

## “IT’S HARD WORK”: REFLECTIONS ON CONSCIENCE AND CITIZENSHIP IN THE CATHOLIC TRADITION

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### INTRODUCTION

Every election cycle since 1976, the United States Conference of Catholic Bishops has issued a statement on how Catholic social teaching intersects with political participation.<sup>1</sup> True to this tradition, in September 2003, the bishops issued *Faithful Citizenship: A Call to Political Responsibility* with the hope of raising “a series of questions” to highlight “the moral and human dimensions of the choices facing voters and candidates.”<sup>2</sup>

As the presidential campaign intensified, perhaps as the result of increased circulation of ideas through the Internet or of the particularly heated debates about political life among Catholics, some Catholic groups perceived the need for a “more emphatic” analysis of how Catholic teaching and values might intersect with the political landscape.<sup>3</sup> Early in 2004, Catholic

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<sup>1</sup> See Susan E. Wills, *Voting in 2008: New Guidance from Catholic Bishops*, NAT’L CATH. REG., Jan. 6–12, 2008, at 7–8.

<sup>2</sup> UNITED STATES CONFERENCE OF CATHOLIC BISHOPS, *Faithful Citizenship: A Call to Political Responsibility from the United States Catholic Bishops* 3 (2003), in 33 ORIGINS 321 (2003). See generally Amy Uelmen, *Faithful Citizenship: Strengthening the Social Fabric*, LIVING CITY, Oct. 2004, at 6–9 (summarizing the issues discussed in the document).

<sup>3</sup> James McCoy, *A Father of Victory: Did Catholic Answer’s Voter’s Guide Affect*

Answers, one of the largest Catholic “apologetics” organizations,<sup>4</sup> published the *Voter’s Guide for Serious Catholics* (“*Serious Catholics*”).<sup>5</sup> As Catholic Answers apologist Karl Keating explained in a February 2004 newsletter:

You will note that the guide does not name names, either of candidates or of parties. What it does name are principles. It identifies five “non-negotiable” issues—things on which there is only one acceptable “side” for a conscientious Catholic. Those issues are abortion, euthanasia, fetal stem cell research, human cloning, and homosexual “marriage.”

The guide proposes a simple methodology: Find out where each candidate stands on each of these issues. Eliminate from consideration any candidate who is wrong on any of the five issues. Vote for one of the remaining candidates.<sup>6</sup>

Following this logic, *Serious Catholics* reasons that because the five named issues “do not admit of exception or compromise,”<sup>7</sup> the political consequences should be clear: “You should avoid to the greatest extent possible voting for candidates who endorse or promote intrinsically evil policies.”<sup>8</sup> In the weeks before the 2004 election, Catholic Answers ran *Serious Catholics* as a full page ad in *USA Today*, first in select regional editions, then in the paper’s entire run.<sup>9</sup>

Reactions to *Serious Catholics* varied. Some welcomed it as a beacon of clarity. *Catholic World Report* magazine reporter Phil Lawler contrasted the “more accurate” *Serious Catholics* with the bishops’ guide, which in his opinion “quite purposely

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*the Elections?*, SAN DIEGO NEWS NOTES, Dec. 2004, <http://www.sdnewsnotes.com/ed/articles/2004/0412jm.htm>.

<sup>4</sup> See generally Catholic Answers, About Catholic Answers, <http://www.catholic.com/home/about.asp> (last visited May 18, 2008).

<sup>5</sup> CATHOLIC ANSWERS ACTION, VOTER’S GUIDE FOR SERIOUS CATHOLICS (2d ed. 2006) [hereinafter SERIOUS CATHOLICS]. As the 2004 version of the guide has been removed from the Catholic Answers webpage, this Essay will refer to the 2006 version of the Guide, except where the argument rests specifically on the historical context of the 2004 version.

<sup>6</sup> E-Letter from Karl Keating to Catholic Answers, I’m Going Backpacking Again—Care to Join Me?: Voting Smart vs. Voting Dumb (Feb. 24, 2004), [http://www.catholic.com/newsletters/kke\\_040224.asp](http://www.catholic.com/newsletters/kke_040224.asp) [hereinafter Keating, Voting Smart].

<sup>7</sup> SERIOUS CATHOLICS, *supra* note 5, at 3.

<sup>8</sup> *Id.* at 4.

<sup>9</sup> See E-Letter from Karl Keating to Catholic Answers, “Harassment and Subversion” in Last Year’s Election (Feb. 22, 2005), [http://www.catholic.com/newsletters/kke\\_050222.asp](http://www.catholic.com/newsletters/kke_050222.asp).

watered down the Church's stance on dignity of life issues by surrounding them with issues on which Catholics can legitimately disagree."<sup>10</sup> According to Lawler, it "leaves people thoroughly confused" to put issues that allow differing opinions on the same list with "issues on which you can't really disagree without violating the Church's precepts."<sup>11</sup>

Others directly challenged *Serious Catholics* as a distortion of Catholic social teaching and began work on alternatives.<sup>12</sup> Still others challenged the tax-exempt status of Catholic Answers and expressed concerns that distribution of *Serious Catholics* in parishes might threaten the tax-exempt status of the Roman Catholic Church.<sup>13</sup> The more politically oriented wing of the Catholic Answers project has since reincorporated as a social welfare organization, known as Catholic Answers Action.

There is some evidence that *Serious Catholics* and similar analyses made a difference in the extremely close 2004 presidential election. According to 2004 national exit polls, Catholics favored George Bush over John Kerry by 52 to 47 percent, a shift from the 2000 election when 47 percent of Catholics supported Bush, trailing Al Gore's 50 percent.<sup>14</sup>

It seems that Catholic Answers and groups drawing out a similar line of analysis through a variety of Internet tests and

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<sup>10</sup> McCoy, *supra* note 3.

<sup>11</sup> *Id.*

<sup>12</sup> See Alan Cooperman, *Religious-Right Voter Guides Facing Challenge from Left*, WASH. POST, Sept. 29, 2006, at A5; see also Amelia J. Uelmen, *Traveling Light: Pilgrim Law and the Nexus Between Law, Politics and Catholic Social Teaching*, 22 J.L. & RELIGION 445, 445-46 (2006-2007) (noting various reactions to *Serious Catholics*).

<sup>13</sup> See Letter from Karl Keating, President, Catholic Answers Action, to Friends of Catholic Answers Action, Help Launch CAA (Apr. 1, 2006), [http://www.caaction.com/index.php?option=com\\_content&task=view&id=35&Itemid=73](http://www.caaction.com/index.php?option=com_content&task=view&id=35&Itemid=73). After a complaint was filed with the Internal Revenue Service stating that the 2004 Catholic Answers voter's guide was a partisan intervention in the 2004 election, "Catholic Answers Action" was formed as a social welfare organization not subject to the ban on partisan activity that applies to charities or religious organizations. See *Catholic Group Responds to IRS Complaint by Forming New Group*, OMB WATCH, July 11, 2006, <http://www.ombwatch.org/article/articleview/3501/1/48?TopicID=1>.

