all texts need to be first translated, read, understood, and interpreted before they can be applied. The second is that not all texts are created equal. Just as the Church is hierarchical, so some texts are more authoritative than others. Third, though this may not apply in other institutions, with magisterial teachings, the “latest” text is not necessarily the most authoritative. Fourth, the language used in the text does not necessarily mean the same as in general idiom usage. One needs to be clear on technical meanings of certain words, concepts, formulae, and so on (e.g., the magisterium’s assertion that homogenital acts are “inextricably disordered” does not mean that gay individuals are therefore morally bankrupt). Fifth, not every magisterial pronouncement (whether of the pope or lower authorities such as Vatican offices, cardinals, bishops, and monsignors working in the Vatican) is infallible. This means that if a statement is not infallible, it is fallible. Fallible does not mean “false,” but it does mean that the statement or formulation may be partial and incomplete, open to revision and even rejection later on. Sixth, except when referring geographically to a very small neighborhood at the terminus of Rome’s Via della Conciliazione, there is no “Vatican.” Similarly, the expression “Vatican spokesman” should not be necessarily seen as representative of papal opinion or policy in the same way that we might view the statements of a White House spokesperson as reflecting the George W. Bush administration’s official policy. As we shall see in the case at hand with end-of-life debates, there is hardly the same amount of unity and uniformity among either Church officials or Church dicasteries (departments) as one might expect at the central headquarters of a large institution.

How then should we come to read, understand, interpret, and apply the teachings of the magisterium? In Lumen gentium (The Dogmatic Constitution on the Church), the Fathers of Vatican II listed three fundamental criteria that have to be taken into consideration together in weighing the overall authority of magisterial teachings: the character of the teaching itself, the frequency with which the teaching is reaffirmed, and the manner in which the teaching is given.

Character refers to the actual content of the teaching, and here it is important to recognize the magisterium’s own assertion that not all truths are created equal and that there is a hierarchy of truths necessary for salvation. The character of the teaching and the manner of teaching may also be on different levels, such that we can have a “lower” doctrine on the hierarchy of truths yet have it proclaimed at the highest level of authority, such as the doctrine of the Assumption of the Blessed Virgin Mary.

Frequency not only points to the number of times the teaching is repeated but also includes a consideration of how long it has been since the teaching has been last asserted, as well as looking at the subsequent levels of authority used in additional instances of the dissemination of the teaching. A proper consideration of the criterion of frequency involves a certain extent the ecclesiastical culture of how teaching can change and develop. In Rome, errors are usually “corrected” or teaching “changed” or both not by saying “we were wrong” but rather by ceasing or maintaining a certain position (e.g., the teaching that interest-taking was intrinsically evil) or by beginning to nuance the older teaching in a variety of modes of promulgation (e.g., as has occurred with the development of the notion of responsible parenthood in limiting a couple’s number of children). Even some teachings that have been “frequently repeated” over a long period of time and with a high level of authority—such as a papal encyclical—still can be changed, as we saw during Vatican II with the hard-fought acceptance of freedom of religion as a basic human right.

Manner is the criterion that is most often overlooked or poorly understood or both, so we need to spend a bit more time looking at what is involved. The first element of the manner criterion entails looking at the stated audience or recipient of the teaching, for this will give an initial indication of the intended scope of the document’s application. Second, one must look at the mode used to deliver the text or teaching. And third, one needs to take into account the putative authority of the promulgator of the teaching. For example, a wide variety of documents from Vatican dicasteries such as the Congregation for the Doctrine of the Faith conclude with the following formulaic notation: “The Sovereign Pontiff (e.g., John Paul II), in the Audience granted to the undersigned Cardinal Prefect, approved the present document (e.g. Letter, Instruction, Decree, etc.), adopted in the Ordinary Session of this Congregation [e.g., the Congregation for the Doctrine of the Faith, etc.], and ordered its publication.” This mode of promulgation is called in forma communi (the common or “usual” form), and despite the reference to the pope, the document in question does not carry with it the weight of papal teaching authority.

In terms of the hierarchy of authority based solely on manner of promulgation, the range would be from a defined dogma (definita) done either by a Church council or by the pope himself, speaking ex cathedra in the “extraordinary magisterium,” down to rather mundane and doctrinally inconsequential texts, such as an address by the Holy Father on the occasion of receiving some official guest in the Apostolic Palace. Even when the individual or office promulgating a certain teaching is the same, such as the pope or the Congregation
for the Doctrine of the Faith, this does not mean that the various teachings themselves enjoy the same weight. There is a considerable range of distinctions here that are too numerous and detailed to present in this limited space, but let us turn briefly to just the range of official teachings given by Pope John Paul II in his pontificate. John Paul II never exercised the extraordinary magisterium, so based on the manner of promulgation, no document of his would claim infallibility. At the high end of the scale of papal documents would be his encyclicals, such as his treatise on moral theology, *Veritatis splendor* (1993), or *Evangelium vitae* (*The Gospel of Life*, issued in 1995, on abortion, capital punishment, and end-of-life issues). At the other end of the spectrum of documents that deal with moral teaching would be the pope’s statements at his periodic public general audiences (usually held on Wednesdays in the Paul VI Aula adjacent to Saint Peter’s Basilica).

