

August 1993

"Listening" to Nature: The Significance of Leon Kass for Catholic Moral Theology

Stephen F. Torraco

Follow this and additional works at: <http://epublications.marquette.edu/lnq>

Recommended Citation

Torraco, Stephen F. (1993) "'Listening" to Nature: The Significance of Leon Kass for Catholic Moral Theology," *The Linacre Quarterly*: Vol. 60: No. 3, Article 6.

Available at: <http://epublications.marquette.edu/lnq/vol60/iss3/6>

“Listening” to Nature: The Significance of Leon Kass for Catholic Moral Theology

by

Stephen F. Torraco

*Assistant Professor of Theology
Assumption College
Worcester, Massachusetts*

In the event of a power failure in the twentieth century it is, for many, as if time comes to a halt and one is stripped naked — stripped, that is, of all the modern accoutrements that have become as much a part of one's life as one's own clothing and reduced to “primitive” — some would say unbearable — conditions. And yet a power failure is also an opportunity to face one's own humanity in quiet and darkness. One of my favorite activities during a power failure is thinking about people like Plato, Aristotle, Augustine, Maimonides, Thomas Aquinas, and other great thinkers whose living conditions were much like those during our modern power failures and yet whose accomplishments in such conditions surpass those of most of us even with our heat, electricity, and running water.

Human beings are remarkably adjustable. Over the past three hundred years we have adapted to modern science and technology so amenable and have become so easygoing about it that we find it difficult to imagine how anyone could have lived without it. At the same time, however, we also tend to be generally unconscious of the impact of modern science and technology on the very meaning of living humanly.

This is particularly the case in the field of medicine and health care. We tend to forget, for example, that the first accurate knowledge of human anatomy came only in the sixteenth century, that the discovery of the circulation of the blood emerged in the seventeenth century, the anatomical concept of disease in the eighteenth century, and anesthesia in the nineteenth century. It boggles the mind to consider the fact that for the overwhelmingly greater portion of history the human race did without what we regard as the elementary fixtures of medicine and health care.¹

Yet all of this pales into insignificance in the light of developments in the twentieth century; for there have been more developments in medicine and

health care in the past fifty years than in all previous time. To cite just a few examples, consider organ transplants, asexual reproduction, and genetic engineering. And yet, considering the pace of these and other developments as well as their seeming direction toward something like Huxley's *Brave New World*, we find ourselves in the unenviable position of wondering whether, to cite a popular song, "*these are the good old days,*" or whether we should think of the *time in which we live* in terms of the ancient Chinese curse, "may you live in interesting times."²

By this I mean that, by and large, the rapid pace of sophisticated developments in medicine and health care have knocked the moral breath out of us. Unprecedented questions about birth, death, the very meaning of health care, the very profession of health care, and about humanity itself, race well beyond our groping speculations. And as we stop to catch our breath, we find ourselves at a pivotal fork on the road.

Many, it seems, have already chosen the path of least resistance: the road, originally charted by Rene Descartes and Francis Bacon, which promises "the relief of man's estate" and even immortality. The crucial difference, however, between Bacon and Descartes and those of us treading on this projected path is that these two thinkers were quite conscious of the human and moral cost of their ends: the reduction of nature to "unknowable stuff" to be conquered and engineered and the narrowing of the moral to the technically useful. We, in contrast, have been more mesmerized by new and sophisticated means than conscientious about modern utopian ends; and with the tunnel vision and ethical "tools" they and their intellectual progeny have bequeathed to us and that accommodate their ends, we move along that path, justifying whatever we have already adapted to or have already willed in our heart of hearts.³

"Will" is a key word here. At the foundations of the modern project of Bacon and Descartes is the dogmatic rejection of the view that nature provides a purposive design discoverable by one who would make the effort to contemplate, receive, or "listen" to it.

On the contrary, Roman Catholic theology has prided itself in having a strong and coherent "creation theology," due chiefly to the efforts of St. Thomas Aquinas. Nature was a principal focus of theological contemplation; and this contemplation yielded significant results in the field of moral theology. Truth to tell, however, Thomism, from the sixteenth century to the present time, has done more to obfuscate — and even distort — than transmit accurately Thomas' original insights about nature. Much of this distortion was due to the influence of modernity's posture of distrust of nature, its consequent turn to epistemology, the eventual separation of rationality from distrusted nature in the eighteenth century, and finally the distrust of rationality itself, the rise of historical consciousness, and the final triumph of the will.⁴

We are further away from "listening" to nature than ever before. And this is continuing to have its effect on Catholic moral theology. But we do not necessarily have to resign ourselves to the Cartesian and Baconian path of least resistance. At that pivotal fork on the road, there is an alternative path, a steeper, slower going, but not impossible pathway to the recovery of the human ability to

"listen" to nature's design. We know it's not impossible because Dr. Leon Kass has been travelling on that path for some time. He can assist us as a steady and reliable guide.

An examination of Dr. Kass' thinking about three particular topics, 1) the approach of contemporary medical and health care ethics in general, 2) the plight of the Hippocratic Oath, and 3) the question and direction of asexual reproduction will serve to illustrate how Dr. Kass' thoughtful "listening" to nature can assist Catholic theology's retrieval of its wisdom about the order of creation as well as the light this wisdom can shed on medicine, health care, and bioethics.⁵

Contemporary Medical and Health Care Ethics: "Where's the Action?"⁶

It is not surprising that, with all of the developments in medicine and health care in the past fifty years or so, medical and health care ethics and bioethics have become important, even fashionable, fields of study and discourse. But one can reasonably wonder: what have the practitioners in these fields actually accomplished? Where is it all going? And can we honestly say that, as a result of our efforts in these fields, doctors, nurses, and other health professionals, and health facilities are better today? (By "better" I don't simply mean more competent; I also mean better in the moral sense: prudent and virtuous.)

