

Copyright © 2009 Ave Maria Law Review

LEARNING FROM MARY: THE FEMININE VOCATION AND AMERICAN LAW

Elizabeth R. Schiltz[†]

One of the most significant features of Catholic feminism, setting it apart from more conventional secular feminism, is its conviction that there are fundamental differences between men and women that are not simply biological and are not simply socially constructed. This conviction finds expression in a theory of gender identity known as “complementarity,” which rejects both the position that there is no significant difference between men and women, and the position that there is a significant difference between men and women that renders men or women naturally and fundamentally unequal. Gender complementarity embraces both significant differentiation and fundamental equality among men and women.¹

The rich anthropological and philosophical basis of the concept of complementarity has been developed in recent years by Pope John Paul II,² as well as Catholic philosophers such as Mary F. Rousseau and Sr. Prudence Allen, R.S.M.³ These thinkers see complementarity as revelatory of the Trinitarian nature of God and the fundamentally relational nature of man.⁴ The belief that we are all created in the image and likeness of God is the ultimate basis for each human’s

[†] Associate Professor of Law, University of St. Thomas School of Law. B.A. 1982, Yale University; J.D. 1985, Columbia University School of Law. To my friend and teacher, the philosopher Anne Maloney, I owe my admiration and my gratitude for her insights into gender relations and her humor. Her class, *Woman and Man: Philosophical Issues*, one of the offerings in the Master of Arts in Catholic Studies program at the University of St. Thomas, inspired this article. I also thank Professors Jane Adolphe and Helen Alvaré for including me in the extraordinary conference at which I had the opportunity to give this talk.

1. 2:1 SR. PRUDENCE ALLEN, R.S.M., *THE CONCEPT OF WOMAN: THE EARLY HUMANIST REFORMATION* 8 (2002).

2. *See generally* POPE JOHN PAUL II, *THE THEOLOGY OF THE BODY* (1997).

3. *See, e.g.*, Mary F. Rousseau, *Pope John Paul II’s Letter on the Dignity and Vocation of Women: The Call to Communio*, 16 *COMMUNIO* 212 (1989); Sr. Prudence Allen, *Integral Sex Complementarity and the Theology of Communio*, 17 *COMMUNIO* 523, 534–35 (1990).

4. *Cf. Genesis* 1:26–27 (Revised Standard, Catholic Edition) (“Then God said, ‘Let *us* make man in *our* image, after *our* likeness’ So God created man in his own image, in the image of God he created him; *male and female he created them.*” (emphasis added)).

fundamental equality.⁵ That same belief also underlies the conviction that biological gender distinctions have some ontological significance; the differences between the genders reflect different aspects of God revealed to us in our bodily form. But what is revealed to us by these differences is something more than simply the intrinsic value in having multiple representations of personhood to demonstrate the complexity of God. One of the aspects of God that is illuminated by these differences is the aspect of God as a Trinity—as three different persons in relation with one another.⁶ We reach our highest potential as human beings when we strive for that aspect of divinity—relationship with others, specifically the relationship that involves giving of oneself to the other: the relationship of love.

Despite its sound theological and philosophical pedigree, the concept of complementarity can trouble a Catholic feminist. The concept can be tricky to apply in different contexts. It underlies many of the Catholic Church's most contentious positions in the "culture wars," including the doctrines that marriage should be limited to monogamous relationships between men and women and that only men can be ordained priests. It is easy to see how the concept could be used to perpetuate historic and outmoded gender stereotypes. Women could be seen as biologically and temperamentally best suited for motherhood to the exclusion of all other vocations. Men could be seen as biologically and temperamentally best suited to father children and then leave them behind in the care of their mothers to forge ahead in leadership roles in industry, politics, and business. To defend complementarity, it is thus necessary to have a robust view of the exact nature of the particular gifts (or genius) of women.

The challenge of giving enough substantive meaning to the term "genius of women" to prevent complementarity from being used either as an instrument of inequality between the genders or as a stumbling block to the acceptance of Church doctrine on issues such as male priesthood is one of the most important and challenging aspects of the charge Pope John Paul II gave to women in *Evangelium Vitae*: the challenge of articulating a "new feminism."⁷ John Paul II

5. CATECHISM OF THE CATHOLIC CHURCH ¶¶ 1700–1701 (2d ed. 1997).

6. Allen, *supra* note 3, at 543.

7. Pope John Paul II, *Evangelium Vitae* [Encyclical Letter on the Value and Inviolability of Human Life] ¶ 99 (1995) [hereinafter *Evangelium Vitae*].