<sup>14</sup> Jim Remsen, *In Reversal from 2000, Bush Got Catholic Vote*, PHILA. INQUIRER, Nov. 5, 2004, at A18. But see Alan Cooperman, *Liberal Christians Challenge "Values Vote,"* WASH. POST, Nov. 10, 2004, at A7 (discussing Zogby telephone poll which found that the war in Iraq was the most influential "moral issue" in the choice of candidates (42 percent) as compared with abortion (13 percent) and same sex marriage (9 percent)).

quizzes were able to tap into a deeply felt need on the part of a sizable group of Catholics for a “more emphatic” expression of how Catholic teaching on bioethics issues intersects with voting and public policy.<sup>15</sup> *Serious Catholics* can also be read as a valiant effort to communicate to the regular folks in the pews with a simpler, easier-to-grasp analysis of the nexus between Catholic social teaching and voting.

Substantively, however, the *Serious Catholics* analysis is seriously flawed. When compared with the breadth and depth of Catholic social teaching, *Serious Catholics* comes up both short and shallow on the range of issues and on the extent to which it captures the tradition’s nuanced intersection between moral values and their practical implementation in the sphere of politics.

In the Fall of 2007, the Catholic bishops took a much more “hands-on” approach to their quadrennial statement, working intensely to address directly some of the questions which had arisen in the previous election cycle.<sup>16</sup> The result, *Forming Consciences for Faithful Citizenship* (“*Forming Consciences*”), was issued in November 2007 with almost unanimous (97.8 percent) approval—an impressive feat given the intense divisions that had polarized the Catholic community during the 2004 election cycle.<sup>17</sup>

Part I of this Essay compares and contrasts *Serious Catholics* with *Forming Consciences*, noting several deficiencies with the *Serious Catholics* focus on “non-negotiables,” and discussing how the more contextualized discussion of “intrinsic evil” in *Forming Consciences* resolves those specific concerns. Part II grapples with some of the remaining questions that arise when the concept of intrinsic evil is placed at the core of an analysis of political responsibility. It also explores the extent to

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<sup>15</sup> McCoy, *supra* note 3.

<sup>16</sup> See Wills, *supra* note 1, at 7–8.

<sup>17</sup> UNITED STATES CONFERENCE OF CATHOLIC BISHOPS, *Forming Consciences for Faithful Citizenship: A Call to Political Responsibility from the United States Catholic Bishops* (2007) [hereinafter *Forming Consciences*], available at <http://www.usccb.org/faithfulcitizenship/FCStatement.pdf>; see also Amy Uelmen, *Conscience Forming: U.S. Bishops Offer a Unified Voice for Human Dignity and the Common Good at Election Time*, LIVING CITY, Jan. 2008, at 6, 7 (summarizing the issues discussed in *Forming Consciences*); *U.S. Bishops Move to Help Form Consciences as 2008 Election Draws Near*, CATH. NEWS AGENCY, Nov. 14, 2007, <http://www.catholicnewsagency.com/new.php?n=10979> (noting approval by 97.8 percent of U.S. bishops).

which this analysis leaves space to give due priority to address socio-economic problems which would not fall within a definition of intrinsic evil. Part III acknowledges the need for a “more emphatic” expression of Catholic social teaching in public life, and queries whether the intrinsic evil framework may be reconciled with effort toward fruitful and constructive dialogue about the role of religious values in a pluralistic democracy.

I. COMPARING AND CONTRASTING *SERIOUS CATHOLICS* WITH  
*FORMING CONSCIENCES*

A. *Naming the “Non-Negotiables”*

The first flaw in *Serious Catholics* can be detected in the process of selecting the five “non-negotiable” issues. As noted above, *Serious Catholics* identifies five issues which “do not admit of exception or compromise” and reasons that the political consequences should be clear: “You should avoid to the greatest extent possible voting for candidates who endorse or promote intrinsically evil policies.”<sup>18</sup> In response to the question of how the five issues—abortion, euthanasia, fetal stem cell research, human cloning, and homosexual marriage—were selected, the Catholic Answers Action website highlights two criteria. First, the issue must have involved “*something intrinsically evil and thus never permitted under any circumstances*,”<sup>19</sup> and second, the issue had to be “*something that is currently debated in U.S. politics*.” The Voter’s Guide would be ineffective if it called attention to issues which are not being debated politically and which Catholic voters do not presently have the ability to affect.<sup>20</sup>

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<sup>18</sup> *SERIOUS CATHOLICS*, *supra* note 5, at 3, 4.

<sup>19</sup> Catholic Answers Action, FAQs, [http://www.caaction.com/index.php?option=com\\_content&task=blogcategory&id=7&Itemid=58](http://www.caaction.com/index.php?option=com_content&task=blogcategory&id=7&Itemid=58) (last visited May 18, 2008) (answering the frequently asked question of how the five non-negotiable issues were selected for inclusion in the guide).

<sup>20</sup> *Id.*; *see also* *SERIOUS CATHOLICS*, *supra* note 5, at 16 (“There are additional issues that are non-negotiable but that are not ‘in play’ politically. These may be evils that American politicians are not presently tackling, such as contraception, or evils that they are not presently advocating, such as genocide. Unlike the five non-negotiables listed in the main part of this guide, Catholic voters generally do not have the ability to influence these issues through the lawmakers they elect because of the lack of debate among politicians.” (citations omitted)).

Given the “currently debated” criteria, it is revealing to place the *Serious Catholics* list against the backdrop of the sequence of news events in the Spring of 2004. In April 2004, news of regular torture and humiliation of Iraqi inmates at the Abu Graib prison catapulted into the public eye the question of the White House policy on state-sponsored torture. Throughout the Summer of 2004, breaking news indicated high-level White House approval for techniques that, according to many, fit any credible definition of torture, such as water-boarding and threatening to bring in more brutal interrogators from other countries.<sup>21</sup> Catholic Answers would have had solid authority for including torture on the list of “non-negotiables,”<sup>22</sup> and certainly would have had time to revise the list of five issues prior to the Fall 2004 publication of *Serious Catholics* in *USA Today*. But the word torture appears nowhere in the 2004 version of *Serious Catholics*.<sup>23</sup> The process for selecting the five issues seemed to be straightforward, but even a cursory glance at the context of the 2004 “currently debated” issues in U.S. politics unmasks how the choices behind *Serious Catholics* were grounded in raw political judgment.

In contrast to *Serious Catholics*' list of five issues, the bishops framed their examples of intrinsically evil actions as illustrations of broader principles. Abortion and euthanasia are mentioned as examples of “the intentional taking of innocent human life.”<sup>24</sup> Human cloning and destructive research on human embryos are noted as examples of “direct threats to the sanctity and dignity of human life.”<sup>25</sup> “Genocide, torture, racism, and the targeting of noncombatants in acts of terror or war” are examples of “[o]ther direct assaults on innocent human life and violations of human dignity.”<sup>26</sup> In contrast to *Serious Catholics*, this language leaves the door open to a more flexible

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<sup>21</sup> See Michael Hirsh, John Barry & Daniel Klaidman, *A Tortured Debate*, NEWSWEEK, June 21, 2004, at 50.

<sup>22</sup> See, e.g., JOHN PAUL II, ENCYCLICAL LETTER *VERITATIS SPLENDOR* ¶ 80 (1993) [hereinafter *VERITATIS SPLENDOR*] (citing SECOND VATICAN COUNCIL, PASTORAL CONSTITUTION *GAUDIUM ET SPES* ¶ 27 (1965)).

