

TRYING TO VOTE IN GOOD CONSCIENCE

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INTRODUCTION

One of the major problems with modern politics, particularly modern American politics, is over-compartmentalization of groups and issues. Politicians have a plethora of advisors and consultants who analyze how they are doing with different segments of the American public. No longer are these breakdowns done solely by age, religion, racial or ethnic group, educational level, economic status, or geographical location, but by combinations of all of these factors. Even media pundits in their horse race analyses of the current Presidential contest often talk about which very specifically defined blocks of voters support one candidate over another, such as younger white, middle-class, Protestant women supporting Senator John McCain.

As the American public gets sliced and diced into ever smaller voting groups, the issues are increasingly getting more narrowly defined, despite the fact that most “issues” are in fact interrelated. The two major parties and their candidates rarely acknowledge how much action or inaction on one “issue” will affect another. One of the reasons that the parties do not establish these linkages is because it would expose the true complexity of the problems, which cannot be captured in sound bites or bumper sticker slogans. Another reason that the parties do not establish these linkages is that it would expose the inconsistencies within each of the parties’ platforms. The inconsistencies within each of the parties’ platforms may be why

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neither party's policies completely accord with Catholic teachings and why, as the U.S. Conference of Catholic Bishops' statement *Forming Consciences for Faithful Citizenship: A Call to Political Responsibility from the Catholic Bishops of the United States* ("*Forming Consciences*") noted, "Catholics may feel politically disenfranchised, sensing that no party and too few candidates fully share the Church's comprehensive commitment to the life and dignity of every human being."¹

The major contribution of the Catholic bishops' statement is that it reminds Catholics about these linkages and the need to account for them when evaluating policies and deciding for whom to vote. In order to give due attention to the linkages between issues, the bishops warn Catholics to avoid two errors: (1) failing to make any ethical distinctions between different issues involving human life and dignity, and (2) using these distinctions to ignore other serious threats to human life and dignity.² The strategies of the political parties to compartmentalize voters encourage voters to fall victim to the second error by deciding which candidate to vote for based upon a single issue. The bishops advise Catholics that following the "consistent ethic of life" provides a way to avoid these errors.³ As a result, this advice is the most important contribution of the bishops' statement.

The American bishops highlight the fact that "respect for the dignity of every person" is at the core of Catholic social teachings but that "[a]ll the life issues are connected."⁴ In this regard, the bishops echo an idea that both Pope John Paul II and Pope Benedict XVI have articulated: the need to pay more attention to the interaction between natural ecology and human ecology.⁵ Pope Benedict commented:

¹ UNITED STATES CONFERENCE OF CATHOLIC BISHOPS, *Forming Consciences for Faithful Citizenship: A Call to Political Responsibility from the Catholic Bishops of the United States* ¶ 16 (2007) [hereinafter *Forming Consciences*], available at <http://www.usccb.org/faithfulcitizenship/FCStatement.pdf>.

² *Id.* ¶ 28–29.

³ *Id.* ¶ 40.

⁴ *Id.* ¶ 10, 25.

⁵ See POPE BENEDICT XVI, MESSAGE FOR THE CELEBRATION OF THE WORLD DAY OF PEACE *THE HUMAN PERSON, THE HEART OF PEACE* ¶ 8 (2007) [hereinafter *HEART OF PEACE*]. Ecology is the study of how organisms interact with each other and their physical environment. Human ecology is the study of how human beings and their societies interact with their natural, social, economic, and political environments.

All this means that humanity, if it truly desires peace, must be increasingly conscious of the links between natural ecology, or respect for nature, and human ecology. Experience shows that *disregard for the environment always harms human coexistence*, and vice versa. It becomes more and more evident that there is an inseparable link between peace with creation and peace among men. Both of these presuppose peace with God.⁶

The bishops understand that balancing and analyzing these concerns is not an easy task, and they have attempted to provide guidance to Catholics regarding how to go about this task.

Nevertheless, the bishops' statement might have been a richer and more useful document if it more clearly articulated the need for Catholics to adopt a form of holistic ethics. Holistic ethics requires people to recognize that they have moral responsibilities to groups or systems in addition to the individuals or elements that constitute those groups or systems. It attempts to do a better job of developing principles that reflect the interdependence of people and their natural, social, political, and economic environments. Holistic ethics does not deny the centrality of human dignity to ethical inquiries but recognizes that human beings are starting points, not end points, of moral concern. Adopting a holistic ethical viewpoint would require people to accept a more expansive notion of the common good than the one on which most of them currently rely.

I intend to comment on how useful the document is in actually helping the average American Catholic, who is not already an expert in Catholic social teachings, discern how to vote. As part of this assessment, I plan to focus on how much weight Catholics should give to economic issues based upon the guidance provided by the bishops' statement, because the economy tops the list of important issues in several recent polls and it impacts many of the other issues in this election, including abortion.⁷ I also plan to focus on how much weight Catholics

⁶ *Id.*

⁷ The economy may be weighing on voters minds because a growing number of them are in financially precarious positions. The bishops acknowledged these concerns by mentioning the need to address poverty sixteen times throughout the document. This is more frequently than they mention any other single issue, except the common good, although many issues are interrelated. For example, abortion is only mentioned fourteen times, but the document also refers to human dignity nine times and the right to life eleven times.

should give to environmental issues because they are a growing area of concern both for Americans and for the Vatican.⁸

I should note at the outset that I am not trained as a theologian, but as a lawyer and an economist. In examining how useful *Forming Conscience* is in helping the average American Catholic, I will certainly be influenced by and will be using the skills that I have developed from my training as a lawyer⁹ and as an economist.¹⁰

⁸ Four of the seven social sins recently identified by Bishop Gianfranco Girotti, the Regent of the Apostolic Penitentiary at the Vatican, concern economic or environmental issues. The seven social sins are: (1) “‘Bioethical’ violations such as birth control,” (2) “‘Morally dubious’ experiments such as stem cell research,” (3) “Drug abuse,” (4) “Polluting the environment,” (5) “Contributing to widening divide between rich and poor,” (6) “Excessive wealth,” and (7) “Creating poverty.” See *Vatican Bishop Points to Modern Social Sins*, CATH. NEWS AGENCY, Mar. 11, 2008, <http://www.catholicnewsagency.com/new.php?n=12031>.

⁹ Lawyers are particularly concerned with language and how clearly ideas and rules are communicated. Thus, I am concerned about how clearly the U.S. bishops’ statement communicates its ideas and how they may be interpreted. Concepts that are not clearly expressed will lead to confusion and may be innocently misinterpreted in ways that the bishops did not intend or may be deliberately manipulated to reach conclusions contrary to the bishops’ intent in order to mislead others.

¹⁰ Economists also have a particular way of looking at the world. Austan Goolsbee, the Robert P. Gwinn Professor in the Graduate School of Business at the University of Chicago, provided a useful synopsis of how economists view the world in his address at the 486th Convocation of the University of Chicago. Goolsbee noted:

[Economists] deal with humans at their most mundane. We aren’t about narratives and inspiration or how people would behave in their finest hours. We are about how people behave in the everyday marketplace. . . .

. . . .

First, economists typically ignore what people say and only look at what they do. . . . What people *say* they are going to do and what they do are barely correlated. . . .

. . . Economists are perfectly comfortable in a world of choosing between the lesser of evils. . . .

Next, economists don’t take anecdotes for answers. . . . We just want the data on everybody.

. . . We spend lots of time thinking about causality and indirect effects.

Austan Goolsbee, Address at the 486th Convocation: Why People Hate Economists (and Why We Don’t Care) (Aug. 25, 2006), *in* 41 U. CHI. REC. 18, 18 (2006). As a result of my economics training, I do not think that it is sufficient when determining whether to support a politician or a political party to rely on what they *say* their policies and values are. I want evidence that they have acted in meaningful ways to back up their statements. In addition, I want hard data, whenever possible, which will demonstrate that a policy or program will have a positive impact, and not merely serve a symbolic function.

The United States bishops have divided their statement into three parts. Part I is the most abstract as it discusses how a Catholic should go about the work of forming their consciences so that they can properly address social and political questions. Part II is more concrete and lays out what policies the bishops of the United States agree comply with Catholic teachings. Finally, Part III lays out ten goals that the bishops hope Catholics will press politicians to address.

The entire statement is forty-four pages long. Parishes have been encouraged to provide their parishioners with a shorter version of the statement in the form of a bulletin insert.¹¹ Certainly, the full statement is available for free if one goes the website for the United States Conference of Catholic Bishops.¹² It is unclear, however, how many American Catholics will take the trouble to download and read the full statement. I suspect that only a small minority of American Catholics will do this, mainly because Americans in general are spending less time reading.¹³ In addition, the Catholic hierarchy has lost credibility with many American Catholics, particularly in the area of sexual ethics, because of the widespread rejection by American Catholics of *Humanae Vitae* and the clerical sexual abuse scandal.¹⁴ Thus, only a subset of American Catholics are likely to read any portion of the United States Conference of Catholic Bishops' statement, and the majority who will do so will probably only read the portion included in their local parish's bulletin.

