

## **The Intellectual Legacy of James T. McHugh**

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To make my thesis clear from the outset: Bishop James T. McHugh was a special gift to the Catholic Church in the United States. He combined the talents of a scholar, a strategist and a moral and spiritual leader as few before or since have done. And he exercised those talents in the service of the Church's message at a time when they were very sorely needed.

During these last decades of the 20<sup>th</sup> century, when Monsignor McHugh (and later Bishop McHugh) helped to shape the Church's response to American politics and culture, Catholics were increasingly unsure of how they would respond to the challenge of modernity while retaining what was essential in their own tradition. That challenge was recognized and only partly addressed through the Second Vatican Council. U.S. Catholics, in particular, were emerging from the apparent honeymoon of the Kennedy presidency and facing a secular culture that increasingly seemed, not neutral or benevolent, but actively hostile to core Catholic values.

The twin temptations of accommodationism or isolationism – of allowing oneself to be swallowed by the surrounding culture, or of retreating into a Catholic ghetto where traditional values could be maintained – loomed very large for American Catholics. Some Catholics leaned toward each of these options – creating

the further threat of a deep division within the Church, in which traditionalists and progressives would find as little in common with each other as they did with adherents of other religions or none.

James McHugh, in many ways and in many areas of thought, fought against both temptations. He championed the idea that the Church had a right and a duty to engage the surrounding culture – and he modeled a way to do this which found points of contact and agreement with that culture wherever possible, without being absorbed by it. Inevitably he attracted critics from both sides – for some thought he was blocking real acceptance of Catholics in the dominant culture, while others thought that close engagement with that culture necessarily meant abdicating one’s principles.

Although some of these criticisms could at times descend into character assassination, I never knew Father McHugh to respond in kind. Not only was he charitable toward these critics, but he always felt that his own reputation was far less important than the truth of the message he was advancing, and he wanted those critics to think through the merits of that message. Not only to influence American culture, but even to help Catholics themselves to withstand the corrosive forces of that culture and lead upright and fulfilling lives, he believed that the messages issuing from secular American culture about human life, sexuality and the family must be met at every opportunity by a reasoned Catholic response.

His intellectual tools for pursuing this engagement included: a thorough grasp of the Church’s natural law tradition on moral issues; an appreciation of the links between this tradition and the founding principles of the American republic, as outlined by John Courtney Murray in writings such as his landmark

book *We Hold These Truths*; and a great appreciation for and understanding of the social sciences, as evidenced by his graduate study of sociology at Fordham and the Catholic University of America and his continued reading of journals in demography long after he became a bishop. These skills were placed at the service of a thorough love of the Catholic Church, and a calm confidence that the Church had nothing to fear from truth (whatever the source) or from engagement with opposing views.

His career gave him ample opportunities to place these gifts at the service of the Church as it confronted the modern world. He was ordained in 1957, and during the Second Vatican Council he was serving on Newark's archdiocesan family life committee and as moderator of the Catholic physicians' guild and Catholic nurses' council for Bergen County in New Jersey. In 1965, the year the Council ended, he came to Washington as staff to the Family Life Bureau of the National Catholic Welfare Conference, soon to become the National Conference of Catholic Bishops/United States Catholic Conference under guidelines approved by the Council. He became director of the Family Life Bureau in 1967, one year before the encyclical *Humanae vitae* was issued, and director of the newly formed Office for Pro-Life Activities in 1972, months before the U.S. Supreme Court's abortion decision in *Roe v. Wade*. By that time his service to the Church's efforts in defense of life had earned him the title of Monsignor.

As we can already see, Father McHugh had a knack for jumping into issues just before they came to a crisis, and taking on tasks just before they became the last things on earth anyone else would want to be burdened with. He saw the Church's divisions over birth control approaching, and he saw the American

legal system coming into direct confrontation with Catholic values over abortion, and in both cases was ready to warn Church leaders about the crisis and to help organize a response.

While serving at the Catholic conference, and for a long time afterward, Monsignor McHugh also accepted responsibilities on behalf of the Holy See: assisting the Vatican delegations to World Population Conferences in Bucharest (1974) and Mexico City (1984); serving the same role at world conferences on the role of women in Mexico City (1975), Copenhagen (1980) and Nairobi (1985); observer at the U.N. Population Commission in 1977 and many subsequent years; and member of both the Pontifical Council for the Laity and the Pontifical Committee for the Family.

In 1978 Monsignor McHugh left the Catholic conference to complete his doctoral studies in theology in Rome; he returned in 1981 to direct the U.S. bishops' Diocesan Development Program for Natural Family Planning. In 1983 he was named an advisor on population issues to the Holy See's Permanent Observer Mission to the United Nations, and in this capacity continued to represent the Church's interests at world conferences on population and other issues.

Long after he was named an auxiliary bishop of Newark in 1987, and even after receiving his own Diocese of Camden in 1989, Bishop McHugh continued to supervise the U.S. bishops' programs for natural family planning – but now as a bishop-member of the Committee for Pro-Life Activities. His goal in this regard – and this focus typified his work on every issue – was to ensure that these programs were thoroughly orthodox, without taking sides in the inevitable internal disputes among different practitioners of natural

family planning methods, and that they lived up to the highest professional standards. Under his direction, the first national certification standards ensuring the scientific and professional competence of all NFP programs under Church sponsorship were finalized and implemented.

Bishop McHugh received his last major appointment from the Holy Father when he became coadjutor bishop of Rockville Centre in 1999, and then the Ordinary of the diocese when Bishop John McGann retired in January 2000. He was not to serve long in that position, because of cancer discovered in 1999. But even as his illness advanced he willingly fulfilled his duties as a bishop, and even continued to study and write. Typically, he did not draw public attention to the gravity of his illness, but cheerfully accepted treatments that could help him live and work a bit longer. He continued his service to the local diocese and the national and universal Church until days before his death on December 10, 2000.