In a contemporary textbook on bioethics, after reviewing the various ethical methods being used today (consequentialism, deontology, intuitionism, rights ethics), the author concludes:

As you read this book and discuss the problems contained in it, you will find yourself using one or more of these methods in trying to convince yourself or others of the correctness of a particular position. You may also find it interesting to adopt one method to see how it works and where it will lead you. Discovering which method you are more comfortable with and being attentive to the methods others are using is a first step toward gaining clarity in one's discussions and debates about complex medical-ethical dilemmas.⁸

This author, and many others like him, view ethics as fundamentally a matter of method — a matter of *how*. The question of *what* or *why* is either secondary or is something that has already been willed. In the latter case, the ethical method becomes simply a way of justifying what has already been willed; and if one finds the method that can justify what one has already willed, then, of course, one can be "comfortable" with it. To draw an analogy with the "quick fix" of Huxley's *Brave New World*, ethics becomes a kind of intellectual "soma." Ethics becomes a matter of applying one's favorite theory to various ethical problems. Leon Kass calls this approach "ethics as theory with application."⁹ I call it "tool box ethics."

There are three basic problems with this approach. First, its presupposition is that medical practice is not inherently an ethical matter; that moral guidance is nowhere to be found from within the very meaning and activity of the art of healing; and that, therefore, a "theory" or set of concepts must be imported and applied from the outside to "save" the medical profession.¹⁰ Second, there is

the danger, to which I alluded earlier, that ethics becomes a matter of rationalization in service to the goal one has already willed, either quite publicly or quite secretly and therefore quite deceptively. Third, and perhaps most important of all — because it undergirds the previous two problems — is that this approach to ethics requires no moral investment on the part of either its practitioners or the health care professionals to whose work it is applied. In its tendency to provide solutions in the form of rules or by way of rationalistic devotion to ideals such as “autonomy” or “personhood,” “tool box ethics” fails to address “the direct but unreflective education of our loves and hates, our pleasures and pains, gained only in practice, through habituation and by means of praise and blame, reward and punishment,”¹¹ in short, those powers of the soul that are not intrinsically rational but have the potential to be trained to listen to reason.¹² But lacking this training, and as Kass puts it, why should motive care to listen to speech? Why should appetite allow itself to be influenced by rules or ideals?¹³

Ethics as theory with application abstracts from the passions and appetite of human beings, and therefore does not speak to their hearts. Nor is it particularly respectful of the concrete fact that, no matter how many theories, methods, and ethics committees that can be mustered up, there is absolutely no substitute for the on-the-spot prudential judgement on the part of the health care professional.¹⁴

In short, ethics as theory with application reduces ethics to the enterprise of solving moral problems in a technical way. Because it fundamentally abstracts from human nature, “tool box ethics” is far away from recognizing that *the* fundamental issue in medicine and health care is the health care professional himself, including head, heart, and hand; mind, appetite, and action; and their perfection is prudence, moral character, and competence.¹⁵

Against the steady stream of ethics as theory with application, Leon Kass speaks about ethics as practice with reflection. This approach to ethics antedates by centuries ethics as theory with application, and it was the principal focus of traditional medical ethics. Ethics as practice with reflection is a matter of listening to human nature, not only in terms of doing, but also in terms of being. It is a matter of thoughtful doing, leading to a “grown-togetherness of appetite and mind.”¹⁶ It is a matter of reflecting on one’s practice and then asking: what kind of a human being must I be to know and to do what is right, and to do it well? This approach to ethics requires that one be, not only a knower of one’s practice, but also a knower of one’s soul. “Tool box ethics” abstracts from both of these. Ethics as practice with reflection focuses precisely on where the action is, internally and externally.¹⁷

The Hippocratic Oath and the Covenantal Nature of the Art of Healing

An approach to medical ethics that parallels Kass’ ethics as practice with reflection is Protestant theologian William F. May’s ethics as corrective vision. In his book, *The Physician’s Covenant*, May explains that the behaviour and practice of the physician is both shaped by and reflective of a certain image. This image, in turn, is demiurgic in that it shapes the way in which patients respond

or react to the physician. The goal of ethics as corrective vision is already implied in its name: to illumine the consciousness of the physician so that he can discover and understand his working self-image and how it shapes his very view of and approach to various medical issues.¹⁸

It is noteworthy that while Kass appeals to Aristotle's *Nicomachean Ethics* when explaining ethics as practice with reflection, May refers to the famous story of the cave as told by Socrates in Plato's *Republic*. In his appeal to Aristotle, Kass highlights those powers of the soul that are to be found between the rational and vegetative powers, namely those passions and desires that have a natural "trainability" in the direction of moral as distinct from intellectual virtue. May, on the other hand, in his appeal to Socrates' story about the cave, wants to point to the role of reason in shedding light (or the "pure light of the sun" in Socrates' story) on the horizon as well as self-understanding (the "semi-darkened cave") of the physician. Plato's Socrates, it will be remembered, does not distinguish between moral and intellectual virtue.¹⁹

In keeping with this difference, whereas Kass begins with reflection on practice and then moves to self-understanding, May begins with illumining self-understanding so as to shed corrective light on practice.