Near the bottom end of the spectrum of papal documents is a class called “occasional allocations,” that is, speeches or addresses given for a specific occasion, such as a meeting or a private or semiprivate audience. Though such occasional allocations certainly can outline important moral teachings (e.g., Pius XII’s 1951 “Address to the Italian Midwives,” which marked papal acceptance of natural family planning), in terms of the manner criterion, such allocations are not usually accorded a high degree of intrinsic authority. The reason for this range of authority shows us an important, though often misunderstood, aspect of the magisterium’s claim to teach authoritatively in matters of faith and morals (*de fide vel moribus*), namely, how to grasp the whole process whereby one comes to knowledge before one can teach in an authoritative manner.

Although it is true that the theological grounding for the magisterium’s authority is based on an understanding of the charism of office to teach with the “special assistance of the Holy Spirit,” this should not be understood as some sort of extraterrestrial, infused knowledge conferred at the moment of episcopal ordination or papal coronation. Here the old Scholastic epistemological axiom of *Quidquid recipitur ad modum recipientis recipitur* bears referencing: One receives (e.g., knowledge) according to the possibility or modality of one’s reception. Thus, while we can teach Fido to sit and shake we cannot teach him to recite Shakespeare, for this would be beyond the canine modality of knowing. In the same fashion, the human way of attaining knowledge is not through supernatural infusion but rather through careful study, reflection, and at times even discussion and disagreement. When the matter at hand involves expertise that is not a normal part of theological reflection, it is morally incumbent upon those who have the charism of office to both study the matter carefully themselves and consult widely with experts in the field before presuming to pronounce in an authoritative manner. In complex matters such as bioethics, though we can acknowledge that the magisterium has a key role to play in ensuring an authentic interpretation of natural law, it cannot do this in isolation from the rest of the Church, as was clearly expressed by one theologian:

In the process of assimilating what is really rational and rejecting what only seems to be rational, the whole Church has to play a part. This process cannot be carried out in every detail by an isolated Magisterium, with oracular infallibility. The life and suffering of Christians who profess their faith in the midst of their times has just as important a part to play as the thinking and questioning of the learned, which would have a very hollow ring without the backing of Christian existence, which learns to discern spirits in the travail of everyday life.

In point of fact, very few papal documents are authored by the pope alone, and the more important documents (e.g., an encyclical or apostolic exhortation) usually go through a time-consuming multilayered process of composition, reflection, and refinement before they are released under the pope’s signature. More limited and minor documents, such as those drafted for a particular gathering or meeting, are usually written by the individuals or committee responsible for the gathering and are given to the pope to read at the moment of the event. In my years in Rome, I witnessed several such occasions where it was clear that Pope John Paul II was seeing for the very first time the text he was actually delivering at that particular moment. This reality is not meant to scandalize or trivialize, but simply to recognize that no human individual could be expected realistically to master, much less physically compose, the vast amount of discourses that any modern pontiff is expected to deliver.

In years past, these occasional papal allocations, unless they are selected for inclusion in the annual compilation of major papal documents contained in the official *Acta apostolicae sedis*, rarely attracted much attention. If some incomplete or misleading expression found its way into a papal speech, it usually did not occasion too much notice, and the problematic utterance could simply be passed over in silence in subsequent addresses, or even corrected by recasting the argument in a more nuanced manner. However, in our modern electronic age, virtually every formal word the pope utters can be found uploaded onto some website or another, and the Holy See itself has made a practice of including more and more such addresses on its own website. Whether this practice is always felicitous is open to question, as we shall see below, when we turn to a more detailed analysis of Pope John Paul II’s controversial March 2004 address.

**Pope John Paul II’s Teachings on Health Care in End-of-Life Situations**

Every text has a context, and in taking a close look at the address Pope John Paul II gave on March 20, 2004, to the participants in the International Congress on Life-Sustaining Treatments and Vegetative State: Scientific Advances and Ethical Dilemmas, we must recall that this is hardly the first magisterial
document to treat end-of-life questions. Recalling the first of Vatican II’s three fundamental criteria, character, we should acknowledge a wide variety of levels as well in the various Roman documents. In his March 2004 address, John Paul II clearly enunciated a general principle on the overall sanctity of life that is not negated by illness or weakness. Certainly the character of this fundamental principle on the sanctity of life would be at a high level. But he also made other statements about a variety of related issues, such as particularities of medical diagnoses and therapies, that could not enjoy this same level of authority for a variety of reasons.

What was the immediate context for the March 2004 allocation? There was an international meeting in Rome dealing with end-of-life health care, and the various papers presented represented a certain range of opinion. It seems that the conference organizers were trying to push a certain approach to resolving the decade-long debate over the moral necessity of maintaining artificial nutrition and hydration in extreme cases like the persistent vegetative state.