That service certainly included the pastoral tasks of a priest and bishop, but also included a rich and influential contribution of analysis and intellectual guidance on some of the most hotly debated Catholic issues of recent decades. It is this contribution that I wish to review in the remainder of this paper.

## **I. Marriage, Family and Procreation**

In the late 1960s, when state legislatures were already involved in debates over “liberalizing” their abortion laws, the Catholic Church – in the United States, as elsewhere – was experiencing its own deep divisions over the question of birth control and the distinct but related issue of Church authority.

Theologically many presented the issue as a stark dilemma: An old-fashioned “physicalism,” which gave undue importance to respect for the physical details of natural reproduction, was opposed to a “personalism” which subsumed such natural functions under the needs of the personal relationship of husband and wife and their freedom to choose the means for planning a family within that relationship.

The Second Vatican Council, in its landmark document *Gaudium et spes*, had pointed to a third way: A new personalism in which the divine gift of fertility could be seen as an integral part of, rather than as opposed to, the personal relationship of the spouses. Yet for many years, relatively few theologians responded to the call for a reformed theology of marriage in which the teaching on family planning could be integrated with a positive Christian vision of marriage and sexuality.

Monsignor McHugh, though immersed in full-time supervision of an office for advancing the Church’s pro-life and family life programs, perceived the need for such a theology. And so, in his spare time, and in dialogue with others trained in medicine, sociology and theology, he helped to develop and promulgate one. In so doing he anticipated, and then acted on, Pope John Paul II’s call to theologians in his 1981 apostolic exhortation *Familiaris consortio*, urging them “to collaborate with the hierarchical magisterium and to commit themselves to the task of illustrating ever more clearly the biblical foundations, the ethical grounds and the personalist reasons” for the Church’s teaching on responsible parenthood (no. 31).

From 1967 onward, Monsignor McHugh edited several books on the theology of marriage.<sup>1</sup> He also wrote a series of articles along these lines -- especially for the education and guidance of his fellow priests -- and some of these were later collected in a small volume known as *A Theological Perspective on Natural Family Planning*. To some extent he summarized and synthesized insights from Church documents and from full-time theologians, while adding his own understanding of the social sciences and of pastoral needs. But this act of synthesis was itself an important and original contribution.

Certain elements of his approach can only be highlighted here:

First, the Church should not fear but make use of what we can learn from anthropology and sociology about the natural institutions of marriage and the family. While differing in details, all cultures value marriage and recognize the family as a basic unit of society. The findings of sociology confirm the fundamental importance of the family as a community for advancing human fulfillment and educating and nurturing future generations -- and it could document the grave harm being done to the family, and hence to human well-being, by the radical selfishness and hedonism of the "sexual revolution."<sup>2</sup>

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<sup>1</sup>*Working Papers on the Theology of Marriage* (U.S. Catholic Conference: Washington 1967); *Marriage in the Light of Vatican II* (U.S. Catholic Conference: Washington 1968); *Mixed Marriage: New Directions* (U.S. Catholic Conference: Washington 1971).

<sup>2</sup>Msgr. James T. McHugh, S.T.D., *A Theological Perspective on Natural Family Planning* (Diocesan Development Program for Natural Family Planning: South Orange, NJ 1983) at 4, 10-11, 16, 21, 36, 49.

Second, radical individualism is harmful to us as individuals, because the human person is made for relationship. A real personalism would realize that persons are fulfilled by being open to others; that one's spouse is equally a person, and hence not merely a means to pleasure or a "sex object."<sup>3</sup>

Third, spouses most fully express this openness to each other through their bodies, in the divine gift of human sexuality, and openness to new life is an integral aspect of this openness to the other that characterizes marital love. Thus fertility, as the ability to exercise this openness and help create a new person with God, could not be dismissed as just another physical function with no inherent meaning. A Catholic understanding of responsible parenthood would recognize that couples had a legitimate right to make decisions with each other about the size of their family, in light of their own needs and other responsibilities; but not every means to this end is equally legitimate.<sup>4</sup>

Fourth, the natural realities of marriage are respected but transcended by the Church's theological vision, which affirms the sacramental character of marriage and God's offer of grace to help couples persevere through what could otherwise be very difficult trials. The Church's moral clarity was to be complemented by pastoral sensitivity to those who fell short or found it difficult to live up to this vision.

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<sup>3</sup>Id. at 9-10, 19-20, 22-23.

<sup>4</sup>Id. at 31-39.

Here the Church should help couples toward the “constant pursuit of Christian perfection which calls for prayer, virtue and self-sacrifice”<sup>5</sup>

These almost seem like truisms today. That is not because they were so obvious when Monsignor McHugh was first writing, but because his influence on the Church’s teaching documents and pastoral programs was so pervasive. If today, in most dioceses, the Church’s teaching on responsible parenthood is treated not as an isolated issue in sexual ethics or medical ethics but as something to be integrated into moral formation and marriage preparation, it is in large part due to the efforts of James McHugh.

## **II. Sex Education**

On the issue of Catholic education in human sexuality, the bishops were confronted with two extreme factions. One faction -- represented, among others, by the authors of the Catholic Theological Society of America report *Human Sexuality* -- favored abandoning many of the Church’s teachings on sexual ethics to conform to the supposed insights of the sexual revolution.<sup>6</sup> At the opposite end of the spectrum were Catholics who felt that sex education, if done at all, should be *exclusively* conducted by parents in the home.<sup>7</sup>

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<sup>5</sup>Id. at 36.

<sup>6</sup>While rejecting many Catholic teachings on sexual ethics, including the absolute moral norm against premarital sexual activity, the authors claimed their principles were “grounded in the dynamic view of person emerging from the documents of Vatican II.” A. Kosnik et al., *Human Sexuality: New Directions in American Catholic Thought* (Paulist Press 1977) at 99.