¹¹ See, e.g., United States Conference of Catholic Bishops, Planning Ideas for Parish Staffs and Parish Councils, <http://www.faithfulcitizenship.org/parish/planning> [hereinafter Parish Ideas].

¹² To view the document, visit <http://www.usccb.org/faithfulcitizenship/FCStatement.pdf>.

¹³ See generally NAT'L ENDOWMENT FOR THE ARTS, TO READ OR NOT TO READ: A QUESTION OF NATIONAL CONSEQUENCE (2007). For example, the number of American adults who said that they had read a book not required for work or school in the past year declined 7 percent from 1992 to 2002. *Id.* at 7. The decline in reading shown in these polling numbers is also backed up by sales figures. Even taking into account year-to-year fluctuations in sales, consumer book sales dropped 6 percent, or roughly 100 million units sold, from 2000 to 2006. *Id.* at 11. In addition, Americans' reading proficiency rates are stagnant or declining in adults across all educational levels. *Id.* at 14. Among the factors potentially causing the decline in reading are the tremendous demands on Americans' time from both work and family, and the wide variety of media and entertainment options that compete for their attention and free time.

¹⁴ See *An Adult Church Begins To Stir*, CATH. NEW TIMES, Nov. 6, 2005, available at http://findarticles.com/p/articles/mi_m0MKY/is_16_29/ai_n15966475/pg_1?tag=artBody;coll.

Nevertheless, the bishops' statement potentially could have a significant impact on the 2008 election. About 24 percent of Americans say that they are Roman Catholic.¹⁵ This would mean that out of the over 303 million Americans,¹⁶ seventy-two million of them would be Roman Catholics. A slight majority—54 percent—of Catholics claim that they attend Mass at least once a week.¹⁷ If these polls are accurate, then at least the bulletin insert of the United States Conference of Catholic Bishops' statement would reach about thirty-nine million Americans. Unfortunately, some studies suggest that Americans, including American Catholics, exaggerate how often they attend church when responding to polls.¹⁸ According to these studies, the number of Catholics who actually attend Mass weekly is only about half of those who claim that they do.¹⁹ If these studies are correct, then the bulletin insert of the bishops' statement would only reach about twenty million Americans, or about 6 percent of the total population of the United States. While this is a relatively small percentage of the United States' population, it still could affect the presidential election. In 2004, George Bush beat John Kerry by only a little over three million votes.²⁰

¹⁵ PEW FORUM ON RELIGION & PUB. LIFE, U.S. RELIGIOUS LANDSCAPE SURVEY 5 (2008). Another 10 percent of Americans say that they are former Catholics. *Id.* at 7.

¹⁶ See U.S. Census Bureau, U.S. and World Population Clocks, <http://www.census.gov/main/www/popclock.html> (last visited Apr. 9, 2008).

¹⁷ See LeMoyne College & Zogby International, *Contemporary Catholic Trends*, ZOGBY INT'L, Nov. 16, 2001, <http://www.zogby.com/news/ReadNews.dbm?ID=506>.

¹⁸ See C. Kirk Hadaway, Penny Long Marler & Mark Chaves, *What the Polls Don't Show: A Closer Look at U.S. Church Attendance*, 58 AM. SOC. REV. 741, 745–48 (1993) [hereinafter *A Closer Look*]; see also C. Kirk Hadaway, Penny Long Marler & Mark Chaves, Reply, *Overreporting Church Attendance in America: Evidence that Demands the Same Verdict*, 63 AM. SOC. REV. 122, 127 (1998).

¹⁹ Cf. *A Closer Look*, *supra* note 18, at 742.

²⁰ See CNN.com, Election 2004—U.S. President, <http://www.cnn.com/ELECTION/2004/pages/results/president/>. If all twenty million Catholics who attend Mass regularly vote in November 2008, and the voter turnout in 2008 is comparable to the voter turnout in 2004, those Catholic voters would represent over 16 percent of the total voter turnout. In the 2004 election, Catholics who claimed to attend Mass weekly made up 11 percent of the voters while Catholics who claimed to attend Mass less frequently made up 14 percent of the voters, according to CNN's exit polls. See CNN.com, Election 2004, Election Results: Exit Poll, <http://www.cnn.com/ELECTION/2004/pages/results/states/US/P/00/epolls.0.html>. A majority of Catholics who claimed to attend Mass weekly voted for George Bush over John Kerry, while Catholics who claimed to attend Mass occasionally were about evenly divided between George Bush and John Kerry. *Id.* The difference between the number of votes cast for George Bush by Catholics who claimed to attend Mass weekly versus the number of votes cast for George Bush by Catholics who claimed to

Each of the bulletin inserts of the bishops' statement only consists of Part I of the full statement.²¹ The bulletin inserts, however, claim to be a summary of the statement and do not indicate that they are only the first part of this statement. It is unfortunate that the bulletin inserts do not disclose to parishioners that they would find more concrete information about what specific policy positions the bishops of the United States consider to be in harmony with the Church's teachings in the full document. More American Catholics would probably take the time to obtain and read the full statement if they knew that they would be given more concrete guidance on how one might apply the abstract principles discussed in the bulletin inserts to the current policies being debated in the election.

I will focus most of my analysis on Part I because it is the portion of the document that probably will be most widely read. The fact that most American Catholics will only read Part I of the document is troubling for two reasons. First, Part I contains a number of ambiguities and does not provide clear answers regarding how to vote. The bishops' desire to maintain the Church's tax exempt status within the United States provides a partial explanation of why the bishops' statement does not give explicit guidance regarding for whom to vote.²² As a result, some Catholics may be tempted to retreat to the voter guides for Catholics produced by other groups because of their absolute lack of ambiguity about what the "right" position is on certain issues. These other guides are terribly flawed and full of errors for the unwary. I am not suggesting that the bishops should be instructing Catholics how to vote; far from it. Nevertheless, some American Catholics would find helpful the examples in Part II of

attend Mass occasionally was about 1.7 million of the 3 million votes that gave George Bush his victory over John Kerry in 2004.

²¹ The United States Conference of Catholic Bishops has produced bulletin inserts that are two or four pages long and are in color or black and white. In each case, the bulletin insert is no more than Part I of the U.S. bishops' statement. To view these bulletin inserts, please visit the website for the United States Conference of Catholic Bishops at <http://www.faithfulcitizenship.org/resources/bulletin>. *Parish Ideas* also suggests that quotes from *Forming Consciences* should be included in the parish bulletins throughout 2008 and that suggestions regarding which quotes to use would be posted on the Faithful Citizenship website under "Bulletin Quotes." See *Parish Ideas*, *supra* note 12. As of March 1, 2008, the "Bulletin Quotes" section of the Faithful Citizenship website was not available. As a result, it is unclear if these quotes would include portions of Parts II or III from *Forming Consciences*.

²² See *Parish Ideas*, *supra* note 12.

how one can work through the abstract concepts presented in Part I to arrive at specific applications of Catholic social teachings.²³ Second, Part I does not clearly convey how truly important the bishops consider economic and environmental issues. Poverty is mentioned sixteen times in the entire document, but it is only mentioned four times in Part I. In addition, the linkages among the key themes of Catholic social teaching and among the political issues facing American voters are explained in more detail and more concretely in Part II than in Part I of the document.

I. FORMING CONSCIENCES

According to Pope John Paul II, Catholic social teaching refers to all of the papal encyclicals and related documents issued since Pope Leo XIII issued *Rerum Novarum* in 1891.²⁴ The bishops quote from and make reference to these documents throughout their statement. Unfortunately, many if not most, American Catholics have not read these documents. They may have read one or two of them. They may also have some familiarity with their contents either from their local parish priests discussing them in homilies or in the parish's religious education programs, or through reports in various media outlets. Thus, to the extent that *Forming Consciences* does not provide a full explanation of a point or is unclear, many Catholics may have to research and educate themselves regarding what exactly are the Catholic Church's teachings on a particular point and how much authority or weight a Catholic should give to the different levels of teachings within the Catholic Church. Engaging in such a process would be highly beneficial, but I wonder how many American Catholics will actually have the time and inclination to do this.

The bishops' statement defines conscience as "the voice of God resounding in the human heart, revealing the truth to us and calling us to do what is good while shunning what is evil."²⁵ To form their conscience, Catholics are instructed to do three things: (1) "seek the truth and what is right by studying Sacred Scripture and the teaching of the Church," (2) analyze the facts

²³ These examples include supporting candidates and policies that will reduce poverty and provide adequate health care for all Americans. *See infra* Part II.

²⁴ JOHN PAUL II, ENCYCLICAL LETTER *CENTESIMUS ANNUS* ¶ 2 (1991).

²⁵ *Forming Consciences*, *supra* note 1, ¶ 17.

and circumstances of the available choices, and (3) reflect prayerfully to discern God's will.²⁶

A. *Avoiding Evil*

The first step for any Catholic is to understand what guidance the Scriptures and Catholic teachings provide regarding what is good and what is evil. One might think that every Catholic who has undergone some education and faith formation would be aware of what actions fit within each category. Nevertheless, in recent presidential elections, a great deal of ink has been spilt regarding what acts the Church considers not just evil, but "intrinsically evil," and whether a Catholic may ever vote for a candidate who endorses policies that support or promote "intrinsically evil" acts. In fact, it seems impossible in the debates among American Catholics to get to a discussion of which policies support and enhance the common good without first acknowledging which of the candidates' positions support intrinsically evil acts and addressing how one intends to deal with those positions.

