

of a woman with an unwanted pregnancy are abortion and not carrying the child to term. Despite the many abuses regarding abortion in the Netherlands, it is surprising to see what safeguards do exist, such as a five-day waiting period before the procedure. There is even an obligation in Dutch abortion counseling to discuss the alternatives, although studies show that this rarely happens in practice (75).

The author shows that national abortion statistics over time absolutely contradict the ridiculous assertion of some pro-abortion activists that legalization will somehow actually lead to a reduction in the number of abortions. Greater availability and access simply generate more abortions. It is remarkable that so obvious a conclusion even has to be proved, but deception and prevarication surround the abortion debate. Biemans also points to convincing studies that such measures as parental-involvement laws and simple increases in the cost of abortions lead to a significant decline in abortion numbers.

Biemans mentions a Jesuit international meeting as a motivation for writing this book. His discussion of Catholic teaching over the centuries is quite well done. It is especially interesting to see how scientific discoveries in the field of embryology have influenced the development of Catholic doctrine (256). At numerous places in the book, the author makes helpful references to the issue of conscience in the abortion debate, and he

provides a summary of the Christian interpretation of conscience over the centuries. Unexpectedly, he looks fairly extensively at Catholic teachings on birth control, particularly those found in *Humanae vitae*, showing the progressive deepening of the theological objections to contraception culminating in Pope St. John Paul II's *Theology of the Body*. It is a bit curious, however, that Biemans chose to cite Charles Curran's views of John Paul II's teaching twice in that brief section (290–291). Generally speaking, Biemans is quite evenhanded in presenting the thought of both supporters and critics of abortion.

*The Heart and the Abyss* lives up to its title. We find ourselves in an era when objectivity and compassion are rare commodities, especially when discussing abortion. Ward Biemans has provided a solid contribution to our understanding of the current state of the wider philosophical, scientific, and political debate surrounding abortion as well as the concrete situations in the Netherlands and the United Kingdom.

JOSEPH MEANEY

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### ***Keeping Faith with Human Rights***

by **Linda Hogan**

Georgetown University Press, 2015, paperback, \$29.95  
240 pages, bibliography and index, ISBN 978-1-162616-233-4

Linda Hogan is the chief academic officer and a professor of ecumenics at Trinity College Dublin. Her book is an ambitious attempt to promote respect for a whole panoply of human rights: first and foremost, the “common standard of achievement for all peoples and all nations” established by the UN Declaration of Human Rights in 1948 as well as other rights that

have emerged since that time (1). The UN Declaration of Human Rights emphasizes civil and political rights but also includes social and economic rights. The new rights emphasized by Hogan are “civil and political rights for gay, lesbian, transsexual, and bisexual persons” (76).

Right at the beginning of her book, Hogan directs her readers' attention to the fact that

“human rights discourse has supplanted most other ethical languages” throughout the world (12). She is especially appreciative that human rights discourse is able to challenge “the politics of exclusion and of violence” (53). More specifically, human rights are invoked to uphold human dignity by protecting people “from enslavement, torture, and destitution, and they articulate an account of the social and economic conditions that are necessary for human beings to flourish” (12). Hogan recognizes the history of human rights as “a story of the expansion of moral concern, and the gradual recognition” that the rights enjoyed by white property-owning men should also be extended to other men and to women, indigenous populations, and those who challenge the normativity of heterosexuality (179). Surprisingly, Hogan says nothing about the often-heard argument that people should have a right to physician-assisted suicide and euthanasia. Neither does she say anything explicit about abortion.

Hogan believes that more people are likely to respect human rights if they have a good reason to do so. Otherwise stated, the foundations of human rights must be solid and accepted by great numbers of people throughout the world. Hogan is convinced that the original foundation of rights, as she conceives it, is no longer widely accepted and cannot be restored: “Classical human rights philosophy is premised on the belief that all human beings share a fixed and essential nature from which one can determine the existence of certain universal human rights” (30). Hogan gives a concrete example of what she means by quoting from Jacques Maritain’s *The Rights of Man and Natural Law*: “There is a human nature and this human nature is the same for all men. . . . Man obviously possesses ends which correspond to his natural constitution and which are the same for all” (31).