Thus, to understand more fully John Paul II’s address, one should look carefully at the other papers presented at the same gathering to get a better grasp of the various concrete issues that were being discussed and debated. It is precisely this context that provides an important “filter” to help read and interpret what the pope was trying to say. One of the items that was debated in the various papers was whether artificial nutrition and hydration (ANH) was in itself considered always to be the ordinary means and therefore morally obligatory, or whether there were other considerations that should be taken into account in beginning, maintaining, or terminating ANH.

Because the meeting was designed as a forum to present and discuss various opinions on controverted issues, it would be counterintuitive to the basic genre of such a venue to read the pope’s address as the last and final word on this point, especially because his address was presented as an allocation and not an encyclical or some other form that signals that the papal position was in fact meant to end all further debate. In fact, the pope himself acknowledged that discussion is very complex and needs ongoing reflection:

The complex scientific, ethical, social and pastoral implications of such a condition of the vegetative state require in-depth reflections and a fruitful interdisciplinary dialogue, as evidenced by the intense and carefully structured programme of your work sessions.

Although space here would not allow for a line-by-line commentary on the pope’s March 2004 address, it would be helpful to look carefully at a couple of the key paragraphs to see precisely what is, and what is not, being asserted. Early on in his papal address, the pope showed that his use of the term “vegetative state” differs markedly from the usual understanding of permanent/persistent vegetative state (PVS) in that he saw the possibility of a physical recovery from the vegetative state: “Moreover, not a few of these persons, with appropriate treatment and with specific rehabilitation programmes, have been able to emerge from a vegetative state.” This is a crucial point, for if the pope misunderstood PVS to be a reversible medical condition that holds open the possibility of a physical recovery, then this obviously would cast ongoing ANH therapy in a vastly different light.

The next paragraph contains the core of the pope’s concerns, especially in reference to the “character” criterion of evaluating magisterial teachings, and so it bears quoting at length:

Faced with patients in similar clinical conditions, there are some who cast doubt on the persistence of the “human quality” itself, almost as if the adjective “vegetative” (whose use is now solidly established), which symbolically describes a clinical state, could or should be instead applied to the sick as such, actually demeaning their value and personal dignity. In this sense, it must be noted that this term, even when confined to the clinical context, is certainly not the most felicitous when applied to human beings.

In opposition to such trends of thought, I feel the duty to reaffirm strongly that the intrinsic value and personal dignity of every human being do not change, no matter what the concrete circumstances of his or her life. A man, even if seriously ill or disabled in the exercise of his highest functions, is and always will be a man, and he will never become a “vegetable” or an “animal.”

Even our brothers and sisters who find themselves in the clinical condition of a “vegetative state” retain their human dignity in all its fullness. The loving gaze of God the Father continues to fall upon them, acknowledging them as his sons and daughters, especially in need of help.

It seems clear, therefore, that the pope’s primary concern was not whether ANH should be considered an ordinary or extraordinary means in the limit cases of PVS patients, as much as he was worried that those who are seriously ill or handicapped may lose their human dignity in the eyes of society. Thus, I would argue that the pope’s concern was far less with the likes of the moral reasoning of proportionalists such as Richard McCormick, S.J., and others, than perhaps someone like Peter Singer who argues for euthanasia for the severely disabled. That John Paul II feared this erosion of human dignity generally is clear from his frequent use of polar dichotomies such as “culture of life” and “culture of death.” Certainly we all accept the values of a culture of life, but the ANH/PVS issue is much more complex than this sort of bumper-sticker morality, and the Catholic moral tradition has long recognized the critical importance of paying close attention to all the morally relevant features present in genuine ethical dilemmas, such as the decision to maintain or withdraw medical life support.

The next paragraph occasioned the most notoriety. It begins with a statement of a general principle about the obligation medical personnel have to care for the sick, before repeating the confusing, misleading description of the “vegetative” as one that terminates either in death or in recovery:
The sick person in a vegetative state, awaiting recovery or a natural end, still has the right to basic health care (nutrition, hydration, cleanliness, warmth, etc.), and to the prevention of complications related to his confinement to bed. He also has the right to appropriate rehabilitative care and to be monitored for clinical signs of eventual recovery.

It is very important to keep in mind that this was the understanding the pope had in mind regarding the care for a person in a "vegetative state," in order to contextualize the next statement:

I should like particularly to underline how the administration of water and food, even when provided by artificial means, always represents a natural means of preserving life, not a medical act. Its use, furthermore, should be considered, in principle, ordinary and proportionate, and as such morally obligatory, insofar as and until it is seen to have attained its proper finality, which in the present case consists in providing nourishment to the patient and alleviation of his suffering. (emphasis in the original)

The text on the Vatican website highlights the words natural means, medical act, and ordinary and proportionate, and these formatting clues merit our special attention as well. First of all, there is the cryptic expression that "administration of water and food, even when provided by artificial means, always represents a natural means of preserving life." What does "natural" mean in this context? Because the pope noted that food and water can be administered by artificial means, clearly "natural" here cannot mean the opposite of artificial. Rather, I would surmise that the understanding of natural refers teleologically to the overarching goal, end, or finis operis of the action of nourishment, which is to sustain life regardless of how that nourishment is taken.