<sup>7</sup>When Bishop McHugh was named to the Diocese of Camden in 1989, a spokesperson for Catholics holding this view said she hoped the bishop’s new administrative duties would leave him “no time” to work on the sex education issue. She added: “Hopefully a ban on classroom sex education in Catholic schools

The problem here, especially in the world of the 1960s and 1970s, was that these parents' children had to go out into a culture drenched in explicit information about sex – some of it real information, and a great deal of it mere ideological nonsense – and may have no way of discerning one from the other, unless the facts were presented to them in a moral context as an integral part of their education as Catholics.

Monsignor McHugh helped to forge a path of discernment through this jungle. As on other issues he insisted that the Church had nothing to fear from scientific findings about sexuality, or from dialogue with experts who disagreed with Church teaching – but he equally insisted that the facts must be distinguished from their ideological trappings and placed in a different context, with a different purpose, to help those seeking to live by Catholic values. This sometimes required professional expertise, and therefore would require treatment of human sexuality as part of the education provided by Catholic schools. The school environment was not intrinsically suspect – what was essential was the content of the program, its accuracy, its faithfulness to Catholic teaching, and its sensitivity to parents' rights and the developmental needs of children at different ages.

For those wanting to follow the guidance of the magisterium on these matters, the dispute about sex education in Catholic schools was essentially resolved in 1984 by the Holy See's document *Educational Guidance in Human Love*. The document taught that Catholic parents had the primary right and duty to form and educate their children, and that parents had a right to expect assistance in this effort – in

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will be forthcoming in the near future.” Mary K. Smith, president of National Coalition of Clergy and Laity,

cooperation and consultation with them – from Catholic educational programs, including those taught in the schools. To explain the importance of this document for American Catholics, Catholic newspapers often looked to an American expert who, it was said, had helped to draft the Vatican document, Monsignor James T. McHugh.<sup>8</sup>

### **III. Abortion**

It is, of course, the abortion issue with which Bishop McHugh became most closely associated in the public eye. On this issue there may seem to be little new that anyone could contribute in the late 20<sup>th</sup> century, because the Church's teaching has been so consistent and of such long standing. To assume this, however, would be to underestimate the divergent approaches taken by Catholics as American society began to accept abortion, and especially as the Supreme Court decided to legalize abortion virtually on demand in 1973.

Agreeing with and accepting the decision was not a serious option for anyone committed to Catholic teaching on the sanctity of human life – though certainly there were dissenting voices that favored just that approach. But the Church in the U.S. could simply have denounced the decision and moved on, urging Catholics to retreat into their own culture on this and related matters, as many evangelical Christians did for years after the Court's decision. Or Catholics could have organized as a protest movement, like the pacifist

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NCCL Press Release of May 23, 1989.

<sup>8</sup>See the interview with Msgr. McHugh, "Sex education: The right of the family, the duty of the school," *Our Sunday Visitor*, January 29, 1984 at 3.

movement, that would remain outside established political channels while insisting that abortion is unacceptable.

Under Monsignor McHugh's guidance, the Church in the U.S. chose neither option. The abortion decisions were not only anti-Catholic but anti-human, for they violated a fundamental natural right and disregarded the founding ideals of the American republic. Catholics could not simply retreat into their own families, because the radical individualism of the abortion liberty would erode the very idea of the family. And while there was a valid role for prophetic protest, organizing to reverse a Supreme Court decision would take more – it meant the formation of a new grassroots movement for sustained political and cultural change. Thus was born the Pastoral Plan for Pro-Life Activities of 1975, an unprecedented national blueprint for activating Church structures to help Catholics organize as a social and political force. This effort would be as much about empowering the laity to bring their talents to bear on the problem as it was about taking a formal stand on behalf of the Church. For example, Monsignor McHugh was the driving force behind establishment of the National Right to Life Committee – his associate director, Michael Taylor, was NRLC's first executive director – and the panel of attorneys he convened to advise the bishops' conference on legal issues was the basis for what later became Americans United for Life.

Committing oneself to such a long-range effort for influencing the public square meant several things. It meant being able to argue all aspects of the abortion issue as well as, or better than, one's secular opponents. It meant that the leadership of the pro-life effort would have to know more about fetal

development than many physicians, more about legislative drafting than many attorneys, and more about congressional procedure than many politicians. In the years leading up to and following after the Supreme Court decisions, Monsignor McHugh and his staff developed a detailed knowledge in these areas and gathered expert advisors who could tell them more as needed. And they produced an endless stream of educational materials to help Catholics and others understand these issues better.

Perhaps Monsignor McHugh's most sustained and distinctive intellectual contribution to the Church's advocacy, however, concerned the perennial debate about the role of the Church in making public policy -- and the complex relationship between law and morality undergirding that role.

From the beginning of the public debate on abortion, there were voices denouncing any direct involvement by the Catholic Church. The American Civil Liberties Union sent investigators to watch Congressman Henry Hyde receiving communion at Sunday Mass, to support their claim that the Hyde amendment restricting public funding of abortion was an imposition of Catholic theology on a pluralistic society. Methodist minister J. Philip Wogaman and others led a public campaign to denounce the Church's involvement as "a serious threat to religious liberty and freedom of conscience."<sup>9</sup> Monsignor McHugh himself at one point was sued (unsuccessfully) by the National Organization for Women for his alleged attacks on church-state separation. Such attacks had to be constantly countered by assertions of the

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<sup>9</sup>"A Call to Concern," advertisement in *Christianity and Crisis*, October 3, 1977, 222-3 at 222. A response was published by Catholic theologian Rev. James Burtchaell, and the original ad was publicly criticized as "irresponsible" by a group of 20 Catholic, Protestant and Jewish scholars. See: "A Call and a

Church's right and duty to engage the public debate where fundamental human values and human rights were seen as being at risk.