The initial significance of these related differences is that it points out that Kass' approach takes the actual practice of the physician more concretely and therefore more seriously. Kass begins with reflection on medical practice on its own terms. It is more likely than May's approach to catch the ear, mind, and heart of the physician. May's approach is more deductive; he begins by posing specific images that he claims to be in competition in modern medicine. Before May can shed light on the self understanding of the physician, he must first make a case that these specific images, namely Parent, Fighter, and Technician, are the self-images of many — if not most — physicians.

But the most important significance of these related differences between May and Kass revolves around their conflicting interpretations of the Hippocratic Oath.

Both May and Kass argue that the physician is by definition a teacher.²⁰ So, for example, the physician ought to instruct his patient about and exhort him to embrace proper habits of health. A physician ought to do this in ways with words that prudently and effectively enlighten and move his patient. But this, of course, requires that the physician truly listen to his patient.

Kass would agree with May's point that no one of the images — Parent, Fighter, and Technician — nor all three together, can adequately or consistently embrace the self-understanding of the physician as teacher. Moreover, while each of these images do reflect certain positive characteristics of the physician (the providential and nurturing Parent; the Fighter who takes suffering and death seriously; the competent Technician who maintains professional distance), no one of these images can adequately or consistently embrace all of the positive characteristics of all three images. In fact, when left to themselves, these images tend to degenerate: Parent into a suffocating and authoritarian paternalist that treats the patient as child, or even worse, as property; Fighter into a soldier waging an unconditional war against disease and death on the battleground that is the patient; and Technician into a tradesman who sells his services on

contract to the patient/consumer.²¹

What does it take to prevent this kind of degeneration, to preserve whatever positive characteristics each of these images reflects and to embrace that, at the core of his self understanding, the physician is a teacher? In answer to this question, May and Kass come to nearly the same conclusion, but in most surprising ways, and with a truly remarkable consequence.

May argues that the physician must be covenanted. By covenanted May clearly means grounded in the unique Biblical ethic, either of Old Testament *chesed* or of New Testament *agape*. With either of these, the unique Biblical ethic is rooted fundamentally in the fact that one's self-identity is interrupted and reshaped by the divine primordial act of redeeming. This divine act leaves one overwhelmingly indebted, not simply individually, but as a member of a people, all of whom are also mutually indebted. The Biblical covenantal ethic, therefore, consists, not only of the recognition of this indebtedness at the core of one's identity, but also in the required response in kind, be it *chesed* or *agape*, to God and to others.²²

A covenanted physician recognizes that he stands side by side with the patient, mutually indebted and together indebted to the Redeemer. Like the Parent, the covenanted physician will nurture and provide, but will neither tend to replace Divine Providence with a providence of his own nor reduce the patient to property. On the contrary, he will recognize that he and the patient are owned by Someone Else. Like the Fighter, the covenanted physician will take suffering and death seriously, but will refrain from waging an unconditional war against death because of his recognition that death is not the greatest evil. Finally, like the Technician, the covenanted physician will foster competence, but not at the cost of his own moral and spiritual health, and not at the expense of reducing covenantal indebtedness to an external contract of mutual rights. Unlike the Technician, the covenanted physician is not fearful of ties with patients because all human ties are subsumed and strengthened by the primordial tie with the Redeeming God.²³

Thus, according to May, only the covenanted physician is freed *from* all that weighs down the images of Parent, Fighter, and Technician, and freed *for* going the extra mile in teaching the patient with a view to health.²⁴

In light of this covenantal ethic, William May is basically critical of the Hippocratic Oath.²⁵ While he acknowledges that in the second paragraph of the Oath there is a recognition of the debt owed to one's teacher, there is no corresponding recognition of debt owed to one's patient. If, in the Oath, the relationship to one's teacher is covenantal, the relationship to one's patient is at best philanthropic. In May's view, the patient is on the periphery of the mind of the one who takes the Oath.²⁶

According to May, this philanthropic approach to the patient has led to the worst abuses and has consistently triggered angry reactions from patients. This philanthropic approach has led to the reduction of health care to a contract, according to which both physician and patient seek their own interest as well as protection, each from the other. Unlike covenantal indebtedness, which cuts through to the core of doctor and patient and unites each to the other, contract

governs only the external and divides each from the other.²⁷

As May views it, the ultimate reason for this danger inherent in the Hippocratic Oath is that, while indeed at the beginning and end of the Oath there is a recognition of the higher power upon which the art of healing depends, there is no recognition of any specific prior *act* of the divine which leaves both physician and patient mutually indebted. Lacking this, May claims, the Hippocratic Oath falls short of a covenantal ethic that is indispensable to the art of healing.²⁸

Yet why is it that Leon Kass consistently refers to the Hippocratic Oath as fundamentally covenantal in nature?²⁹ As I will explain, the key reason is Kass' ability to "listen" to nature itself and on its own terms; and this, we noted, is what ethics as practice with reflection is about.

