

## RESISTANCE AS SACRAMENT

Francis X. Kroncke

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*On 10 July 1970 FBI agents ambushed and captured eight members of an anti-war group calling itself "The Minnesota Conspiracy to Save Live." After the coordinated captures in three rural Minnesota towns: Alexandria, Winona and Little Falls, the peace activists were formally arrested and imprisoned for six days in the Hennepin County Jail. The initial charge of "Sabotage of National Defense Materials" and the bonds of \$50,000 apiece highlighted the regressive tactics of the government, which continued during the trials of the group renamed by the Press, "The Minnesota Eight." After release on bonds lowered to \$10,000 apiece, the Eight were soon afterwards indicted on the charge: "attempted interference with the Selective Service System by force, violence or otherwise."*

*Within six weeks from the time of the indictment, two trials were placed on the Federal Court's calendar. Judge Edward Devitt denied all pre-trial motions, including motions for consolidation of the proposed three trials, and motions for release of information on the informer and electronic surveillance. The rush to trial effectively disallowed the Eight from engaging Leonard Weinglass, of Chicago 7 fame, as a defense counsel. In response to the government's repressive actions, four of the Eight defended themselves as attorney pro se, speaking directly of their political, moral and religious motivation.*

*The trial atmosphere was that of an "armed camp." Admittance to the Court House building, and to the Courtroom itself, was arbitrarily controlled by a small army of FBI agents and Federal Marshals. All entrances to the building were sealed and guarded; all visitors were screened and searched. Only one of six elevators went to the floor of the*

*trial. The majority of the defendants' friends were forced to stand outside in the winter rain. Judge Edward Devitt handled two of the three trials. He denied all defense motions, and disallowed any defenses to be offered. During the Devitt trials the defendants did not bring forth any defense nor witnesses, relying on the fact that the government did not prove its case. In these two trials there was no evidence that the defendants had destroyed any files. However, after three days apiece, each trial ended in a guilty verdict. On 18 December 1970 Judge Devitt sentenced five of the Eight to the maximum penalty of five years.*

*On 14 January 1971 the last trial began in the courtroom of Judge Philip Neville. Similar pre-trial motions as to the informer, electronic surveillance, and other political matters were denied. However, the judge, over the Standing Objection of the government attorney, allowed a Defense of Justification to go forward. The Defense of Justification is an affirmative defense. The defendants admitted that they did the act and set out to show why. Their defense principles have a basis in law which says that one can commit a lesser evil to avoid a greater evil. On behalf of defendant Michael Therriault defense counsel Kenneth E. Tilsen argued that, given the untested constitutionality of the undeclared War and the involuntary Selective Service System, it was necessary for these peace activists to attack the draft boards in order to communicate to the public and to the government the moral and political atrocity which is the Vietnam War. Defendant Kroncke, as attorney pro se, argued that it was necessary for religious reasons to attack the Selective Service System. For six days thirteen political and religious witnesses testified, including historian Staughton Lynd, State Department analyst Daniel Ellsberg, Andrew Glass of National journal, several Veterans for Peace, and lay and clerical theologians. Only after this testimony, including Closing Arguments to the Jury, did the Judge rule the defense irrelevant and immaterial. The Jury took two hours to deliberate and they returned for re-instructions. They*

*asked, "Can we consider the Documents of Vatican II?" These Documents had been admitted as legal evidence and had been carried by the jurors into the Deliberating Room. Only after explicit re-instruction did the jury retire, to return in eight minutes, tearful and sobbing, with a guilty verdict. Discussion with the jurors brought out that they were split 6-6 on a decision during the two hours. They had not even been able to pick a Foreman. The Judge's re-instruction, they said, left them no alternative but to bring in a guilty verdict. Since the trial defendant Kroncke was given permission to file his own Appeal Brief; he argued that Brief, orally, before the Appeals Court on 18 October 1971. Kroncke and Therriault were also given the maximum sentence of five years' imprisonment. All are convicted as "violent felons."*

*Francis Kroncke was born in Bayonne, New Jersey (1944), graduated from St. John's University, Minnesota in 1966, and received his M.A. in Theology from the University of San Francisco (1968). He taught theology at San Francisco College for Women and Rosary College; as a conscientious objector he performed alternative service as Program Director, Newman Center, University of Minnesota. We present a key section of his brief as a document of unusual interest.*

*{2007 note: see, [www.minnesota8.net](http://www.minnesota8.net) and [www.pwh-mn.org](http://www.pwh-mn.org)}*

### **The Moral Act is Meaningful, Necessary and Justifiable if Understood as a Means of Effecting the Sacramental Act**

As in the Second Vatican Council, to best show the positive relationship of Catholic moral responsibility to the socio-political responsibility evoked by the undeclared Indochina war, some explanation of the general principles of Catholic theology must be made.