Before proceeding to which economic and environmental policies would be in harmony with Catholic social teaching by promoting the common good, I would like to analyze how the bishops' statement deals with the issues surrounding candidates who hold positions in support of intrinsically evil actions. I think that the United States Conference of Catholic Bishops' statement provides a very valuable clarification on these issues. In fact, the bishops spend more than half of Part I discussing these issues and spend less than 20 percent of Part I discussing what the key themes of Catholic social teaching have to say about promoting the common good.

The U.S. bishops confirm that those actions that are intrinsically evil "must always be rejected and opposed and must never be supported or condoned."²⁷ They explain that "[a] Catholic cannot vote for a candidate who takes a position in favor of an intrinsic evil . . . if the voter's intent is to support that position," because such a vote would be to formally cooperate with evil.²⁸ In addition, the U.S. bishops emphasize that "all

²⁶ *See id.* ¶ 18.

²⁷ *Id.* ¶ 22.

²⁸ *Id.* ¶ 34.

issues do not carry the same moral weight and that the moral obligation to oppose intrinsically evil acts has a special claim on our consciences.”²⁹

Nevertheless, the U.S. bishops explicitly state that a Catholic *may* vote for a candidate for other “morally grave reasons” despite the candidate’s “unacceptable position.”³⁰ Two things are worth commenting on regarding this guidance. First, the bishops’ statement refers to a candidate’s “unacceptable position”—which could be interpreted as merely the position the candidate has taken in his oral and written statements. Candidates, however, often say one thing and do another. This problem can leave Catholic voters in the dilemma of having to choose between one party that makes statements in accord with Church’s teachings but only takes symbolic stances on the national level to address the problem, and another party that makes statements not in accord with the Church’s teachings but that enacts policies that concretely advance the objects of those teachings.³¹ The bishops do acknowledge this problem later in their statement when they comment that the decision regarding for whom to vote must also “take into account a candidate’s commitments, character, integrity, and ability to influence a given issue.”³² Thus, if one wants to understand where a candidate truly stands and what positions he will act upon, one needs to examine not only a candidate’s words but also his actions.

Second, the U.S. bishops’ statement unfortunately does not explicitly define what would constitute a morally grave reason or give an example of what might be a morally grave reason that

²⁹ *Id.* ¶ 37.

³⁰ *See id.* ¶ 35.

³¹ In some sense, this situation is akin to the parable in Matthew regarding the father and his two sons:

“What is your opinion? A man had two sons. He came to the first and said, ‘Son, go out and work in the vineyard today.’

He said in reply, ‘I will not,’ but afterwards he changed his mind and went.

The man came to the other son and gave the same order. He said in reply, ‘Yes, sir,’ but did not go.

Which of the two did his father’s will?” They answered, “The first.” Jesus said to them, “Amen, I say to you, tax collectors and prostitutes are entering the kingdom of God before you.”

Matthew 21:28–31 (New American).

³² *Forming Consciences*, *supra* note 1, ¶ 37.

would justify voting for a candidate despite the candidate's position in favor of an intrinsic evil. It does explicitly state that other "morally grave reasons" do not include "narrow interests or partisan preferences" or a willful blindness to a "fundamental moral evil."³³ In the absence of clearer guidance, Catholic voters must exercise their prudential judgment as to what would constitute sufficiently "morally grave reasons" to vote for a candidate in support of his other policies and despite his support for an intrinsically evil act.

Knowing what actions are intrinsically evil, thus, is vital for Catholic voters. The bishops' statement provides examples of what activities the Church considers intrinsically evil but makes no claim that the items listed in the statement are the only things that the Church considers intrinsically evil. The items listed in the bishops' statement as intrinsically evil include the following: direct threats to the sanctity and dignity of human life (which include abortion, human cloning, and embryonic research), genocide, torture, racism, and the targeting of noncombatants in acts of terror or war.³⁴

The U.S. bishops provide a much broader range of examples of intrinsic evils than those found in voting guides for Catholics promulgated by other groups. The failure of these other guides to mention the wide range of actions that the Catholic Church considers intrinsically evil may mislead Catholic voters. For example, the *Voter's Guide for Serious Catholics* identifies only five non-negotiable issues as being intrinsically evil and "in play" in recent elections.³⁵ In this guide, the five non-negotiable issues are abortion, euthanasia, embryonic stem cell research, human cloning, and same-sex marriage.³⁶

The *Voter's Guide for Serious Catholics* implies that all other issues either are ones on which Catholics may legitimately disagree or are ones which politicians are not debating.³⁷ One can only reach this conclusion, however, by deliberately ignoring

³³ *Id.* ¶ 35.

³⁴ *Id.* ¶ 22–23.

³⁵ See CATHOLIC ANSWERS ACTION, *VOTER'S GUIDE FOR SERIOUS CATHOLICS* 3, 5–8 (2d ed. 2006).

³⁶ See *id.* at 5–8 (listing and discussing each of the five "non-negotiable" issues for Catholics to consider at the ballot box).

³⁷ See *id.* at 3. The guide even specifically states that "[s]ome issues allow for a diversity of opinion, and Catholics are permitted leeway in endorsing or opposing particular policies." *Id.* at 15.

the very real debates within Congress, the Executive Branch, and the electorate over policies that concern other acts the Church considers intrinsically evil, such as torture.

The Catholic Church considers both mental and physical torture to be intrinsically evil. *The Catechism of the Catholic Church* states that “[t]orture which uses physical or moral violence to extract confessions, punish the guilty, frighten opponents, or satisfy hatred is contrary to respect for the person and the for human dignity. . . . It is necessary to work for their abolition. We must pray for the victims and their tormentors.”³⁸ The Catholic Church would consider acts to be torture even if the lawyers in the United States Justice Department would not. For example, the Catholic Church’s definition of torture would categorize waterboarding as torture because it uses “physical violence . . . to extract confessions” and “frighten opponents.”³⁹ Various members of the Bush Administration repeatedly have refused to categorize waterboarding as torture and, in fact, continue to authorize its use.⁴⁰

³⁸ CATECHISM OF THE CATHOLIC CHURCH ¶¶ 2297–98 (2d ed. 1997) [hereinafter CATECHISM].

³⁹ See *id.* The Inquisition used torture, including waterboarding, to extract confessions. See Eric Weiner, *Waterboarding: A Tortured History*, NPR.ORG, Nov. 3, 2007, <http://www.npr.org/templates/story/story.php?storyId=15886834>. Waterboarding was used in part because priests were forbidden from shedding blood. See CATECHISM, *supra* note 38, ¶ 2298. The Church has repudiated those actions, stating: “In recent times it has become evident that these cruel practices were neither necessary for public order, nor in conformity with the legitimate rights of the human person. On the contrary, these practices led to ones even more degrading. It is necessary to work for their abolition.” *Id.*

⁴⁰ From August 2002 until December 2004, the U.S. Department of Justice advised the Bush Administration that in order for an act to be torture under U.S. law it must inflict severe physical or mental pain. Because the relevant statute did not define “severe pain,” the Justice Department lawyers concluded that “severe pain” should be interpreted as pain that would result in damage causing “death, organ failure, or the permanent impairment of a significant body function.” See Memorandum from Jay S. Bybee, Assistant Attorney General, to Alberto R. Gonzales, Counsel to the President, Re: Standards of Conduct for Interrogation Under 18 U.S.C. §§ 2340–2340A, at 6 (Aug. 1, 2002), available at http://www.washingtonpost.com/wp-srv/politics/documents/cheney/torture_memo_aug2002.pdf. This memorandum did not discuss or analyze the past cases in which the U.S. military tribunals or U.S. judges found individuals guilty of engaging in torture when they used waterboarding on captured prisoners. See Evan Wallach, *Waterboarding Used To Be a Crime*, WASH. POST, Nov. 4, 2007, at B01; *History of an Interrogation Technique: Water Boarding*, ABCNEWS.COM, Nov. 29, 2005, <http://abcnews.go.com/WNT/Investigation/story?id=1356870>. In June 2004, Jack Goldsmith, the head of the Office of Legal Counsel at the time, formally withdrew the 2002 memo. See Scott Shane, David Johnston & James Risen, *Secret U.S.*

One can mislead not only by making directly false statements but also by making material omissions that make the statements one has made misleading. As a result, the fixation of guides, such as the *Voter's Guide for Serious Catholics*, on only some intrinsically evil acts while ignoring others may mislead Catholic voters in their search truth. The bishops' statement provides a useful remedy for this problem.

The distortions found in other voter guides also highlight the very real need to educate Catholics about the wider range of actions that the Church considers intrinsically evil. While almost all Catholics are aware of the Church's views regarding abortion, the vast majority of Catholics seem unaware of the Church's views regarding many other intrinsically evil acts, such as torture. A survey by the Pew Research Center for the People and the Press conducted in 2005 found that nearly three-quarters of Catholics in the United States would be willing to justify torture under certain circumstances.⁴¹ These views are directly at odds with the teachings of the Catholic Church, which hold that torture is an intrinsically evil act and can never be supported or condoned.