Understood in this light, very few people would contest that the goal of nourishment in the abstract is to preserve life. This acceptence, however, does not mean that we must always administer nourishment, for there are any number of circumstances and intentions that would dispense with this obligation. To use a classic moral axiom, the duty to provide nourishment is a positive duty that binds semper sed non pro semper ("always but not in each and every instance"). For example, when I was writing this paragraph, I dispensed myself from the obligation to provide myself with nourishment.

The next highlighted phrase in the paragraph, "medical act," I must confess is truly puzzling. Either the pope was unclear about how ANH is administered or he had in mind some special description of what the term "medical act" implies. Unfortunately the sentence ends without any further indication of just what the papal understanding was of what constitutes a medical act. However, given the thrust of the rest of the document, as well as related writings such as Evangelium vitae, my conjecture is that those responsible for drafting this document were seeking to avoid the false equation of "medical act" with "extraordinary means." In other words, just because something like food and water is administered medically or artificially does not signify that such a treatment would in and of itself be considered an extraordinary means and morally optional. As I say, this interpretation of the cryptic phrase is an hypothesis, though it does seem to fit the data at hand, and it prevents the other obvious conclusion that would look on ANH analogously as something akin to hooking up a patient to the medical equivalent of a lawn sprinkler and then effortlessly coming back some hours later to find the individual pleasantly hydrated.

To understand properly the last highlighted phrase, "ordinary and proportionate," we need to repeat the entire sentence in which the term appears: "Its use, furthermore, should be considered, in principle, ordinary and proportionate, and as such morally obligatory, insofar as and until it is seen to have attained its proper finality, which in the present case consists in providing nourishment to the patient and alleviation of his suffering." Here I would like to highlight an additional term, namely, the phrase "in principle." Given the fact that the address is lumping together a vast number of medical conditions, from unconsciousness to PVS, under the blanket description of "vegetative state," it is only logical to conclude that the particular "principle" enunciated here is meant to refer to this whole complex in general, but not necessarily absolute and exemptionless, terms. In the Thomistic natural law tradition, this is the sort of principle that elsewhere I have termed a "middle axiom," and that Saint Thomas Aquinas refers to as a lex valet ut in pluribus (the law holds in most [but not all] cases). Something that holds true in principle can admit (legitimate exemptions, whether these be occasional or of a subset. For example, in principle" students should attend class, but we recognize that illness, a family emergency, and so on present morally acceptable departures from this principle, without destroying the validity of the principle as a general, but not absolute, norm.

The second observation to be made on this sentence concerns the highlighted term "ordinary and proportionate." Some have interpreted this, mistakenly I believe, to mean that the pope dramatically changed the whole Catholic bioethical tradition on ordinary and extraordinary means away from a case-by-case consideration of the patient as subject to a physicalist "objective" listing of certain medical procedures, therapies, drugs, and so on, which must now be considered always to be "ordinary" and therefore morally required without exception.

I think this interpretation is problematic and highly unlikely for a number of reasons, which I will outline just below, but I would first underscore that the word "ordinary" here is paired with "proportionate." It is a simple point of mathematical logic that to have a proportion, you must have at least two terms that are taken in relation to one another in order to understand the
proportionality. "Proportionate" is by its very nature therefore a relative term and suggests that its opposite, "disproportionate," may provide additional insight as to what constitutes in a given instance proportionality or disproportionality. Thus, the use or nonuse of ANH cannot be absolutized without reference to the concrete patient and his or her larger set of circumstances. It is this subjective relationship to the individual that has always provided the lens to discern what is ordinary or extraordinary means in the Catholic bioethical tradition. By including the term "proportionate" here, I would argue that the pope in fact did not mean to overturn this moral tradition at all.

For further support of my hypothesis, I would point to two documents that are referenced next in the address, namely, the Congregation for the Doctrine of the Faith’s "frra et bon: Declaration on Euthanasia," and the pope’s own encyclical *Evangelium vitae*. Both these documents reflect the long-standing tradition on ordinary and extraordinary means, and they specifically note that certain treatments need not always be continued or begun; if the pope had intended to overturn this Catholic moral tradition, he hardly would have cited the recent documents in which this is expounded. In fact, the Congregation for the Doctrine of the Faith’s description of "proportionate" and "disproportionate" is quite instructive in this regard:

However, is it necessary in all circumstances to have recourse to all possible remedies? In the past, moralists replied that one is never obliged to use "extraordinary" means. This reply, which as a principle still holds good, is perhaps less clear today, by reason of the imprecision of the term and the rapid progress made in the treatment of sickness. Thus some people prefer to speak of "proportionate" and "disproportionate" means. In any case, it will be possible to make a correct judgment as to the means by studying the type of treatment to be used, its degree of complexity or risk, its cost and the possibilities of using it, and comparing these elements with the result that can be expected, taking into account the state of the sick person and his or her physical and moral resources.

