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Dialogical Christian Ethics¹

The Obama Administration has now brought us closer than ever to universal health care in the United States. The President has said that health care, as the Western European nations all recognize, is a human right, not a privilege. I will let Professor Rice address the compatibility of the idea with our Constitution. Professor Rice and I will both address the ethical basis of such a human right, but in very different ways. He will place it on traditional natural law ethics in the Catholic Church. I will argue for basing the human right to health care on a contemporary ethics of respect for human rights which is completely independent of the natural law tradition. Yet you will see that I think that a Christian approach to human rights and access to health care is not only possible but even important. But you will also see that I do not appeal to Christianity in any narrow sense. What I say is not tied to any particular church, and it even allows that the same ideas could be communicated to non-Christians in the language of their own traditions. I do

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not appeal to the authority of any creed. I certainly do not appeal to faith as a blind leap in the dark unsupported by reason.

In the Saint Thomas, widely regarded as the greatest thinker of the Catholic Church, distinguished four types of law. He took three types from Roman law, and a fourth type from Christianity. First there is *natural law* by the light of ordinary natural reason. This law leads to certain so-called natural rights. For example, human beings have a natural right to the product of their labor, since by human nature they lack the ability to survive like bees merely by instinct. They survive primarily by their labor. Given scarce resources they cannot help seeking to work for a product of labor in order to survive. They thus have a “natural right” to labor, to a job, with the expected reward of the product of labor.

The second type of law is the *international customary law of civilized people* everywhere, which is due to a growing influence of natural law on the customs of all nations. In civilized countries people are actually rewarded by the product of their labor. They actually exercise their natural right. Its exercise is respected by the civilized opinion of humanity.

The third type of law is man-made domestic law as legislated in one or another country. The second type of law, the customary law of the civilized world, exerts a gradual civilizing influence on the third type of law, on domestic law. We see from these three types of law taken together how Saint Thomas can make a place for human rights as the successful exercise by human beings generally of natural human impulses. Protection of a human right to enjoy the product of labor by the customary law of civilized nations results in a human right. We mean by a “human right” here near universal human respect for a near universal human claim. If this respect is not yet universal, no human right actually exists yet.

Legal protection of an individual's right to the product of labor promotes trade and prosperity. It helps to create the wealth which serves to finance respect for other human rights. Actual respect for human rights costs money. A human right is a legitimate human claim generally recognized by people in all nations to be legitimate. But it is important to see that a human right is defined only by recognition of the claim's validity, not by actual universal respect or observance of the claim. A human right can exist even if it is not respected due to insufficient resources. A human right to food may exist even if, in light of today's global food shortages, humanity cannot reallocate so as to respect the right in a given time span.

Ancient Rome shows the development of international customary law and then of legislated domestic law under the influence of so-called "natural rights." Legal protection of private property expanded trade and wealth among all civilized nations. Foreign merchants would not enter a country if their wares were not legally protected. The protection of private property was first denied to sons of living fathers, wives, and foreigners in early—was gradually adopted by Rome as it joined in international trade in the larger Mediterranean world. Sons of living fathers were moved to create businesses and engage in enterprise by gaining a right to their product independently of their fathers. This extension of the right to the product one's labor increased the whole wealth of society. The right to the product of labor, we may say, is a capitalistic human right. But it is the right that makes respect for other human rights possible actual respect for welfare rights, including a human right to health care.

These so-called natural rights should more logically be called natural drives. These drives are part of human nature, like the drive to seek food or to defend oneself. Such drives exist according to the laws of human nature. They are not rights at all, since being natural they cannot

be taken away from us. They are inalienable and thus need no protection. Rights, however, can always be taken away from us and thus need protection. Society by a consensus of its members grants us our rights and society can take them away. "Natural rights" are thus a contradiction in terms. Rights exist by social convention, not by eternal laws of nature. Of course not all rights are moral. Slave owners had their rights in slave societies. Human rights are universal moral rights. They are not only universally recognized as legitimate, they actually are legitimate. There is no natural right to seek to defend oneself, that is only a natural drive, but there can be a legitimate human right for this drive to be successful, there can be a human right to security if humanity agrees.

Human rights are the successful human exercise of certain natural human drives, namely, of those drives that support the basic human right to rational dialogue of issues of perceived concern. Rational dialogue is impossible, for example, in conditions of insecurity. Human rights, if they exist, are inspired by the civilized opinion of humanity, and may be supported by domestic legislation. That sums up the first three kinds of law cited by Saint Thomas while eliminating reference to "natural rights."

But I now want to go on to his fourth type of law. Saint Thomas also recognized the Biblically revealed *law of love*. For Saint Thomas this is divine law. A law creates an obligation, and the obligation following from the law of love is charity towards others. The language of human rights did not yet exist when the Bible was written. In fact, that language is only a couple centuries old, hardly predating the American Revolution. But I am going to suggest that the language of the law of love can be translated into today's language of human rights. Put in plain language, love is help. The obligation to help others creates the right of others to enjoy the help

of those around them. This is the right to enjoy the love of others, in ordinary language, a right to be helped.

For Saint Thomas it is a divinely revealed universal privilege of every human being to be assisted in his or her natural pursuits in life. Related to this privilege, which because of sin we may not deserve, is our divinely revealed duty to help others in the image of Christ. The image of God in Christianity becomes more an image of service than lordship. Kings and peasants, all in the image of Christ, are on the same plane as servants, though they serve in very different ways.