This educational goal is beyond the scope and aims of the bishops' statement. As noted above, the bishops' statement does not claim to include a comprehensive list of all of the acts which the Church considers intrinsically evil. A Catholic who wanted to compile such a list would have to consult a number of Church

Endorsement of Severe Interrogations, N.Y. TIMES, Oct. 4, 2007, at A24. In December 2004, Acting Assistant Attorney General Daniel Levin issued a new memo, which rejected the earlier definition of torture and concluded that torture could consist of mere physical suffering and lasting mental anguish. See Memorandum Opinion from Daniel Levin, Acting Assistant Attorney General, Office of Legal Counsel, for the Deputy Attorney General on Legal Standards Applicable Under 18 U.S.C. §§ 2340–2340A pt. II(2)–(3) (Dec. 30, 2004), available at <http://www.usdoj.gov/olc/18usc23402340a2.htm>. In 2005, a memo by Assistant Attorney General Steven Bradbury again held that waterboarding was permissible. See Shane, Johnston & Risen, *supra*. Moreover, the current Attorney General Michael Mukasey refused to define waterboarding as torture during the Senate hearings for his confirmation. See Carl Hulse, *Mukasey Wins Vote in Senate, Despite Doubts*, N.Y. TIMES, Nov. 9, 2007, at A1. On March 8, 2008, President George Bush vetoed a bill passed by Congress that would have banned waterboarding and several other interrogation techniques, which supporters of the bill considered torture. *Bush Vetoes Bill Banning Waterboarding*, CNN.COM, Mar. 8, 2008, <http://www.cnn.com/2008/POLITICS/03/08/bush.torture.ap/index.htm>.

⁴¹ See Tom Carney, *Americans, Especially Catholics, Approve of Torture*, NAT'L CATH. REP., Mar. 24, 2006, http://ncronline.org/NCR_Online/archives2/2006a/032406/032406h.htm.

documents. Pope John Paul II, in *Veritatis Splendor*, provided a more comprehensive list of the acts considered intrinsically evil than the U.S. bishops do in their statement, but he also did not claim that his list was an exhaustive listing of what constitutes an intrinsically evil act.⁴² Pope John Paul II defined the following categories of actions as intrinsically evil:

[w]hatever is hostile to life itself, such as any kind of homicide, genocide, abortion, euthanasia, [contraception,] and voluntary suicide; whatever violates the integrity of the human person, such as mutilation, physical and mental torture and attempts to coerce the spirit; whatever is offensive to human dignity, such as subhuman living conditions, arbitrary imprisonment, deportation, slavery, prostitution and trafficking in women and children; degrading conditions of work which treat labourers as mere instruments of profit, and not as free responsible persons.⁴³

Obviously, the Catholic Church considers other actions that are already prohibited by law to be intrinsically evil, such as rape and incest.⁴⁴

Even if one compiles a complete list of the things that the Church currently considers intrinsically evil, one might still need to consult one's own informed conscience about whether other acts are so contrary to God's natural law that they are intrinsically evil. The reason why one may need to do this is because one must recognize that the Catholic Church's judgment with regard to what acts are intrinsically evil has not always been unchanging and certain, but has developed or changed over time.

The attractiveness of labeling something "intrinsic" is that it removes contingency. An action that is intrinsic is so regardless of the motives or circumstances giving rise to someone undertaking it. One's judgment of the action will be unchanging and certain. Nevertheless, some things that the Catholic Church previously prohibited and labeled intrinsically evil are now permissible, such as the charging of interest on a loan, which the Church for most of its history considered usury. On the other hand, there are things that the Catholic Church previously

⁴² JOHN PAUL II, ENCYCLICAL LETTER *VERITATIS SPLENDOR* ¶ 80 (1993).

⁴³ *Id.* (quoting PAUL VI, PASTORAL CONSTITUTION *GAUDIUM ET SPES* ¶ 17 (1965)).

⁴⁴ CATECHISM *supra* note 38, ¶¶ 2356, 2388 .

considered permissible and are now absolutely prohibited, such as torture and slavery.⁴⁵ Thus, it may be that things not currently classified as intrinsically evil will be so classified in the future. Conversely, it may be that some things currently considered intrinsically evil will not be considered so in the future.

Most Catholics are possibly unaware of the changes in the Church's teachings over the centuries. For them, ignorance may indeed be bliss, because change is unsettling. Change upsets life's certainties.⁴⁶ Human beings are adverse to ambiguity or uncertainty.⁴⁷ Change in one area may be used to justify change in other areas. Persons who would resist such changes are then forced to justify why changes should not occur on grounds other than "the Church has always so taught."

Once Catholic voters have determined which actions are intrinsically evil, they may well believe that they have an easy means of eliminating some candidates. Three problems exist

⁴⁵ See generally JOHN T. NOONAN, JR., *A CHURCH THAT CAN AND CANNOT CHANGE: THE DEVELOPMENT OF CATHOLIC MORAL TEACHING* (2005). Many reviewers have praised Noonan's book. See, e.g., Harry J. Byrne, *What Love Demands*, AMERICA, Apr. 2005, at 25 (book review); Dennis O'Brien, *Divorced from Reality*, COMMONWEAL, Mar. 2005, at 32 (book review). Avery Cardinal Dulles, however, in his review for *First Things* argued that Noonan is mistaken when he claims that the Catholic Church reversed its positions on slavery, usury, and religious freedom. Avery Cardinal Dulles, *Development or Reversal?*, FIRST THINGS, Oct. 2005, at 53 (book review). Cardinal Dulles points out that Vatican II only labeled as "shameful" (probra) the things that Pope John Paul II in *Veritatis Splendor* labeled as "intrinsically evil" (intrinsicse malum)." *Id.* For example, Cardinal Dulles, drawing on the writings of Jacques Maritain, concludes that "[r]adical forms of slavery that deprive human beings of all personal rights are never morally permissible, but more or less moderate forms of subjection and servitude will always accompany the human condition." *Id.* I find Cardinal Dulles's arguments unpersuasive. A number of Church members and institutions owned slaves from the very first days of the Church until the 1800s, including Pope Gregory I in the Sixth Century. NOONAN, *supra*, at 47. Even after Pope Gregory XVI issued *In Supremo Apostolatus Fastigio*, which condemned the slave trade in 1839, the leading Catholic prelate in the United States, John England, the Bishop of Charleston, continued to argue that the Catholic Church accepted domestic slavery. NOONAN, *supra*, at 108. Slavery in the Roman Empire and in America most assuredly completely deprived those in bondage of "all personal rights" and yet the Catholic Church for centuries did not advocate its abolition as an intrinsic evil act. As already noted above, the Catholic Church changed its views on torture, which it engaged in as part of the Inquisition but now considers intrinsically evil. See *supra* note 39.

⁴⁶ See NOONAN, *supra* note 45, at 195.

⁴⁷ See generally Craig R. Fox & Amos Tversky, *Ambiguity Aversion and Comparative Ignorance*, 110 Q.J. ECON. 585 (1995) (discussing modern decision theory and human aversion to ambiguous choices).

with this belief. First, all of the available candidates may support one or more policies that promote acts that the Church considers intrinsically evil. This was certainly true in the 2004 election and will likely be true in this election.⁴⁸ In the current presidential election, both the Republican and Democratic candidates support embryonic stem cell research, which the bishops' statement explicitly identifies as an example of an intrinsically evil act.⁴⁹

In these circumstances, the American bishops state that a Catholic may decide to vote for neither candidate or may decide to vote for the candidate that they consider the lesser of two evils and the one "more likely to pursue other authentic human goods."⁵⁰ The bishops' statement does not provide particularly clear guidance regarding how a Catholic should balance competing concerns when faced with this situation because there are no easy answers.

Second, it can lead, as the bishops' statement notes, to the problem of focusing on only the candidates' views with regard to intrinsically evil acts and ignoring other serious issues concerning human life and dignity.⁵¹ This discussion of the need to take into account a wider range of moral concerns indicates that the bishops have a much more holistic view of ethics than their discussion of intrinsically evil acts may have led one to believe. The bishops highlight the need for Catholics to be concerned about and address issues of "[r]acism and other unjust

⁴⁸ Both Senator John Kerry and President George W. Bush were on record as supporting policies that promoted intrinsically evil acts that were at odds with the Church's teachings. Specifically, Senator Kerry supported abortion, and President George W. Bush supported interrogation techniques that the Catholic Church considers to be torture.

⁴⁹ As of April 8, 2008, when this Essay was drafted, the Democratic Party had not selected its presidential candidate. Nevertheless, Senator John McCain, Senator Hillary Clinton, and Senator Barack Obama all voted for H.R. 810, which would have amended the Public Health Service Act to fund embryonic stem cell research. United States Senate, U.S. Senate Roll Call Votes 109th Congress, On Passage of the Bill (H.R. 810), http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=2&vote=00206. The bill was passed and later vetoed by President George W. Bush. Message from President George W. Bush to the House of Representatives (July 19, 2006) (notifying the House of Representatives that he was exercising his veto power over H.R. 810, the "Stem Cell Research Enhancement Act of 2005"), available at <http://www.whitehouse.gov/news/releases/2006/07/20060719-5.html>.