It is of course highly questionable whether modern human rights, originally called natural rights in the works of Thomas Hobbes and John Locke, ever had such a foundation. These philosophers never provided a foundation for human rights with Maritain’s type of reasoning. Hobbes famously said that

there is no *summum bonum*, that is to say, no common perfection for all human beings corresponding to their essential nature. It is of course true that many Christians, including most Catholics, use Maritain’s Thomistic perspective as a way to justify their own acceptance of human rights today. They also rely on the biblical teaching that human beings are entitled to rights because they are made in the image and likeness of God. Be that as it may, Hogan never attempts to explain the foundation of rights in Hobbes. She does argue against Leo Strauss that Locke is not a liberal individualist, but she does not clarify the exact nature of Locke’s perspective on rights. Hogan does mention Immanuel Kant’s attempt to use autonomy as the grounds for human dignity “and the basis on which individuals can claim human rights” (92). She doubts whether the Kantian approach has “the universal resonance” that people assume. Hogan is more optimistic that “the shared experience of human vulnerability” can provide a solid reason to respect all human beings. She does not mention that this view can be traced to Jean-Jacques Rousseau (92).

Hogan’s formal proposal is for people to abandon “anthropological essentialism” and to rely on multiple secular and religious foundations for human rights. By this she means that we should no longer appeal to “a universal, transhistorical human nature,” because this operative model of human rights discourse “is premised on an inadequate conceptualization of what is natural for human beings.” Hogan comes to this conclusion in part because she believes that feminist thought has effectively called into question the claims that “gender is binary” and “that heterosexuality is normative” (173). This is really an argument against the modern Christian way of defending human rights, leaving unexamined the specifically modern foundation of human rights.

Hogan argues that the multiple foundations for human rights will emerge from the experiences of situated individuals. She has come to see that “all ethical frameworks are ultimately tradition-dependent” (7). In other words, “all conceptualizations of normative humanity are inevitably reflections of the

cultural, political, and historical contexts from which they emerge” (6). People cannot transcend the context in which they live; they are the product of their culture. Hogan never uses the word, but she embraces historicism, the philosophical view that truth changes from age to age and from culture to culture.<sup>1</sup> Surprisingly, she maintains that “this stress on the tradition-dependent character of reason does not inevitably result in an epistemological relativism” (39). The variety of situations in which people live give rise to multiple theological and philosophical foundations for human rights. Hogan’s implied conclusion is that people will always be able to find some reason to support human rights.

Toward the end of her book, Hogan takes up torture and the use of force to defend human rights. She first notes that torture was “ubiquitous” throughout Europe and European colonies from the thirteenth to the eighteenth century. She mentions the well-known thinkers in the modern period who made ethical cases against torture, such as Montesquieu, Voltaire, and Cesare Beccaria, and then lists countries that outlawed torture before the end of the eighteenth century—for example, Prussia, Sweden, Austria, Bohemia, Britain, and France. Hogan notes with dismay that after 9/11, the United States reconsidered its prohibitions on torture to force captured terrorists to reveal the whereabouts of the “ticking bomb.” She quotes Harvard Law professor Alan Dershowitz on why the ticking-bomb scenario justifies the use of nonlethal torture in “exceptional circumstances” and when subject to judicial regulation: “It is surely better to inflict nonlethal pain on one guilty terrorist who is illegally withholding information needed to prevent an act of terrorism than to permit a large number of innocent victims to die” (186–187). A simple cost–benefit analysis necessarily leads to this conclusion, argues Dershowitz. Hogan replies that torture is an assault on human dignity that “dehumanizes the torturer as well as the victim” (188). She then makes a persuasive case that the visual arts can help us recognize the great evil of torture, but she only implies that we should be willing to face the consequences of a terrorist attack rather than make use of nonlethal torture.

While Hogan is a strong supporter of many human rights, she does not believe that force should be used to protect the innocent from being harmed or killed: “Even when it is directed toward just ends, the use of violence radically compromises the durability of a culture of rights.” Consequently, Hogan argues that people must “challenge the dominance of the just war paradigm in the ethical response” to the killing of the innocent (193). While sensitive to the evils of war, Hogan seems insufficiently aware of the great suffering that the innocent will experience if the good guys renounce the use of force as a last resort.