Indeed, this understanding of the ordinary/extraordinary means principle is contained in the *Catechism of the Catholic Church* as well, and all these documents rank much higher in authority in terms of the manner of criterion. If the pope had truly meant to reverse these teachings, he would likely have chosen a more solemn form of discourse than an occasional allocution.

The March 2004 address then returns to a discussion of what I believe in fact to have been the pope’s central concern—namely, euthanasia—and here the pope referenced himself:

In this regard, I recall what I wrote in the Encyclical *Evangelium vitae*, making it clear that "by euthanasia in the true and proper sense must be understood an action or omission which by its very nature and intention brings about death, with the purpose of eliminating all pain," such an act is always "a serious violation of the law of God, since it is the deliberate and morally unacceptable killing of a human person."

Although some would conclude that the pope judged any termination of medical treatment that would result in foreseen death to be "euthanasia," I believe this should hardly be the case. Indeed, for many who argued on behalf of maintaining the feeding tube for Terri Schiavo, the working assumption seemed to be that termination of any treatment protocol that can help sustain biological life is ipso facto passive euthanasia and therefore morally wrong. For example, the Reverend Frank Pavone, the head of Priests for Life, and a self-appointed spiritual adviser to Terri’s parents, decried Terri’s “killing,” adding that the plants in Terri’s hospice room were getting better care than she was. Despite a certain admiration for Pavone’s goal of respect for life, and besides his being dreadfully intertemporar and partially insensitive, he was just plain wrong on the traditional teaching of the Church. This sort of rhetoric does a real disservice to the Church’s carefully articulated moral tradition, and it shows how simplistic denunciation can often obscure rather than illuminate the morally relevant features and pertinent moral principles involved in a particular case.

I suspect that one reason for the common misperception of what the ordinary and extraordinary principle actually entails lies with the traditional vocabulary employed. The terms "ordinary" and "extraordinary" are commonplace in our everyday speech, but the usual meanings of these words do not accurately connote their precise significance in health care ethics. Too often, people presume that “ordinary means” would refer to any procedure that is relatively well established in contemporary medical practice, is safe, and is effective in its intended usage. Though a century ago, blood transfusions might not have met these triple criteria of established practice, safety, and effectiveness, today they clearly would, and so many people would conclude that a blood transfusion would virtually always constitute “ordinary means” and therefore would be morally obligatory to use if a patient’s medical condition so indicated.

Returning to the pope’s March 2004 address, it seems that the key to his understanding of what distinguishes euthanasia from a legitimate refusal of aggressive medical treatment lies in the phrase “nature and intention.” This pair of words invokes the mode of moral analysis found in the traditional vocabulary of *finis operis* (the goal of the act itself) and *finis operantis* (the intention of the agent in performing the act). Only when both the *finis operis* and the *finis operantis* are taken together in a set of concrete circumstances can the moral meaning of the action be adequately evaluated. The *finis operis* looks more to the foreseen consequences of the action performed, whereas the *finis operantis* focuses on the motivating intention of the agent who performs the action. In
end-of-life cases like those of Terri Schiavo and Pope John Paul II, this fuller evaluation needs to look more carefully at considerations of burden and benefit to help us realize what the various treatment options do, and do not, morally intend.

Those, like myself, who have argued that Terri Schiavo’s feeding tube could be morally removed held that its removal was not intended to cause her death, but rather that the finis operis operantis of the withdrawal of ANH was the intended removal of the last artificial obstacle to the completion of the dying process.

Concluding Reflections on Magisterial Teachings on End-of-Life Issues

Although the pro-feeding tube camp thought they finally had a definitive Roma locuta causa finita pronouncement in the March 2004 address of Pope John Paul II, as I have attempted to show, certainly this occasional allocation does not seem either to say in fact what many of the pro-feeding tube proponents assert, and much less does it attempt what would be a major reversal of the Catholic moral tradition on ordinary and extraordinary means. In fact, two other important contributions by Pope John Paul II in the last year of his life would work against reading the March 2004 address as a papal call for continuation of ANH no matter what. As I indicated in the initial section above on the guidelines for magisterial exegesis, we need to attend carefully to the three criteria of character, manner, and frequency. I have tried to show that the “character” criterion of the March 2004 address seems to be concerned primarily with speaking against the notion of euthanasia on demand and what elsewhere John Paul II decried as a culture of death. The main thrust of the address is not aimed at reversing the centuries-old tradition of ordinary and extraordinary means, which would have to the case if in fact the pope meant that ANH would have to be always administered regardless of the necessary subjective considerations of the individual patient’s own benefit and burden calculus.