<sup>23</sup> See generally CATHOLIC ANSWERS, VOTER'S GUIDE FOR SERIOUS CATHOLICS (2004), available at [www.priestsforlife.org/elections/voterguide.htm](http://www.priestsforlife.org/elections/voterguide.htm). Nor was torture mentioned anywhere in the 2006 version currently available as a guide for the 2008 election, in spite of current and intense political debate on this issue. See generally SERIOUS CATHOLICS, *supra* note 5.

<sup>24</sup> *Forming Consciences*, *supra* note 17, ¶ 22.

<sup>25</sup> *Id.* ¶ 23.

<sup>26</sup> *Id.*

interpretation grounded in broader principles and allows for a variety of political applications and solutions.

*Forming Consciences* does emphasize a sense of priority among the issues: “The direct and intentional destruction of innocent human life from the moment of conception until natural death is always wrong and is not just one issue among many.”<sup>27</sup> But in *Forming Consciences* and in the weave of Catholic social teaching as a whole, this sense of priority can and should be analytically distinguished from the definition of intrinsic evil. The sense of urgency on this issue emerges not from a theological categorization of the act as “always wrong,” but from a contextual assessment that aspects of our political, social, and legal systems are not in accord with respect for this crucial and core principle, and that we can and must work for change on the level of public policy. As discussed below, this distinction opens the door to a more textured analysis—identifying a particular action as intrinsically evil is the beginning, not the end, of a process which requires prudential reflection on the appropriate moral, social, and political responses to a given evil.

#### B. *Politics and Prudence*

A second flaw in *Serious Catholics* is that it collapses a number of steps in both the moral and political analyses. The appendix explains that the five issues were selected “because they involve principles that never admit of exceptions.”<sup>28</sup> In contrast, questions about waging war, applying the death penalty, helping the poor, managing the economy, handling immigration, and so on, allow a legitimate diversity of approaches: “While the underlying principles (such as solidarity with the poor) are non-negotiable, the specific applications being debated politically admit of many options, and so are not ‘non-negotiable’ in the sense that this guide uses the term.”<sup>29</sup>

According to *Serious Catholics*, categorization of an issue as “non-negotiable” foreclosed the possibility of the “legitimate diversity of opinion” which would be allowed in other areas of social policy.<sup>30</sup> As intrinsically evil actions admit of no exceptions, they should not be the subject of principled debate.

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<sup>27</sup> *Id.* ¶ 28.

<sup>28</sup> *SERIOUS CATHOLICS*, *supra* note 5, at 14.

<sup>29</sup> *Id.* at 16.

<sup>30</sup> *Id.* at 15.

Evaluation of candidates' positions on a non-negotiable issue should consist only in a determination of whether they are "right" or "wrong" on a given principle. The category of non-negotiables functions both to set absolute priorities among issues, and to shut down any debate about what the application of a given principle might mean in a political context.

In comparison to *Serious Catholics*, *Forming Consciences* opens and contextualizes the discussion of intrinsic evil in significant ways. According to *Forming Consciences*, Catholics should bring a two-fold contribution to political life: (1) to form one's conscience "in accord with human reason and the teaching of the Church,"<sup>31</sup> and (2) to develop the virtue of prudence, which enables one "to discern our true good in every circumstance and to choose the right means of achieving it."<sup>32</sup> The bishops framed their discussion of intrinsic evil within a description of the role that a well-formed conscience plays in making "practical judgments regarding good and evil choices in the political arena."<sup>33</sup> Here is their definition:

There are some things we must never do, as individuals or as a society, because they are always incompatible with love of God and neighbor. Such actions are so deeply flawed that they are always opposed to the authentic good of persons. These are called "intrinsically evil" actions. They must always be rejected and opposed and must never be supported or condoned.<sup>34</sup>

In *Forming Consciences*, this definition was then imbedded within a much more complex account of the political process. To bring to the political sphere a sense of clarity about how to foster good and how to address evil requires prudence, the virtue that "shapes and informs our ability to deliberate over available alternatives, to determine what is most fitting to a specific context, and to act decisively."<sup>35</sup> *Forming Consciences* then acknowledges that decisions about law and policy are often made against the backdrop of an already morally-flawed system. In these circumstances, the process of framing legislation or other political action must be subject to prudential judgment and what

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<sup>31</sup> *Forming Consciences*, *supra* note 17, ¶ 17.

<sup>32</sup> *Id.* ¶ 19.

<sup>33</sup> *Id.* ¶ 21.

<sup>34</sup> *Id.* ¶ 22.

<sup>35</sup> *Id.* ¶ 19.

the bishops recognized as “the art of the possible.”<sup>36</sup> Here the bishops note John Paul II’s explanation in *Evangelium Vitae*: When a legislator who is on the record as fully opposing abortion cannot succeed in completely overturning the law, he or she may work to limit the harm done, or to lessen the negative impact as much as possible.<sup>37</sup>

What *Serious Catholics* failed to appreciate, and what *Forming Consciences* was able to capture, was how what is often at stake in political debate and in the political process is not the definition of an action as good or evil, but the questions of how to remedy a given evil in a particular social context. For example, defining abortion as an intrinsic evil does not answer the question of how to reduce abortions in our society. That question, *how* to reduce abortions, does allow for a legitimate diversity of approaches. As the bishops wrote in *Forming Consciences*, “Decisions about political life are complex and require the exercise of a well-formed conscience aided by prudence.”<sup>38</sup> This does not mean that Catholics should see as debatable whether direct assaults on innocent human life and violations of human dignity are good or bad for society. It does mean that *any* issue, whether defined as an intrinsic evil or not, requires the intermediary exercise of prudential judgment to discern what specific policies and political strategies might lessen or eliminate the evil in a given social context.

### C. Catholic Voters and “Cooperation with Evil”

A third flaw in *Serious Catholics* is its misstatement of Catholic teaching on the moral principle of “cooperation with evil.” Its “simple methodology”<sup>39</sup> took a formulaic approach to voting. Because the named issues “do not admit of exception or compromise,” the political consequences should be clear: “You should avoid to the greatest extent possible voting for candidates who endorse or promote intrinsically evil policies.”<sup>40</sup> *Serious Catholics* quotes an analysis in the 2002 Congregation for the

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<sup>36</sup> *Id.* ¶ 32.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* ¶ 31.

<sup>39</sup> Keating, *Voting Smart*, *supra* note 6.

<sup>40</sup> SERIOUS CATHOLICS, *supra* note 5, at 3, 4. It would be interesting to trace and probe the working definition of “endorse or promote,” as opposed to “tolerate,” which is at work in Catholic Answers Action’s running critique of particular politicians’ positions. The definition may be in the eye of the beholder.

Doctrine of the Faith's *Doctrinal Note on the Participation of Catholics in Public Life*, which discusses the voting patterns of elected officials: "A well-formed Christian conscience does not permit one to vote for a political program or an individual law that contradicts the fundamental contents of faith and morals."<sup>41</sup>

*Serious Catholics* makes the leap to apply this analysis directly to citizen-voters:

A citizen's vote most often means voting for a candidate who will be the one directly voting on laws or programs. But being one step removed from law-making doesn't let citizens off the hook, since morality requires that we avoid doing evil to the greatest extent possible, even indirectly.