According to Kass, the Hippocratic Oath is a comprehensive treatment of the perennial nature of the art of healing, namely, assisting nature's own inclination toward wholeness and working well. Lacking that natural inclination which we do not create but discover and presuppose, there would be no art of healing. And lacking that discovery of, continual "listening" to, and cooperation with that natural inclination, the art of healing loses its way.³⁰

Kass' careful reading reveals the Hippocratic Oath to be the result of its author's having discovered nature's inclination toward wholeness, and his having reflected upon what is essential as well as what is contrary to assisting that natural inclination and end, not only in terms of what one will and will not do or say to those who come for healing (paragraphs 3-7), and not only in terms of one's relationship to one's teachers (paragraph 2), but also in terms of one's dependence on the higher power which is the source of nature's inclination toward wholeness. Ethics as practice with reflection leads the author of the Oath to discover, not only that medical practice and the ethical "are as inseparable as the concave and the convex,"³¹ but also that the medical and the ethical, by their very nature, are grounded in an indebtedness to the divine.

A physician who could see through the trappings and equipment of his art to these native powers that make it possible would stand in the world neither as proud master nor as servile technician. He would stand self-consciously in between, as one who professes, respectfully affirming and gratefully acknowledging the existence and support of powers not of his own or of any human making. As a professional, man bears witness to the being of something higher and more enduring, participation in which can only be called a blessing.³²

Is it not simply wondrous, indeed awe-inspiring, that the living body contains an immanent power toward wholeness that acts on its own? . . . How come the world is full of plants that serve our needs? . . . Is it man's doing that the world is full of all kinds of hidden healing aids, lying around to be discovered? The discoverer of a new drug, of course, deserves our praise. But what is owed for the fact that it was *discoverable*, that is, both intelligible and in the world, though hidden, accessible to being discovered? And finally, what about discovery itself? . . . Insight? Intuition? Utterly mysterious. One could do much worse than to credit some higher-than-human-power, not at our disposal or under our control . . . One could do much worse than to credit Apollo, source of purity and holiness no less than of light and truth, perhaps because with the light to see the truth, and the truth about the whole, Apollo — or whatever its name is — *brings wholeness to mind and us to wholeness*, and further, in the art of medicine, *brings us beyond awareness of wholeness to a divineline overflowing into action, permitting us to help make the wounded whole* . . . The insight that drew the holy, the healthy, and the

whole from a common etymological root may point to the deepest wisdom, not only for medicine but perhaps also for how we are to live. (emphasis added)³³

In response to May's claim that the Hippocratic Oath makes no reference to a primordial divine act, Kass would point to the primordial and continuing divine act that is discernible to anyone who reflects on the nature of the art of healing. In terms that May would more readily appreciate, one could argue that May's emphasis on *chesed* and *agape* has been at the cost of neglecting the primordial and divine act of creating.³⁴

In response to May's claim that, in terms of the physician's relationship to the patient, the Hippocratic Oath is at best philanthropic, Kass would point out, not only that May underestimates and even misunderstands the philanthropic disposition, but also that the very nature of the art of healing demands no less of the physician than does *chesed* or *agape*.³⁵

To defend this point, Kass would first call our attention to the Oath's second paragraph about one's relationship to one's teacher — by far the longest paragraph in the Oath — and particularly to the connection made between indebtedness to one's parents and indebtedness to one's teacher. As Kass puts it,

... my parents gave me life, my teacher gave me my art. Or again, my parents gave me life, my teacher a way of life, itself dedicated to upholding the life of all.³⁶

This connection reminds the physician who takes the Oath, not only of his own mortality or of his indebtedness to those who gave him life and to those who taught him the art of healing, but also the responsibility, while participating in life and practicing the art of healing, of transmitting life as well as this art to posterity.

Through his concern for his own immediate descendants, he learns concern for posterity in general, and therewith a concern for unrelated others. Through his covenant to uphold his teacher and to teach the young, he sustains the art in community, for only through the community can the art be transmitted. The physician stands in the world not as one who claims his rights or demands his due; rather he stands gratefully, thankful for the existence of the art of medicine, for the devotion of his teacher, for the community of like-minded healers, and for the privilege of sharing in this noble work. From gratitude for the gift of the art can flow more readily the disposition to give to others, in the first instance to those near and dear, but soon also in an overflow to others. The disposition of philanthropy can come only to those who know the love of few. Just as the family, when it does its proper work, is the nursery of these ethical sentiments, opinions, and dispositions, so the family ties of the art inculcate what the technical alone cannot: that philanthropic and virtuous disposition which makes one eager to serve those in need for the sheer goodness of doing so. One cannot attach the man to the best precepts of the mind except by first winning his heart.³⁷

Finally, Kass would point to the structure of the Hippocratic Oath and to the pivotal location of the longest paragraph about one's teacher. The Oath itself begins and ends with references to the divine; and the longest paragraph in which one's teacher is put on a par with one's parents mediates between reference to the divine and recognition of one's duties to one's patients. This structure of the allegedly noncovenantal Oath is remarkably parallel to the covenantal Ten Commandments, in which the duty to honor one's parents mediates between and connects duties to God and duties to others. In both the Hippocratic Oath and

the Ten Commandments, it is suggested that it is in filial piety that one first learns reverence and gratitude for and humility before the divine, human decency and dutifulness to others, and the intimate connection between the divine and the human.³⁸

In effect, whereas May claims that only a Biblical covenantal ethic — be it *chesed* or *agape* — can adequately and consistently call for the physician to be a teacher, Leon Kass discovers that nature itself, if “listened to,” calls for nothing less.