Similarly, if indeed the pope had meant to depart from the Church’s tradition, both ancient and recent, he hardly would have quoted the Congregation for the Doctrine of the Faith’s “Iura et bona: Declaration on Euthanasia” and his own encyclical Evangelium vitae, because a careful reading of the whole of both these documents would not support a conclusion that a therapy such as ANH would always and everywhere be required. As I noted above, the latest document is not necessarily the most authoritative. If the pope truly intended to reverse his own teaching and the long-standing tradition of the Church, he would have chosen a genre such as an encyclical, whose intrinsic authority would have signaled the important weight of the teaching contained in the text. Pope John Paul II did not do this, and it remains an open question to just what extent the occasional allocation should be considered part of the ordinary magisterium of the pope.

In any event, the March 2004 address was not the last papal discourse on end-of-life health care. In November of the same year, he gave another allocution, this time to the Nineteenth International Conference of the Pontifical Council for Health Pastoral Care. Not only did he fail to repeat the points made in the March address on the moral necessity of maintaining life-sustaining therapies such as ANH, but on this occasion he reiterated the principle outlined in “Iura et bona: Declaration on Euthanasia” and Evangelium vitae that a patient can in good conscience refuse what are deemed aggressive treatments:

The refusal of aggressive treatment is neither a rejection of the patient nor of his or her life. Indeed, the object of the decision on whether to begin or to continue a treatment has nothing to do with the value of the patient’s life, but rather with whether such medical intervention is beneficial for the patient. The possible decision either not to start or to halt a treatment will be deemed ethically correct if the treatment is ineffective or obviously disproportionate to the aims of sustaining life or recovering health. Consequently, the decision to forgo aggressive treatment is an expression of the respect that is due to the patient at every moment.

As I noted above, Rome does not usually correct misunderstandings by saying “Oops, we made a mistake.” Instead, the frequency or infrequency of the repetition of a position should be a guide to evaluating the relative authority given to what has been said in a given text.

Those familiar with Vatican ways clearly see the November 2004 address as an intended corrective to the excessive absolutist interpretations of the March 2004 address as demanding ANH in virtually every medical scenario short of brain death. Though many will continue to feel that the use of the feeding tube in the Terri Schiavo case constituted an ordinary means and therefore was morally obligatory, others have reasonably argued the opposite, using the same definitions and tradition to support their counterconclusion. This sort of situation seemed to be a classic instance in which the principle of probabilism could be invoked, because there was no clear and definitive statement on the issue from the council, from a Vatican Congregation, or, as I have argued here, even from Pope John Paul II’s March 2004 address.

What, however, were Pope John Paul II’s own final thoughts on this debate? Though the November 2004 address remains the last significant discourse he gave on this topic, his own last days give perhaps a more eloquent testimony to his belief enunciated in Evangelium vitae that whereas biological life is certainly
a strong value, it remains this side of heaven at best a penultimate value that should not take precedence over belief and hope in the eternal fullness of the life to come:

At the same time, it is precisely this supernatural calling which highlights the relative character of each individual’s earthly life. After all, life on earth is not an “ultimate” but a “penultimate” reality; even so, it remains a sacred reality entrusted to us, to be preserved with a sense of responsibility and brought to perfection in love and in the gift of ourselves to God and to our brothers and sisters.29

When John Paul II’s own doctors advised him in late March 2005 to return to the hospital so that his infection could be better treated, he refused. This refusal demonstrates his own faith in the “supernatural calling” he spoke of in Evangelium vitae, as well as his acceptance and support of the long-standing tradition on the ordinary/extraordinary means that evaluates benefit in light of the concomitant burden and leaves the final decision ultimately up to the individual patient.

If we could draw one last conclusion from our reflections on these debates, it might be to note the danger of prematurely closing off discussion by imposing some sort of magisterial gag order. Though I think most would agree that we should attend to what the magisterium is saying in this area, I note that some very good insights into overlooked aspects of the issue can be found by consulting more broadly. For example, consider the following statement found in the Catholic Bishops’ Conference of the Philippines’ official Catechism for Filipino Catholics, which gives an insight into the moral considerations of extraordinary means easily overlooked in the medical culture of the United States:

However, when there is no real hope for the patient’s genuine benefit, there is no moral obligation to prolong life artificially by the use of various drugs and machines. In fact, using extraordinary means to keep comatose or terminally ill patients artificially alive seems clearly to lack objective moral validity, especially in a society where the majority of the population do not enjoy even adequate elementary health care.30

It seems clear what position the Philippine bishops would take on the artificial hydration/nutrition debate in general and the Schiavo case in particular, and here I emphasize what seems to be for them the key morally relevant feature, namely, the “justice” issue of distribution of limited medical resources in a society marked by what the bishops term the “glaring contradictions” of the great disparity between the rich and the poor in the contemporary Philippine context.31 The bishops remind us to keep in mind this justice aspect in our consideration of the usage or nonusage of extraordinary means.

I think the Philippine bishops see clearly that there is no such thing as “burdenless” means when it comes to cases like that of Terri Schiavo. Faced with a harsher economic reality than is the case in the United States, I believe the Philippine bishops can discern the hidden social costs involved in health care and are not afraid to raise the question of who ultimately will have to join in shouldering this burden. Their cross-cultural ethical insight may help us to see more clearly that health care resources devoted to keeping a PVS patient alive for more than a decade do in fact represent burdens on many levels, including the global.