But if Thomas' fourth type of law were to remain as divinely revealed only to Christians, a right to be assisted could not be universally recognized as valid according to the natural reason of all human beings, including non-Christians. It could not really become a human right. However, I believe that the right to be helped is the very right which the contemporary ethics of respect for human rights recognizes as the basic human right.

Can *faith* be raised to the level of *reason*, to what the Gospel of John calls the Word or *logos*? According to the ethics of respect for *human rights*, to help another person is not to *paternalistically* force him or her to do what we see to be good for him or her. It is rather to respect the exercise of the other person's human right to freedom of belief and choice, even if we think that choice is wrong. It is to meet the other where he or she is, to join hands in an exploration by dialogue of the beliefs and choices of the other person, and of the unnoticed implications of those beliefs and choices. This may help the other person discover and correct errors in his or her thinking. But in truly entering a dialogue it is impossible to predict the outcome. In seeking to change others one is at risk of being changed oneself. If one could predict the outcome of dialogue, the dialogue would be a manipulation and not a dialogue. Once we

realize that the appeal to self-evidence has deceived us in the past, we should never again trust it as a source of knowledge. But if nothing is self-evident, everything is discussable. Respect for the other person's basic rights can come to be motivated very reasonably by the helper's own desire to advance toward the truth as by dialogue, seeking a reasonable consensus of human beings generally.

The logos expands to become *dia-logos*, which in Greek means reasoning not alone by oneself but through others. "Logos" means "reason" in Greek, and "dia" means "through." A person loves or helps other persons generally to arrive at true beliefs by means of discussion. Thus helping other human beings by exploring their beliefs is in the true self-interest of the helper. The helper does not help because the person helped demands it as his or her right. Rather the helper places on him- or herself an obligation to help in order by dialogue to work toward true beliefs, recognizing that success in all our actions depends on acting on the basis of true beliefs and not illusions. The basic human right of the individual to freedom of expression in dialogues which are perceived to be of concern to him or her is supported by the freely self-imposed obligation of reasonable human beings to verify their own beliefs in consultation and dialogue with others. Ultimately the helper does not identify with his or her present beliefs, since they might be wrong. The helper identifies with the whole process of dialogue which is alone capable of leading into all truth. And that means that the "other" person ceases to be really other than oneself. That means that charity for the other really turns out to be self-help, not charity.

If this Christian insight is understandable even to those who do not call themselves "Christians," it may follow that so-called non-Christians can really be Christians in disguise. They may be Christians in spirit if not according to the letter. If they share this insight, they may

be members of the so-called “invisible church.” If I were talking with you as Muslims, I would might choose not to use Christian language. The idea is that there is a version of Islam called “Sufism,” and I believe that it the language I would use. “Sufi Muslims” can at a depth level be “Christians” and “Christians” can be “Sufis.”

This interpretation of “the law of love” results in a basic human right to be a partner in dialogue with others. This goes beyond what Saint Thomas intended, since it takes a Biblically revealed law to be a moral law understandable to all, Christians and non-Christians alike, by the light of natural human reason.

This may all sound terribly theoretical, but in conclusion I want to point out its application to current debates about universal health care. Many people today benefit from the charity of the medical system, of hospitals, of doctors who volunteer or who charge on a sliding scale for services according to income. When someone in need of treatment understands that he or she is receiving charity, there is an implication is that the individual does not have a *right* to treatment. Care is received not as something justly deserved, but as undeserved acts of mercy. Health care is a privilege, not a right. But to accept medical care in the sense of merciful treatment which one does not really deserve, much as a sinner is saved without deserving salvation, is in the end, in the language of current human rights law, be to accept to be treated in an “inhumane and degrading” way by the medical system. Many who accept such treatment today are in fact ashamed.

However, if my argument is correct, care takers—if they are enlightened, indeed if they are truly reborn in the image of Christ, of love, of the dia-logos—have no identity separate from those they help. Care becomes self-help for the care taker who is enlightened in the spirit of

Christ. Christ is love, but Christ is also infinite. So there really is no “other” whom Christ loves. For, if Christ ultimately encountered something *other* than “himself,” he would be finite or limited rather than infinite.

If human rights truly existed, if the kingdom of God truly descended to earth, humanity, giving care through health professionals, would respect the human rights of the sick and vulnerable for the sake of enlightenment by additional voices in dialogue. They would realize that the loss of any patient to death or disability (or medically unnecessary abortion) puts humanity at the risk of a loss of enlightenment on some topic. Most of us have had the experience of suddenly learning something from the least expected source. If we were interested at the deepest level in true beliefs on which to act, we would not willingly allow ourselves to be deprived of any witness to the truth, no matter how little we have learned by him or her in the past. The universal health care reform we are currently contemplating would degrade, humiliate, or shame no one.

Of course you will say that it is idealistic. But ethics is about what should be, not necessarily what is. The ethics I am proposing as true ethics is the ethics of respect for the universal human right to have access to any discussion perceived to be of concern to the individual. And it is to do so with a real opportunity on a level playing field to convince other dialogue partners to change in some fashion one’s life conditions. I am suggesting that our efforts should be directed to implementing the universal right to access to dialogue, and at once to the kind of health care that sustains every individual’s vitality as a witness to the truth. We must remember that, although God’s charity through Christ may be totally reliable, human charity on earth is hit and miss. Many people are not reborn in the spirit of Christ. Human charity

for “others” needs to be institutionalized as a freely self-imposed obligation of care givers and human beings everywhere to help and empower the voices of even the worst off in dialogue.