

REPLY TO PROFESSORS PARIS, KEENAN, AND HIMES

THOMAS A. SHANNON AND JAMES J. WALTER

The authors suggest that their esteemed colleagues misunderstood the central argument of their Theological Studies article, which tried to make clear that, among a variety of documents written during John Paul II's papacy, four significant and unacknowledged shifts were made that cumulatively appeared to challenge, but not alter, the long-standing Catholic tradition on the use of technologies to preserve life. The authors restate that argument.

HAVING ONE'S WORK READ CLOSELY and being taken seriously by one's colleagues are marks of honor—and an occasion for collegial debate. The great medieval tradition of the *quaestio disputata* helped theology thrive. We engage in that tradition here.

We think our colleagues misunderstood our central argument. Our intent was not to assess the magisterial authority of John Paul II's allocution of March 2004 as our colleagues claim; we had already done that in two previous articles.¹ Rather, the focus of our article in this journal was to

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¹ Thomas A. Shannon and James J. Walter, "Artificial Nutrition, Hydration: Assessing Papal Statement," *National Catholic Reporter* 40 (April 16, 2004) 9–10;

make clear that, among a variety of documents written during John Paul's papacy, including and possibly culminating in the papal allocution itself, four significant and unacknowledged shifts occurred that cumulatively appeared to *challenge, not alter*, the long-standing Catholic tradition on the use of some technologies to preserve life. As we clearly stated: "Our position is that there have been four unacknowledged shifts within the last 25 years from the traditional method of analyzing our moral obligations during illness and the dying process."² Moreover, our first mention of the allocution concerned its method, not its authority or a presumption about its authoritative status.

We recognize and affirm that the authority level of papal allocutions is relatively low on the scale of teachings. Nevertheless, Pius XII often used allocutions to address particular problematic issues, such as the use of analgesics and mechanical ventilators, teachings that were significant in developing end-of-life issues. But traditionally, allocutions are not the way in which universal church teaching is presented. In this we agree with our colleagues. Although we thank them for citing Francis Sullivan, we too have read and appreciated his work and know the authoritative notes attached to various documents.

Nevertheless, we submit that the allocution achieved a level of publicity that was significant. The Catholic Health Association issued an internal document pointing out tensions between the allocution and traditional teaching because "the Allocution seemed to alter or depart from the tradition."³ At least some Catholic hospital administrators must have expressed concern over the allocution's implications. The allocution made its way almost immediately into the Schiavo case where it served as yet another basis for an appeal to have artificial nutrition and hydration (ANH) maintained. Additionally, Cardinal William Keeler, chairman of the U.S. Bishops' Committee for Pro-Life Activities, said, "The Holy Father added that these patients have 'the right to basic health care (nutrition, hydration, cleanliness, warmth, etc.)'. He reminded us that providing water and food, even by artificial means, is 'morally obligatory, insofar as and until it is seen to have attained its proper finality.'"⁴ Bishop John Nienstedt of New Ulm, while not directly citing the allocution, said, "Removing that tube is a death

and "Implications of the Papal Allocution on Feeding Tubes," *Hastings Center Report* 34 (July/August 2004) 18–20.

² Thomas A. Shannon and James J. Walter, "Assisted Nutrition and Hydration and the Catholic Tradition," *Theological Studies* 66 (September 2005) 653.

³ Personal conversation with a senior administrator in the Catholic Health Association.