The implication, however, is not that we therefore don't need to heed the Biblical teaching, but rather that the Biblical covenantal teaching is intelligible to any thoughtful human being who would “listen” to nature. More specifically, what Christians call the order of creation already calls for the physician to be a covenanted teacher.³⁹

It is fascinating but not totally surprising that the word “nature” never once appears in William F. May's book. Historically, Protestant theologians have not been optimistic about “listening” to nature. But this lack of optimism has left Protestantism vulnerable to modernity's dogmatic refusal to “listen” to nature, to the consequent rise of historicism (which is essentially moral and intellectual deafness), and to the ultimate triumph of the will.

But what reason can we find to explain Catholic theologians' lack of attentiveness to nature? At best, as I suggested earlier, and as Paul Ramsey has also pointed out, we have become the unwitting heirs of Bacon and Descartes. Like the Alphas, Betas, Gammas, and Epsilons of Huxley's *Brave New World*, we are intellectually and morally “bottled,” taught to “hate nature” and to “love to consume,” mesmerized by the “happiness” promised by Bacon and Descartes and already begun to be harvested. Thus, we have taken the path of least resistance and therefore, as World Controller Mustapha Mond of *Brave New World* puts it, we have no use for “old things” like the Hippocratic Oath. It doesn't speak to us because we can't hear it, because it's talking about nature.

Is it any wonder, then, that we are on the threshold of literally bottling human nature or “manufacturing” babies?

Engineering the Engineer: Asexual Reproduction

Lenina Crowne is a “nurse” in the Fertilizing Room of the local decantation station in *Brave New World*. Like everyone else in that World, Lenina has no lineage; she was engineered in the laboratory, decanted from a bottle, and “sleep taught” that sex is for play, and that the words, “mother” and “father,” are obscenities. Is there any question as to what Lenina would think of *Humanae Vitae*, which warns against the idea of technically separating an openness to having babies from having sex, or of the 1987 Vatican Instruction on Bioethics, which warns against the idea of having babies without having sex? Of course, World Controller Mustapha Mond would never allow such obscene literature to circulate. Such literature would be safely locked in his safe along with the Bible and Shakespeare, or one would have to travel to the “savage reservation” to read them.

Humanae Vitae and the Vatican Instruction on Bioethics are, of course, very much related. Both speak about the nature of the conjugal or marital act and its intrinsic unitive and procreative meanings, and both teach that the artificial separation of one from the other is a violation of the objective moral order. Both documents recognize as morally permissible the intervention of human intelligence in the regulation as well as the promotion of human birth, as long as this intervention assists and does not frustrate the design ordained by the Creator for the transmission of human life, that is, as long as we remain faithful to our role of intelligent ministers of that design and not seek to be its arbiters.

Thus, in the matter of the regulation of human birth, responsible parenthood requires "listening" to and collaborating with rather than frustrating or engineering nature, specifically the rhythms of fecundity inscribed in human nature. The recognition that such "listening" and collaborating require prudence and moral virtue flows from ethics as practice with reflection on the part of husband and wife. This disposition is fundamentally different from the contraceptive mentality, which is accommodating to resolving a moral problem in a technical way, and which does not require such "listening" and collaborating, let alone prudence and moral virtue. In short, the pill is to Bacon's notion of nature as unknowable "stuff" to be engineered what responsible parenthood is to the Creator's purposive design in nature for the transmission of human life as well as for the regulation of human births.

With regard to the promotion of human birth in cases of infertility among married couples, responsible parenthood would include the consideration of and possible recourse to technologies that assist but do not substitute for the marital act. Responsible parenthood recognizes that sexual loving is as humanly indispensable to husband and wife as it is the only appropriate origin of human life.

How do we Catholics respond to these teachings? Fortunately, we are not the likes of Lenina Crowne; but we do have our RU 486, Norplant, and state of the art *in vitro* fertilization. And with them, how far away are we from the Malthusian Drills and Fertilizing Room of Brave New World? And now that we have them, how could we possibly live without them? And now that we have them, we want them. We will them. And having willed them, shall we take a little "intellectual soma" by resorting to a "methodology" that we can be comfortable with — comfortable because it will serve nicely to justify what we have already willed?

And so we ask: what real difference is there between contraception and natural family planning? After all, isn't there a circumvention of nature in both cases? And isn't the goal the same in each case? What if a couple is poor and cannot afford to have more children? What if a woman cannot possibly survive another pregnancy? What if a retarded young woman might be sexually abused on her way to or back from school? And what's so wrong about helping a married couple fulfill their longing for a child of their own? Why is adopting children permissible and *in vitro* fertilization not? In neither case is the child the fruit of the sexual loving between husband and wife.

We want it. We will it. We can't live without it. In each and every specific case,

a defense and justification of the technologies in question is easily provided by the most human, even charitable intentions. Remember the path of least resistance, originally charted by Francis Bacon and Rene' Descartes for the humane goal of the "relief of man's estate." But isn't this path in fact the way, "defensible step by defensible step,"⁴⁰ to Brave New World? It is precisely this question which Leon Kass addresses in his chapter, "Making Babies: the New Biology and the 'Old Morality'."⁴¹

When presenting his views, Kass obviously has no authority that binds his readers to submit to his teaching. In addition, although far from being hostile or even indifferent to matters religious, Leon Kass does not profess faith in the God of the Bible; and clearly does not base his reasoning on such faith. At best, Leon Kass can only hope to persuade his readers with his own argumentation.