⁵⁰ *Forming Consciences*, *supra* note 1, ¶ 36.

⁵¹ *See id.* ¶ 29.

discrimination, the use of the death penalty, resorting to unjust war, the use of torture, war crimes, the failure to respond to those who are suffering from hunger or a lack of health care, or an unjust immigration policy.”⁵² Basically, the bishops are trying to get Catholics to assess these competing concerns while giving more weight to right to life issues.

This consideration of and balancing of a range of moral concerns requires a great deal of reflection and analysis. As a result, some Catholic voters might be tempted to want to avoid this work and to resolve the dilemma posed by all candidates supporting at least one unacceptable position by simple arithmetic. Embryonic stem cell research is the only area in which the Republican presidential candidate endorses an intrinsically evil act, while the Democratic presidential candidate supports keeping abortion legal, in addition to supporting embryonic stem cell research. While the bishops state that a single issue “may legitimately lead a voter to disqualify a candidate from receiving support,” they repeatedly stress that Catholics should not fixate themselves on one or two issues and completely ignore other areas of concern.⁵³

Third, it ignores the impact that the proposals of the presidential candidates will actually have. Obviously, in order to have an impact, the candidates must act in support of their positions. Since 1976, the Republican Party’s platform has called for a constitutional amendment to ban abortions.⁵⁴ Nevertheless, in 1999, all of the Republican Party candidates, including John McCain and George Bush, acknowledged that America was not ready to ban abortions.⁵⁵ Since he was elected, President Bush has spent no time or effort trying to get this plank in the Republican Party’s platform enacted. During his 2008 presidential campaign, John McCain has said he is pro-life, but

⁵² *Id.* (footnote call number omitted).

⁵³ *Id.* ¶¶ 29, 42.

⁵⁴ See REPUBLICAN NAT’L CONVENTION, REPUBLICAN PARTY PLATFORM OF 1976 (1976), available at <http://www.presidency.ucsb.edu/ws/index.php?pid=25843>.

⁵⁵ See Steve Goldstein, *N.Y. Governor Urges Removal of GOP Plank on Abortion*, MERCURY NEWS (San Jose), Mar. 13, 1999, at 16A; Terry M. Neal & David Von Drehle, *Abortion Fades from GOP Limelight*, WASH. POST, Apr. 14, 1999, at A1. When running for office in 2000, George W. Bush stated that he would not push for a constitutional amendment to ban abortion. See Frank Bruni, *The 2000 Campaign: The Front-Runner; Bush, Pressed to Clarify Views, Repeats Opposition to Abortion*, N.Y. TIMES, Jan. 21, 2000, at A24.

he has not indicated any willingness to spend time and effort seeking a constitutional amendment to ban abortions.⁵⁶

In addition, as part of this analysis, one must not only make a judgment regarding whether a candidate will make efforts to implement his proposals, but also what effect those proposals would have on the number of abortions in the United States if they were implemented. For example, the ban on partial birth abortions cannot be shown to have prevented a single abortion. It only forced women and their doctors to use a different abortion technique.⁵⁷ Conversely, evidence exists that shows a strong link between poverty and abortion rates and suggests that decreasing the number of women living near or below the poverty level may reduce the number of abortions.⁵⁸ Research shows that the more financially secure a woman is, the less likely she is to choose to have an abortion.⁵⁹ In addition, programs that strengthen the social safety net may lead to reductions in the number of abortions, while programs that weaken the social safety net may lead to increases in the number of abortions.⁶⁰ While both the

⁵⁶ McCain's website says nothing regarding his support for a constitutional amendment to ban abortions. See John McCain 2008, *On the Issues: Human Dignity & the Sanctity of Life*, <http://www.johnmccain.com/Informing/Issues/95b18512-d5b6-456e-90a2-12028d71df58.htm>.

⁵⁷ See Alan Cooperman, *Supreme Court Ruling Brings Split in Antiabortion Movement*, WASH. POST, June 4, 2007, at A03 (noting that other abortion procedures are still legal).

⁵⁸ While families with a female householder make up slightly less than 20 percent of all families in the United States, they make up more than half of all families living below the federal poverty level. See U.S. Census Bureau, *Historical Poverty Tables, Number of Families Below the Poverty Level and Poverty Rate: 1959 to 2006*, www.census.gov/hhes/www/poverty/histpov/hstpov13.html. Poor and low income women represent only about 30 percent of the women in the United States, but they have over half of the abortions in the United States. See Rachel K. Jones et al., *Patterns in the Socioeconomic Characteristics of Women Obtaining Abortions in 2000–2001*, 34 PERSP. ON SEXUAL & REPROD. HEALTH 226, 228 (2002).

⁵⁹ The most recent data available regarding the abortion rates for women at different income levels is from 2000. Poor women who are at or below the federal poverty rate have an abortion rate of 44 abortions per 1,000 women. Low income women who are at 100 to 199 percent of the federal poverty rate have an abortion rate of 38 abortions per 1,000 women. Women who are at 200 to 299% of the federal poverty rate have an abortion rate of twenty-one abortions per one thousand women and women who are above 300 percent of the federal poverty rate have an abortion rate of 10 abortions per 1,000 women. See Jones et al., *supra* note 58, at 228.

⁶⁰ Other nations like the Netherlands and Germany, which provide broad social safety nets, including universal health care coverage, have much lower abortion rates than the United States. The abortion rate per one thousand women is nine in the Netherlands and eight in Germany. PHYSICIANS FOR REPROD. CHOICE AND HEALTH & GUTTMACHER INST., AN OVERVIEW OF ABORTION IN THE UNITED STATES

45 (2008), available at http://www.guttmacher.org/presentations/abort_slides.pdf. It should be noted that the Netherlands' and Germany's abortion laws are somewhat more restrictive than the United States, although both nations permit abortions during the first trimester, which is when over 90 percent of U.S. abortions occur. *Europe's Abortion Rules*, BBC NEWS, Feb. 12, 2007, <http://news.bbc.co.uk/2/hi/europe/6235557.stm>. As a result, it is unlikely that the difference in the abortion rates between the United States, the Netherlands, and Germany can be explained solely by differences in their laws.

In addition, between 1994 and 2000, the abortion rates for poor (below 100 percent poverty level) and low income (100–199 percent poverty level) women in the United States may have been adversely affected by changes in the welfare programs for them. Between 1994 and 2000, the abortion rates for poor and low income women rose by 25 percent and 23 percent, respectively, while the abortions rates for women in other income groups declined. See Jones et al., *supra* note 58, at 231. Prior to this period, abortion rates for women at all income levels in the United States had been declining. To compare these statistics with abortion statistics from 1987, see generally Stanley K. Henshaw & Jane Silverman, *The Characteristics and Prior Contraceptive Use of U.S. Abortion Patients*, 20 FAM. PLAN. PERSP. 158 (1988) (presenting “national data on the characteristics of woman having abortions . . . during 1987 at 103 clinics, hospitals and doctors' offices in all parts of the country”). See also Rachel K. Jones et al., *Abortion in the United States: Incidence and Access to Services, 2005*, 40 PERSP. ON SEXUAL & REPROD. HEALTH 6, 10 (2008) [hereinafter *Incidence and Access*] (listing abortion statistics from 1992 to 2005).

Since the abortion rate is based on the number of abortions per one thousand in the relevant group, the increase in the number of abortions by poor and low income women cannot be due to the shrinking number of such women. No study has been conducted to determine why the abortion rates of poor and low income women went up during this period. Certainly, they did not have greater access to abortion facilities or funding during this period. One possible explanation is that the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (“the Welfare Reform Act”) caused women to reassess their ability to care for a child given the lower welfare benefits available and caused more of them to have abortions. See generally NAT'L ASS'N OF SOCIAL WORKERS, PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996: SUMMARY OF PROVISIONS (1996), <http://www.socialworkers.org/advocacy/welfare/legislation/summary.pdf>. The Welfare Reform Act ended indefinite cash assistance to women with children and replaced it with a cash assistance program with strict time limits and work requirements. See *id.* The drafters recognized that such cuts might lead to an increase in abortions and included cash awards for the five states in each year from 1998 to 2002 that showed the greatest decrease in nonmarital birthrates in which abortion rates remained stable or showed a decline. See *id.* The total number of abortions dropped almost 5 percent between 1994 and 1995, and again between 1995 and 1996, but after 1996 the rate of decline in the total number of abortions in the United States per year averaged about 1.3 percent per year until 2005. See *Incidence and Access, supra*, at 10.

The plaintiffs in *Sojourner A. v. N.J. Dep't of Human Servs.*, 828 A.2d 306, 315–16 (N.J. Sup. Ct. 2003), challenged New Jersey's imposition of a “family cap” for receipt of welfare benefits following Congress' enactment of the Welfare Reform Act, in part on the grounds that it encouraged poor women to have abortions, and they presented evidence to support this claim. The New Jersey Supreme Court, however, upheld the law on the grounds that it did not infringe a woman's right to make procreative

2004 Republican Party platform and the 2004 Democratic Party platform addressed the issue of abortion in the United States, neither party acknowledged or sought to address this strong link between poverty and abortion in its platform.⁶¹ Nevertheless, in order to fully assess what impact a candidate will have on the number of abortions in the United States, one must examine how a candidate's policies will impact the poor.