In transforming culture so that it supports life, *women* occupy a place, in thought and action, which is unique and decisive. It depends on them to promote a "new feminism" which rejects the temptation of imitating models of "male domination," in

began this task in his 1988 apostolic letter *Mulieris Dignitatem*, devoting its central third to a detailed analysis of Jesus Christ's relationships and conversations with the women in his life.⁸ Exploring Jesus' encounters with Martha and Mary, with the Samaritan woman at the well, and with the woman caught in adultery, John Paul II demonstrates that Jesus clearly appreciated the genius of women as not merely a capacity for nurturing—as important as that is—but also as an intellectual or emotional talent facilitating their grasp of profound truths of faith.⁹ John Paul II argued emphatically and consistently that society requires that the genius of women be heard and applied to the public sphere, not just the private.¹⁰

The most important woman in Jesus' life and in the life of the Church is clearly his mother, Mary. Although John Paul II deals with Jesus' relationship with Mary in *Mulieris Dignitatem*, his discussion of Mary has always struck me as less accessible and less translatable into concrete lessons for contemporary women than the discussions of Jesus' relationships with his other female friends. In this article, I will explore the lessons that Mary's life might provide for women looking for guidance on the "feminine genius." I do not argue that any aspect of the feminine genius may not be shared also by many men. Nor do I argue that any aspect of the feminine genius is something that all women share. Rather, this Article is an attempt to identify particular aptitudes that may be displayed by more women than men, that have been historically undervalued by society due to the prevailing social roles of women and men, and that Pope John Paul II has suggested must be reevaluated and promoted in order to transform our culture. The development of these attributes is not something that should be limited to women, but it may be part of a particularly feminine vocation to foster and promote the display of these attributes by all.

order to acknowledge and affirm the true genius of women in every aspect of the life of society, and overcome all discrimination, violence and exploitation.

Id.

8. See Pope John Paul II, *Mulieris Dignitatem* [*Apostolic Letter on the Dignity and Vocation of Women*] ¶¶ 9–22 (1988) [hereinafter *Mulieris Dignitatem*].

9. See *id.* ¶¶ 13–15.

10. For a further discussion of this point, see Elizabeth R. Schiltz, *Should Bearing the Child Mean Bearing All the Cost? A Catholic Perspective on the Sacrifice of Motherhood and the Common Good*, LOGOS, Summer 2007, at 15, 23–26, and Elizabeth R. Schiltz, *Motherhood and the Mission: What Catholic Law Schools Could Learn from Harvard About Women*, 56 CATH. U. L. REV. 405, 428–29 (2007) [hereinafter Schiltz, *Motherhood and the Mission*].

Four particular features of the uniquely feminine vocation may be illustrated by Mary's life. Two are illuminated by focusing on the significance of Mary's role in the Incarnation and two are illuminated by focusing on the significance of Mary in the establishment and ongoing life of the Church. These four are particularly feminine capacities for: (1) teaching and guiding, (2) serving and speaking for the vulnerable, (3) mothering—as opposed to fathering—which entails a unique capacity to foster trust, and (4) prophesying. I will end with some preliminary thoughts about how these particularly feminine vocations could, if consciously recognized, promoted, and protected, effect changes in our laws that would bring us closer to realizing the “civilization of love” toward which our Church asks us to strive.¹¹

I. MARY'S CHRISTOLOGICAL LESSONS FOR THE FEMININE VOCATION

The first two lessons from Mary about the feminine vocation are best illustrated by considering Mary's Christological significance: her role in the Incarnation. Mary was the first human to encounter Jesus.¹² In *Redemptoris Mater*, John Paul II compares her “*fiat*,” her acceptance of the truth about her Son at the Annunciation, to the faith of Abraham.¹³ He writes, “In the salvific economy of God's revelation, Abraham's faith constitutes the beginning of the Old Covenant; Mary's faith at the Annunciation inaugurates the New Covenant.”¹⁴ He then traces the active role that Mary continued to play in Jesus' ministry. As Jesus grew, and

as the messianic mission of her Son grew clearer to her eyes and spirit, . . . *in a sense* Mary as Mother became *the first 'disciple' of her Son*, the first to whom he seemed to say: ‘Follow me’, even before he addressed this call to the Apostles or to anyone else (cf. Jn 1:43).¹⁵

11. PONTIFICAL COUNCIL FOR JUSTICE & PEACE, COMPENDIUM OF THE SOCIAL DOCTRINE OF THE CHURCH ¶¶ 103, 575–83 (2004).

12. See Schiltz, *Motherhood and the Mission*, *supra* note 10, at 432.

13. Pope John Paul II, *Redemptoris Mater* [Encyclical Letter on the Blessed Virgin Mary in the Life of the Pilgrim Church] ¶¶ 13–14 (1988) [hereinafter *Redemptoris Mater*].

14. *Id.* ¶ 14.

15. *Id.* ¶ 20.

Mary even played an instrumental role in launching Jesus' public ministry through her intercession with Jesus on behalf of the hosts of the wedding at Cana, who had run out of wine.¹⁶

God's incarnation as a human, in the person of Jesus Christ, is the central mystery of the Christian faith.¹⁷ That this incarnation, this enfleshment, took the form of a male human is accorded much theological significance in Church doctrine. However, it is also significant that this incarnation, this enfleshment, would not have occurred without the consent of a woman, Mary. Pope Benedict XVI (then still Joseph Cardinal Ratzinger) meditates on the significance of this point, arguing that we cannot adequately glorify God if we neglect Marian devotion:

[T]hough we do know God by means of his creation[,] . . . we also know him, and know him more intimately, through the history he has shared with man. . . . Through his relation with men, through the faces of men, God has made himself accessible and has shown *his* face. We cannot try to bypass these human faces in order to get to God alone, in his "pure form", as it were. This would lead us to a God of our own invention in place of the real God; it would be an arrogant purism that regards its own ideas as more important than God's deeds. . . . Mary is one of the human beings who in an altogether special way belong to the name of God, so much so, in fact, that we cannot praise him rightly if we leave her out of account.¹⁸