Some things are always wrong, and no one may deliberately vote in favor of them. Legislators, who have a direct vote, may not support these evils in legislation or programs. Citizens support these evils indirectly if they vote in favor of candidates who propose to advance them.

Thus, to the greatest extent possible, Catholics must avoid voting for any candidate who intends to support programs or laws that are intrinsically evil.<sup>42</sup>

*Forming Consciences* clearly rejects this leap. It states that the question of moral responsibility hinges on the voter's intent: "A Catholic cannot vote for a candidate who takes a position in favor of an intrinsic evil, such as abortion or racism, if the voter's intent is to support that position. In such cases a Catholic would be guilty of formal cooperation in grave evil."<sup>43</sup> Because intent is the hinge, the bishops warn that the intrinsic evil analysis should not become an excuse for a "single-issue" approach to voting: "[A] voter should not use a candidate's opposition to an intrinsic evil to justify indifference or inattentiveness to other important moral issues involving human life and dignity."<sup>44</sup> Further emphasizing the role of intent, they state:

There may be times when a Catholic who rejects a candidate's unacceptable position may decide to vote for that candidate for other morally grave reasons. Voting in this way would be permissible only for truly grave moral reasons, not to advance

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<sup>41</sup> *Id.* at 5.

<sup>42</sup> *Id.*

<sup>43</sup> *Forming Consciences*, *supra* note 17, ¶ 34

<sup>44</sup> *Id.*

narrow interests or partisan preferences or to ignore a fundamental moral evil.<sup>45</sup>

The bishops recognized the dilemma for voters when all candidates hold a position in favor of an intrinsic evil. Options include “the extraordinary step of not voting for any candidate or, after careful deliberation, . . . vot[ing] for the candidate deemed less likely to advance such a morally flawed position and more likely to pursue other authentic human goods.”<sup>46</sup>

Certainly voters should pay particular attention to whether candidates promote policies that are intrinsically evil. The bishops explain, “it is essential for Catholics to be guided by a well-formed conscience that recognizes that all issues do not carry the same moral weight and that the moral obligation to oppose intrinsically evil acts has a special claim on our consciences and our actions.”<sup>47</sup> But, as the bishops acknowledge, the process of deciding how to vote must admit a range of complex issues. It requires a deep process of reflection, using “the framework of Catholic teaching to examine candidates’ positions on issues affecting human life and dignity as well as issues of justice and peace”; their “integrity, philosophy, and performance”;<sup>48</sup> as well as their capacity “to influence a given issue.”<sup>49</sup>

In sum, in comparison with *Serious Catholics*, *Forming Consciences* opens the door to a much more complex and more realistic assessment of Catholic participation in the political process. In addition, by clarifying that intent is the hinge for assessing the moral responsibility of voters, the “more accurate” presentation of Catholic moral theology in *Forming Consciences* can serve as an important correction to one of *Serious Catholics*’ most serious and disturbing flaws. If *Serious Catholics* is taken as a culturally influential baseline, then the analysis in *Forming Consciences* should be welcomed with thundering applause and even relief.

When *Forming Consciences* is compared with other reflections on the concept of intrinsic evil, specifically in light of the discussion in Pope John Paul II’s 1993 encyclical on moral

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<sup>45</sup> *Id.* ¶ 35.

<sup>46</sup> *Id.* ¶ 36.

<sup>47</sup> *Id.* ¶ 37.

<sup>48</sup> *Id.* ¶ 41.

<sup>49</sup> *Id.* ¶ 37.

theology, *Veritatis Splendor*, several questions remain. Comparing the examples of intrinsic evil in *Forming Consciences* with those in *Veritatis Splendor*, one might ask why the bishops did not go further, including within this category a broader discussion of socio-economic maladies as well. At the other end of the spectrum, in the wake of reactions to *Veritatis Splendor*, one might ask whether the emphasis on intrinsic evil might impede an already delicate dialogue about religion in public life. The next two parts explore these two questions.<sup>50</sup>

## II. WHAT HAPPENED TO THE SOCIO-ECONOMIC EXAMPLES?

Comparing the discussion of intrinsic evil in *Forming Consciences* with Pope John Paul II's 1993 encyclical, *Veritatis Splendor*, one is left with something of a mystery. In its discussion of intrinsic evil, *Veritatis Splendor* quotes the Second Vatican Council's Pastoral Constitution on the Church in the Modern World, *Gaudium et Spes*:

The Second Vatican Council itself, in discussing the respect due to the human person, gives a number of examples of such acts: "Whatever is hostile to life itself, such as any kind of homicide, genocide, abortion, euthanasia and voluntary suicide; whatever violates the integrity of the human person, such as mutilation, physical and mental torture and attempts to coerce the spirit; whatever is offensive to human dignity, such as subhuman living conditions, arbitrary imprisonment, deportation, slavery, prostitution and trafficking in women and children; degrading conditions of work which treat labourers as mere instruments of profit, and not as free responsible persons: all these and the like are a disgrace, and so long as they infect human civilization they contaminate those who inflict them more than those who

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<sup>50</sup> As I am a lawyer and not a moral theologian, I realize that the following analysis barely scratches the surface of hotly contested and complex theological debates. Each of the questions I identify, starting with the very definition of intrinsic evil, would require much more extensive theological discussion and analysis. Much territory has been covered in several books and collections of essays discussing *Veritatis Splendor*. See, e.g., *CONSIDERING VERITATIS SPLENDOR* (John Wilkins ed., 1994); WILLIAM E. MAY, *AN INTRODUCTION TO MORAL THEOLOGY* app. at 295–98, 303 (2d ed. 2003) (providing a survey of several collections of essays reacting to the encyclical); *THE SPLENDOR OF ACCURACY: AN EXAMINATION OF THE ASSERTIONS MADE BY VERITATIS SPLENDOR* (Joseph A. Selling & Jan Jans eds., Eerdmans 1995) (1994); *VERITATIS SPLENDOR AND THE RENEWAL OF MORAL THEOLOGY* (J. A. DiNoia & Romanus Cessario eds., 1999); *VERITATIS SPLENDOR: AMERICAN RESPONSES* (Michael E. Allsopp & John J. O'Keefe eds., 1995).

suffer injustice, and they are a negation of the honour due to the Creator.”<sup>51</sup>

As discussed above, the analysis in *Forming Consciences* frames the examples of intrinsically evil actions as illustrations of broader principles: “the intentional taking of innocent human life” (abortion and euthanasia),<sup>52</sup> “direct threats to the sanctity and dignity of human life” (human cloning and destructive research on human embryos),<sup>53</sup> and “[o]ther direct assaults on innocent human life and violations of human dignity” (genocide, torture, racism, and the targeting of non-combatants in acts of terror or war).<sup>54</sup>

Why did the bishops leave out the bulk of the *Gaudium et Spes* socio-economic examples such as subhuman living conditions, arbitrary imprisonment, and degrading work conditions? Wouldn't including these examples have gone a long way in strengthening efforts to “support one another as our community of faith defends human life and dignity wherever it is threatened?”<sup>55</sup> Wouldn't a more expansive list have helped to counter the claim that the Church is more focused on sexual prohibitions than on social justice?<sup>56</sup> Wouldn't including the socio-economic issues in the list of examples have served as a vehicle to communicate the pressing priority to address these issues as well?