The bishops acknowledge that a wide array of legal actions must be undertaken in order to reduce the number of abortions in the United States, including the passage of laws that "encourage childbirth and adoption over abortion and by addressing poverty, providing health care, and offering other assistance to pregnant women, children, and families."⁶² Unfortunately, they only highlight this fact in Part II, not Part I. As a result, many American Catholics may mistakenly conclude that they are obligated only to work for the criminalization of abortion and need not concern themselves with supporting policies that provide health care to the millions of uninsured Americans or that alleviate poverty.

So where does this leave the Catholic voter when trying to decide for whom to vote in 2008, given that the candidates for the two major parties both hold positions in support of some intrinsically evil acts? Basically, Catholics are once again in the position of having to choose the lesser of two evils or to not vote at all. In making this choice, the bishops suggest that Catholics "may decide to vote for the candidate deemed less likely to advance such a morally flawed position and more likely to pursue

decisions by penalizing her for choosing to bear a child. *See id.* In addition, according to Robert Rector of the Heritage Foundation, the rapid growth of out-of-wedlock births stopped after the enactment of the Welfare Reform Act of 1996. *See The Impact of Welfare Reform: Hearing on P.L. 104-193 Before the H. Comm. on Ways and Means*, 109th Cong. (2006) (statement of Robert Rector, Senior Research Fellow, Welfare and Family Issues, Domestic Policy Studies, The Heritage Foundation). If the abortion rates for poor and low income women had remained at their 1994 levels rather than rising, the total number of abortions in 2000 would have been even lower than the 1.31 million that occurred in 2000, which was down 7 percent from the estimated 1.42 million abortions that occurred in 1994. *See Incidence and Access*, *supra*, at 9.

⁶¹ *See* REPUBLICAN NAT'L COMM., 2004 REPUBLICAN PARTY PLATFORM: A SAFER WORLD AND A MORE HOPEFUL AMERICA (2004), available at <http://www.gop.com/images/2004platform.pdf>; DEMOCRATIC NAT'L CONVENTION, STRONG AT HOME, RESPECTED IN THE WORLD: THE 2004 DEMOCRATIC NATIONAL PLATFORM FOR AMERICA 38 (2004), available at <http://www.democrats.org/pdfs/2004platform.pdf>.

⁶² *Forming Consciences*, *supra* note 1, ¶ 65.

other authentic human goods.”⁶³ The bishops’ statement, however, does not provide clear guidelines for making that determination. In addition, they are called to work with both political parties and their members to drop or change over time their positions in support of intrinsically evil acts, such as abortion, embryonic stem cell research, and torture, so that in the future Catholics and other Americans will not continue to be forced to make a choice between the lesser of two evils.

B. *Doing Good*

Not only must Catholic voters seek to avoid evil but they must actively work to promote the common good. In recent presidential elections, American Catholics and even some Catholic bishops have spent far too little time and attention on what policies would be in harmony with Catholic social teaching on promoting the common good. As noted above, only 20 percent of Part I of the bishops’ statement is spent addressing these concerns. In the 2008 election, Americans seem primarily concerned with economic issues, although many are also concerned about the ongoing war in Iraq. The remainder of this Essay will focus on economic and environmental issues. The two groups of issues influence each other and therefore, must be examined together.

1. Economic Policies

A majority of Americans already consider economic issues at the top of the list of issues about which they are concerned. This is not surprising. Poverty has worsened over the past eight years. In 2000, the poverty rate for all people in the United States was 11.3 percent; now it is over 12 percent.⁶⁴ In 2000, the poverty rate for families was the lowest it had ever been at 8.7 percent, and now it is almost 10 percent.⁶⁵ In 2000, the poverty rate for families with a female householder also was the lowest it had ever been at 25.4 percent, and now it is over 28 percent.⁶⁶ Roughly 47 million people in the United States have no health insurance, a significant increase from the 38.4 million uninsured

⁶³ *Id.* ¶ 36.

⁶⁴ U.S. Census Bureau, Historical Poverty Tables, Poverty Status of Families: 1959 to 2006, www.census.gov/hhes/www/poverty/histpov/hstpov4.html.

⁶⁵ *See id.*

⁶⁶ *See id.*

in 2000.⁶⁷ Of the Americans forced to file for bankruptcy, roughly 30 percent of them said that they did so because of their inability to pay medical bills, even though many initially had health insurance when they first became ill or injured.⁶⁸ Home foreclosures hit an all time high at the end of 2007 and, with the decline in home values, almost 10 percent of homeowners will have zero or negative equity in their homes by the end of March 2008.⁶⁹

Each of the seven key themes of Catholic social teaching discussed in the bishops' statement touch on the economic policies of the candidates, although the right to life and the dignity of the human person and the preferential option for the poor are particularly relevant. These themes of Catholic social teaching require that Catholics seek to "overcome poverty."⁷⁰ In Catholic social teaching, giving priority to the needs of the poor is a matter of justice, not merely charity.⁷¹ In addition, the right to life requires that human beings have a right to those things necessary for the proper development of life, including food, clothing, shelter, rest, medical care, and necessary social services.⁷² Thus, Catholics have an obligation to support candidates and policies that not only will reduce poverty but will provide adequate health care for all Americans.

What policies will best achieve these objectives is a matter for prudential judgment. The bishops' statement does not provide much guidance in Part I regarding which policies may be in harmony with Catholic social teachings. In Part II, the bishops' statement suggests in very broad outlines which policies might be best by recommending that assistance with child care, health care, housing, and transportation is needed to reduce

⁶⁷ See U.S. Census Bureau, Historical Health Insurance Tables, Health Insurance Coverage Status and Type, <http://www.censusbureau.biz/hhes/www/hlthins/historic/hihist1.html>.

⁶⁸ See Reed Abelson, *Study Ties Bankruptcy to Medical Bills*, N.Y. TIMES, Feb. 2, 2005, at C1.

⁶⁹ Barbara E. Hernandez, *Mortgage Crisis Slices into Equity*, MERCURY NEWS (San Jose), Mar. 7, 2008.

⁷⁰ See *Forming Consciences*, *supra* note 1, ¶¶ 45, 90.

⁷¹ See PAUL VI, PASTORAL CONSTITUTION *GAUDIUM ET SPES* ¶ 69 (1965) ("[M]en are obliged to come to the relief of the poor and to do so not merely out of their superfluous goods. If a person is in extreme necessity, he has the right to procure for himself what he needs out of the riches of others." (footnote call number omitted)).

⁷² See *Forming Consciences*, *supra* note 1, ¶¶ 25, 49.

poverty and increase employment.⁷³ For the most part, the bishops do not provide detailed recommendations.

On some issues, it is shocking how little the bishops have to say. For example, other than reiterate the general need for affordable housing, the bishops have nothing to say regarding the current housing crisis. Given that the Catholic Church for centuries decried the evils of usury, it is ironic that the bishops have no opinion or comment on the sub-prime loan techniques that have left many people financially ruined. In addition, the bishops make no comment on the need for relief from foreclosures.

The one exception to this lack of specific recommendations is with regard to the Earned Income Tax Credit (“EITC”) and child tax credits, which the bishops recommend improving as means for alleviating poverty among families.⁷⁴ This recommendation is based on sound research. Among other things, research has shown that the EITC was extremely successful in expanding the employment among single parents and in lifting 2.4 million children out of poverty.⁷⁵ The Democrats favor expanding the EITC, while Senator McCain has not made any recent statements regarding the EITC. In the past, however, he has supported maintaining the EITC.⁷⁶

While the bishops and the American voters are concerned about poverty, the candidates have said remarkably little about how they would combat it. John Edwards made attempts to get poverty on the Democratic Party’s radar before he dropped out of the race. Senator Obama devoted an entire page on his campaign’s website to outline his plan to alleviate poverty.⁷⁷ Among other things, he proposed to increase transportation assistance, to increase housing assistance, to increase the minimum wage, to mandate that every employee be entitled to seven paid sick days, and to invest \$1 billion into creating

⁷³ See *id.* ¶ 77.

⁷⁴ See *id.*

⁷⁵ See ROBERT GREENSTEIN, CTR. ON BUDGET & POLICY PRIORITIES, THE EARNED INCOME TAX CREDIT: BOOSTING EMPLOYMENT, AIDING THE WORKING POOR 1, 3 (2005), <http://www.cbpp.org/7-19-05eic.pdf>.

⁷⁶ See, e.g., OnTheIssues, Candidates’ Views on Tax Reform, http://www.ontheissues.org/Tax_Reform.htm (listing John McCain’s past tax reform views, including “[k]eep lump-sum earned tax credit”).