But the more difficult and complex debate was internal to the Church. Some theologians and others argued that it was at least unwise, and at most theologically questionable, for the Church to involve itself directly in a legislative campaign to change society's direction on this issue. Far better, they said, to retreat from such direct involvement in politics and try to educate Catholics to live by their own values. At another extreme, some said the Church must not be involved in the realities of the legislative process but insist on an "all or nothing" approach to public policy: All unborn children must be protected as constitutional persons, and all abortions treated as homicide, for any lesser measure will violate the Church's teaching on the sanctity of all human life.<sup>10</sup>

Monsignor McHugh helped the bishops to chart a middle course – not a course of compromise, but one of discernment that carefully distinguished the essentials of Catholic teaching from the contingent details of particular strategies or legislative proposals. He charted, and set forth a theological basis for, the

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Reply," advertisement in *Christianity and Crisis*, November 14, 1977 at 270-71; National Catholic News Service, "Scholars Call Abortion Rights Statement 'Irresponsible'," October 19, 1977.

<sup>10</sup>In some cases these opposing stances could paradoxically seem to turn into each other. In 1965 Father Robert Drinan was writing that any legal changes to allow abortion would violate the fundamental principle of "the immorality of the destruction of any innocent human being carried out by other human beings for their own benefit." R. Drinan, S.J., "The Inviolability of the Right To Be Born," 17 *Western Reserve Law Review* 465-79 (1965) at 479. By 1968 he was writing against laws allowing physicians to perform abortions only in specified circumstances, saying that it would be better to repeal all restrictions on abortion than to have the state "deciding what persons are to be born and which are to 'die' before their birth." See D. Schaded, "Time for Moralists and Scientists to Dialogue," *Hospital Progress*, May 1968, 11-14 at 12. Ultimately he turned this Hobson's choice into the basis for endorsing "free choice" on abortion,

Church's approach to incremental change on abortion policy – an approach ultimately endorsed by Pope John Paul II in his 1995 encyclical *Evangelium vitae* (*The Gospel of Life*).

His basic argument was set forth concisely in February 1975 at a conference on “Civil Law and Christian Morality: Abortion and the Churches,” held at the Graymoor Ecumenical Center in Garrison, New York. The argument that the Church should rely on education rather than legislative reform was articulated at this conference by Father Charles Curran – one of many Catholic thinkers with whom James McHugh remained on close friendly terms for many years despite many disagreements on major issues.

Education, for Catholics and for the wider society, was certainly of great importance, said Monsignor McHugh. Equally important was increased support, by both churches and government, for the needs of pregnant women and their children before and after birth. However, the inescapable fact remained that the right to life is one of the fundamental rights for the protection of which governments exist at all.

“Law,” he said, “is both a teacher of values and a means of constraint. Very often, society must first establish some constraint and some regulation of behavior, and then proceed to a more comprehensive legal structure that effectively protects the values involved and the rights of all concerned.” Moreover, invoking the writings of St. Thomas Aquinas, he argued that “the purpose of human law is to bring people to virtue, not suddenly, but step by step.” It had to be accepted that “human law is seldom perfect,” that some laws may have to be accepted as “a first step in the legal process of establishing a consistent body of law.” Thus

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having convinced himself that a law allowing abortion for any reason or no reason was a neutral statement

“because a given law does not accomplish everything, the good that it does accomplish should not be disapproved of.”<sup>11</sup>

Therefore the bishops would chart a difficult and careful course. Their teaching on the right to life would not remain at the level of moral generalities. They called specifically for a constitutional amendment to reverse *Roe v. Wade*, for laws protecting the unborn child “to the maximum degree possible,” for an end to publicly funded abortion. They would not issue model laws or particular language for the ideal law, but would establish principles and guidelines to help legislators and lay groups to assess pending proposals. And ultimately they would judge these proposals by whether they led toward, or away from, full respect for the right to life of each human being including the unborn.

Monsignor McHugh was to further explain and elaborate on these morally based strategic decisions in his 1981 doctoral dissertation in theology. There he articulated detailed guidelines for decisions on whether to support imperfect legislation – guidelines that synthesized absolutely firm moral principles with a practical wisdom born of much bruising experience with real-life legislators. This guidance has appeared in many forms and in many places since, not always with attribution. The closing advice from this magnum opus was typical in its combination of philosophical depth and common sense:

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of government policy on the issue.

<sup>11</sup>Msgr. James McHugh, “Civil Law & Christian Morality/the Churches and Abortion,” 4 *Origins* 564-7 (February 27, 1975) at 566. Father Curran’s presentation at this conference is reprinted at 568-9.

Finally, it should be remembered that civil laws are not written on stone or cast in concrete.

In modern legislatures, almost every statute is of limited duration, that is, no law is enacted that is not subject to later revision or repeal. Accordingly, a law cannot be assessed simply in terms of its immediate effects, since its long-term consequences and/or the subsequent results of its enactment are also considerations pertinent to the common good of future generations. The legal-juridic struggles over abortion laws are clear evidence of this, and a reminder that civil law is a contingent reality that should be based on firmer and more enduring principles and guided by human reason.<sup>12</sup>

The Church's efforts, on this and other fundamental issues, was to be both principled and practical, always appreciating the difference between questions of morality and questions of strategy -- as well as the need to be more knowledgeable than one's opponents in *both* fields.