The theologian Joyce Little makes a similar point:

16. See *John* 2:1–11.

17. See Adam G. Cooper, *Redeeming Flesh*, *FIRST THINGS*, May 2007, at 27, 31.

[W]hile the Christian tradition shares with a number of other religious perspectives a belief in the goodness and unity of the created, physical universe, it distinguishes itself by confessing that the God of the universe has actually become a real flesh-and-blood human being. Indeed, as James F. Keenan has written, for the Christian "a turn to human flesh is always an encounter with the Incarnation." The Christian God is a God for whom immaterial or artificial representation will not do. Not that there is any necessary, genetic affinity between God and human flesh. Yet it is the narrative story of Christianity that God has become a living human being in such a way that it is true not only to say with Michel Henry that "*the negation of God is identically the negation of man*" but also that the negation of man cannot but lead to the negation of God.

Id.

18. Joseph Cardinal Ratzinger, "*Hail, Full of Grace*," in HANS URS VON BALTHASAR & JOSEPH CARDINAL RATZINGER, *MARY: THE CHURCH AT THE SOURCE* 61, 62–63 (Adrian Walker trans., Ignatius Press 2005) (1980).

There is no single teaching about Mary for which a corresponding teaching on Christ cannot be found, and in every instance those teachings have the effect of affirming in one way or another what the Church believes about Christ. Thus, for example, the teaching that Mary is the Mother of God corresponds to the Church's faith that Christ is the Son of God incarnate. It safeguards that teaching, because to say that Mary is the *Mother* of God affirms that he is genuinely human, whereas to say that she is the Mother of *God* affirms that he is genuinely divine in the unity of the one divine Person, the Logos or Son of God.¹⁹

Just as our creation as male and female is not accidental, but instead revelatory of fundamental mysteries of the God in whose image we are created,²⁰ Jesus' gestation and birth as the son of a human woman is not accidental. It, too, must be revelatory of some fundamental mysteries of the God in whose image we are created. One of the greatest mysteries of the Incarnation is why God bothered with it: why was he willing to pay so great a price for our redemption? Little suggests that, while theologians contemplating this mystery tend to focus on the quality of God's love, part of the answer might also lie in the object of that love—in *us*.²¹ What was it about creation that God saw as so "good" that it was worth saving? Little suggests Mary is the only place to look for answers to that puzzle. If we try to find the answer by looking to ourselves, "we are confronted by all of the ambiguities and distortions of our own fallen existence."²² If we look to Jesus, we find it hard to sort out the divine from the human. Mary, however,

is the one human being in all of history who embodies both in her nature and in her personhood the concrete realization of a sinless human existence. If we ask what goodness, what value, it is that Christ sees when he looks at us, the answer surely must be the goodness, the value he sees when he looks at his own mother. As the first recipient of the full fruits of Christ's redemptive grace,²³ she

19. JOYCE LITTLE, *THE CHURCH AND THE CULTURE WAR: SECULAR ANARCHY OR SACRED ORDER* 125 (1995).

20. See *supra* note 4 and accompanying text.

21. LITTLE, *supra* note 19, at 132.

22. *Id.*

23. This is the meaning of the Immaculate Conception. As Balthasar explains:

As Christ's Mother, Mary seems to enjoy a *prius* that no one else can equal. But let us not forget that she got this *prius*, not from her physiological motherhood taken in

realizes within her own life the good creation which God intended from the beginning and which can be found to one degree or another in every one of us. When we see Mary as Christ sees her, then we begin to see ourselves as Christ sees us. And when we begin to see ourselves that way, we begin to see why it is that God not only arranged for our redemption but came to attend to it in person.²⁴

What, then, do we see when we attempt to look at Mary in that way? One of the most striking things confronting us when we try to study Mary is how little scriptural or historical material there is to study. Little characterizes this as “the unobtrusiveness of Mary.”²⁵ She points to the

seeming inconsistency between the striking character of our dogmatic formulations about Mary, on the one hand, and the relative inconspicuousness of Mary in Scripture, on the other. If Mary is all we say she is—Mother of God, immaculately conceived, perpetually virginal, entirely sinless, mediatrix, co-redemptrix, Queen of Heaven—why do we see so little of her in the New Testament?²⁶

Little suggests we must “consider the possibility that the juxtaposition of value and inconspicuousness is itself part and parcel of what is revealed to us through Mary. Perhaps discipleship requires us to embrace the silent, the hidden, the inconspicuousness, precisely because only there will we discover what is really important to us.”²⁷

Two particular aspects of the “inconspicuousness” of Mary’s witness in her utterly unique role as the human mother of Christ are directly related to Mary’s mothering of Jesus. They directly mirror most of the mothering women do of their children, and therefore perhaps suggest some aspects of vocation to which women might be particularly suited and called. The first is the work of teaching and

isolation, but from her total personal attitude of faith as perfect readiness to serve. And where does she get this faith if not from the grace that God communicates to the world through the work of Jesus Christ? Mary is, then, as much redeemed as everyone else is, only in a special way grounded in her mission to become the Mother of Jesus. She is “pre-redeemed” so that she can give birth to the Redeemer.