One response would be that the *Veritatis Splendor* adoption of the extensive *Gaudium et Spes* list was itself problematic. Some have surmised that the analysis in *Veritatis Splendor* pulled the *Gaudium et Spes* examples out of context. For example, Joseph Selling argues that the fact that the nature of intrinsically evil acts was not part of the discussion is evident in the variety of expressions used in the text: “[S]ome things named are very general (‘deportation’) while others are quite specific

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<sup>51</sup> *VERITATIS SPLENDOR*, *supra* note 22, ¶ 80.

<sup>52</sup> *Forming Consciences*, *supra* note 17, ¶ 22.

<sup>53</sup> *Id.* ¶ 23.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.* ¶ 29.

<sup>56</sup> See, e.g., Charles E. Curran, *Catholic Social and Sexual Teaching: A Methodological Comparison*, 44 *THEOLOGY TODAY* 425, 425–26 (1988). Note, however, that Curran's analysis tugs in the opposite direction: He argues for more flexibility regarding the teachings on sexuality rather than stronger categorical prohibitions in the area of social ethics. See *id.* at 440; see also Lisa Sowle Cahill, *Accent on the Masculine*, in *CONSIDERING VERITATIS SPLENDOR*, *supra* note 50, at 53, 57.

(‘degrading conditions of work which treat laborers as mere instruments of profit and not as free responsible persons’).<sup>57</sup> As Selling notes: “This variety begs the question of how one might describe those things that are supposedly the object of ‘negative moral norms[.]’ ”<sup>58</sup>

Some have noted that other aspects of the *Gaudium et Spes* list are problematic when placed into the context of a discussion of intrinsic evil. For example, Stephen Lammers notes: “Here it simply is the case that these acts have been defended under some circumstances.”<sup>59</sup> At least one serious problem with translation has also emerged: “Homicide” is not adequately qualified in the non-Latin versions and could embrace legally justified self-defense and other examples of killing well within the range of the Church’s moral teaching.<sup>60</sup> Depending on the translation, the word “mutilation” might also require further qualification.<sup>61</sup>

I will not enter too deeply into the thicket of the moral theology debates surrounding the definition and application of the category of intrinsic evil, in part because I lack the necessary expertise in moral theology, but also because I would like to suggest the possibility of a different interpretive key. Building on the contrast between *Serious Catholics* and *Forming Consciences*, I suggest that one reason *Forming Consciences* does not include the whole *Veritatis Splendor* list is that the concept of intrinsic evil plays a much more limited role in its overarching analysis.

As discussed above, *Forming Consciences* emphasizes a sense of priority among the issues: “The direct and intentional destruction of innocent human life from the moment of conception until natural death is always wrong and is not just one issue among many.”<sup>62</sup> But note the conjunction: “always wrong” *and* “not just one issue among many.” The sense of

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<sup>57</sup> Joseph A. Selling, *The Context and the Arguments of Veritatis Splendor*, in *THE SPLENDOR OF ACCURACY*, *supra* note 50, at 11, 51.

<sup>58</sup> *Id.*

<sup>59</sup> Stephen E. Lammers, *An Interpretation of Veritatis Splendor and the Discussion of War and Peace Within the Roman Catholic Community*, in *VERITATIS SPLENDOR: AMERICAN RESPONSES*, *supra* note 50, at 38, 42.

<sup>60</sup> See, e.g., Charles E. Curran, *Veritatis Splendor: A Revisionist Perspective*, in *VERITATIS SPLENDOR: AMERICAN RESPONSES*, *supra* note 50, at 224, 232–33; James Gaffney, *The Pope on Proportionality*, in *VERITATIS SPLENDOR: AMERICAN RESPONSES*, *supra* note 50, at 60, 64.

<sup>61</sup> See, e.g., Curran, *supra* note 60, at 233.

<sup>62</sup> *Forming Consciences*, *supra* note 17, ¶ 28.

priority and urgency emerges not *because* an issue is defined as “always wrong,” but from the bishops’ contextual assessment of the current moral, social, and political landscape.

On the flip side, the fact that a particular issue does not come within the technical definition of an intrinsic evil which is “always wrong” does not indicate that the issue is less important or that it requires less attention. Like the 2003 statement and others before it, *Forming Consciences* threads the “life” and the socio-economic issues into a single weave:

The right to life implies and is linked to other human rights—to the basic goods that every human person needs to live and thrive. All the life issues are connected, for erosion of respect for the life of any individual or group in society necessarily diminishes respect for all life.<sup>63</sup>

Within this thicker and broader vision, *Forming Consciences* accentuates the constructive and positive dimensions of Catholic social thought: “Opposition to intrinsically evil acts that undercut the dignity of the human person should also open our eyes to the good we must do, that is, to our positive duty to contribute to the common good and to act in solidarity with those in need.”<sup>64</sup> Here the bishops quote *Veritatis Splendor*: “[T]he fact that only the negative commandments oblige always and under all circumstances does not mean that in the moral life prohibitions are more important than the obligation to do good indicated by the positive commandment.”<sup>65</sup>

Because “[a]ll the life issues are connected,” the moral imperative to meet basic needs for food, shelter, health care, education and meaningful work is also “universally binding on our consciences.”<sup>66</sup> The fact that the political choices about how to best meet these challenges are matters for principled debate “does not make them optional concerns or permit Catholics to dismiss or ignore Church teaching on these important issues.”<sup>67</sup> The bishops’ discussion of the application of seven key themes from Catholic social teaching in the public square provides some initial reflection.<sup>68</sup>

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<sup>63</sup> *Id.* ¶ 25.

<sup>64</sup> *Id.* ¶ 24.

<sup>65</sup> *Id.* (quoting *VERITATIS SPLENDOR*, *supra* note 22, ¶ 52).

<sup>66</sup> *Id.* ¶ 25.

<sup>67</sup> *Id.* ¶ 29.

<sup>68</sup> *See id.* ¶¶ 40–56.

Why did the bishops leave out of their intrinsic evil discussion the socio-economic examples listed in *Gaudium et Spes* and *Veritatis Splendor*? Perhaps, in part, because the work of finding a remedy to subhuman living conditions, arbitrary imprisonment, and degrading work conditions necessarily requires an analysis of social systems. Thus, these examples fit less neatly within the “intrinsic evil” framework of “negative obligations.” But even more to the point, *Forming Consciences* left the socio-economic examples out because the category of intrinsic evil is only one part of its broader analysis of the evil to be avoided and the good to be accomplished. The fact that the bishops do not discuss socio-economic examples within the category of intrinsic evil does not indicate that those issues are less important, but that the analysis respects the limited function of this category of moral theology.

