

The Use of Prophylactics and the Principle of Gradualism

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Context

According to estimates from the *United Nations AIDS 2010 Epidemic Update*¹, about 30.8 million adults and 2.5 million children worldwide were living with HIV at the end of 2009. In this same year, some 2.6 million people became infected with HIV, including an estimated 370,000 children. Most of these children are babies born to women infected with HIV. By the end of 2009, this pandemic had left behind 16.6 million AIDS orphans (those under 18 who have lost one or both parents to AIDS).

Sub-Saharan Africa is by far the region most affected by the AIDS pandemic. Even though this region has just over 10% of the world's population, it is home to 68% of all people living with HIV. An estimated 1.8 million adults and children became infected with HIV during 2009, contributing to a total of 22.5 million people with HIV in the region. Women are particularly affected. Southern Africa accounts for around 40% of the global total of women living with HIV.

Given this situation, it is not surprising that in an interview with Benedict XVI during his March 17, 2009 flight to Cameroon, Africa, a French journalist commented that among the many ills that beset Africa, "one of the most pressing is the spread of AIDS."² The journalist asked the pope if he agreed that "the position of the Catholic Church on the way to fight it is ... unrealistic and ineffective?" The Pope replied, "Just the opposite."

Benedict pointed out that "the most efficient [and] truly present player in the fight against AIDS is the Catholic Church herself." He went on to say that the "problem of AIDS" cannot be overcome merely with money "if there is no human dimension, if Africans do not help [by responsible behavior], the problem cannot be overcome by the distribution of prophylactics. On the contrary, they increase it." Benedict said that any solution must have two critical elements: bringing out the human dimension of sexuality, and offering true friendship especially to those who are suffering.

Commenting on the pope's remarks, French epidemiologist Rene Ecochard and a number of other scientists warned of the relative ineffectiveness of condom use: "The impasse and failure of this form of prevention is an epidemiological reality." He invoked the example of Uganda which has embarked on a three-pronged *ABC HIV/AIDS PREVENTION PROGRAM*: abstinence, be faithful, use a condom if A and B fail. Cameroonian psychologist Theodore Kommegne added: "The best way to fight against AIDS is a multi-axial cultural approach that focuses on changing sexual behavior, including condom use, and especially the promotion of sex education within school, family, religious and social settings."³ In other words, use of a condom cannot be the first or foremost way of preventing HIV/AIDS.

In *Light of the World: The Pope, the Church, and the Signs of the Times*, the 2010 book-length interview with Benedict XVI by German journalist Peter Seewald, the Pope returned to the subject of HIV/AIDS and condom use. He emphasized again the importance of the "humanization of sexuality" as the foremost way of combating HIV/AIDS. Citing the 2009 interview on the plane en route to Africa, Seewald said that the pope's remarks "became the target of media attention" because the church's traditional teaching on condoms as a way of prevention of the HIV/AIDS disease is seen by critics both inside and outside the church as "madness to forbid a high-risk population to use condoms."⁴

Benedict responded that the church is "second to none in treating so many AIDS victims, especially children with AIDS." The pope revisited his 2009 interview aboard the papal plane and said that he "was not making a general statement about ... condom use" but rather expressing the specific belief that "we cannot solve the problem by distributing condoms. Much more needs to be done."

Benedict was critical of the *ABC HIV/AIDS PREVENTION PROGRAM* as it represents the "sheer fixation on the condom" and this implies a "banalization of sexuality." He then said that "there may be a basis in the case of some individuals, as perhaps when a male prostitute uses a condom, where this can be a first step in the direction of a moralization, a first assumption of responsibility, on the way toward recovering an awareness that not everything is allowed and that one cannot do whatever one wants. But it is not really the way to deal with the evil of HIV infection. That can lie only in a humanization of sexuality."