⁴ "Cardinal Keeler Issues Statement on Florida Schiavo Cases; Stresses Church Teaching on Feeding, Hydration," <http://www.usccb.org/comm/archives/2005/05-052.shtml> (accessed October 25, 2005).

sentence which this woman does not deserve. Morally, it is not a matter of 'letting her die,' it rather involves an act intended to kill her."⁵ Archbishop Raymond Burke of St. Louis cited the Allocution and the *Catechism of the Catholic Church* as the controlling teaching and said that the provision of ANH is "an ordinary and proportionate means" and is therefore obligatory.⁶ The Catholic Medical Association concluded that "based upon the current teaching of the Church [a reference to the allocution] the withdrawal of nutrition and hydration could not be justified."⁷ Archbishop John Favalora of Miami asserted that removing Terri Schiavo's feeding tube "is not in accord with the latest papal teaching on the matter and it violates the practice of moral theology in such a disputed case."⁸ And Cardinal Javier Lozano Barragan, president of the Pontifical Council for Health Care, said after Terri Schiavo died, "'They killed her' by denying her food and hydration," which are, according to the cardinal, never considered medical care.⁹

These and other statements¹⁰ surely reflect the papal allocution, which strongly suggested that the removal of ANH is euthanasia by omission. Some of us who publicly supported the removal of Terri Schiavo's feeding tube received threats at our offices and elsewhere, hate mail, and other forms of condemnation, including letters to the president of our university to have one of us removed from our teaching position. Some people took this papal teaching very seriously indeed. Because of that we continue to think that the content of the allocution and other documents of the past 25 years need to be addressed, particularly in the light of prior developments that we articulated.

Our colleagues are correct in noting that this debate is, for the most part, confined to the U.S. Church for several reasons: our culture tends to do

⁵ Terri Schiavo. www.dnu.org/bishop/032305statement.html (accessed October 24, 2005).

⁶ Archbishop Raymond L. Burke, "The Evil of So-Called Euthanasia." <http://stlouisreview.com/abpcolumn.php?abpid=8219>.

⁷ http://www.cathmed.org/newsroom/schiavo_02-2005.html (accessed December 3, 2005).

⁸ "Archbishop John C. Favalora Issues Statement Calling for Prayer for Terri Schiavo," <http://www.flacathconf.org/health/Favalora%20Stmnt%20on%20Schiavo3-19.htm> (accessed October 24, 2005).

⁹ <http://www.priestsforlife.org/euthanasia/cardinalbarragan.htm> (accessed November 13, 2005). Also follow the link to the Terri Schiavo case to see how the tradition is misrepresented: <http://www.priestsforlife.org/euthanasia/terri.htm> (accessed November 13, 2005).

¹⁰ On October 24, 2005, we "googled" the phrase "Roman Catholic Bishops and the Terri Schiavo Case" and found over 74,000 sites. We sampled the first ten and found many that referred to the allocution. Many of these sites were very conservative, and many were reports. Clearly, the allocution garnered much attention and found its way into many of the sites.

everything possible to prevent death, many physicians see death as the enemy, and the pro-life movement insists on the importance of maintaining biological life. Our society also seems willing to expend any amount of money to respond to a particular individual rather than pursue deeper questions related to social justice issues in health care. We have much to learn from our international colleagues.

We continue to argue that there are unacknowledged shifts in the teaching on ANH over the last several decades. These shifts are not all found in the allocution, although Pope John Paul may very well have assumed many of them in what he said about ANH. We do not assert this as a conspiracy, nor do we see at the level of intentionality a single author behind all these documents. Nonetheless, the evidence we cite shows a shift in how to analyze the case. Our colleagues are correct in citing Kevin O'Rourke's conclusion that those who say that life support, even in the form of ANH, may not be removed in fact contradict the consistent tradition. Indeed!

But then there are these statements from different groups and bishops—admittedly not presenting universal church teaching—stating that ANH is ordinary care or treatment and must be maintained. More important, however, are statements in various documents, cited by our colleagues, on how to approach the question of ANH. These statements too are reflected in the allocution. Directive 58 of the *Ethical and Religious Directives for Catholic Health Care Services* states a *presumption* in favor of ANH. And, as thoughtful and helpful a document as Bishop Myer's pastoral may be, he too asserts the presumption in favor of using ANH. Our reading of the tradition is that there is *no* presumption for any intervention until one determines whether the means are proportionate or disproportionate. The same issue recurs in the statement from the Australian Bishops' Conference: "the provision of nutrition and hydration may *cease to be obligatory*" (our emphasis). How does one know in advance that they are obligatory? This assumption or presumption of an obligation to use ANH prior to a determination of benefits or burdens is what concerns us, because we think it reflects shifts in a variety of statements on ANH in particular.