But if these are in any way liabilities, in this case, they turn out to be to his advantage. The name of Cardinal Ratzinger, or more generally any reference to the Magisterium of the Church, associated in the minds of many with narrowness and negativity, deafens many to the substance of the Vatican Instruction on Bioethics. In addition, the forthright and authoritative manner in which Cardinal Ratzinger writes the Instruction is offensive to anyone for whom authority as such is necessarily a slight to one's intelligence. So, in spite of the fact that the Church's Magisterium has been "listening" to the Creator's design in nature for centuries, it all goes to waste for many readers. When addressing the issue of asexual reproduction, Kass is free of all these complications. So also is the reader who considers Kass' thinking. Thus, Kass is freer and perhaps more capable of getting into the minds of his readers and, in a politic but principled manner, of awakening them to the need to "listen" to nature.

In his chapter, Kass proceeds slowly and cautiously, explicitly conceding that it is, from the very beginning, an uphill task to change the mind of anyone who is convinced that *in vitro* fertilization is not only morally justifiable but also eminently beneficial to humanity. Kass acknowledges that, for the most part, he is addressing the mindset that considers morality a matter of good and bad intentions and short term risks, harms, and benefits. He knows that he can hardly expect to captivate his audience by speaking about the intrinsically moral or immoral. Such speech annoys and even insults the mindset according to which knowing something is making, changing, or conquering something, and not at all a matter of discovering what does not change.

Thus, Kass begins by playing the role of a gadfly. He moves the reader first to wonder about the very terms that are often used to describe infertility and to justify a married couple's resorting to *in vitro* fertilization. Specifically he asks if it is accurate to refer to infertility as a disease; and he alerts the reader to the dangers of speaking of the right to a child of one's own. In each case he notes that such language, which points to possession or properties of individuals, conflicts with both the fact that fertility is a relationship as much as a condition — a relationship between husband and wife and also between generations—, and that the meaning of childbearing and its bond to the covenant of marriage can hardly be reduced of individual rights. Besides, how far would a right to a child of one's own extend? Would such a right extend to any and all technologies that

could potentially deliver the child? Would such a right extend to technologies that are yet to be developed? Is our willing something sufficient basis for our having a right to it, as well as to any and all means to attaining that something?⁴²

Leaving aside the language of "disease" and "rights," Kass asks what could be wrong with *in vitro* fertilization to overcome infertility among married couples? Isn't intramarital *in vitro* fertilization ethically similar to artificial insemination by the husband? It would seem so, except that there is an alternative to *in vitro* fertilization, namely, oviduct reconstruction. Indeed, oviduct reconstruction is preferable to *in vitro* fertilization on the grounds that the least objectionable means is preferable to achieve the same unobjectionable end. Unlike *in vitro* fertilization, oviduct reconstruction does not involve the deliberate manipulation of the embryo, and does not pose any risks to the embryo in terms of deformity, retardation, or damage by genetic tests.⁴³

Are these risks a sufficient basis for ruling out intramarital *in vitro* fertilization? Paul Ramsey thought so. According to Ramsey, total and permanent abstention from *in vitro* fertilization is in order because, given the risks, we cannot ethically get to know if it is something we should practice.⁴⁴

But hasn't there been genuine success in recent years? And haven't the warnings about these risks been proven false prophecies? Besides, "if we have children *for* our children, and not for ourselves (to pass life on to the next generation)," or in other words, "if the gift of life itself is a therapy, then could not the clear benefit to the child justify the risks so long as they are not excessive and are comparable to those in ordinary procreation?"⁴⁵

Is there really any intrinsic moral reason to reject the intramarital use of *in vitro* fertilization? Kass says he finds none — "at least no reason that would not also rule out artificial insemination by the husband."⁴⁶ But the careful reader might ask: might there be an intrinsic moral reason for rejecting both? However, just as soon as this question is raised, Kass rules out arguments concerning intrinsic rightness or wrongness because they abstract from the difficult task to which he beckons us next: "predicting and weighing consequences, often quite remote and intangible ones,"⁴⁷ especially regarding the creating of embryos in the laboratory in the first place. And the reason for this sort of consideration is that "...once introduced for the purpose of treating intramarital infertility, *in vitro* fertilization can now be used for any purpose:" extramarital fertilization, making pregnancy possible for women after menopause, surrogate mothering, the donation, sale, and banking of embryos, not to mention eugenics.⁴⁸

After weighing these consequences, Kass expresses second thoughts about the wisdom of the practice of artificial insemination by husband in light of its growing uses for eugenics and surrogate gestation. (Remember the question: might there be an intrinsic moral reason for rejecting both *in vitro* fertilization and artificial insemination by husband?)

...I am no longer talking about the problem of misuse or abuse of a given technique, but rather about the fact that one technical advance makes possible the next and in more than one respect. The first serves as a precedent for the second, the second for the third — not just technologically but also in moral arguments. At least one good humanitarian ground can be found to justify each step. For these reasons, we must try to see more than

a few feet in front of us before we set forth.⁴⁹

Human procreation not only issues new human beings, it is itself a human activity (an activity of embodied men and women), The new forms of baby making . . . represent in themselves a radical change in human procreation as a human activity . . . the new beginnings occur in a new locus, the laboratory, and involve a new partner, the scientist. Moreover, the techniques that at first serve merely to provide a child to a childless couple will soon be used to exert control over the quality of the child. A new image of human procreation has been conceived, and a new "scientific" obstetrics will usher it into existence. No more begetting or generating, procreating, or even reproducing; just plain producing or making, the attempt to supplant nature with rationality in the very mystery of life, all in the service of producing only wanted, willed, and flawless babies. The new reproduction shifts increasingly from home to laboratory, where it is transformed into manufacture. To repeat, increasing control over the product can only be purchased by increasing depersonalization of the process. In this continuum, artificial insemination represented the first step, genetic testing of embryos the second step, *in vitro* fertilization the third, and so on and on.⁵⁰