"Are you saying," asked Seewald, "that the Catholic Church is actually not opposed in principle to the use of condoms?" Benedict replied, "She ... does not regard it as a real or moral solution, but, in this or that case, there can be nonetheless, in the intention of reducing the risk of infection, a first step in a movement toward a different way, a more human way, of living sexuality." Benedict's point is reiterated in another part of the interview, "... (I)t is imperative to learn to exercise a freedom that is responsibility."⁵

Responses

While the official release date of *Light of the World* was November 23, 2010, *L'Osservatore Romano* published on November 20th a set of extracts from the book which included an edited version of Benedict's comments on condom use. These extracts were quickly seized upon by worldwide media and triggered a cycle of sensational and often misleading coverage and interpretation.⁶ Federico Lombardi, S.J., Director of the Holy See Press Office, stepped quickly into the fray and said that the Pope's remarks "cannot be defined as a revolutionary shift" in church teaching.⁷

Lombardi said that "numerous moral theologians and authoritative personalities have sustained, and still sustain, a similar position" and insisted that the pope's comments should be understood as "colloquial" rather than "magisterial."⁸ Although not referenced by Lombardi, an example of "authoritative personalities" can be found in the pastoral letter of the Southern African Bishops Conference in 2001. The bishops wrote that in a case of a married couple in which one spouse was HIV-positive and the other was not, the use of "appropriate" protection to prevent the spread of HIV was acceptable. In defense of this position, the bishops used the moral argument that everyone has a right to defend one's life against mortal danger.⁹

Many raised concerns that Benedict's remarks would be misinterpreted as opening a window to the moral use of

contraceptives.¹⁰ Lombardi responded that "the pope had specifically told him that the issue was not procreation but rather disease prevention – regardless of gender."¹¹ In 2008, Cardinal Javier Lozano Barragan, head of the Pontifical Council for Health Care Ministry, reported that Pope Benedict had asked a commission of scientific and theological experts to prepare a document on condom use by married couples when one spouse was infected with HIV/AIDS.¹² This study has never been published, evidently fearing that an affirmative judgment "would confuse the faithful regarding [the church's] artificial birth control ban."¹³ On this point, Boston College's Lisa Sowle Cahill takes a broader perspective: "I see [the pope's remarks] as a shift in attention, so that the politics of AIDS is larger on the radar screen than the politics of contraception, and to me that is a needed and appropriate shift."¹⁴

John M. Haas, president of the National Catholic Bioethics Center, stated that it was his opinion "that the pope purposely chose a male prostitute to avoid this particular debate."¹⁵ Haas claimed that he saw an embargoed copy of the book and "told the publisher: don't publish this; it's going to create a mess... If the pope is opening this debate, I think the pope's wrong."¹⁶ Many pro-life forces reached this same assessment, fearing that any concession on condoms, however carefully nuanced, will weaken the church's teaching that certain acts are intrinsically evil.¹⁷

Some members of the Pontifical Academy for Life expressed strong reservations about the pope's comments. One member said that "Our Holy Father should stop talking about aberrant sex and talk more about Jesus," while another denounced the "confusion" created by the publication of the pope's interview.¹⁸ Joseph Fessio, S.J., president of Ignatius Press, the publisher of *Light of the World* in the United States, raised two criticisms regarding the accuracy of the translation. First, "male prostitute" in the original German was *ein Prostituierter*, whereas the Italian translation wrongly renders it as *una prostituta* rather than *un prostituto* (in the masculine). Second, the Italian translation uses the word *giustificati*, with the meaning that the use of a condom by a male prostitute can be "justified," whereas the German is more accurately translated in the English rendering as "There may be a basis in the case of some individuals, as perhaps when a male prostitute uses a condom, where this can be a first step in the direction of a moralization..."¹⁹ Fessio concludes that "the pope did not 'justify' condom use in any circumstances."²⁰

Congregation for the Doctrine of the Faith

On December 21, 2010, the Congregation for the Doctrine of the Faith (CDF) issued in six languages a "Note on the Banalization of Sexuality Regarding Certain Interpretations of 'Light of the World.'"²¹ This note explains that Benedict's remarks were aimed at rediscovering "the beauty of the

divine gift of human sexuality" and do not represent "a change in Catholic moral teaching or in the pastoral practice of the church." The pope was not discussing "conjugal morality" nor moral norms "concerning contraception."