Hans Urs von Balthasar, *The Marian Mold of the Church*, in BALTHASAR & RATZINGER, *supra* note 18, at 125, 138–39.

24. LITTLE, *supra* note 19, at 133 (footnote added).

25. *Id.*

26. *Id.* at 133–34.

27. *Id.* at 134.

nurturing the growth of others; the second is the quiet ministry of service to the vulnerable. Let us look at these in turn.

A. *Teaching and Guiding*

As every mother knows, motherhood does not end with the conception and birth of the child, but includes the job of raising the child into adulthood. This aspect of mothering is, in many ways, more hidden and anonymous than the act of carrying and bearing a child. However, it is crucial.

As Little points out, theologians have spent much energy puzzling about the passage from *Luke 2:52*, that Jesus “grew in wisdom and knowledge.”²⁸ Most of their energy, however, is spent puzzling about how *Jesus* did this. Can the divine Jesus grow in wisdom and knowledge? What does this tell us about Jesus’ humanity? Little energy is spent, however, thinking about Mary’s role in that growth—surely essential, but also hidden and anonymous. The theologian Hans Urs von Balthasar asks his readers to

consider that Mary introduced her Son into the meaning and depths of Israel’s religion, however simple her words may have been. . . . She must have introduced Jesus into the tradition and so enabled him to recognize his own mission in the mirror of the promise. . . . [T]he human contribution—principally Mary’s contribution—to this process must by no means be underestimated; this . . . would offend against the learning process of a normal human child.²⁹

Deliberation on this aspect of Mary’s role thus highlights one aspect of what is arguably a particularly “feminine genius”: the capacity to teach, to guide, and to facilitate humanity’s growth in wisdom and knowledge. Though unobtrusive—often in the background of society’s focus on the subject of this guidance, the person *being* taught and guided—this role is clearly crucial to healthy individual growth. Moreover, as citizens voting on and shaping our laws, and as lawyers influencing the development of laws, women should not underestimate the importance of the teaching and guiding that needs to be done in the public sphere to promote the development of healthy social structures.

28. *Id.* at 137–38.

29. Hans Urs von Balthasar, *Mary in the Church’s Doctrine and Devotion*, in BALTHASAR & RATZINGER, *supra* note 18, at 99, 103.

B. *Serving the Vulnerable*

Little also considers the significance of Mary's response at the wedding at Cana, when, after she points out to Jesus that the host has run out of wine, he tells her, "O woman, what have you to do with me? My hour has not yet come."³⁰ Mary, of course, does not reply to Jesus at all, but rather turns to the stewards of the host and tells them, "Do whatever he tells you."³¹ Now, this is clearly significant as a supreme act of faith exhibited by Mary as a disciple, for not only does it foretell the coming miracle, but it also launches Jesus' public ministry.³²

However, Little also considers the significance of this response for Mary *as a mother*. She notes that Mary does not in fact respond to Jesus at all.³³ Mary never directly answers his question: "O woman, what have you to do with me?" Instead, Mary addresses the stewards. In doing that, Little suggests, Mary is answering Jesus' question by her actions—by siding with the host, who in this circumstance is the weaker party, the supplicant.³⁴ And in making this move, Little suggests, Mary is making the shift from being the mother of Jesus—who is a grown man now launched into his public ministry—to being the mother of us all. Little writes:

If [Mary] is releasing [Jesus] to his hour, she is also simultaneously taking up her own place in his hour, the place of intercessor on behalf of the weak, the vulnerable, the helpless. In so doing, she ceases to be mother to him in order to become mother to others, a shift which he acknowledges by addressing her as "woman", not as mother.³⁵

This shift, of course, is "reaffirmed and sealed" at the foot of the Cross, when Christ, "looking at his mother and at the beloved disciple who stands for all disciples, says to Mary, 'Woman, behold, your son!' and to the beloved disciple, 'Behold, your mother!'"³⁶

30. *John* 2:4 (Revised Standard, Catholic Edition) (internal quotation marks omitted).

31. *Id.* 2:5 (internal quotation marks omitted).

32. LITTLE, *supra* note 19, at 139.

33. *Id.*

34. *Id.* at 139–40.

35. *Id.* at 140.

36. *Id.* (quoting *John* 19:26–27).

In living her multiple vocations to “motherhood,” both her specific vocation to mother Jesus and her more universal vocation to mother us all, Mary witnesses to another dimension of inconspicuousness. In the words of Joyce Little:

[T]he fact that she remains for the most part so inconspicuous in the Gospels is the best evidence we have of her fidelity to her vocation. For as mother she is entrusted with the task of attending to the little things, the vulnerable persons, the inconspicuous and, by popular standards, the unimportant events in life. In so doing, she stands as a constant reminder that our popular standards are wrong.³⁷

Little understands Mary’s witness in this regard, her persistent attention to the unheralded chores of motherhood, which consist primarily in meeting the “inconsequential needs of others” and which are accorded almost no value in our society, to be the essence of Christ’s message of discipleship.³⁸ The heart of motherhood, Little claims, is where we find the heart of discipleship, “[f]or we are called upon to love one another as Christ loves us, to serve one another as he serves us.”³⁹ Little illustrates the meaning of this in the following vivid passages:

[T]he value of life does not reside primarily in extraordinary pleasures and unceasing self-fulfillment but in ordinary pleasures and unceasing concern for the welfare of others. . . . [O]ur God is a humble God, who is present to us not primarily in extraordinary and public acts of power but in the ordinary and hidden acts of love by which he sustains our daily life, our normal activities, our ordinary achievements.