#### **IV. Population Policy**

All these issues – marriage and procreation, sex education, contraception and abortion, and the role of government in the lives of individuals – came together in the 1960s and thereafter in the great

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<sup>12</sup>Rev. Msgr. James T. McHugh, S.T.L., *The Relationship of Moral Principles to Civil Laws With Special Application to Abortion Legislation in the United States of America 1968 - 1978* (Pontificia Sudioium Universitas a S. Thoma Aq. in Urbe, Roma 1981) at 195-6.

international debate on population policy. Again it is hard for us to appreciate how all-pervasive was the population control frenzy of these times. “Population bomb” and “zero population growth” were watchwords of the day, not least in government offices and the halls of Congress. Bills were introduced for a national policy of “population stabilization,” and legislators seriously proposed incentives and disincentives to penalize couples for having large families. Some population control enthusiasts suggested that the government may have to “put something in the water” as an emergency measure to interfere with people’s fertility.<sup>13</sup> And these were just for *domestic* use in our own affluent and sparsely populated country! Proposals for controlling population in the Third World were even more draconian, going up to and beyond the kind of coercion now largely associated with the People’s Republic of China.<sup>14</sup>

Again the Church could retreat from this debate into its own institutions – a sore temptation in light of the internal disputes over birth control – or accept a pragmatic approach to population in the secular arena

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<sup>13</sup>For reports of discussions where this option was seriously entertained, see: E. Shelton, “Crowding Out,” *The Washington Post*, Feb. 27, 1970, at B1; G. Hill, “Touchy Question of Overpopulation,” *The New York Times*, Aug. 12, 1970, at 18. Hill observed: “There are only two avenues. One is persuasion of people to limit family size voluntarily, by contraception, sterilization or abortion. The other is compulsory, through such means as large-scale injection of at least temporary infertility drugs into food or water.” He added: “Some demographers see the voluntary route as inadequate.” As late as 1990, Scottish university president Sir Graham Hills was suggesting that “one essential ingredient of milled cereals should be a heat-resistant contraceptive, but otherwise harmless, chemical additive” to control global population growth. Catholic News Service, “Educator Gets Hit for Idea of Birth Control in Daily Diet,” Aug. 10, 1990.

<sup>14</sup>Some key articles defending a coercive approach are collected in G. Hardin (ed.), *Population, Evolution, and Birth Control*, 2<sup>nd</sup> edition (W.H. Freeman: San Francisco 1969). In this volume see R. Cowles, “The Non-Baby Bonus,” 339-40; K. Boulding, “Marketable Licenses for Babies,” 340-41; K. Davis, “Population Policy: Will Current Programs Succeed?,” 341-65 (first published in *Science* in 1967); and Hardin’s own concluding essay “The Tragedy of the Commons,” 367-81 (first published in *Science* in 1968). Hardin’s essay called for an end to the “freedom to breed” and famously said: “Coercion is a dirty word to most liberals now, but it need not forever be so. As with the four-letter words, its dirtiness can be cleansed away by exposure to the light, by saying it over and over without apology or embarrassment.” *Id.* at 378.

that was inimical to Catholic values, as more than a few suggested. Monsignor McHugh again helped the bishops to forge a third way, articulated in statements and testimony of the U.S. bishops and then on a broader scale as he advised the Vatican on population issues and dealings with the United Nations. Once again there was a need to discern what elements of Catholic teaching could most readily be articulated and defended in terms that would be understood, if not always accepted, in the broader public debate.

Again, some Catholics would object that this approach downplayed some aspects of the Catholic message. Meanwhile, secular opponents railed against the Church for imposing its religious values on a pluralistic society, even when the Church sought only to carve out a space where Catholics could live by their own values without outside coercion from secular authorities.

Monsignor McHugh's, later Bishop McHugh's, contribution to the population debate was to help synthesize existing Church teaching into an argument including the following elements.<sup>15</sup>

First, the fact that rapidly growing population could exacerbate social problems in some developing nations was to be acknowledged – but at the same time placed in proper context so it would not be exaggerated. The problem was chiefly not population, but poverty and the unjust distribution of goods; there were many population problems, including a potential problem of diminishing population in some developed countries

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<sup>15</sup>These can be found throughout Msgr. McHugh's own writings on the subject as well as in Church documents which he helped prepare. See: Most Rev. James T. McHugh, S.T.D., *Catholic Teaching on Population Issues* (U.S. Catholic Conference: Diocesan Development Program for Natural Family Planning 1991); National Conference of Catholic Bishops, *Statement on Population* (U.S. Catholic Conference 1973).

Second, the social sciences had shown that rapid population growth would diminish if development assistance, including better educational opportunities for girls and women, gave families better expectations for their future and for the survival of any children they chose to have. The answer to the population problem was chiefly to promote other forms of development assistance and to do them well, not to divert resources away from these needs toward birth control programs.

Third, planning the size of one's family is a matter for the family. Government policy must respect the sanctity of the family and the freedom of couples to make decisions about responsible parenthood in light of their moral and religious upbringing, not dictate how many children they can have or what means they must use. Allowing families to practice family planning was one thing; population *control*, with government doing the controlling, was quite another.

Fourth, government policy should neither forbid family planning nor actively promote it. But a different policy was called for in the case of means such as abortion which attack the fundamental right to life – these should never be considered as methods of family planning.

On this last point, the Church – through Father McHugh, then Bishop McHugh – was to win two victories of enormous significance in national and international policy, 14 years apart.

In 1970, Father McHugh and his staff at the Family Life Bureau were chiefly responsible for the enactment of what became known as the Dingell amendment – a provision of U.S. law that has survived to the present day, stating that in domestic family planning programs abortion would not be a method of family

planning.<sup>16</sup> This victory, incidentally, was achieved not a moment too soon, for the very influential Rockefeller commission on population growth, appointed by President Nixon in 1968, would soon issue a recommendation that abortion be considered as a backup means of population control.<sup>17</sup>

In 1984, the Holy See's delegation to the U.N. Conference on Population in Mexico City managed to win approval for a virtually identical policy statement, which again has survived in the resolutions approved by world population conferences ever since. By this time I do not have to mention the name of the top advisor coordinating the delegation's efforts. While U.S. news coverage and political debate focused on the "Mexico City policy" articulated by the Reagan administration at that conference – that organizations promoting abortion would no longer receive U.S. population funds in the Third World – it went almost unnoticed that the developing nations themselves, with the help of Bishop McHugh and others in the Vatican delegation, had overwhelmingly endorsed this policy.<sup>18</sup>

When President Bush's continuation of the Reagan "Mexico City policy" was under attack in Congress in 1989, Bishop McHugh came forward to testify from personal experience that the policy had been enthusiastically welcomed and supported by the developing nations most directly affected by it. It was

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<sup>16</sup>42 USC §300a-6.