The CDF further remarks that "those who know themselves to be infected with HIV and who therefore run the risk of infecting others, apart from committing a sin against the sixth commandment are also committing a sin against the fifth commandment – because they are consciously putting the lives of others at risk through behavior which has repercussions on public health."

The note concludes that "those involved in prostitution who are HIV positive and who seek to diminish the risk of contagion by the use of a condom may be taking the first step in respecting the life of another – even if the evil of prostitution remains in all its gravity."

Moral Analysis Lesser of Two Evils

In 1987 the Administrative Board of the U.S. Conference of Catholic Bishops (USCCB) issued *The Many Faces of AIDS: A Gospel Response*.²² The use of prophylactics was discussed in paragraphs 18-20. The document accepts as reality that "some people will not act as they ... should; that they will not refrain from the type of sexual ... behavior that can transmit AIDS. In such situations, educational efforts ... could include accurate information about prophylactic

devices ... as potential means of preventing AIDS.”

When the document considers educational programs “for those who have already been exposed to the disease, the situation is different... The teaching of classical theologians might provide assistance as we search for a way to bring into balance the need for a full and authentic understanding of human sexuality...” This paragraph ends with a footnote (no. 7) which references the classical teachings of St. Augustine and St. Thomas regarding the lesser of two evils. Thomas is quoted as writing that “those who govern rightly tolerate certain evils lest certain goods be impeded or also lest some greater evil be obtained...” This footnote also references classical authors Dugre and Zalba and their teaching about the toleration of the lesser evil. In 1989 the full body of bishops issued *Called to Compassion and Responsibility: A Response to the HIV/AIDS Crisis*.²³ This document rejects condom education believing this approach promotes morally unacceptable behavior.

Regarding the principle of the lesser of two evils, traditional manualists of moral theology, e.g., Noldin, Genicot, Merkelbach, taught that it is sometimes permissible to counsel the lesser evil, for instance, if one was about to steal \$1,000 and cannot be otherwise prevented, the person could be urged to steal only \$100. Or if one is determined to murder someone and I am powerless to stop this act, I could persuade the individual to get drunk instead. Two conditions were given

to justify the use of this principle: the person counseled is determined to commit the evil, and there is no possible way of preventing the greater evil. In other words, when a person is determined to be irresponsible, it is better to minimize the irresponsibility.

Educational programs envisioned in *The Many Faces of AIDS* would likely include the example of a spouse who is HIV-positive and is determined to have sexual intercourse with his wife, and it is impossible to convince the husband to abstain from sexual activity; then the use of a condom is a lesser evil than the probability of transmitting the disease. In this approach, the lesser evil is not advocated but only tolerated.²⁴

In a 2006 interview with the Italian magazine *L'Espresso*, Cardinal Carlo Martini, retired Archbishop of Milan, said that “everything possible must be done to oppose AIDS. Certainly in some situations the use of condoms can constitute a lesser evil.” In speaking of a spouse who is HIV-positive, Martini indicated that “the infected one is obligated to protect the other partner [by] protective measures.”²⁵

Martini said that the principle of the lesser evil is “applicable” in such a case, but expressed caution about “religious authorities” promoting such a defense lest it appear that the church does not counsel abstinence as the morally sustainable way of “promoting a responsible attitude.”²⁶ It is reported that Cardinals Godfried Danneels of Brussels-

Mechelan, Cormac Murphy-O'Connor of Westminster, and Javier Barragan of the Pontifical Council for the Pastoral Care of Health Care Workers have taken similar positions.²⁷

While the principle of lesser evil is a legitimate moral and pastoral method in the church's tradition, I do not believe it is applicable in correctly framing Benedict's remarks. I agree with Michael Czerny, S.J., advisor to Cardinal Turkson, president of the Vatican's Pontifical Council for Justice and Peace, "I do not think it helps to slip into the logic and rhetoric of harm reduction."²⁸ The CDF note confirms that "The Holy Father did not say – as some people have claimed – that prostitution with the use of a condom can be chosen as a lesser evil."