A more significant concern—since it is stated in the encyclical *Evangelium vitae*—is the restriction of the proportion-disproportion test to the actual time of imminent dying. Also problematic with this restriction is the encyclical's misrepresentation of the teaching of the Sacred Congregation for the Doctrine of the Faith. The congregation's declaration on euthanasia, contrary to the encyclical, makes no such restriction.¹¹

Also, in reference to our colleagues' aside about how "an erroneous moral position could have prevailed unchallenged for over half a century

¹¹http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19800505_euthanasia_en.html (accessed November 13, 2005).

within the Catholic community,” we would note that many such examples can be found in the Church’s history: slavery, religious freedom, and aspects of church-state relations, to name a few. Finding erroneous church teachings, therefore, should not be surprising. Our point was to call attention to a revisionist method that is in fact attempting to challenge the long-standing tradition.

Finally, we remain persuaded that there is also a shift to deontological reasoning in the area of death and dying, complemented by categorizing interventions as ordinary or extraordinary. The tradition, on the other hand, has used a proportion-disproportion test as the way to resolve issues surrounding the dying. We think that the papal allocution at least has been used to support these more recent moves.

We are delighted that many affirm the traditional method for resolving end-of-life issues, and we are encouraged that many have forcefully asserted the long-standing tradition.

But why is a reassertion necessary, if the papal allocution and other documents did not intimate something different as a challenge? The past 25 years have been characterized by a growing centralization of church authority in the papacy, by a continual quoting of the pope’s previous writings as a justification for current teachings (note the recently issued *Compendium of the Social Doctrine of the Church*—in which John Paul II’s writings have a place of primacy—and the term “doctrine” rather than “teaching” in its title),¹² and by a willingness of many in the Church simply to repeat what the pope said as a way of resolving complex questions. The allocution was read within the context of a heightened sense of centralization of authority in the papacy. Moreover, while the majority of theologians know that there are different levels of papal teaching, others do not know it, have forgotten it, or might be afraid to say it. And, as we have shown, others have used this papal allocution to promote a position that most theologians know is inconsistent with the long-standing tradition. The more critical questions are: who wrote the allocution, why did he read it, who was the intended audience—beyond the U.S. Congress, and why at that particular time? If the intent was to provide comfort and moral guidance to the family

¹² Kenneth Himes, in a review of the *Compendium*, noted that the “list of sources and citations” provided by the *Compendium*, although useful, “raises a concern: the tendency, so prevalent of late, to give too much weight to the papacy of John Paul II. There are more citations of John Paul II than of all previous popes combined, more than all conciliar references combined, more than all patristic and medieval authors combined. Indeed, the only thing that approximates the recent pope’s writings is references to the Bible, and even of those the number is less. This overreliance on one papacy is unfortunate, even if not entirely unexpected in the ecclesial context in which the volume was created.” Kenneth R. Himes, O.F.M., “To Inspire and Inform,” *America* 192 (June 6–13, 2005) 8.

of Terri Schiavo by mandating the maintaining of her feeding tube, all the allocution did was prolong the agony of the situation. Additionally, many who work in intensive care units and similar facilities have been extremely concerned about how this document will affect both their practice and what they judge to be responsible medical treatment, regardless of how little authority it might have.

An allocution, of course, does not carry the authority of universal church teaching. Our point was not to make or assume the claim that the pope's allocution had such standing or that this speech in itself changed the long-standing Catholic moral tradition on end-of-life issues. Rather, we were very concerned that this pastorally important tradition might be jeopardized by these unacknowledged shifts in methodology. We believe that any loss or weakening of this tradition would be a tragedy of the first order; hence our concern is to note these shifts in the methodology and their implications, and strongly to resist revisionist efforts to weaken the tradition.