**1. Jesus is the sacrament of God. The Church is the People of God, the Body of Christ, a sacrament. The individual is a full person insofar as he is an intimate member of the Body of Christ, i.e., a truly sacramental person.**

Within the Roman Catholic theological tradition there is a development of what is called Sacramental Theology. Jesus Christ is defined as the sacrament of God. The Church herself also defines herself as a kind of sacrament. The principle underlying these assertions is that there are "things and acts" which when properly used, i.e., used symbolically within the believing community, "effect what they signify." This means that these "things and acts" signify God's presence with His people and the acts effect His presence. By Her relationship with Christ, the Church in the Second Vatican Council described herself as "a kind of sacrament or sign of intimate union with God, and of *the unity of mankind*." (Emphasis added) (Defendants' Exhibit 6, "The Dogmatic Constitution of the Church," Chapter I, Paragraph 1, p. 15) The different offices within the Church—for example, teaching, preaching, administration—are understood to be one, this oneness achieved only through the actions of Jesus Christ, which actions are understood (theologically, in terms of the presence of the Holy Spirit) to be still happening insofar as the People of God act. This centers tremendous dignity and value upon the individual's actions, for this act is not only personal but sacramental. That is, his actions in union with the actions of the Church, and therefore with Jesus, effect God's Truth and loving peaceful presence.

**2. Truth is a sacramental experience, i.e., a human reality effected through moral action**

For the Catholic, truth is not something reached just through rational analysis, but truth is an experience of a person acting through the Body of Christ within a loving relationship with God. This means that truth is primarily an act of witness, as Jesus is called "the Way, the Truth and the Life" because he does publicly the will of the Father. Jesus is the "Son of God" because he loves the Father; he is our Savior because he loves us.

Christians are those, then, who are assured that they will find personal fulfillment, maturity and truth only if they act, and ground that act against the truth of Jesus now present in the life of his People of God. Catholics thus believe through their historical

experience as Church that, after years of worship, reflection and understood responsibility, they could clarify and make explicit for all mankind what were the intentions and truths of Jesus' Gospel. The truths deposited by this activity are called doctrines and form what is called the Tradition. The Second Vatican Council was the latest depositing of the Christian truths in language and concepts appropriate to the modern world. Catholics, as distinguished from other Christians, value the Tradition as equal in truth and authority with Scripture. So, in its truth-rendering activity, the Second Vatican Council has articulated for the Catholic the proper and right meanings and ways of expressing the eternal truths of Jesus' Gospel. For the Catholic it is true that the Holy Spirit who inspired the Apostles is at work in the Church, and the Church is the place where Christ manifests his presence.

Theologians have the task of attempting to articulate the spirit of the times and to open new vistas of insight into the truths of Scripture and Tradition through speculation and experimentation. More so than other offices does that of theologian entail venturing out into experimentation. The draft raid action of defendant Kroncke is understood as such an experiment in truth. To the evil of the Indochina war is spoken the truth of the basic goodness of life and the brotherhood of all mankind. This truth is the explicit meaning of the theological reality of the Body of Christ. To further understand defendant Kroncke's act some understanding of sacraments as means of sanctifying and reconciling human relationships is necessary.

### **3. Sacramental actions effect the sanctification and reconciliation of the personal and of the world**

The symbols and rituals which enter into Catholic religious acts are taken from the cultures in which Catholics find themselves living. As when the Second Vatican Council addressed itself to all of mankind, so when the Church develops new understandings and new symbolic rituals she intends that they serve all of mankind. Sacramental acts, then, are inclusive actions, not exclusive. The more familiar Catholic sacramental acts—for example, Baptism, Eucharist and Marriage—were intended to convey the sanctification and reconcilability of everyday life with the life of God. Through their symbols each sacramental sanctified, and reconciled with God, aspects of personal growth. That is,

Baptism through a water ritual sanctified the birth process; the Eucharist through bread and wine sanctified and reconciled everyday living; marriage through the public witnessing to a bond of love sanctified sexuality. Through these specific sacraments, Catholics have shown Jesus' sanctification and reconciling of the whole realm of personal growth and maturation with God's intention in creating life.

These specific personal sacraments have always been understood as sanctifying the personal in a further definition of the term—for example, any structures, institutions, and laws which have the effect of preventing personal growth can be sanctified and reconciled through sacramental actions.