Prevention and Containment

In 2003 Jon D. Fuller, S.J., associate professor of medicine at Boston University School of Medicine and assistant director of the Adult Clinical AIDS Program at Boston Medical Center, and James F. Keenan, S.J., professor of moral theology at Weston Jesuit School of Theology, Cambridge, published an article in *America* magazine entitled "Tolerant Signals."²⁹ Fuller and Keenan favorably cite the April 19, 2000 article by Monsignor Jacques Suaudeau in *L'Osservatore Romano*, "Prophylactics or Family Values: Stopping the Spread of HIV/AIDS." Suaudeau's analysis is a slightly different take on the principle of the lesser evil. He introduced the distinction between *prevention* (attacking a

problem at its roots) and *containment* (interventions to lessen the impact of a problem). Suaudeau stressed the importance of prevention regarding "this terrible phenomenon" of HIV/AIDS, i.e., a true human victory can be achieved only when there is authentic education about the values of family, fidelity, marital chastity, abstinence, and the mutual gift of self. He writes, "If people really want to prevent AIDS, they must be convinced to change their sexual behavior, which is the principal cause of the infection's spread. Until a real effort is made in this regard, no true prevention will be achieved."

Suaudeau argues that the use of condoms as a means of preventing the spread of this disease amounts to containment – but not prevention. He reasoned that containment is a "lesser evil, but cannot be proposed as a model of humanization and development." As a lesser evil, however, it is "morally permissible though regrettable." Fuller and Keenan embrace this approach and conclude that under the rubric of containment "church leaders do not have to oppose but may support the distribution of prophylactics within an educational program that first underlines church teaching on sexuality."

I believe that the distinction between prevention and containment is a useful one, acknowledging that containment is effective only if there is authentic prevention. At the same time, however, I do not think that the use of this approach is adequate in understanding Benedict's comments.

The Principle of Gradualism

Pope John Paul II made reference to the Principle of Gradualism in his 1981 Apostolic Exhortation *Familiaris Consortio* (no. 34). John Paul wrote that married people are called “to progress unceasingly in their moral life ... with the help and support of the pastors of souls and the entire ecclesial community.” Married couples should have an active desire “to gain ever better knowledge of the values enshrined in and fostered by the law of God.” However, they cannot “look on the law as merely an ideal to be achieved in the future: they must consider it as a command of Christ the Lord to overcome difficulties with constancy. And so what is known as ‘the law of gradualness’ or step by step advance cannot be identified with ‘gradualness of the law,’ as if there were different degrees or forms of precept in God’s law for different individuals and situations.” John Paul is teaching that Gospel laws and values must be appropriated in one’s life, even though success in reaching Christian perfection might proceed slowly or only gradually.

The principle of gradualism is employed elsewhere in church teaching. When addressing homosexual persons, for instance, the *Catechism of the Catholic Church* affirms that: “Homosexual persons are called to chastity. By the virtues of self-mastery that teach them inner freedom ... by prayer and sacramental grace, they can and should gradually and resolutely approach Christian perfection. (nos. 2358-2359)

It is my contention that Benedict’s comments in *Light of the World* must be interpreted not as a lesser evil argument, but rather a pastoral and moral method of gradualism that presupposes a willingness and ability to move toward a mature, sexual humanization. I believe that Fr. Martin Rhonheimer, professor of ethics and political philosophy at the School of Philosophy of the Pontifical University of the Holy Cross in Rome, has expressed this understanding most particularly in his 2004 article, “The Truth about Condoms.”³⁰ He argued against his critics³¹ that “a married man who is HIV-infected and uses the condom to protect his wife from infection is not acting to render procreation impossible, but to prevent infection. If conception is prevented, this will be an –unintentional – side-effect and will not therefore shape the moral meaning of the act as a contraceptive act.”