Surprisingly, this may be one area in which the moral theologians often locked in argument over some aspects of the intrinsic evil analysis might enjoy some widespread agreement. In spite of their differences, they seem to agree that we must ultimately widen our horizons to embrace a broader and deeper social commitment. As John Finnis stated: “[O]ne who, in accordance with a moral absolute, excludes an option as wrong is not excused from doing everything morally possible to pursue the goods which could have been sought by violating the moral absolute.”<sup>69</sup>

### III. THE RHETORIC OF “INTRINSIC EVIL” IN A PLURALISTIC SOCIETY

As is evident from the discussion above, I disagree with Phil Lawler’s assessment that *Serious Catholics* was a “more accurate” depiction of Catholic social teaching than those set forth in the various citizenship statements issued by the United States Conference of Catholic Bishops. But I would grant that in 2004, Catholic Action caught something of the pulse of a fairly large group of Catholics in the United States who felt the need for a “more emphatic” statement of how Catholic social teaching intersects with voting and public policy. Might the *Forming Consciences* framework meet this need? And if so, might the

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<sup>69</sup> JOHN FINNIS, MORAL ABSOLUTES: TRADITION, REVISION AND TRUTH 17 (1991).

intrinsic evil analysis be reconciled with effort toward fruitful and constructive dialogue about religious values in a pluralistic democracy?

A. *The Rhetorical Power of the Forming Consciences Framework*

Moving toward a “more emphatic” statement of how Catholic social teaching intersects with public policy runs a number of risks. Why choose a framework that seems to accentuate the “fire and brimstone” inflexibility of the tradition? Especially illuminating on this point is theologian John Haughey’s analysis of the context and audience of the encyclical *Veritatis Splendor*. He describes his own analytical journey: He had been prepared to join the chorus of moral theology professors who took umbrage with *Veritatis Splendor* until he concluded that “a different standard needs to be applied to judging it than that being used by the moral theology academy”—that of “pastoral discernment.”<sup>70</sup> He explains: “If I have interpreted the mind of the author correctly, the Pope is not first and foremost addressing moral theologians, nor is he positioning himself as an intellectual critiquing other intellectuals. Rather, he is a pastor whose primary concern is with the moral praxis of the Church’s membership.”<sup>71</sup> On the basis of this rhetorical context and audience, Haughey read *Veritatis Splendor* through the lens not of an intention “to address, correct, or win the approval of the guild of moral theologians,” but of pastoral care.<sup>72</sup>

The pastoral framework and the audience, according to Haughey, then set the rhetorical tone. Considering the document’s discussion of the “fundamental option” analysis, for example, Haughey admits that it would certainly be unfair to base a critique on a caricature if the document addresses moral theologians and their efforts. On the other hand, “[i]t would be fair and is fair if the document is discerning the ways in which the fundamental option has been twisted into being a cover story for the moral agent to use while acting in ways clearly proscribed

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<sup>70</sup> John C. Haughey, *Veritatis Splendor and Our Cover Stories*, in *VERITATIS SPLENDOR: AMERICAN RESPONSES*, *supra* note 50, at 269, 269.

<sup>71</sup> *Id.* at 270.

<sup>72</sup> *Id.*

by the moral tradition.”<sup>73</sup> In fact, according to Haughey, the analysis in *Veritatis Splendor* indicates that:

[T]he pope is more interested in how [the writings of certain moral theologians] are being used than in the writings as such or with the specialized dialogue that takes place within the moral theology guild. What could be read as a disdain for the guild is more understandable if one recalls the ecclesiological presuppositions mentioned earlier.<sup>74</sup>

For Haughey, this lens makes all the difference:

If *Veritatis Splendor* is seen as pointing out some of the deluded uses to which moral theology has been put, it will be read very differently than if it is seen as prescinding from use and as an exercise in chastising moral theologians by constructing “straw men” to strike down.<sup>75</sup>

Similar observations about context and audience might shed light on the rhetorical choices of *Forming Consciences*. The bishops’ “call to political responsibility” is addressed to all Catholic citizens. Its purpose is to highlight the “rich heritage that helps us consider the challenges in public life and contribute to greater justice and peace for all people.”<sup>76</sup> *Forming Consciences* is neither a treatise on moral theology nor an attempt to guide confessors through the thicket of delicate and difficult questions of conscience. As Haughey explains, the theories that ground the principal critiques of an intrinsic evil framework were developed in other contexts: “Proportionalism and consequentialism had developed as moral theories that focused on infrequent quandaries where there was considerable conflict about the goods, values, and unavoidable evils. But when used for day-to-day moral issues which involve character and virtues they can be misused.”<sup>77</sup>

From the perspective of some in the “moral theology guild,” the category of intrinsic evil may raise a number of technical problems and limitations. But from the perspective of pastors working to articulate a political and social framework, the concept of intrinsic evil holds a compelling power which may be, at least in part, the kind of energetic injection that Catholics

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<sup>73</sup> *Id.* at 273.

<sup>74</sup> *Id.*

<sup>75</sup> *Id.* at 274–75.

<sup>76</sup> *Forming Consciences*, *supra* note 17, ¶ 3.

<sup>77</sup> Haughey, *supra* note 70, at 276.

need as they reflect on their role in political participation and public life. To use Haughey's metaphor, the concept of intrinsic evil helps to peel away the "stories" that "cover our actual moral condition in our communications with others" and "conceal our real condition even from ourselves."<sup>78</sup> Haughey explains *Veritatis Splendor* in this light:

With this double cover the truth is twice concealed, first from the truth we allow others to know about us, then from the truth we need to admit to about ourselves. This condition I have referred to above as self-deception. I believe it is this condition that *Veritatis Splendor* is trying to discern and uncover.<sup>79</sup>

Also reflecting on *Veritatis Splendor*, Mary Tuck notes both the cultural context that may have led John Paul II to this framework, and how it connects with current cultural assessments:

[I]f you come from a culture where within living memory it has been thought allowable to send whole populations to Siberia for the greatest good of the greatest number, then the need for some absolute limits to what is done must be more salient. . . . [The Pope's] culture had felt on the bone the need for the protection of absolute moral law.<sup>80</sup>

She then links these concerns to the experience of Western democracies. "The Pope rightly fears the 'risk of an alliance between democracy and ethical relativism which would remove any sure moral reference-point from political and social life and on a deeper level make the acknowledgement of truth impossible.'<sup>81</sup> Tuck concludes her analysis of *Veritatis Splendor* noting: "I believe many are hungry for the core message of the encyclical."<sup>82</sup>

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<sup>78</sup> *Id.* at 273.

<sup>79</sup> *Id.*

<sup>80</sup> Mary Tuck, *A Message in Season*, in *CONSIDERING VERITATIS SPLENDOR*, *supra* note 50, at 46, 47; *see also* James P. Hanigan, *Veritatis Splendor and Sexual Ethics*, in *VERITATIS SPLENDOR: AMERICAN RESPONSES*, *supra* note 50, at 208, 219 (discussing the encyclical against the backdrop of a "fierce struggle against Nazism, Communism, and western materialism and individualism, a struggle that continues today").

<sup>81</sup> Tuck, *supra* note 80, at 47.

<sup>82</sup> *Id.* at 52; *see also* Hanigan, *supra* note 80, at 219 (discussing the need to speak with college students in "blunt" and "absolute" terms about how their drinking and sexual practices were "morally wrong, humanly degrading to themselves and their partners, serious obstacles to their growing in love of God and neighbor, and that there are solid, objective grounds in both faith and reason for that judgment").