. . . .

. . . [I]f these interruptions [of ordinary and hidden acts of love] are a waste of time, then Christ’s life was a waste of time. For when we read the Gospels attentively, we discover that the story of his life is one long sequence of interruptions. The blind Bartimaeus interrupts his departure from Jericho, a woman interrupts his dinner in the home of Simon the leper, a centurion interrupts his entry into Capernaum, Jairus interrupts his meeting with the crowd, the woman with the hemorrhage interrupts his attempts to get to Jairus’

37. *Id.* at 140.

38. *Id.* at 140–43.

39. *Id.* at 143.

daughter, his disciples interrupt virtually everything; even Mary interrupts his enjoyment of the wedding. The list could go on and on. One might even say that the crucifixion interrupts what could have been a splendid messianic career. Those were not interruptions, of course. Those were precisely the people he came to help, the things he came to do. When so much of his work consisted of attending to those who interrupted him, why should we suppose our own lives to be any different?

If we find in Christ the revelation of such a notion of vocation, we find in Mary its essence.⁴⁰

Thus, in living out her vocation as mother to Jesus, we can identify in Mary two traits characterizing her inconspicuous nature, traits that are crucially important to humanity's task of working toward the Kingdom of God. As both are inherent in mothering, a uniquely female capacity, they both arguably constitute aspects of a particularly feminine vocation. First is the capacity to teach and guide others toward growth in wisdom and knowledge. Second is the capacity for the kind of discipleship demanded of us by Jesus—the discipleship of serving the needs of others, particularly the most vulnerable.

II. MARY'S ECCLESIOLOGICAL LESSONS FOR THE FEMININE VOCATION

The next two lessons from Mary about the feminine vocation are best illustrated by considering Mary's ecclesiological significance—her role in the establishment and ongoing life of the Church. As John Paul II points out in *Mulieris Dignitatem*, Mary's steadfast presence at the foot of the cross and her presence with the Apostles in the upper room on Pentecost are accorded profound significance in the establishment and continued vitality of the Church.⁴¹ Mary's ecclesiological significance is related to, but is not the same as, the question of Mary's significance for each of us individually as disciples of Christ. The question of Mary's ecclesiological significance addresses more directly the role of women in the life of the Catholic Church. The fact that Mary had such a significant role in the founding of the Church, as well as in the Incarnation, is surely not accidental. The significance of Mary's role in the Church must surely

40. *Id.* at 142–43.

41. *Mulieris Dignitatem*, *supra* note 8, ¶¶ 15, 19, 27.

shed some light on the particular vocation of women in the Church and the world.

Indeed, Pope Benedict XVI has written, "Mary's task sheds light on the figure of woman in general, on the feminine dimension and the specific mission of women in the Church."⁴² He challenges the Church to take the task of figuring out Mary's role very seriously. Earlier in this Article, we saw how Benedict cautioned against substituting an abstract God "of our own invention" for the real God who revealed himself in the flesh as the son of Mary.⁴³ Similarly, he cautions against substituting a Church that is the product of our own creation and design for the Church that God reveals to us through Mary's motherhood:

In my opinion, the connection between the mystery of Christ and the mystery of Mary suggested to us . . . is very important in our age of activism, in which the Western mentality has evolved to the extreme. For in today's intellectual climate, only the masculine principle counts. And that means doing, achieving results, actively planning and producing the world oneself, refusing to wait for anything upon which one would thereby become dependent, relying rather, solely on one's own abilities. It is, I believe, no coincidence, given our Western, masculine mentality, that we have increasingly separated Christ from his Mother, without grasping that Mary's motherhood might have some significance for theology and faith. . . . We treat the Church almost like some technological device that we plan and make with enormous cleverness and expenditure of energy. . . .

What we need, then, is to abandon this one-sided, Western activist outlook, lest we degrade the Church to a product of our creation and design. The Church is not a manufactured item; she is, rather, the living seed of God that must be allowed to grow and ripen. This is why the Church needs the Marian mystery; this is why the Church herself is a Marian mystery.⁴⁴

If we take this challenge seriously, if we try to grasp the ecclesiological significance of Mary's motherhood of Jesus, what might we learn

42. Joseph Cardinal Ratzinger, *The Sign of the Woman: An Introductory Essay on the Encyclical Redemptoris Mater*, in BALTHASAR & RATZINGER, *supra* note 18, at 37, 58 (citation omitted).

43. *See supra* text accompanying note 18.

44. Joseph Cardinal Ratzinger, "My Word Shall Not Return To Me Empty!," in BALTHASAR & RATZINGER, *supra* note 18, at 13, 16-17.

about the particular role of the “feminine genius” in the life of the Church? Two aspects of Mary’s witness in connection with her role in the Church illustrate additional particularly feminine traits that might give even more content to the concept of the “feminine genius.” One is a capacity for mothering, which in its capacity for fostering trust is something uniquely and significantly different from fathering. The other is a particular gift for prophecy. Let us deal with each of these possibilities in turn.