Rhonheimer advances this thought not on the basis of a lesser evil (condomistic intercourse vs. transmission of the disease) but rather as an authentic application of the principle of gradualism. A married man, in his example, “is not ready to change behavior [but] he at least shows a kind of responsibility if he tries to prevent infection.”³² The CDF’s Father Faggioni affirms that Benedict’s comments “reflect the principle that there can be intermediary steps toward moral awareness that allow for some flexibility in how church teachings are applied.”³³

The principle of gradualism best situates Benedict’s comments. He first of all

advocates abstinence. If a male prostitute is not capable of abstention from sexual intercourse and is determined to have sex, he must at least set himself “in a movement toward a different way, a more human way, of living sexually.” This approach makes moral sense because it represents a manifestation of gradualness, a step-by-step progression toward the good. The principle does not justify the use of a condom as right, but points out that this use displays an inner movement toward moral responsibility.

Conclusion

Lombardi reported that Benedict’s remarks were specifically addressing the prevention of disease and not procreation, and this disease prevention regards both sexes.³⁴ This point coincides directly with Benedict’s remark that “in this or that case” the use of condoms might be properly understood in the framework of gradualism. I believe, then, that the pope is not limiting the application of this principle to male prostitutes. Benedict’s methodology is likewise applicable to a married man infected with HIV/AIDS who is presently unable to abstain from sex with his wife, but is honestly moving toward this goal. An example might include a married man who is HIV-positive due to sex with another man, but is afraid at this time to reveal this fact to his wife, but is determined to do so in the future.

During the 2010 International AIDS Conference in Vienna, the concept of “combination prevention” was often

discussed, a term similar to what is meant by “combination therapy” for treating HIV/AIDS medically. Prevention of this disease must include multiple aspects and strategies. It is too simple to assert that HIV/AIDS can be prevented by condoms. In Sub-Saharan Africa, the AIDS pandemic is “generalized,” i.e., it is not merely the result of commercial sex or men who have sex with men. Rather, the problem is infinitely more complex in a society which witnesses extraordinary rates of violence and rape against children and women, and in which large numbers of people have just stopped getting married, either in church, civil, or traditional marriages.

Catholic AIDS Action (CAA) was founded in 1998 through the Namibian Catholic Bishop’s Conference. It is now the largest non-governmental organization responding to AIDS in Namibia. CAA admits that “there are no easy or simple answers to effective prevention of HIV infection... Knowledge [alone] never changes behavior. Prevention strategies must account for the whole person, and consider that person in the context of their specific environment... Without question, the safest and most effective method for preventing HIV infection is abstaining from all penetrative sexual activity... Only when condom distribution is combined with education, dialogue and discussion on relationships, intimacy, sexuality, and alcohol/drug abuse, does the rate of transmission decrease.”³⁵

Benedict's remarks about the possible use of condoms "in this or that case" surely assumes the type of education espoused by CAA and understands their use as one pertinent example of the principle of gradualism.

Resources:

¹ <http://www.avert.org/worlstatinfo.htm>

² http://www.vatican.va/holy_father/benedict_xvi/speeches/2009/march/documents/hf_ben-xvi_spe_2009

³ <http://www.afrik-news.com/article18484.html> In a tradition-based society such as Africa, it is very difficult to be persuasive about abstinence as a tool to prevent HIV/AIDS where men are generally to be obeyed and are not expected to be accountable to their wives. In addition, for an African man, his "manliness" is expressed by producing as many children as possible. Many thus believe that suggesting faithfulness as an alternative to condom use is condemning millions of women to death.

⁴ Benedict XVI, *Light of the World: A Conversation with Peter Seewald*, San Francisco: Ignatius Press, 2010, 117-119.

⁵ *Ibid.*, 41.