In light of this forecast, Kass is then led to reconsider the old-fashioned alternative:

Is there possibly some wisdom in the mystery of nature that joins the pleasure of sex, the inarticulate longing for union, the communication of love, and the deep and partly articulate desire for children in the very activity by which we continue the chain of existence? Is biological parenthood a built-in "device" selected to promote the adequate caring for posterity? Before we embark on new models of reproduction, we should consider the meaning of the union of sex, love, and procreation, and the meaning and the consequences of its cleavage.⁵¹

Where has Kass' reasoning taken us? He tells us that, when it comes to *in vitro* fertilization and artificial insemination by the husband, we ought to recognize that wisdom for us consists in not doing:

I am aware that mine is, at least at first glance, not the most compassionate view (although it may very well turn out to be so in the long run). I am aware that there are some who now suffer who will not get relief should my view prevail. Nevertheless, we must measure the cost — and I do not mean the financial cost — of seeking to eradicate that suffering by any and all means. In measuring the cost, we must, of course, evaluate each technological step on its own terms, but we can ill afford to ignore its place in the longer journey. For defensible step by defensible step, we can willingly walk to our own degradation. The road to Brave New World is paved with sentimentality — yes, even with love and charity. Have we enough sense to turn back?⁵²

When all the dust settles, hasn't Kass, albeit in a cautious and pedagogically roundabout way, taken us back to the Vatican Instruction on Bioethics? Isn't what Kass ends up saying what the Magisterium says from the very beginning? Isn't Kass' reference to the wisdom in nature's design of the uniting of sex, love, and procreation in effect what Pope Paul VI, in *Humanae Vitae*, calls the design ordained by the Creator for the transmission of human life? Isn't Kass' careful weighing of the long term consequences of dismantling nature's design in effect a study of the real sanctions, discernible by unaided reason, for violating what the Magisterium calls the objective moral order? In short, doesn't Kass' reasoning make manifest the wisdom of the teaching of the Magisterium?

Close to the end of his argument, Leon Kass says:

My point is almost certain to be misunderstood. I am not suggesting that one can be truly human only be engaging in procreation. I think there is a clear need for curtailing procreation, and I have no objections to the use of any and all contraceptive devices . . . My point is simply that there are more and less human ways of bringing a child into the world.⁵³

How does Leon Kass want us to understand this statement? When he tells us that he has no objections to the use of any and all contraceptive devices, how can we not remember that this was his original posture toward both intramarital *in vitro* fertilization and artificial insemination by husband? And if Leon Kass insists that there are more and less human ways of bringing a child into the world, would he not also say that the same is true with regard to the regulation of human birth? If his contemplation of nature's uniting love, sex, and procreation leads him to say that wisdom consists in not practicing *in vitro* fertilization, what more would he be led to say about the wisdom of contraception?

However he would answer these questions — and I hope he does — having travelled with Leon Kass as guide, how could we possibly read *Humanae Vitae* and the Vatican Instruction on Bioethics with the eyes and “mind” of Lenina Crowne? More generally, how can we continue on the Baconian and Cartesian path of least resistance “comfortably” or without any second thought? And when we have those second thoughts, will we Catholics have the courage to reflect on our practice and recover our ability to listen to nature's design?

Only the Creator knows. But one thing is for certain: thank God for Leon Kass.

Appendix: The Hippocratic Oath⁵⁴

“I swear by Apollo Physician and Asclepius and Hygieia and Panacea and all the gods and goddesses, making them my witnesses, that I will fulfill according to my ability and judgment this oath and this covenant:

To hold the one who has taught me this art as equal to my parents and to live my life in partnership with him, and if he is in need of money to give him a share of mine, and to regard his offspring as equal to my brothers in male lineage and to teach them this art — if they desire to learn it — without fee and covenant; to give a share of precepts and oral instruction and all other learning to my sons and to the sons of him who has instructed me and to pupils who have signed the covenant and have taken an oath according to medical law, but to no one else.

I will apply dietetic measures for the benefit of the sick according to my ability and judgment; I will keep them from harm and injustice.

I will neither give a deadly drug to anybody if asked for it, nor will I make a suggestion to this effect. Similarly I will not give to a woman an abortive remedy. In purity and holiness I will guard my life and my art.

I will not use the knife, not even on sufferers from stone, but will withdraw in favor of such men as are engaged in this work.

Into whatever houses I may enter, I will come for the benefit of the sick, remaining clear of all voluntary injustice and of other mischief and of sexual deeds upon bodies of females and males, be they free or slave.

Things I may see or hear in the course of the treatment or even outside of treatment regarding the life of human beings, things which one should never divulge outside, I will keep to myself holding such things unutterable [or ‘shameful to be spoken’].

If I fulfill this oath and do not violate it, may it be granted to me to enjoy life and art, being honored with fame among men for all time to come; if I transgress it and swear falsely, may the opposite of all this be my lot.