Hogan is pleased to note that the new foundations for human rights that she proposes will also require the Catholic Church to admit that her traditions are not “unchanging and timeless. Traditions—secular and religious—are dynamic and evolving.” John Noonan, she claims, “has demonstrated that this idea of a fixed and unchanging [Catholic] moral tradition is a fiction” (147–148). Hogan, unfortunately, neither presents Noonan’s argument in sufficient detail nor makes her own compelling argument that Catholic moral teaching necessarily should change in response to new cultural trends. She does imply that this is her position by commenting on a statement made by Joseph Cardinal Ratzinger shortly before he became pope: “Very soon it will not be possible to state that homosexuality, as the Catholic Church teaches, is an objective disorder in the structuring of human existence.” Hogan believes “this represents a positive development” (165). She does not want the Catholic Church to teach or argue that heterosexuality is normative and gender “binary.” Besides welcoming the “challenge to the hierarchical magisterium’s teaching on sexuality,” Hogan also favors “a worldwide movement for reform” in the Catholic Church carried out by dissenting Catholics who remain in the Church (158). In my mind, Hogan exceeds her reach in arguing that a proper understanding of tradition requires the Catholic Church to change its teaching on a regular basis.

I have to say that Hogan neither provides sufficient criteria to discern what is or is not a genuine right nor presents a persuasive argument for her historicist model of human

rights. Hogan's assertions call to mind Mary Ann Glendon's compelling statement: "If there are no common truths to which all men and women can appeal, then there are no human rights, and there is little hope that reason and choice can prevail over force and accident in the realm of human affairs."<sup>2</sup>

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1. See John Paul II, *Fides et ratio* (September 14, 1998), n. 87.

2. Mary Ann Glendon, *Traditions in Turmoil* (Ann Arbor, MI: Sapientia Press, 2006), 361.

### ***Complicity and Moral Accountability***

by Gregory Mellema

University of Notre Dame Press, 2016, hardcover, \$40.00  
163 pages, bibliography and index, ISBN 978-026803-539-6

The English Jesuit Henry Davis first published his *Moral and Pastoral Theology* in 1935. It remains a standard point of reference for his judgments on moral matters. Today, historians of theology recall Davis for his apt remark on what most vexes moral theologians. Davis acknowledged the depth of the challenge moralists face when determining the conditions necessary to justify moral cooperation with evil, famously opining, "There is no more difficult question than this in the whole range of Moral Theology."<sup>1</sup>

Moral cooperation with evil occupies a unique space in moral inquiry. Few topics engage the popular mind as quickly and still puzzle so much even the most accomplished authors in the field. While many moralists have tackled specific topics of cooperation with evil—the ethics of contraceptive mandates, hospital mergers, and the like—few have addressed cooperation in a comprehensive manner. Gregory Mellema, a professor of ethics at Calvin College and a widely published author on fundamental questions of ethics, seeks to fill this lacuna.

With a background in analytic philosophy, Mellema prefers the language of complicity to that of moral cooperation. In *Complicity and Moral Accountability*, he deploys the tools of his field to tackle a topic largely avoided by other ethicists. Scholars will welcome this relatively short book, and with only 163 pages and limited scholarly apparatus, it is inviting also to a wide readership.

Mellema begins his inquiry with an examination of the thought of St. Thomas Aquinas. While Aquinas does not offer an *ex professo* treatment of cooperation with evil, several passages from his work provide the contours of his thought on the matter. In the treatise on justice, Aquinas addresses the question of restitution and asks when an accomplice or secondary agent to a bad act should be required to make restitution.<sup>2</sup> In so doing, he outlines what has become the classic schema of nine categories of cooperative acts, which Mellema examines in detail: command, counsel, consent, flattery, receiving, participation, silence, not preventing, and not denouncing.

In several chapters throughout the book, Mellema profitably employs these categories of actions. For example, he utilizes these nine categories of acts when examining what he calls an indirect accomplice, or one who serves as an accomplice to an accomplice. Given the complex forms of human action in the contemporary world, this section illuminates this category of distantly removed or indirect accomplices with a finesse that opens a world of considerations.

While Mellema avoids the classical distinctions of formal and material cooperation, he employs other categories to make necessary divisions. Enabling harm refers to actions which make possible the bad action of another. Facilitating harm, on the other hand, refers only to actions which make another's bad action more likely to occur. Condoning