A. *Mothering and Entrusting*

In *Redemptoris Mater*, John Paul II makes the point that, as much as Mary’s *fiat* involved a supreme act of faith and trust on the part of Mary, it was also “an extraordinary act of reciprocity between Creator and creature” in that God entrusted himself to Mary, “giving her his own Son in the mystery of the Incarnation.”⁴⁵ Pope John Paul II considers this act of “entrusting” extremely significant for the particular value of “womanhood as such.”⁴⁶ Indeed, he defines entrusting as “*the response to a person’s love, and in particular to the love of a mother.*”⁴⁷ But what is so unique about a mother’s love, rather than the love of a father, such as “the Eternal Father himself, who ‘so loved the world that he gave his only Son’ (Jn 3:16), or as Christ, whose love was so great that he laid down his life for his friends?”⁴⁸

This contrasting of mothering and fathering—the former representing oneness, immediacy, and sameness, while the latter represents distance and otherness—echoes that of many writers, as disparate in religious disposition as Robert Joyce,⁴⁹ Nancy Chodorow, and Janice Raymond.⁵⁰ But, this distinction can take an added dimension when considered in light of man’s relationship to God. As Little argues, motherhood is not just uniquely female: it is uniquely

45. LITTLE, *supra* note 19, at 146 (internal quotation marks omitted) (quoting *Redemptoris Mater*, *supra* note 13, ¶ 39).

46. *Id.* (emphasis omitted) (internal quotation marks omitted) (quoting *Redemptoris Mater*, *supra* note 13, ¶ 46).

47. *Redemptoris Mater*, *supra* note 13, ¶ 45.

48. LITTLE, *supra* note 19, at 147.

49. ROBERT E. JOYCE, HUMAN SEXUAL ECOLOGY: A PHILOSOPHY AND ETHICS OF MAN AND WOMAN 63–85 (1981).

50. See JANICE G. RAYMOND, A PASSION FOR FRIENDS 49–53 (Spinifex Press 2d ed. 2001) (1986) (critiquing Chodorow’s view of the development of a woman’s affections as she moves from the child-parent relationship to a romantic relationship).

human. Pointing out that both Eve and Mary are designated in various ways as the mothers of all humanity, she argues that

the fullness of motherhood is properly found in women, whereas the fullness of fatherhood is found only in God (“Call no man your father on earth, for you have one Father, who is in heaven” [Mt 23:9]). The fullness of motherhood found in Mary corresponds to the fullness of fatherhood found not in Joseph, but in God the Father.⁵¹

Motherhood is thus in some sense uniquely the property of the creature, rather than of God. Little sees this as a key to understanding the claim that Mary’s *fiat* constitutes the inauguration of the New Covenant—the Covenant marked by the Incarnation, by God taking the creaturely form. That Incarnation, recall, is the moment of God’s “entrusting” of Mary with his Son. In this act of entrusting, Little finds “the core of the role the female is called to play in our salvation.”⁵² She points out, “No one can enter into the New Covenant by way of baptism who has not first entered into the world by way of a woman.”⁵³

But, again, mothering does not end with the physical act of being entrusted to a woman’s womb. There is more to the job. Children are entrusted to their mothers in order that their mothers can point them toward the larger world, can teach them “to entrust themselves to others, initially [to] their fathers, and, of course, ultimately their Eternal Father.”⁵⁴ And Mary, Little argues, is ultimately the mother from whom we can all best learn to trust God. She writes:

When Mary counsels every one of us to “Do whatever he tells you”, she is assuring us that we can entrust ourselves to him. By so doing, she invites everyone of us [sic] to do what is, in the created order, the supremely female thing, namely, to surrender ourselves to another. . . .

. . . Christ requires the female mediation of his mother, for only a mother can offer us the assurance we require that we can not only

51. LITTLE, *supra* note 19, at 148 (citation in the original).

52. *Id.* at 151.

53. *Id.* at 150.

54. *Id.* at 151.

believe what he says, but also safely entrust ourselves to the Person he is.⁵⁵

Thus, Little sees in the uniquely female capacity to *physically* mother another human being an essential and uniquely female role in God's plan for salvation, a role that is fundamental to the institution of the Church. And as the spiritual analogue to this physical act of entrusting, Little sees a uniquely feminine ability to teach others to trust in God—something that is equally fundamental to the institution of the Church.

B. *Prophesying*

One of the most important ways in which women are uniquely suited to teach others to trust God (and his Church) is by acting as prophets. The Dominican theologian Benedict Ashley makes an interesting contribution to the Church's position on the all-male priesthood by arguing that there is an office with dignity equal to that of the priesthood for which only women are qualified.⁵⁶ He identifies this office as that of prophet. He argues that it is most perfectly exercised in the person of women who assume the role of consecrated virgins, and that Mary provides the first model for this feminine role.