⁶ <http://ncronline.org/print/21442> and http://lifesitenews.com/home/print_article/news/17615

⁷ <http://mcronline.org/print/21579> See also "Vatican Spokesman's Statement on Pope's Remarks about Condoms," *Origins* 40:26 (2010), 401-402.

⁸ <http://ncronline.org/print/21371> In similar fashion, Sandro Magister, veteran Vatican reporter in Italy pointed to a "graduated spectrum of authority" in official church teachings, e.g., "encyclicals, laws, homilies, [the Pope's] conversational remarks (*New York Times*, November 23, 2010, International Section, A4). On the other hand, James Martin, S.J. wrote that what is significant is the fact that the pope is saying this, whereas previously there were no exceptions (*New York Times*, November 21, 2010, International Section, 12).

⁹ http://www.nytimes.com/2010/11/24/world/europe/24pope.html?_r=1&pagewanted=print

¹⁰ See, e.g., Michael Sean Winters, "Not Quite What He Seemed," *The Tablet*, December 11, 2010, 11-12 and "Numerous Bishops Clarify Pope Did not Approve Condoms in Any Circumstances,"

http://www.lifesitenews.com/home/print_article/news/27759

¹¹ *New York Times*, November 24, 2010, International Section, A11.

¹² <http://www.smh.com.au/news/WORLD/Vatican-preparing-statement-on-condoms/2006/04/24/1145730834728.html>

¹³ <http://mail.aol.com/32976-111/aol-6/enus.Lite/MsgrRead.aspx?folder=NewMail&uid=26172281&seq=5> Franciscan Father Maurizio Faggioni, a consultant to the Congregation for the Doctrine of the Faith, confirmed that the Congregation under Cardinal Ratzinger had begun a study about the morality of condom use in disease prevention (*Oakland Voice* 48:21 (2010), 16 & 18).

¹⁴ *New York Times*, November 24, 2010, International Section, A11.

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ <http://ncronline.org/print/21583>

¹⁸ <http://chiesa.espresso.repubblica.it/articolo/1345793?eng=y>

¹⁹ *Light of the World, op. cit.*, 119.

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http://www.lifesitenews.com/home/print_article/news/17670

²¹

http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20101221_luce-de

²² *The Many Faces of AIDS: A Gospel Response*, USCCB Administrative Board, *Origins* 17 (1987), 482-489.

²³ *Origins* 19 (1989), 422-434.

²⁴ See "HIV/AIDS and the Church" in *Human Sexuality: An All-Embracing Gift*, Gerald D. Coleman, New York: Alba House, 1992, 369-404.

²⁵ <http://www.abc.net/cgi-bin/common/printfriendly.pl?http://www.abc.net.au/rn/talks/8.30/relrpt/stories>

²⁶ Janet E. Smith, the Michael J. McGivney Professor of Life Issues at Sacred Heart Seminary, Detroit, responded negatively to Martini's comments, emphasizing that condoms are

“intrinsicly contraceptive and therefore intrinsicly evil... Latex up against skin ... doesn't allow the couple to achieve supposedly what they're trying to achieve, which is an act of union.”

Ibid.

²⁷ http://www.americamagazine.org/blog/entry.cfm?blog_id=2&entry_id=3578

²⁸ <http://ncronline.org/print/21995>

²⁹ <http://mail.aol.com/32945-111/aol-6/en-us/Lite/MsgRead.aspx?folder-NewMail?uid=26171220&seq=1>

³⁰ Martin Rhonheimer, “The Truth about Condoms,” *The Tablet* 258:8545 (2004), 10-11.

³¹ See, e.g., “Marriage and the Prophylactic Use of Condoms,” Luke Gormally, *The National Catholic Bioethics Quarterly* 5:4 (2005), 735-749.

³² <http://www.abc.net.au/cgi-bin/common/printfriendly.pl?http://www.abc.net.au/rn/talks/8.30/relrpt/stories>

³³ *Op. cit.*, 16.

³⁴ See above, footnote 12.

³⁵ <http://www.caa.org.na>