⁷⁷ See Obama’08, Poverty: Plan to Combat Poverty, <http://www.barackobama.com/issues/poverty/>.

transitional jobs to help the poor join the workforce.⁷⁸ Some of Senator Obama's proposals, such as his plan to increase the minimum wage and require paid sick days for all employees, would increase the cost of hiring employees and may deter employers from hiring more employees. Thus, such policies might harm the poor more than help them by slowing job growth. Senator Clinton did not have a specific page on her website devoted to the issue of poverty but, in February 2008, she did announce a program to cut child poverty in half by 2020 and end child hunger in the United States by 2012.⁷⁹ As of the time of this writing, Senator McCain had not specifically addressed the issue of poverty on his campaign's website. In the past, however, he has supported a number of proposals that would have addressed aspects of poverty, such as "increased funding for child care programs" and "housing assistance for low-income families."⁸⁰

The bishops consider health care a "fundamental human right" and strongly support policies that will provide "[a]ffordable and accessible health care" for all Americans.⁸¹ They are against any proposals, however, that would require Catholic hospitals to compromise their religious convictions, such as by requiring them to provide contraceptives or abortion services.⁸² The Democratic proposals regarding health care would provide very concrete steps towards providing more Americans with healthcare coverage, although depending on which plan is actually adopted, some Americans might still be without coverage.⁸³ The reason for the different levels of coverage is that one plan would require people to opt-in while the other would mandate that everyone obtain insurance. As has been shown with 401(k) plans, many people will fail to opt-in for a variety of reasons even when it is in their interest to do so.⁸⁴

⁷⁸ See *id.*

⁷⁹ See Mike Glover, *Clinton Offers Child Poverty Plan: Hillary Clinton Offers Plan To Cut Child Poverty in Half in Next Dozen Years*, ABCNEWS.COM, Feb. 28, 2008, <http://abcnews.go.com/Politics/wireStory?id=4357976>.

⁸⁰ See OnTheIssues, John McCain on Welfare & Poverty, http://www.ontheissues.org/2008/john_mccain_welfare_+_poverty.htm.

⁸¹ *Forming Consciences*, *supra* note 1, ¶ 80.

⁸² See *id.*

⁸³ See Paul Krugman, Op-Ed., *Clinton, Obama, Insurance*, N.Y. TIMES, Feb. 4, 2008, at A24.

⁸⁴ Alicia H. Munnell, Annika Sunden & Catherine Taylor, *What Determines 401(k) Participation and Contributions?*, 64 SOC. SECURITY BULLETIN 64, 66

The Republican proposal for healthcare emphasizes providing “affordable” health care, but does less to address *accessible* health care than either of the Democratic proposals.⁸⁵ John McCain’s proposal aims at lowering health care costs through increased competition but would only offer tax credits as a means of expanding insurance coverage. His proposal would give individuals a \$2,500 tax credit and families a \$5,000 tax credit to be used for obtaining health insurance.⁸⁶ Like Senator Obama’s plan, Senator McCain’s plan would require people to opt-in, but would give them fewer financial resources to do so.

A candidate’s economic policies not only touch on poverty and health care, but also affect and are affected by his policies on environmental issues. Some environmental policies may harm the poor if, in an effort to control pollution, they substantially increase the costs of basic goods. For example, slapping a large tax on gasoline to encourage people to drive less or switch to more fuel efficient cars may make it difficult for poor people, particularly in rural areas, to afford the fuel that they need to drive to work. Other policies may harm the poor by failing to control pollution. For example, allowing an old electric plant to continue to burn coal without any equipment to prevent mercury emissions may create a “hotspot” around the plant, which could cause children to suffer illnesses—and even die—due to excessive levels of mercury in their systems. The Catholic Church has been concerned about the linkages between economics and environmental issues for decades. For example, in 1971, the World Synod of Catholic Bishops recognized that developing nations would not be able to follow the same path toward economic development that developed nations had followed because the environmental costs would overwhelm the earth.⁸⁷

(2001/2002), available at <http://ssa.gov/policy/docs/ssb/v64n3/v64n3p64.pdf>.

⁸⁵ See John McCain 2008, Straight Talk on Health System Reform, <http://www.johnmccain.com/Informing/Issues/19ba2f1c-c03f-4ac2-8cd5-5cf2edb527cf.htm>; see also *supra* note 84 and accompanying text.

⁸⁶ See John McCain 2008, Straight Talk on Health System Reform, *supra* note 86.

⁸⁷ The Synod wrote:

Furthermore, such is the demand for resources and energy by the richer nations, whether capitalist or socialist, and such are the effects of dumping by them in the atmosphere and the sea that irreparable damage would be done to the essential elements of life on earth, such as air and water, if their high rates of consumption and pollution, which are constantly on the increase, were extended to the whole of humanity.

As a result, Catholic voters need to consider the environmental impacts of a candidate's economic policies and the economic impacts of a candidate's environmental policies.

2. Environmental Policies

The United States Conference of Catholic Bishops' statement includes "caring for God's creation" as one of the seven key themes to which Catholic voters should pay heed.⁸⁸ The bishops, however, only spend two paragraphs in their entire statement discussing this theme. The brevity of this discussion belies the growing importance of environmental issues for the Catholic Church.

Forming Consciences would have been better and more effective if it had matched the more forceful tone of the statements and actions by the Vatican on environmental matters in recent years. Pope John Paul II brought environmental concerns to forefront for the Catholic Church with his 1990 Message for the World Day of Peace, *Peace with God the Creator, Peace with All Creation*.⁸⁹ Pope Benedict XVI has continued Pope John Paul II's strong interest in environmental issues.⁹⁰ In fact, the Vatican is the first nation to go completely carbon neutral, and the Pontifical Council for Justice and Peace convened its first international study session on Global Climate Change in 2007.⁹¹

The bishops' statement gives two reasons for protecting the environment. First, we need to protect the environment to show respect for God's creation.⁹² Second, we need to protect the environment in order "to ensure a safe and hospitable environment for human beings."⁹³ It is unfortunate that the American bishops did not make more explicit in Part I how

WORLD SYNOD OF CATHOLIC BISHOPS, SYNODAL DOCUMENT *JUSTITIA IN MUNDO* ¶ 11 (1971).

⁸⁸ See *Forming Consciences*, *supra* note 1, ¶ 54.

⁸⁹ See generally JOHN PAUL II, MESSAGE FOR THE CELEBRATION OF THE WORLD DAY OF PEACE *PEACE WITH GOD THE CREATOR, PEACE WITH ALL OF CREATION* (1990) (writing to people "[f]aced with the widespread destruction of the environment").

⁹⁰ See generally *HEART OF PEACE*, *supra* note 5.

⁹¹ See Carol Glatz, *Mirroring Wider Debate, Vatican Seminar on Global Warming Gets Heated*, CATH. NEWS SERVICE, April 27, 2007, at xxxi, available at <http://www.catholicnews.com/data/stories/ens/0702383.htm>; Francis X. Rocca, *Vatican Takes a Role in Keeping God's Earth Green*, USA TODAY, July 25, 2007, at 9D.

⁹² *Forming Consciences*, *supra* note 1, ¶ 54.

⁹³ See *id.*

caring for the environment is essential for preserving and supporting other values of Catholic teachings, particularly the preferential option for the poor.

Nowhere in Part I do the bishops address how Catholic social teachings would deal with specific environmental issues—such as global warming or the lack of safe drinking water for over one billion people on the planet—that already kill thousands of people each year.⁹⁴ About 1.6 million people each year die from diarrhoeal diseases due to the lack of safe-drinking water and sanitation facilities.⁹⁵ One study by the World Health Organization and the London School of Hygiene and Tropical Medicine estimated that almost 160,000 people die every year from the side effects of global warming and that that number could double by 2020.⁹⁶

In Part II, the bishops do mention the need to address global warming and comment on the impact that global climate change would have on the poor.⁹⁷ Unfortunately, as I already noted, most American Catholics will not see these comments by the bishops, because they will not read the entire document. Perhaps the bishops deliberately buried these comments in Part II in order to avoid incurring the wrath of some members of their dioceses. At least one bishop has received scores of negative letters for speaking out in support of enacting laws to curb greenhouse gases.⁹⁸ This reticence is hard to fathom, however, given that the U.S. Conference of Catholic Bishops is already on record in support of addressing environmental problems and global climate change with its statements, *Renewing the Earth: An Invitation to Reflection and Action on the Environment in Light of Catholic Social Teaching* and *Global Climate Change: A Plea for Dialogue, Prudence, and the Common Good*.⁹⁹

⁹⁴ World Health Organization, Health Through Safe Drinking Water and Basic Sanitation, http://www.who.int/water_sanitation_health/mdg1/en/index.html.

⁹⁵ *Id.*

⁹⁶ See *Global Warming Deaths on the Rise*, WIRED, Sept. 30, 2003, <http://www.wired.com/medtech/health/news/2003/09/60640>. Global warming causes a wide range of side effects, including increased incidences of malaria and malnutrition. See *id.*

⁹⁷ See *Forming Consciences*, *supra* note 1, ¶ 87.

⁹⁸ See Archbishop Harry Flynn, *Keynote Address: Peace with Creation Symposium*, 5 U. ST. THOMAS L.J. (forthcoming 2008).