<sup>17</sup>*Population Growth & America's Future: An Interim Report Prepared by the Commission on Population Growth and the American Future* (U.S. Government Printing Office 1971), 28-30.

<sup>18</sup>See *Catholic Teaching on Population Issues*, note 15 supra at 9.

not the Bush Administration, but the pro-abortion movement, that was playing “ugly American” with the Third World.<sup>19</sup>

Later that year I had the distinct honor of presenting Bishop McHugh’s testimony again, essentially unchanged (except for reporting his experiences at the 1984 Mexico City conference in the third person), because he could not personally attend the hearing.<sup>20</sup> My testimony on the need to exclude abortion from all family planning programs immediately provoked two reactions. Pro-abortion congressmen, and witnesses representing the population control lobby, dismissed me as a hopelessly backward Neanderthal – and after returning to my office, I found that a national pro-life organization had written to the bishops of the United States calling for my resignation, because I had allegedly compromised the Church’s teaching against contraception. It was a sobering experience. And I realized that this was a very small taste of what Bishop McHugh had endured, almost without complaint, throughout his professional life for over a quarter of a century.

On the broader issue of population growth, as well, James McHugh was right and the “population bomb” doomsayers were wrong. His prediction that world population growth rates would slow, then

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<sup>19</sup>Testimony of Bishop James T. McHugh before the House Appropriations Subcommittee on Foreign Operations, April 12, 1989.

<sup>20</sup>Testimony of Richard Doerflinger before the House Foreign Affairs Subcommittee on International Operations, September 21, 1989.

ultimately stabilize, is now accepted wisdom among all but the most ideologically driven of observers.<sup>21</sup> His further observation that social problems would arise in developed nations whose population rates fell below replacement levels has also become widely accepted among secular demographers.<sup>22</sup>

In some cases it could take many years for his observations to be proved true. For example, in 1971, when former Senator Joseph Tydings and the interim president of Johns Hopkins University, Dr. Milton S. Eisenhower, predicted that then-current fertility trends could double the U.S. population from 203 million to over 400 million by the end of the century, Msgr. McHugh declared that the figures used here were “at least inaccurate if not blatantly dishonest” and were part of a campaign that could end up leading to government-coerced population control. He observed that, based on Census Bureau data, one could project that the U.S. population in the year 2000 would be between 266 million and 281 million.<sup>23</sup> In response, population control advocate Edgar R. Chasteen sent an open letter to news media throughout the country, accusing Msgr. McHugh of “a complete lack of reason or an awesome audacity” for “arbitrarily” making such low

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<sup>21</sup>See W. Lutz et al., “The End of World Population Growth,” 412 *Nature* 543 (August 2, 2001). Lutz and fellow analysts now predict that world population will peak at about nine billion in 2070 AD and then decline. In 1970 some demographers predicted a world population of 30 billion by 2070. See “Touchy Question of Overpopulation,” note 13 supra.

<sup>22</sup>“By the year 2030,” says one recent analysis, “the proportion of the elderly in the developed world’s population will near 25 percent and in some countries will be closing in on 30 percent.” The author predicts massive social consequences from such “demographic aging,” warning that developed nations may have to pursue “policies that increase the size and productivity of tomorrow’s working-age population.” P. Peterson, “A Graying World: The Dangers of Global Aging,” in *Harvard International Review*, Fall 2001, 66-70 at 67, 66. In effect, the aging bomb has almost replaced the population bomb as a topic for dire predictions.

<sup>23</sup>News Release, “Catholic Conference Official Hits New Zero Population Growth Group,” U.S. Catholic Conference, August 11, 1971.

predictions.<sup>24</sup> Three decades later, however, the 2000 Census – despite what the Census Bureau called “the largest 10-year population increase in U.S. history” -- found the total population of the U.S. to be 281 million.<sup>25</sup> This was at the high end of Bishop McHugh’s estimate, but over a hundred million people lower than his opponents’ estimate.

Msgr. McHugh was right in these matters not because he had any special crystal ball, but because he monitored the most serious and objective work in population analysis throughout his career, carefully discerning the facts and separating them from the chaff of ideology with which they were so often mixed in political debate. Quite simply, he understood more about the subject than many of his secular critics, including those with advanced academic degrees.

## **V. Issues at the End of Life**

In testimony and statements he prepared for the U.S. bishops, Monsignor McHugh often predicted that the mentality of the Supreme Court’s abortion decisions would desensitize American society to the value of human life near its end as well, promoting efforts to legalize euthanasia. This was, of course, laughed off by supporters of legalized abortion. Later, when Hemlock Society founder Derek Humphry cited

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<sup>24</sup>Chasteen also indignantly denied Msgr. McHugh’s warning about a move toward coercive population control – although Chasteen himself was (and signed his open letter as) President of a group called “Compulsory Birth Control for All Americans.” E. Chasteen, “An open letter to Msgr. James T. McHugh, Director of Family Life Division - U.S. Catholic Conference,” original in files of Secretariat for Pro-Life Activities, U.S. Conference of Catholic Bishops (emphasis in original); National Catholic News Service, “Msgr. McHugh Criticized by Promoter of Compulsory Birth Control,” Sept. 16, 1971.

<sup>25</sup>U.S. Department of Commerce News, April 2, 2001, [www.census.gov/Press-Release/www/2001/cb01cn64.html](http://www.census.gov/Press-Release/www/2001/cb01cn64.html).