Ashley reminds us that, in the classic debate over whether the contemplative or the active life is superior, the Church has always favored the contemplative life. He cites, among other things, Jesus' exchange with the sisters Martha and Mary, in which Jesus elevated Mary's choice to sit at his feet and listen to his words over Martha's choice to bustle about serving her guest, saying that Mary had "chosen the better part."⁵⁷ He argues that the office of priesthood is *not* the Church's highest office; rather, the office of the contemplative is. He reasons:

The goal of the church is holiness, and in heaven persons will rank according to their love of God, not according to earthly office, even ecclesial office. . . . The life vowed to contemplation . . . is also a state of perfection, and although those vowed to it also may fail to be

55. *Id.* at 153–54.

56. See BENEDICT M. ASHLEY, *JUSTICE IN THE CHURCH: GENDER AND PARTICIPATION* 131, 140–142 (1996).

57. *Id.* at 132 (internal quotation marks omitted) (quoting *Luke* 10:42).

holy, they cannot truly contemplate without being themselves sanctified by contemplation which consists essentially in acts of the theological virtues of faith, hope, and love.⁵⁸

Ashley points out that Jesus' mother, Mary, gradually assumed a contemplative rather than active role in the early Church. Even while actively participating in Jesus' ministry by bearing and raising him, she "constantly meditated on the mysteries which were the events of Jesus' life," pondering them in her heart.⁵⁹ After Jesus began his active ministry, Mary retreated to prayer with the Apostles and to contemplation of Jesus' words and deeds. In this contemplative rather than active role, she proved greater than any of the Apostles, bishops, popes, or priests, and was assumed into heaven, "so that in her the work of salvation is already complete."⁶⁰

The role of consecrated virgin has been assumed by both men and women since the beginning of the Church. This role, however, is not most aptly characterized by the rejection of earthly sexual satisfaction, but rather by the positive commitment of exclusive engagement with Christ. Ashley argues that the female consecrated virgin plays a symbolic role in the Church that only a woman can fill:

The male ascetic, [even if chaste all his life], cannot supply the symbolic role in the church that the vowed female virgin fulfills. Just as a woman cannot appropriately symbolize Christ, the New Adam, Father of all the redeemed, Bridegroom of the church, as priest, the male virgin cannot appropriately symbolize Mary, the New Eve, Mother of God and of the church, or the church as Bride.⁶¹

Although the female consecrated virgin thus plays a unique symbolic role in the Church, Ashley concedes that this role is not fully

58. *Id.* at 134–35. This basic insight seems compatible with the following call by Balthasar for the Church to grapple with its feminine dimensions:

The realized Idea of the Church comes at the beginning; everything subsequent, even ecclesiastical office with its sacred functions, is secondary, if not unimportant, in comparison. After all, the Church exists to serve the ransom and retrieval of the sinful world. In Mary, the Church is embodied even before being organized in Peter. The Church is first—and this first is permanent—feminine before she receives a complementary male counterpart in the form of ecclesial office.

Balthasar, *supra* note 29, at 140.

59. ASHLEY, *supra* note 56, at 135; see *Luke* 2:19, 51.

60. ASHLEY, *supra* note 56, at 136–37.

61. *Id.* at 140.

symbolic in the sacramental sense.⁶² However, this is because its function is not compatible with the function of a sacrament. A sacrament, Ashley explains, serves to confer graces to sustain Christians in the struggles of earthly life: marriage helps keep the family together against the pressures of the world; holy orders sustain clergy in their earthly ministry to others.⁶³ The life consecrated to the contemplation, in contrast, is a life that is already being lived, as it were, on the plane of the eternal—apart from the earthly life. Ashley explains, “Such a life is not a sacrament but the reality signified by the sacraments.”⁶⁴

Again resorting to the Marian analogy, Ashley writes:

If we consider that the priest represents Christ, Head of the church, while the consecrated virgin represents Mary, the church itself, priesthood is superior to consecrated virginity. But if we consider that Mary in her eschatological, contemplative role is superior to the priest in his earthly active ministerial role, and that the consecrated virgin is an eschatological sign of heaven who already stands with the angels at Mary’s side, then the consecrated virgin is superior to the priest.⁶⁵

In a wonderful illustration of complementarity in action in the life of the Church, Ashley argues that the dignity of the priest and of the consecrated virgin ought to be considered radically different, but equal—indeed, complementary: “The priest stands for the work of Christ sanctifying this world; the nun stands for the already sanctified, glorified church which is Christ’s eternal Bride.”⁶⁶

Ashley acknowledges that some may see the role of the consecrated virgin as a marginalized role, silencing women as cloistered nuns. And, indeed, he argues that the Church does need to reform its attitudes and practices to ensure that the voices of the women, most especially those consecrated to the life of the contemplative virgin, are heard by the Church and taken into account in decision making.⁶⁷ For, he argues, women often excel at the gift of prophecy that the Church most needs to hear. He characterizes

62. *Id.* at 140–42.

63. *Id.* at 141.

64. *Id.*

65. *Id.*

66. *Id.* at 142.