In the Roman Empire, infanticide and the exposure of infants was only too common; and the Christian practice of baptizing infants affirmed and secured protection for infants and children, who, after Baptism, belonged not only to their parents but also to Christ and his Church. From this historical fact, then, one sees the socio-political nature of all sacramental acts. Sacramental acts inevitably appropriate "Things and Acts" particular to the socio-political realm, and either uses them as symbols to communicate values and truths; or as objectives to be sanctified and reconciled. As with the relationship of infanticide to Baptism, in all its sacramental acts the Catholic People expect their sacraments to have personal and socio-political effects.

The waging of the Indochina war points up the presence of evil within the family of man. The reality of an undeclared war as the policy of the United States' government points to a compound evil present within America. Using American symbols (viz., the files of the Selective Service System) in public acts of witness to point out and attempt to remove, and avoid, this evil, then, is a proper task of a Catholic person, especially a Catholic theologian. As with non-violence the sacramental draft raids strive to speak out to the evil at hand and to open means of reconciliation to the parties involved.

The draft raid action of defendant Kroncke was a proper, reasoned and measured response to the immorality of the Indochina war and to the moral imperatives and guidelines of the Second Vatican Council. The act through its symbolism and

non-violence posed a moral question to the American public, Catholic and non-Catholic, and offered a positive answer to this problem by calling upon the values and truths of the Roman Catholic moral and theological traditions.

### **The Catholic Radicals' Analysis of the Indochina War and Their Response, in Particular, in Draft Raid Actions**

To some American Catholics the time had come in 1967, when the political system, for all practical purposes, had indicated its acceptance of moral indecision, to respond with the values and truths of their Scripture and Tradition in an appeal to the higher ethical values of the American people.

#### **1. America's loss of self-identity indicated by the moral vertigo surrounding the undeclared Indochina war and the constitutionally unjustifiable Selective Service System**

At the present time during this undeclared war many Americans have raised legal and political questions as to the constitutionality and propriety of many of the military's interests and operations. Most specifically, they center on the worth and morality of the Selective Service System. Many despaired after years of dissent that these contradictions of an undeclared war and an involuntary draft would die from moral indifference and indecision on the part of the elected government. This is indeed the sad and dishonorable state of our present political situation. Turning into the second decade of the Indochina war, no decisions have been made yet whether such a war legally can exist. In the third decade of the involuntary Selective Service System no direct testing of its constitutionality has yet been allowed nor decided. The undeclared war and the involuntary draft stand glaringly as signs that America, as a nation, staggers, groping for her self-identity.

This is a period of moral vertigo. This moral dizziness has its effects on thousands who have died in the war while elected and appointed men of power remain lawless and immoral. It seems that life is expendable at the whim and fancy of the government's political expediency. The government speaks directly in violation not only of its own most hallowed ethical ideals, but directly to the primary value of the Christian Scripture

and Tradition, that of the sanctity of human life. When the political system fails to balance itself, then the overriding balancing power must be that of morality.

## **2. The Selective Service System is an immoral and evil system which voids human choice and destroys human life**

Today, American government has created an immoral and evil system, i.e., the involuntary military system. Several bleak realities point to the sober truth of this statement. By law, every alive American male, regardless of his mental, physical or spiritual condition, when he turns eighteen, must sign up with the Selective Service System and carry his little card. Under questioning by defendant Kroncke, Colonel Robert P. Knight, State Director of the Selective Service for Minnesota, testified that it is absolutely impossible for an American male, regardless of his physical or mental condition, to avoid signing up with the draft. This System is, next to the Post Office System (which, since the trial, has become a private concern), the most widely dispersed arm of the government. The System is involuntary, and the records kept are not the private property of the registrant. The "freedom of choice" which the young man is guaranteed is either to so register or else leave the country or take up residence in a federal prison. It is not a play for colorful rhetoric to say that a young man's "choice" is either cultural life or cultural death. There is no other such involuntary and all pervasive system in America; not even the taxation system nor the public education system is that involuntary and inescapable. Obviously, the Selective Service System is of bedrock importance to the recent governments' idea of self-development and to their ideal of what should be the American experience. However, this is a recent tradition in American government policy, stemming from 1940. Understood in this manner, the Selective Service is a "very peculiar system," which can be judged as immoral and evil because it both denies free choice in reference to the ultimate human and religious questions of the value of life; and because it is the main bloodline for continuing the morally abominable war in Indochina.