*Roe v. Wade* as the American legal system's greatest gift to the euthanasia movement, and one American judge after another tried to use *Roe* to establish a constitutional right to assisted suicide, they were no longer laughing. I suspect that some Supreme Court justices voted to reject a constitutional right to assisted suicide in 1997 in large part because otherwise they would (a) provoke the same kind of massive counter-movement that *Roe* had produced, and (b) prove once and for all that James McHugh and the bishops were right about the Court's inability to restrain itself once it had defined a right to take unborn human life.

The euthanasia debate in our society is far from over, but opponents of euthanasia have won many victories in courts, legislatures and statewide referenda, not least because the Church has mobilized the same kind of principled and practical effort on this issue that James McHugh showed us how to mobilize on abortion.

In their own right, however, end-of-life issues drew no small part of Monsignor McHugh's attention even in the 1970s. While relatively few people were openly proposing active euthanasia, many were discussing "living wills" for refusing life-sustaining treatment and proposals for revising the definition of death. Here also, making sound decisions required learning a great deal about medicine and law as well as moral theology, so general moral principles on the withdrawal of extraordinary means could be validly applied to very specific and complex legislation pending in many states.

After careful study of this legal trend, Monsignor McHugh's judgment in the 1970s was that living will or "death with dignity" laws were "generally vague or ambiguous," and were "neither necessary nor

useful” – and he warned that such laws were often proposed as a first step toward legalized euthanasia.<sup>26</sup> He especially warned against a trend to label certain human lives -- not just particular treatments -- as being useless or meaningless.<sup>27</sup> In these respects his judgment was prophetic. It took the medical and legal professions 15 years to conclude that these laws were very imperfect instruments indeed for advancing patients’ wishes at the end of life. It took less time than that for some “death with dignity” proponents to expand their agenda into active euthanasia. Later, when many more state laws on these issues had passed and requests for specific guidance increased, Bishop McHugh was to serve on a small task force for the U.S. bishops to develop guidelines for judging laws in this area.<sup>28</sup>

On the concept of “brain death” his conclusion was somewhat different: If carefully crafted to reflect sound medical practice, laws clarifying the standards for diagnosing death might be useful and even “a practical necessity.” For example, if laws insisted that only complete and irreversible loss of all functions of the entire brain, including the brain stem, could be used in determining death, this could help prevent dangerous efforts to redefine death to include conditions like coma or vegetative state.<sup>29</sup> In fact the great majority of states did pass such laws – often with the direct involvement of state Catholic conferences. And

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<sup>26</sup>Msgr. James T. McHugh and Michael A. Taylor, “Death and Dying: Analysis of Legislative Approaches,” in James T. McHugh (ed.), *Death, Dying and the Law* (Our Sunday Visitor 1976), 51-60 at 60.

<sup>27</sup>*Id.* at 57-8.

<sup>28</sup>NCCB Committee for Pro-Life Activities, *Guidelines for Legislation on Life-Sustaining Treatment* (1984), reprinted in 14 *Origins* 526-8 (January 24, 1985).

<sup>29</sup>“Death and Dying: Analysis of Legislative Approaches,” note 26 supra at 52-5, 60.

these laws have blocked efforts to play fast and loose with the definition of death to obtain vital organs from anencephalic infants and other seriously ill but living patients. Last year, Pope John Paul II delivered public remarks about the validity of the “brain death” concept that reflect insights Monsignor McHugh had brought to this issue 25 years before.<sup>30</sup>

I had the privilege of working with Bishop McHugh in the early 1990s on the specific and difficult issue of withdrawing artificially assisted food and fluids from patients in a persistent vegetative state (PVS). Ultimately, after long consultation and many drafts, the Pro-Life Committee published a closely reasoned document that was praised by the Vatican newspaper *L'Osservatore Romano* – and later praised by the Pope himself, in a talk to U.S. bishops during their ad limina visits -- as a model for addressing this issue.<sup>31</sup> Here too, Bishop McHugh was very influential in establishing that PVS was not best seen as a “terminal” condition, but as a severe form of mental disability in which vulnerable patients would need extra help receiving food and fluids if they are to survive. Even at this far end of the spectrum of cognitive loss, he

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<sup>30</sup>Pope John Paul II, Address to the 18th International Congress of the Transplantation Society, August 29, 2000, [www.vatican.va/holy\\_father/john\\_paul\\_ii/speeches/2000/jul-sep/documents/hf\\_jp-ii\\_spe\\_20000829\\_transplants\\_en.html](http://www.vatican.va/holy_father/john_paul_ii/speeches/2000/jul-sep/documents/hf_jp-ii_spe_20000829_transplants_en.html).

<sup>31</sup>NCCB Committee for Pro-Life Activities, *Nutrition and Hydration: Moral and Pastoral Reflections* (U.S. Catholic Conference 1992), [www.usccb.org/prolife/issues/euthanas/nutindex](http://www.usccb.org/prolife/issues/euthanas/nutindex); Comitato ‘Pro-Life’ dei Vescovi Cattolici Statunitensi, “Nutrizione e idratazione: considerazioni morali e pastorali,” in *L'Osservatore Romano*, 11 Dicembre 1992 at 5; Pope John Paul II, “Ad Limina” Address to the Bishops of California, Nevada, and Hawaii, October 2, 1998 at no. 4, reprinted in 28 *Origins* 314-6 at 316 (October 15, 1998).

held that we must never dismiss patients' very lives as being without worth or meaning. Specific treatments in particular circumstances could be labeled as useless or burdensome, but never a fellow child of God.

Typically, when others of us working on this issue asked Bishop McHugh how he had developed such knowledge of PVS, we found that he had taken the initiative of personally interviewing leading neurologists on the question -- including the expert who had coined the phrase "persistent vegetative state."