Why did the bishops include the framework of intrinsic evil in their current reflection on political life? Because our culture needs powerful language—even if it is simply to say, “don’t do it, don’t encourage this, simply because it is wrong.” Citing Timothy O’Connell, moral theologian Richard Gula notes the rhetorical power of formal norms:

I do not need only the data, I also need encouragement. I need formulations of my own values, formulations which in their conciseness and directness help me remain faithful to those values. And here is the specific (and very important) function of formal norms. They take the meaning of humanity, with its challenge of intellect and freedom. They apply that meaning to a particular area of human life (for example, property rights). And they declare, in pithy form, what I already know but tend to forget or neglect: Do not steal. By presenting me with that challenge, almost in aphoristic style, formal norms serve me in those moments of human weakness and temptation which are so much a part of our sin-affected situation.<sup>83</sup>

Gula further explains, “Formal norms, then, are absolute in character and motivational in function.”<sup>84</sup> “In the language of synthetic terms, they remind us of what we already know and encourage us to do what is right and to avoid what is wrong.”<sup>85</sup> Perhaps O’Connell’s analysis of formal norms could be analogized to what the framework of intrinsic evil might bring to the context of a political imagination.

The issue of whether certain norms should be qualified as “absolute” or “virtually exceptionless” is hotly contested in moral theology. But *Forming Consciences* is not a treatise on moral theology. Its rhetorical shape was determined primarily by educational and pastoral goals. Following Albert DiIanni, it would be appropriate to note that for the purposes of teaching, “virtually” means that we should “teach these norms and act on them *as if* they were absolute.”<sup>86</sup>

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<sup>83</sup> RICHARD M. GULA, REASON INFORMED BY FAITH: FOUNDATIONS OF CATHOLIC MORALITY 289 (1989).

<sup>84</sup> *Id.*

<sup>85</sup> *Id.* at 289. Here Gula discusses abstract formulations and proceeds only later to his discussion of material norms, which would be highly contested: “To raise material norms to the level of an ‘absolute’ would mean that they adequately and completely express the whole of moral truth for the situations to which they pertain.” *Id.* at 292.

<sup>86</sup> *Id.* at 295.

B. *The Dialogue Potential of the Forming Consciences Framework*

A second risk of a “more emphatic” statement of the intersection of Catholic teaching and public policy is that such might threaten to shut down an already delicate dialogue on the role of religion in public life, especially in a context where not everyone agrees that abortion, euthanasia, and embryonic stem cell research are the same as the “intentional taking of innocent human life.”<sup>87</sup> My guess is that not everyone will be pleased with the *Forming Consciences* emphasis on intrinsic evil, even if it does offer a broader context for the category than the analysis in *Serious Catholics*.

In a penetrating and insightful article, *Prophecy and Casuistry: Abortion, Torture, and Moral Discourse*, Cathleen Kaveny illuminates some of the rhetorical concerns. She parses the rhetoric of the 2004 presidential election as an example of the clash between two forms of moral discourse: prophecy and casuistry.<sup>88</sup> Prophets tend to “proclaim and depict an ideal state of affairs which is radically in contrast with the actual state of affairs in which we live together in society.”<sup>89</sup> Casuistical discourse, in contrast, is “a way of engaging in practical reasoning—it is a form of our day-to-day moral discourse, in which we consider the rightness or wrongness of particular actions in light of applicable moral principles, particular features of the action and particular characteristics of the agent performing it.”<sup>90</sup>

To illustrate the tensions between the two modes of discourse, Kaveny explores how those on the political left tend to apply prophetic discourse to the problem of torture and casuistic discourse to the problem of abortion, while those on the political right flip the application on the same issues.<sup>91</sup> While she admits

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<sup>87</sup> For reflections on this concern in light of the 2004 Communion controversy, see Amelia J. Uelmen, *The Spirituality of Communion: A Resource for Dialogue with Catholics in Public Life*, 43 CATH. LAW. 289, 290, 297 (2004).

<sup>88</sup> M. Cathleen Kaveny, *Prophecy and Casuistry: Abortion, Torture and Moral Discourse*, 51 VILL. L. REV. 499, 521 (2006). For an extended discussion of Kaveny’s argument, see Uelmen, *supra* note 12, at 457.

<sup>89</sup> See Kaveny, *supra* note 88, at 507 (quoting JAMES GUSTAFSON, VARIETIES OF MORAL DISCOURSE: PROPHETIC, NARRATIVE, ETHICAL, AND POLICY (THE STOB LECTURES) 13 (1988)).

<sup>90</sup> *Id.* at 511.

<sup>91</sup> *Id.* at 512–22.

that our society needs both modes of discourse, she is somewhat skeptical about the potential for constructive engagement in the course of day-to-day moral discourse. According to Kaveny, casuistry should function as a normal mode of discourse, while prophecy should be used sparingly, as a kind of “moral chemotherapy,” “a brutal but necessary response to aggressive forms of moral cancer, whose uncontrolled growth threatens to corrupt practical reasoning, and ultimately to destroy the very possibility of it.”<sup>92</sup>

In contrast, *Forming Consciences* seems to reflect a less sparing role for prophecy. This may hinge on the bishops diagnosis of the body politic as desperately ill with cancerous maladies, or it may reflect a different gauge on when prophetic discourse is appropriate or effective. It is also interesting to note that *Forming Consciences* seems to reflect a blend of the two modes of discourse. Intrinsic evil is an important grounding concept; however, as discussed above, its function is somewhat contained, and the process of setting priorities is analytically distinct. In *Forming Consciences* prophetic rhetoric does not crowd out the implementation of more casuistical modes of reasoning in order to determine the choice of methods to resolve or temper identified evils, and to further the “good we must do.”<sup>93</sup>

On an even more practical level, it is important to acknowledge the cultural need that Catholic “values voters” are attempting to express when they gravitate toward what they perceive as a “more emphatic” analysis of the intersection of Catholic values and public policy as laid out in *Serious Catholics*. Many feel that the culture has completely lost its mooring, and so their search for moral anchors is understandable. The intrinsic evil framework as set out in *Forming Consciences* responds to this not unreasonable need.

It would be dangerous if the conversation stopped with the simple identification of intrinsic evils, as if this were the end of the political analysis. On this point, *Forming Consciences* pushes the envelope in helpful and important ways. By distinguishing the moral category of intrinsic evil from the process of setting political priorities and by clarifying that all political judgments, including those that involve intrinsic evils, require a mid-level

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<sup>92</sup> *Id.* at 574.

<sup>93</sup> See *supra* text accompanying note 64.

prudential analysis, *Forming Consciences* simultaneously acknowledges the need for clarity and opens the door to a more flexible, more realistic, and more livable approach to Catholic participation in political life.

As part of a previous analysis on Catholic social teaching and political participation, I imagined Republicans and Democrats, prophets and casuists, all together on the same hiking expedition:

[I]magine a group of hikers working to make their way westward through a difficult passage of the Rocky Mountains. One part of the team is focused on the compass, which gives an accurate but fairly general sense of direction. Another part of the team is focused on a topographical map, and has carefully marked out the paths that have been closed due to rockslides or other obstacles.