67. *Id.* at 142–43, 146–47.

prophecy as “a special gift, usually, but not necessarily, given to persons advanced in holiness, the purpose of which is to build up the church not by some new public or even private revelation, but by arousing the Spirit of conversion, reform, or zeal in the church.”⁶⁸ Pope Benedict XVI also recognizes this connection between the contemplative life and effective prophesying and sees the two come together in Mary, with her unique, “enduring attitude of openness to God’s word.” He continues, “[I]nasmuch as Mary hears in the very depths of her heart, so that she truly interiorizes the Word and can give it to the world in a new way, she is a prophetess.”⁶⁹ John Henry Cardinal Newman, too, most particularly in Sermon XV of his Oxford Sermons, *The Theory of Development in Religious Doctrine*, recognizes Mary as the first theologian for her propensity to receive profound revelations and not merely accept them “on faith,” as it were, but to consider them and to *ponder* them in her heart.⁷⁰

Ashley connects this gift for prophesying with a special gift for nurturing faith, echoing Little’s arguments about women’s special role in helping others “gr[o]w in wisdom and knowledge.”⁷¹ According to Ashley, women in history who have excelled in this capacity include Catherine of Siena, Teresa of Avila, Thérèse of Lisieux, Hildegard of Bingen, and Bridget of Sweden.⁷² Contemporary women are also often seen exercising this particular gift as mothers, theologians, spiritual teachers and writers, preachers of conferences and retreats, and spiritual directors.⁷³

Ashley stresses that this mode of ministry is often chosen by women not only because they cannot choose priesthood, but more positively because it is associated with and nurtured by the contemplative life for which Ashley believes women have a particular aptitude. In other words, women are better at this sort of role than men. He argues that men are hampered in this kind of work by their

tendencies to aggressive drive [sic] for power, their excessively “logical” (rationalistic) thinking, and their insensitivity in intimate

68. *Id.* at 144.

69. Ratzinger, *supra* note 18, at 72.

70. See John Henry Newman, *The Theory of Development in Religious Doctrine*, Sermon at Oxford University (Feb. 2, 1843), in JOHN HENRY NEWMAN, *FIFTEEN SERMONS PREACHED BEFORE THE UNIVERSITY OF OXFORD* 312, 312–14 (3d ed. 1900).

71. LITTLE, *supra* note 19, at 138 (citing *Luke* 2:52).

72. ASHLEY, *supra* note 56, at 145.

73. *Id.* at 144.

relationships. Women, on the other hand, gifted with the nurturing, relational skills necessary for motherhood, often do not find it so difficult to do as Mary did, pondering the divine mysteries in their hearts, opening themselves up to the Holy Spirit. Consequently, women who enter on the path of contemplation also open themselves to prophesy.⁷⁴

We thus can add two traits to the catalogue of attributes of “feminine genius.” First is the ability to evoke the response of entrusting, a unique response to motherly love. This capacity displays itself physically in the act of motherhood and spiritually in a special ability to evoke in others the capacity to trust the truth of Jesus. Second is the ability to live the consecrated, contemplative life to such a degree that one is open to prophesying. The Church, however, can only hear this prophecy if it acknowledges the value of this particular gift of women and reforms itself to the extent that it listens to women’s prophecies.

III. APPLYING THESE ASPECTS OF THE FEMININE VOCATION TO AMERICAN LAW

How might these four particular aspects of the feminine vocation, as illustrated by Mary, be used concretely to help build the civilization of love? More particularly, what might we do, as citizens, voters, and lawyers, so that our laws might more accurately reflect and foster such a civilization?

First, we women must take seriously our call to act as teachers, and, more counterculturally, as prophets—not to predict the future, but to “arous[e] the Spirit of conversion, reform, or zeal”⁷⁵ in our society. When we recognize and understand in the depths of our hearts some of the things that are wrong with our social and legal structures—things that might be overlooked by people who are not in as close, daily contact with the most vulnerable in our society as women tend to be—we must speak and act on these insights. To the extent that we can, as women, identify with the vulnerable, we must speak up on their behalf. Those include, of course, the most vulnerable—unborn children. Women need to ensure, indeed, that all unborn children can trust that women will not abort, abandon, and

74. *Id.* at 146 (footnote omitted).

75. *See supra* text accompanying note 68.

kill them.⁷⁶ But they also include children after they are born and other segments of society that are vulnerable. We need to speak for them and demand that their interests are not sublimated to the interests of those who have the power to exert the most influence on the election campaigns of our politicians.

Second, women must fight to ensure that our laws and our practices make it possible for women who are mothers to be heard in the public square. We cannot be content to be one of only five countries in the world that do not guarantee paid maternity leave to working women (the others being Australia, Lesotho, Papua New Guinea, and Swaziland),⁷⁷ particularly in an economic structure where few families can survive on only one salary, and particularly where it is the most privileged and wealthy who do have access to paid maternity leave.⁷⁸

Finally, women must be at the forefront of the countercharge to the assault on the trustworthiness of the institution of the Church.⁷⁹ The Church can be a powerful force for social change, a powerful advocate for changes to laws that protect the vulnerable and the oppressed. But it cannot do that without the trust of the people to whom it is speaking. As much as we are called to be prophets for the reform of the Church when necessary, we should not forget our special vocations to act, as Mary did, to teach others how to trust both our God and the Church that God left here on earth to help us reach his Kingdom.

76. LITTLE, *supra* note 19, at 156–58.

77. Schiltz, *Motherhood and the Mission*, *supra* note 10, at 413.

78. *Id.* at 414.

79. LITTLE, *supra* note 19, at 158–60.