## **VI. The Church and Public Officials**

Perhaps the last great headline-grabbing controversy involving Bishop McHugh arose in 1990, regarding his diocesan policy of not giving Church honors or a public forum on Church property to public figures who support abortion. The policy was not entirely new, and Bishop McHugh said on many occasions before and after this that the sanctity and dignity of human life should be of preeminent importance in judging candidates for public office. On this occasion, however, he publicly announced and explained his policy at a New Jersey state convention of the Knights of Columbus, and the news media sat up and took notice.<sup>32</sup>

The *Philadelphia Inquirer* noted that his policy "may be the most detailed challenge to Catholic abortion-rights advocates enacted by any bishop."<sup>33</sup> New Jersey governor Jim Florio resigned from the

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<sup>32</sup>Bishop James T. McHugh, "Abortion and the Officeholder," 20 *Origins* at 40-42 (May 31, 1990).

<sup>33</sup>M. Schaffer, "Tough voice aimed at politicians," *The Philadelphia Inquirer*, June 17, 1990 at C3.

Knights of Columbus over the issue.<sup>34</sup> Tony Auth produced a notorious anti-Catholic editorial cartoon in which an enormous Catholic bishop in full regalia dictates to a tiny Jim Florio: “Thou shalt take our doctrine on abortion and thou shalt shove it down the throats of *all* thine constituents.”<sup>35</sup> And the *Inquirer*’s editorial page editor, David Boldt, opined that people should not be surprised at such behavior from an “un-American institution” like the Catholic Church.<sup>36</sup>

But of course, Bishop McHugh had not told anyone they had to do anything. He simply said that if they are working against the Church’s message on this fundamental issue of human rights, they cannot expect the Church to reward them for it.

Some people, on both sides of the abortion issue, were surprised by this tough stand. They knew that Monsignor McHugh had always confronted secular arguments against the Church’s stand with thoughtful and reasoned argument. They knew he had been quite willing to have dialogues with secular sex education advocates, to advise the March of Dimes on ethical issues, to negotiate with hostile delegations at the United Nations. Frances Kissling of Catholics for a Free Choice sniffed that all this intelligence and moderation “seems to have flown out the window with his appointment as bishop.”<sup>37</sup>

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<sup>34</sup>R. Schwanenberg, “Florio quits the K of C on pro-choice stance,” *The Star-Ledger* (Newark), June 1, 1990 at 1.

<sup>35</sup>See S. Crabill, “Camden bishop fights on,” *Bergen Evening Record*, July 11, 1990 at A-1, A-14.

<sup>36</sup>D. Boldt, “The bishops return to a darker era of U.S. politics,” *The Philadelphia Inquirer*, July 1, 1990 at 7-D.

<sup>37</sup>See “Tough voice aimed at politicians,” note 33 supra.

But what Bishop McHugh was doing was absolutely consistent with everything he had done before. In fact it was an essential step in helping to build the kind of Church that could engage in constructive dialogue with a sometimes alien secular culture. For if the Church was to avoid both poles of the dilemma with which I began this paper – isolationism or accommodationism – it would have to pursue such dialogue from a home base whose own convictions and values were absolutely clear and unambiguous. The Church itself, as a community of faith, must provide a refuge from the corrosive forces that surround it.

Archimedes allegedly said that if he had a lever and a firm place to stand, he could move the earth. If Catholics were to move our culture, they needed one place to stand where the ground would not give out under them. Only then could they fully engage the discussion in the public square without being absorbed by it.

Perhaps the most recent tribute to Bishop McHugh by his fellow bishops was their overwhelming approval of two new documents. In *Living the Gospel of Life: A Challenge to American Catholics*, the bishops in 1998 offered their clearest challenge yet to Catholics, and especially to Catholic public officials, to become missionaries to American culture on the reverence we owe to each and every human life.<sup>38</sup> This year, in their second major revision of the *Pastoral Plan for Pro-Life Activities* which Monsignor McHugh

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<sup>38</sup>U.S. Conference of Catholic Bishops, *Living the Gospel of Life: A Challenge to American Catholics* (1998), [www.usccb.org/prolife/gospel.htm](http://www.usccb.org/prolife/gospel.htm).

drafted in 1975, the bishops recommitted themselves to his vision of a Church that promotes human life at every stage through education, advocacy and pastoral care.<sup>39</sup>

In *Living the Gospel of Life*, one of the last documents of the bishops' conference in which Bishop McHugh was actively involved, the bishops declared:

Today, Catholics risk cooperating in a false pluralism. Secular society will allow believers to have whatever moral convictions they please -- as long as they keep them on the private preserves of their consciences, in their homes and churches, and out of the public arena. Democracy is not a substitute for morality, nor a panacea for immorality. Its value stands -- or falls -- with the values which it embodies and promotes. Only tireless promotion of the truth about the human

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<sup>39</sup>U.S. Conference of Catholic Bishops, *Pastoral Plan for Pro-Life Activities: A Campaign in Support of Life* (2001), [www.usccb.org/prolife/pastoralplan.htm](http://www.usccb.org/prolife/pastoralplan.htm).

person can infuse democracy with the right values. This is what Jesus meant when He asked us to be leaven in society. American Catholics have long sought to assimilate into U.S. cultural life. But in assimilating, we have too often been digested. We have been changed by our culture too much, and we have changed it not enough. If we are leaven, we must bring to our culture the whole Gospel, which is a Gospel of life and joy. That is our vocation as believers. And there is no better place to start than promoting the beauty and sanctity of human life.<sup>40</sup>

The thoughtfulness, the confidence, and the courage of that declaration would have been impossible if not preceded by the lifetime work of one man.

Bishop McHugh took his episcopal motto from the prayer, “What shall I give to the Lord for all he has done for me?” What he gave to the Lord was a Church in the United States that was more educated, more thoughtful, more committed to the Gospel, and – perhaps most importantly – more unafraid than it could possibly have been without him. That is no small gift, and we should be thankful for it.

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<sup>40</sup>*Living the Gospel of Life*, note 38 supra, no. 25.