Finally, then, the correct moral question should be whether this burden is proportionate to the case at hand, and not is this simply a burden that the patient or the family or both and caregivers can physically endure. Proporionality speaks to what is reasonable, but endurance speaks rather simply to what is physically possible. The two terms certainly are not identical, or even close synonyms, morally speaking. As Pope John Paul II showed us in his various teachings on end_of_life issues, the matter at hand remains complex and cannot be absolutely nailed down once and for all. Roma locuta and, as we have seen, the causa is not yet finita.

Notes

1. The best published account I have seen to date, though, is Thomas A. Shannan and James J. Waite, “Assisted Nutrition and Hydration and the Catholic Tradition,” Theological Studies 66 (2005): 611–62. Their article is helpful in discerning different theological methods and moral theories used in this part of the bioethical tradition, though they have not really focused their attention on the question of the magisterial weight of the document itself. See also the response to their article by John Pata, S.J., James Koeman, S.J., and Kenneth Himes, O.F.M., and their own reply, as the “Quaestio Disputata,” Theological Studies 67 (2006): 163–74. Kevin O’Rourke, O.F., has attempted to do this in what I believe is still an unpublished paper, “Reflections on the Papal Allocution Concerning Care for PVS Patients,” but I believe that he too has overlooked some crucial aspects of the necessary analysis to determine the level of magisterial authority that should be accorded to Pope John Paul II’s various writings on this topic.

2. An outline of my Magisterial Exegesis Guidelines can be found in the Seminar AIDS section of my web page at http://www.usfca.edu/fo-staff/brethkes/USFWebIndex.htm.

3. Lumen gentium, “The Dogmatic Constitution on the Church,” par. 25. This triad is repeated regularly (annually at least) in the Vatican’s semi-official newspaper, L’Osservatore Romano.

4. Cf. Gregory XVI’s 1832 Mirari vos and Pius IX’s 1864 Quanta cura and the accompanying Syllabus of Errors, both of which condemned the notion of religious liberty as an “insanity,” while Vatican II’s Dignitatis Humanae, par. 2, “declares that the right to religious freedom is based on the very dignity of the human person as known through the revealed word of God and by reason itself.”

5. If the pope intends to grant his own papal authority to a document from a Vatican Congregation, he uses a different form, called in forma specifica, to indicate that the document
14. Clearly this does seem to be the pope’s understanding of the prognosis of PVS, as he goes on in the next sentence to state: “In particular, the term permanent vegetative state has been coined to indicate the condition of those patients whose ‘vegetative state’ continues for over a year. Actually, there is no different diagnosis that corresponds to such a definition, but only a conventional prognostic judgment, relative to the fact that the recovery of patients, statistically speaking, is even more difficult as the condition of vegetative state is prolonged in time. However, we must neither forget nor underestimate that there are well-documented cases of at least partial recovery even after many years; we can thus state that medical science, up until now, is still unable to predict with certainty who among patients in this condition will recover and who will not.” John Paul II, “Life-Sustaining Treatments and Vegetative State,” par. 2.

15. Ibid., par. 3.

16. Ibid., par. 4.

17. Ibid.

18. Ibid.


24. Pope John Paul II, “Life-Sustaining Treatments and Vegetative State,” par. 4; the quotation from Evangelium vitae is from n. 65.

25. This vocabulary grew out of the moral theology being done in Rome, and perhaps a cross-cultural linguistic gloss may help in better grasping the terms’ import. Ordinarius and straordinarius would be the equivalent terms in Italian, but they do not always convey the same range of meanings as their English counterparts. Ordinarius involves the nuance of “full” and “permanent,” (like a full professor), and contrasted with this, straordinarius is seen as temporary, supplemental, supernumerary, or somehow lacking the fullness and completeness of ordinarius (e.g., an associate professor). Thus, ordinary means would refer to the full range of medical treatments that would be expected for a complete medical treatment, while extraordinary means would refer to supplemental treatments that would not be required. Neither term in this context means “routine” or “extreme” in the sense of the objective nature of the medical treatment protocols.

26. “Rome has spoken: the case is closed.” Traditionally it was held that a definitive Vatican or papal statement on a matter should close off further debate on the issue.

27. This observation was raised by then Archbishop (and also now Cardinal) William Levada in his response to a question put to him in the last meeting of the San Francisco
Archdiocesan Priests Council, which met in May 2005 right after he had been named as the new head of the Congregation for the Doctrine of the Faith. I am a member of the Priests Council and was present at this meeting in which several of the priests asked for the archbishop’s own understanding of the magisterial weight of the March 2004 address. The archbishop replied that it was not clear just how much weight the address carried, and whether in fact it should be considered part of the “ordinary magisterium” of the pope.


29. Evangelium vitae, par. 2.


31. Ibid., cf. par. 732 in the Catechism for Filipino Catholics, by Catholic Bishops’ Conference of the Philippines.

What Does Society Owe Those Who Are Minimally Conscious?