At some points in the journey, what might seem to be the most direct route for the compass readers would actually end in an impasse if the topographical map-readers did not offer their on-the-ground observations. At other points the compass readers challenge the map-readers to work their way through some of the on-the-ground obstacles, to insure that their westward hiking expedition does not ultimately end up in Iowa.<sup>94</sup>

We need both clarity on values and prudential reflection on how to realize those values in society. How might the concept of intrinsic evil fit into the image? I see it as a guardrail. Don't go there—and don't get too close—because you (we) will fall off the cliff. A guardrail is a presence and a baseline. The guardrail itself certainly does not preclude a conversation about the effort that fellow hikers should, can, and will make to pull up those who have fallen or who have been pushed into the ravine. It also does not preclude a discussion about how to keep travelers from wandering too close to the edge. The guardrail itself is not the path nor is the goal of the journey to simply avoid it.

If one imagines that we are in the midst of a large-scale crisis in which massive numbers of people are jumping the guardrail and hurling themselves or others over the cliff, this might lead to a certain tone of panicked urgency. The panic arises, however, not because the guardrail has been clearly defined, but from a sense of where people are in relation to it.

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<sup>94</sup> Uelmen, *supra* note 12, at 451.

What difference might the *Forming Consciences* framework make in the rough and tumble of concrete political clashes? It challenges citizens from both parties to imagine those on the other side of political debates as potential companions on the journey. Consider the clash which followed the February 2006 “Statement of Principles” signed by fifty-five Democrats in the U.S. House of Representatives which included the following paragraph on abortion policies:

We envision a world in which every child belongs to a loving family and agree with the Catholic Church about the value of human life and the undesirability of abortion—we do not celebrate its practice. Each of us is committed to reducing the number of unwanted pregnancies and creating an environment with policies that encourage pregnancies to be carried to term. We believe this includes promoting alternatives to abortion, such as adoption, and improving access to children’s healthcare and child care, as well as policies that encourage paternal and maternal responsibility.<sup>95</sup>

Because the statement included neither a specific commitment to changing the Democratic Party’s platform on abortion nor clear opposition to partial birth abortion, it was interpreted by some as a “sham” and nothing more than a “statement of politics.”<sup>96</sup>

How might the *Forming Consciences* framework advance the conversation? First, the language of the intrinsic evil framework might help to formulate a critique of the statement as pretty mealy-mouthed on its word choice in describing abortion as “undesirable” and not a practice to “celebrate,” and call for linguistic recognition of abortion as the intentional taking of an innocent human life. Aspects of *Forming Consciences* resonate with one critic’s remark: “[O]ne thing is certain: [T]here is not a word in the statement that commits these Catholics to work

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<sup>95</sup> Press Release, Congresswoman Rosa L. DeLauro, U.S. House of Representatives, House Democrats Release Historic Catholic Statement of Principles (Feb. 28, 2006), available at [http://www.house.gov/delauro/press/2006/February/catholic\\_statement\\_2\\_28\\_06.html](http://www.house.gov/delauro/press/2006/February/catholic_statement_2_28_06.html).

<sup>96</sup> *Democrats Statement of Principles Seen as a “Sham” and “Bundle of Contradictions” by Catholic Leaders*, CATH. NEWS AGENCY, Mar. 2, 2006, <http://www.catholicnewsagency.com/new.php?n=6135&PHPSESSID=9baea118ac70df7b5ba27e77113ff97b>.

towards a change in the Democratic Party's Platform on abortion."<sup>97</sup>

But *Forming Consciences* would also find much to applaud in the February 2006 statement. The commitments to reduce unwanted pregnancies, to create an environment with policies that encourage pregnancies to be carried to term, to promote alternatives to abortion, to improve access to children's healthcare and child care, and to encourage paternal and maternal responsibility are all quintessential examples of "the good we must do."<sup>98</sup> These all illustrate the principle that "our positive duty to contribute to the common good and to act in solidarity with those in need" is no less important and no less obligatory than the duty to observe "negative" commandments.<sup>99</sup> The bishops might even note the irony of the critique that it was nothing more than a statement of "politics," because the solution to the problem of abortion requires *exactly* the kind of concrete political reflection in which the Democrats were engaged.

The *Forming Consciences* framework provides a helpful vehicle for dialogue, because it is a call for Catholics to be honest with themselves and with the culture as a whole about *both* "the good we must do," and the evil we must oppose and to work for change where needed in *both* the Republican and Democratic Party platforms.

#### CONCLUSION

During and after the 2004 presidential campaign, supporters of the *Voter's Guide for Serious Catholics* and similar guides expressed what could be described as a three-fold challenge and desire: for a "more accurate" and "more emphatic" statement of the intersection between Catholic social teaching and public policy, which would be accessible to ordinary voters through a "simple methodology."<sup>100</sup> In its drive to be "more emphatic" *Serious Catholics* depicted a seriously flawed and distorted vision of Catholic social teaching and Catholic moral theology. The 2007 statement by the United States Conference of Catholic Bishops, *Forming Consciences for Faithful Citizenship*, stands as an important aid to correct some of these flaws and distortions.

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<sup>97</sup> *Id.*

<sup>98</sup> *Forming Consciences*, *supra* note 17, ¶ 24.

<sup>99</sup> *Id.*

<sup>100</sup> See Keating, *Voting Smart*, *supra* note 6; McCoy, *supra* note 3.

At the same time, the bishops' statement also manages to hold in creative tension the desire for rhetorical emphasis with the hope for open and respectful dialogue about values in a pluralistic society.

Can the analysis in *Forming Consciences* be reduced to an easily accessible "simple methodology?" I believe the answer to this question is "no." The bishops' core message to Catholics and to all those who struggle to articulate the mesh between religious values and public policy is that, in the words of George W. Bush: "It's *hard work*."<sup>101</sup> The framework that the bishops set out in *Forming Consciences* and the framework of Catholic social teaching as a whole cannot be reduced to a simple formula. The two-fold job for Catholics who hope to bring a mature contribution to political life—to form their consciences "in accord with human reason and the teaching of the Church,"<sup>102</sup> and to develop the virtue of prudence, which enables them "to discern [their] true good in every circumstance and to choose the right means of achieving it"<sup>103</sup>—resists reduction to a simple methodology.

Both steps—formation in the principles and discernment of the application of the principles in a given circumstance—are hard work. Both steps are made even harder when the media and Internet culture elevates sound bites over extended analysis and dramatic clashes over nuanced distinctions.

What might inspire Catholics to roll up their sleeves for the hard work of formation and discernment? Perhaps the conviction that this work of formation and discernment will help to sustain a vision in which they can, in the words of the bishops, "support one another as our community of faith defends human life and dignity wherever it is threatened."<sup>104</sup> For ultimately, through the hard work on a variety of issues, searching for political and social remedies to the problems of abortion, war, poverty, and a host of other threats to human life and dignity, "[w]e are not factions, but one family of faith fulfilling the mission of Jesus Christ."<sup>105</sup>

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<sup>101</sup> See Simran Kuhrana, *Bush Speech Makes Repeated Mention of Hard Work*, ABOUT.COM, <http://quotations.about.com/od/georgewbush/a/BushHardWork.htm> (last visited May 17, 2008).

<sup>102</sup> *Forming Consciences*, *supra* note 17, ¶ 17.

<sup>103</sup> *Id.* ¶ 19 (quoting CATECHISM OF THE CATHOLIC CHURCH ¶ 1806 (2d ed. 1997)).

<sup>104</sup> *Id.* ¶ 29.

<sup>105</sup> *Id.*