⁹⁹ UNITED STATES CONFERENCE OF CATHOLIC BISHOPS, *Renewing the Earth: An Invitation to Reflection and Action on the Environment in Light of Catholic Social Teaching* (1992), available at www.usccb.org/sdwp/ejp/bishopsstatement.shtml;

Catholic social teachings offer a unique perspective on environmental matters and can make a valuable contribution to the debates on these issues. The Church, however, first needs to enhance the understanding of ordinary Catholics regarding why the Church values the environment. Catholics should not hold a purely utilitarian view of the environment that focuses on preserving the earth only to the extent that such action is necessary to sustain human life. Certainly the preservation of human life is important. Christian tradition, as evidenced by the writings of Augustine and others, speaks of the “Two Books of Revelation,” meaning that God is revealed both in Scripture and in the natural order of God’s creation.¹⁰⁰ Thus, creation has integrity and an intrinsic value because it is a reflection of God. In addition, the Catholic Church’s teaching on solidarity and preferential option for the poor can add unique insights to the ongoing discussions on how to deal with environmental issues.

Catholic social teachings support approaching problems holistically, not on an issue-by-issue or sector-by-sector basis. Ecological studies have concluded that a holistic approach is likely to produce better outcomes than a sector-by-sector approach.¹⁰¹ In addition, the holistic approach offered by Catholic social teachings calls us to be mindful of both short-term and long-term effects of economic and environmental policies.

With regard to global warming, for example, Catholic social teachings would require Catholic voters and policymakers to be more concerned with and address the impact that both the problem and the proposed solutions would have on the poor. Poor and low-income people around the world will be hit hardest by global climate change, even though on a per capita basis they contribute the least to it.¹⁰² The average America produces 20.4

UNITED STATES CONFERENCE OF CATHOLIC BISHOPS, *Global Climate Change: A Plea for Dialogue, Prudence, and the Common Good* (2001), available at www.usccb.org/sdwp/international/globalclimate.shtml.

¹⁰⁰ William French, *Natural Law and Ecological Responsibility: Drawing on the Thomistic Tradition*, 5 U. ST. THOMAS L.J. (forthcoming 2008).

¹⁰¹ For example, the Endangered Species Act is flawed because it attempts to protect individual species rather than the entire ecosystem on which they depend. See Keith Douglass Warner, *The Moral Significance of Creation in the Franciscan Theological Tradition: Implications for Contemporary Catholics and Public Policy*, 5 U. ST. THOMAS L.J. (forthcoming 2008). Because it does not do this, biodiversity collapse is an ongoing problem. *Id.*

¹⁰² See Rachel Oliver, *Rich, Poor and Climate Change*, CNN.COM, Feb. 18, 2008, <http://edition.cnn.com/2008/BUSINESS/02/17/ecco.class/>.

tons of carbon dioxide annually, which is 2000 times the amount produced by the average person in Chad.¹⁰³ The poorest one billion people on the planet are responsible for just 3 percent of the total carbon dioxide emitted annually.¹⁰⁴ As global warming intensifies, the poor, predominately in Africa, Latin America, and Southeast Asia, will face water shortages, increased exposure to malaria, loss of livelihoods due to desertification, and an increased number of natural disasters such as hurricanes, floods, and tornadoes.¹⁰⁵

Global warming is a classic example of the economic problem of externalities. Externalities are costs created by an economic transaction but not borne by the participants in that transaction. Americans are reaping the rewards of their high consumption lifestyle but they are bearing only a fraction of the costs of that lifestyle. Catholic social teachings would require Americans to acknowledge that they not only have rights but that they have corresponding responsibilities. If we, as Americans, have a right to pursue happiness, then we have a responsibility to bear all of the costs and harms created in that pursuit. The principle of solidarity requires us to recognize that we owe this duty to our neighbors, both domestically and internationally.

Economists view externalities as an example of a market failure. In other words, markets, when left to their own devices, will not solve the problems caused by externalities. As a result, economists believe that some form of government regulation usually is needed to force market participants to internalize their costs and stop shifting these costs to others. This means that some form of government regulation would be appropriate to get Americans to bear the costs of the pollution that they create.

Preventing global warming will be costly. The Intergovernmental Panel on Climate Change estimated that stabilizing carbon dioxide levels at or below 535 parts per million would reduce the Gross Domestic Product of the world by 5.5 percent.¹⁰⁶ The amount needed may be even higher as recent studies indicate that carbon dioxide emissions must near zero by

¹⁰³ *See id.*

¹⁰⁴ *Id.* The poorest one billion people live on an average of less than \$1 per day. *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *See* INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, CLIMATE CHANGE 2007: SYNTHESIS REPORT, SUMMARY FOR POLICYMAKERS 21 (2007), http://www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4_syr_spm.pdf.

the year 2050 in order to avoid severe climate disruptions.¹⁰⁷ None of the presidential candidates have plans for this level of reduction. The Democratic plan calls for an 80 percent reduction by 2050 while the Republican plan calls for a 60 percent reduction by 2050.¹⁰⁸

Not only must Catholics be concerned about the costs of global warming, but we must also be concerned about the costs that the efforts to mitigate or prevent global warming will have on the poor. In recent years, biofuels have been touted as an alternative to gasoline that would help reduce greenhouse gas emissions, and a number of policies both at the state and federal level have been adopted to encourage their use. One-sixth of the United States' grain harvest is now used to fuel cars.¹⁰⁹ The problem is that the rush to use biofuels is one of a number of factors that have increased the cost of food.¹¹⁰ As a result of the higher prices and food shortages, seventy-three million people in seventy-eight countries that rely on food from the United Nations World Food Programme are facing reduced handouts in 2008.¹¹¹ The United Nations Food and Agriculture Organization also stated that people in thirty-six countries are facing a food crisis and malnutrition because of higher food prices.¹¹²

State and federal legislators did not attempt to make provisions for these problems when they passed laws subsidizing ethanol production.¹¹³ No proposals have yet been offered to increase U.S. foreign assistance to help the poor in the developing world. In addition, no proposals have yet been offered to help poor and low-income families in the United States deal with the rising food prices. The plans of the presidential

¹⁰⁷ See Juliet Eilperin, *Carbon Output Must Near Zero To Avert Danger*, *New Studies Say*, WASH. POST, March 10, 2008, at A01.

¹⁰⁸ *Id.*

¹⁰⁹ See Kate Smith & Rob Edwards, *2008: The Year of Global Food Crisis*, SUNDAY HERALD (Scotland), Mar. 9, 2008 at 1.

¹¹⁰ See Corinne Alexander & Chris Hurt, *Biofuels and Their Impact on Food Prices*, PURDUE EXTENSION, Sept. 2007, at 1–2, available at www.ces.purdue.edu/extmedia/ID/ID-346-W.pdf; see also Smith & Edwards, *supra* note 109. Wheat prices are up 200 percent since 2000 and corn prices are at a twelve-year high. *Id.*

¹¹¹ Smith & Edwards, *supra* note 109.

¹¹² *Id.*

¹¹³ See Robert Bryce, *Corn Dog: The Ethanol Subsidy Is Worse than You Can Imagine*, SLATE, July 19, 2005, <http://www.slate.com/id/2122961>. “Between 1995 and 2003, federal corn subsidies totaled \$37.3 billion.” *Id.*

candidates do not address how they would mitigate the negative impact that their proposals may have on the poor.

This does not mean that global warming mitigation or prevention efforts should not be undertaken. What it does mean is that special assistance programs or subsidies for poor and low-income individuals and families in the United States may be needed to help them bear the additional costs imposed by the efforts to mitigate or prevent global warming. Moreover, additional foreign aid may be needed to help developing nations pay for their efforts to address global warming. Currently, none of the candidates' plans discuss what the candidates would do to encourage China and India to reduce their emissions, which have grown at a rapid pace in recent years.¹¹⁴

CONCLUSION

So how helpful will the average American Catholic find *Forming Consciences* when they are making their decision regarding for whom to vote? It will depend upon on what their expectations are. Some will find it frustrating because it does not provide clean instructions. As already noted, the bishops explicitly refuse to tell Catholics for whom to vote in part to preserve the Church's tax exempt status in the United States.¹¹⁵ Others may find the ambiguities problematic. Many may read the lack of clear instructions as a license to vote the way that they were already inclined to vote in the first place.

Nevertheless, *Forming Consciences* has three major virtues that will aid American Catholics as they try to vote in good conscience. First, it reaffirms the need for American Catholics to become more familiar with and to apply the broad range of Catholic social teachings when voting and exercising their other civic duties. Second, it explicitly rejects the notion that Catholics should be single-issue voters. Third, the statement encourages, but certainly does not require, American Catholics to adopt a holistic ethical approach when evaluating candidates and issues. Such a holistic approach tends to provide better solutions,

¹¹⁴ *China and India Resist Emission Cap Calls*, FT.COM, Dec. 4, 2007, <http://search.ft.com/ftArticle?queryText=China+and+India+Resist+Emission+Cap+Calls%2C+&y=0&aje=true&x=0&id=071204000600&ct=0>.

¹¹⁵ *Forming Consciences*, *supra* note 1, ¶ 7.

certainly on economic and environmental issues, than the narrow definition of issues and problems currently used in politics. Adopting such an approach, therefore, would do more to advance the common good than a narrow issue-by-issue approach used in current political debates.