Marilyn Martone

PERSONS WHO ARE IN A MINIMALLY CONSCIOUS STATE DIFFER FROM those who are vegetative in that they have some awareness of themselves and others. Because of this awareness, their care should differ from the custodial care that is given to people in a persistent vegetative state. It should also include rehabilitative services that would help to increase their ability to function at their optimal level. This care also needs to include assistance in restructuring identity. Because persons in a minimally conscious state have a story, a narrative, that both precedes and follows their time in health care institutions, their families are best equipped to help them work on their identity issues. Many families are willing to accept this challenge if proper support systems have been put in place. The principle of subsidiarity suggests that this should be done. In addition, this approach would build on the relational components of these individuals and would eliminate the feelings of abandonment that most patients in a minimally conscious state and their families currently experience.

Clinical Evaluation:

The patient is seen today for comprehensive neurobehavioral reevaluation approximately ten weeks after her initial assessment was completed following her admission to JFK Medical Center–Center for Head Injuries on 6/11/98. She is a 21-year-old right-handed college student who sustained a severe traumatic brain injury with prolonged loss of consciousness on 2/22/98 as the result of a motor vehicle accident. The initial GCS score was reportedly a 3; however, decorticate posturing was reported at that time. The initial CT scan of the head showed a left subdural hematoma which was evaluated and followed by placement of an extraventricular drain on day two. She apparently developed a CSF infection requiring removal of the extraventricular drain. She underwent a course of rehabilitation at the Rehabilitation Institute of Chicago from 4/15/98 to 6/11/98, at which time she was transferred to JFK. Her course at RIC was complicated by autonomic instability and multiple shunt revisions. On my initial evaluation at the time of her admission to JFK,
Contents

Preface v

Selected Essays

Christian Ethics and the Concept of Morality: A Historical Inquiry
Jean Porter 3

Moral Formation and the Evangelical Voter:
A Report from the Red States
David P. Gushee and Justin Phillips 23

Original Sin in the Original Position:
A Kierkegaardian Reading of John Rawls’s Writings on Justice
Geoffrey Rees 61

Speaking of Motherhood:
The Epideictic Rhetoric of John Paul II and Ayatollah Khomeini
Elizabeth M. Bucar 93

Moral Consensus, the Rule of Law, and the Practice of Torture
Jonathan Rabbio 125

Just Cause and Preemptive Strikes in the War on Terrorism:
Insights from a Just-Policing Perspective
Tobias Winright 157

A Burden of Means: Interpreting Recent Catholic Magisterial
Teaching on End-of-Life Issues
James T. Breazeke, S. J. 183

What Does Society Owe Those Who Are Minimally Conscious?
Marilyn Martone 201
Buddhism

Christianity

Hinduism

Islam

Judaism

Religious Studies

THE KEYS TO UNDERSTANDING

GEORGETOWN UNIVERSITY PRESS

is proud to publish

KEY WORDS

by Ron Geaves

Daily political events and the steady inevitability of globalism require that informed students and citizens learn something about religious traditions foreign to their own. Designed for both classroom and general use, these handy Key Words guidebooks are essential resources for those who want clear and concise explanations of common terms and unfamiliar concepts of major world religions.

Each pocket-sized volume contains definitions for over 400 terms from religious principles and significant periods to noteworthy figures.

GEORGETOWN UNIVERSITY PRESS

www.press.georgetown.edu

1.800.537.5487 or 410.516.6965 • FAX: 410.516.6998

Journal of the Society of Christian Ethics

Volume 26, No. 2 • Fall/Winter 2006
Contributors

James T. Bretzke, S.J., is professor and chair of the Department of Theology and Religious Studies at the University of San Francisco. Previously he taught in Rome, Seoul, Berkeley, and he is a regular visiting professor at the Loyola School of Theology in Manila. He has published more than eighty articles and reviews on various aspects of moral theology, plus five books, including A Morally Complex World: Engaging Contemporary Moral Theology (Liturical Press, 2004). Currently, he is working on a book dealing with the interpretation of the Roman Catholic magisterium’s teachings on contemporary controversial issues in sexual ethics, social ethics, and bioethics.

Elizabeth M. Bucar is currently a postdoctoral fellow at Georgetown University’s Berkley Center for Religion, Peace, and World Affairs and a candidate in religious ethics at the University of Chicago Divinity School. Her research and writing focus on clerical rhetoric; women’s social movements; and sexual ethics within two religious traditions, Roman Catholicism and Shi’a Islam. Her publications include the edited volume, Does Human Rights Need God? (Eerdmans, 2005).

David P. Gushee (Ph.D., Union Theological Seminary) is University Fellow and Graves Professor of Moral Philosophy at Union University, Jackson, Tennessee. He is the author of nine books, primarily on Christian social ethics, and is both a practitioner and analyst of evangelical Christian social/political engagement.

Marilyn A. Martone is an associate professor of moral theology at Saint John’s University in Jamaica, New York. She has written extensively on health care ethics, feminist ethics, and disability ethics.