### 3. The character and meaning of draft raid acts as sacramental

From their moral and sacramental traditions, Catholic Radicals like the Fathers Berrigan of the "Catonsville Nine" and defendant Kroncke of the "Minnesota Eight," understood it as their task to seek socio-political acts which, they hoped in faith, would begin the removal of the evil present in America, and allow God's sanctifying and reconciling presence to be felt and discerned. They were not self-righteous, egotistical men seeking fame or profit. Indeed, most of the Catholic Radical draft raiders were over thirty and into some standard profession. They were people who believed that the meaning of their Catholic sacramental system extended through and beyond intra-personal acts into social acts. They believed that God's loving peace will infallibly be present through prophetic moral acts of sacramental willfulness. They believed that sacramental actions, for example, the Eucharist which effects the religious solidarity of, what is called theologically, the "Body of Christ," carries over concretely into and through the State's socio-political body.

In a liturgical way, these Catholics removed the evil property (the 1-A files) and destroyed it. *This destruction is both a negative and a positive act.* Negative, in terms of sacramental exorcism, where the 1-A files are discerned as the demonic elements, and so must be destroyed. The destruction and disruption of the money-lenders in the Temple, both symbolically and actually, by Jesus, is precedent. Destruction is positive, i.e., in a reality non-violent, understood as sacramentally symbolic. That is, Catholic theology holds that Jesus accepted the death on the Cross to give witness to the style of the Christian life; and to effect the new truth of God's presence with his people in Jesus as his Son.

In Catholic theology, the belief in the Resurrection of Jesus from the dead stands as the affirmation of these truths about life and living for which Jesus himself lived and died. In its attempt to join religious methods with political methods the symbolic destruction of the 1-A files proclaims, and forces the American people to hear, the main tenets of the government's demonic principle, viz., that property is more important than people. This demonic principle has worked itself into the fiber of the government's life-style; this is no

more vividly portrayed than in the acceptance of an undeclared war, the perpetuation of an involuntary draft system, and the continuing Orwellian slogan of double-think which has become the new Great Seal of America: "War is Peace."

The draft raid action is a response to the Second Vatican Council's statement that Jesus' being in the world makes it the Catholic's primary religious obligation to care for "and to build up the world and fulfill its purpose." (Defendants' Exhibit 6, "The Pastoral Constitution of the Church in the Modern World," "Conclusion," Paragraph 93, p. 301)

**4. The draft raid act is first, as to origin and goal, a sacramental act; second, as to means, a political act**

The defendant Kroncke's act can be described and defined on several levels of awareness and responsibility. For some, the draft raid can be a violent, illegal and primarily political act; for others, a non-violent, highly moral, sacramental and reconciling act. For the former there is no justification for this act because it is not of an immediate necessity, (for example, see statement of judge Philip Neville, Vol. VI, pp. 149-150), while for others it is justified as a social and religious necessity, the perennial necessity being to preserve life and develop a justly ordered society. This latter necessity has been the thrust and highest goal of every society ever founded.

Americans exist at a time when thoughtful and sincere people see the nation establishing herself as Caesar without God. This is a deviation both from the ethical and humanistic values of the Constitution and from the moral guidelines of the Second Vatican Council. By its actions, the government has negated the rights of religious peoples to live according to the highest and central values of their beliefs, viz., the dignity of human life. The government has set up an evil Selective Service System by which it forces, by threat of life or death consequences, young men to kill in a war she refuses to declare. The abomination is that the government declares:

"Peace, Peace, when there is no peace. Were they ashamed when they committed abomination? No, they were not at all ashamed; they did not know how to blush.

Therefore, they shall fall among those who fall; at the time that I punish them, they shall be overthrown," says the Lord. (Jeremiah 6:14-15)

### **Conclusion**

The act performed by defendant Kroncke as specifically understood in reference to the Roman Catholic theological tradition is a sacramental religious act. His act was based on a bona fide belief in the illegality and immorality of the Indochina war and the evil of the Selective Service System. He was compelled by religious necessity to raise a moral challenge to this immoral situation. He was compelled by necessity to attempt a sacramental act removing the evil present and offering an avenue of reconciliation via religious truths. This belief and this action was reasonable, moral and religious; he has not willfully violated any law, and therefore, he is guilty of no crime.

If this court determines that the religious necessity of the defendant's act does not constitute a justification for his conduct, **I challenge the court to articulate guidelines to determine in what extreme circumstances people who act in a measured way for reason of conscience, and for the purpose of effecting their religious truths, may resist the immoral acts of their government.**