References

1. For an interesting history of medicine, see Nuland B. Sherwin, *Doctors: The Biography of Medicine* (New York: Alfred A. Knopf, 1988).
2. See Leon R. Kass, *Toward a More Natural Science: Biology and Human Affairs* (New York: The Free Press, 1985), p. 17.
3. See Daniel Callahan, *What Kind of Life* (New York: Simon and Schuster, 1990). Callahan speaks about the same phenomenon, especially in terms of its increasingly unbearable economic cost. However, Callahan also claims that at the root of the solution to the economic and medical allocation problems is our need to relinquish the modern utopian quest for immortality.
4. See George Grant, "The Triumph of the Will," in *A Time to Choose Life* (Toronto: Stoddart, 1990), pp. 9-18.
5. I am not suggesting that Dr. Kass is a Thomist, nor am I unaware of the important differences between Aristotle's understanding of nature and the Christian notion of created nature, articulated principally by St. Thomas Aquinas. I am also knowledgeable about the Christian debate, involving thinkers such as St. Thomas Aquinas, Dante, Marsilius of Padua, and others, especially in the thirteenth and fourteenth centuries, about nature. (See my forthcoming *Political Philosophy of the Christian Priesthood: The DEFENSOR PACIS of Marsilius of Padua*, to be published in the Distinguished Dissertation Series by the Mellen Press.) However, in our time these important differences concerning the understanding of nature pale into insignificance in the "barbaric darkness" (to use a term of Leon Kass) brought on by the triumph of the will. In a certain sense, it would be unjust at the present time to remain primarily preoccupied with these differences. That is a luxury that our urgent problems prevent us from being able to afford. In the present context, Aristotle and St. Thomas Aquinas are allies.
6. See Kass, "Practicing Ethics: Where's the Action?," *Hastings Center Report*, January/February, 1990, pp. 5-12.
7. *Ibid.*, pp. 6, 8-9.
8. Thomas A. Shannon, *An Introduction to Bioethics* (New York: Paulist Press, 1987), pp. 21-22.
9. Kass, "Practicing Ethics: Where's the Action?" pp. 6-7, 10.
10. *Ibid.*, pp. 6-8. Also, see Kass, "Neither for Love nor for Money: Why Doctors Must not Kill," *The Public Interest*, Winter, 1989, pp. 27-29.
11. Kass, "Practicing Ethics: Where's the Action?," p. 9.
12. *Ibid.*, p. 9.
13. *Ibid.*, p. 9.
14. *Ibid.*, pp. 7-8. Also, see Kass, *Toward a More Natural Science: Biology and Human Affairs*, pp. 209-210.
15. See Kass, *Toward a More Natural Science: Biology and Human Affairs*, p. 215. Also, Kass, "Practicing Ethics: Where's the Action?," p. 11.
16. Kass, "Practicing Ethics: Where's the Action?," p. 9.
17. *Ibid.*, pp. 9-11.
18. William F. May, *The Physician's Covenant* (Philadelphia: Westminster Press, 1983), pp. 13-25.
19. See Kass, "Practicing Ethics: Where's the Action?," pp. 9-11; May, *op. cit.*, p. 13.
20. See May, *op. cit.*, pp. 141-168; Kass, *Toward a More Natural Science: Biology and Human Affairs*, pp. 179-181, 196-200.
21. See May, *op. cit.*, pp. 37-105, 145-168; Kass, *Toward a More Natural Science: Biology and Human Affairs*, pp. 196-200, 221-223, 232-233, 236-240.
22. May, *op. cit.*, pp. 106-109.
23. *Ibid.*, pp. 58-60, 69-73, 127-130.
24. *Ibid.*, pp. 130-131, 145-150.
25. For the reader's convenience, the Hippocratic Oath, as presented by Kass in his *Toward a More Natural Science: Biology and Human Affairs*, pp. 228-229, is in the appendix to this essay. In what follows, I will be referring directly to the Oath.
26. May, *op. cit.*, pp. 109-112.

27. *Ibid.*, pp. 112-127.
 28. *Ibid.*, pp. 112-127.
 29. Kass, *Toward a More Natural Science: Biology and Human Affairs*, pp. 198, 229, 241.
 30. *Ibid.*, pp. 228-229.
 31. *Ibid.*, p. 228.
 32. *Ibid.*, p. 223.
 33. *Ibid.*, pp. 245-246.
 34. I am not suggesting that Kass teaches that the world was created. At best, there is a consonance, not an identification, between the Catholic view of nature and Kass' view. However, that consonance comes a lot closer to the Catholic view than the view of Karl Rahner, for example. See note 5 above. Also, see Kass' criticism of Rahner on p. 77 of his *Toward a More Natural Science: Biology and Human Affairs*.
 35. Kass, *Toward a More Natural Science: Biology and Human Affairs*, pp. 240-241.
 36. *Ibid.*, p. 242.
 37. *Ibid.*, p. 242.
 38. *Ibid.*, pp. 241-243.
 39. See notes 34 and 5 above.
 40. Kass, *Toward a More Natural Science: Biology and Human Affairs*, p. 79.
 41. *Ibid.*, pp. 43-79.
 42. *Ibid.*, p. 45.
 43. *Ibid.*, pp. 51-53.
 44. *Ibid.*, pp. 53-54.
 45. *Ibid.*, p. 55.
 46. *Ibid.*, p. 59.
 47. *Ibid.*, p. 59.
 48. *Ibid.*, p. 59; see also pp. 61ff.
 49. *Ibid.*, p. 63.
 50. *Ibid.*, pp. 71-72.
 51. *Ibid.*, p. 72.
 52. *Ibid.*, p. 79.
 53. *Ibid.*, p. 72.
 54. *Ibid.*, pp. 228-229.
-