

The Church Discipline of John Howard Yoder: Legal and Religious Considerations

by

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During my graduate studies in philosophy, I considered studying with John Howard Yoder. I tentatively booked an exploratory session at the seminary in early 1976. I cancelled it. Instead, preferring the ethics of H. Richard Niebuhr's *Christ and Culture* to *The Politics of Jesus*, I became a lawyer. Later, I completed a doctorate in religious studies. I continue to read Yoder's works, particularly his later work on *The Jewish-Christian Schism Revisited*, which I like to read in conjunction and in contrast with Jewish authors like Alan F. Segal or Daniel Boyarin.² Although I have a Mennonite heritage, I am not a member of any Mennonite church.

From this perspective, I have some comments concerning the discipline of Yoder by the Prairie Street Mennonite Church (Elkhart, Indiana) and by the Indiana-Michigan Conference of the Mennonite Church. I anticipate that some readers will not appreciate my conclusion that Yoder's conduct was not criminal. Nor was it sexual assault. And it is anachronistic to call it sexual harassment. Others will not be happy with my conclusion that the church discipline process was itself unjust. I would ask these people to read the entire article, including the parts relating to my family history, as well as my positive comments on some ideas of feminist theologians.

1. Not sexual assault or criminal behaviour

a) I agree that any sexual assault or sexual abuse in the church or university (or anywhere else) must be stopped. I have tremendous sympathy for victims of such crimes. *However, Yoder's conduct does not fall within those categories.* I agree that his conduct should have been prevented and stopped. But it is important to use the right words if we are seeking to discern truth and justice. His conduct was not nearly as serious as sexual assault or sexual abuse, and he should not be compared to such sex offenders. Yoder's conduct was not criminal. This does not mean that I am exonerating him. I am trying to put his conduct into the proper legal perspective.

b) Goshen Biblical Seminary (now Associated Mennonite Biblical Seminaries), where Yoder's conduct occurred, is located in Elkhart, Indiana. The criminal law to be applied is therefore Indiana law, and not the law of some other jurisdiction. And the time period for the law that is to be applied is Indiana law from the 1970's to 1984, and not law from a later period.. In 1984, he left the seminary and became a full time professor at Notre Dame. There was never any criminal investigation or conviction of Yoder under Indiana law or the law of any other jurisdiction. I am not an Indiana attorney. Nor is this article intended as legal advice; for that, the reader should consult an attorney qualified in that state. But based on my reading of the relevant Indiana statutes and some case law, I believe that Yoder would not have been convicted under Indiana law. Indeed, there was

no Indiana law at the time that would have applied to his conduct. It is therefore improper to refer to Yoder's conduct as being criminal.

c) Until 1987, Indiana's sex crimes law (as in most other jurisdictions in the U.S.) had no provision against sexual assault that did not involve sexual intercourse. It did have provisions for sex crimes like child molestation. But these would not have applied to Yoder's conduct. So for the period of time in issue for Yoder—the period when he taught at Goshen Biblical Seminary—the only sex crime in Indiana that we can look to is the crime of rape. In Indiana, rape requires proof that a person “knowingly or intentionally has sexual intercourse.”³ ‘Sexual intercourse’ is defined in Indiana as requiring penetration, and Federal reporting of rape also requires proof of penetration.⁴ No one has alleged that Yoder's conduct involved sexual intercourse. Therefore, Yoder's conduct while at the seminary until 1984 can in no way be described in terms of criminal conduct, whether rape or any other sexual crime. That is really all that needs to be said. To ask what could have been done by the seminary or by the church to prevent Yoder's sexual assaults is to ask the wrong question. There were no sexual assaults under the law at the time, since the conduct did not involve sexual intercourse. Even the term ‘sexual assault’ was introduced later in Indiana legislation.

d) Although Indiana subsequently enacted legislation for sexual assault that does not require proof of sexual intercourse, such subsequent legislation cannot apply retroactively. It does not reach back to the period up to 1984 when Yoder taught at the seminary. Law is presumed to be prospective only. To be retroactive, the legislation must (1) specifically say that it is retroactive and (2) must not take away any vested constitutional right. Even legislation directed against sexual offences like child abuse cannot be interpreted retroactively unless those conditions are met.⁵ This prohibition against retroactivity is fair, since Yoder would have had no way of knowing what legislation might be enacted in future. Furthermore, as we will see, even if it had been in force at the time, Indiana case law shows that this subsequent legislation would not have applied to Yoder's conduct. But we do not even need to look at the case law. Yoder's conduct is to be judged solely on the basis of Indiana legislation in effect at the time of his conduct. And that legislation required proof of sexual intercourse.

e) In the 1980's, as a result of the involvement of women's rights groups, and beginning with the *Model Penal Code* (1980), many jurisdictions enacted law reform with respect to the law of rape. A good summary of the history of these legislative changes is set out in the article by Alberto Cadoppi and Michael Vitiello: “A Kiss is Just a Kiss, or is it? A Comparative Look at Italian and American Sex Crimes.”⁶

f) Some jurisdictions replaced the word ‘rape’ with ‘sexual assault.’ Indiana retained the word ‘rape.’ In 1987 (after Yoder's conduct at the seminary), Indiana added to its sex crimes law a section dealing with sexual battery ([Indiana Code IC 35-42-4-8](#)). It deals with unwanted touching. And in 2002 (after Yoder's death [Indiana Code IC5-26.5-1-8](#) was enacted; it provided that, for certain purposes, both rape and sexual battery were considered to be sexual assault. But this legislation, and the use of the term ‘sexual assault’ to include acts other than crimes involving sexual intercourse, cannot apply to Yoder. They cannot be interpreted retroactively.

g) Some people have attempted to use this sexual battery law as a way of judging Yoder's behaviour from today's perspective. I think that that is unfair to Yoder and serves no purpose. We do not need to mischaracterize Yoder's conduct or rewrite history in order to protect women today. That is accomplished by new legislation, and by new codes of conduct in seminaries and colleges. But even if Indiana's sexual battery law had been in existence at the time of Yoder's conduct, it would not have applied to him. The legislation is IC 35-42-4-8 of the sex crimes statute previously referred to. It reads

Sec. 8. (a) A person who, with intent to arouse or satisfy the person's own sexual desires or the sexual desires of another person:

- (1) touches another person when that person is:
 - (A) compelled to submit to the touching by force or the imminent threat of force; or
 - (B) so mentally disabled or deficient that consent to the touching cannot be given; or
- (2) touches another person's genitals, pubic area, buttocks, or female breast when that person is unaware that the touching is occurring; commits sexual battery, a Level 6 felony.

Unlike California law, which requires only proof that the touching was against the will of the person touched, Indiana requires that an intent of sexual gratification be present— that the person committing the act had the intent “to arouse or satisfy the person’s own sexual desires or the sexual desires of another person.” The Indiana statute also requires that victim must also be compelled to submit to the touching by force or the imminent threat of force.

h) The conduct by Yoder regarded as most serious involves the anonymous woman known as ‘Colleen.’ In October 1977 Yoder was a guest at her house, and sat next to her on a couch; he moved closer to her until she was pushed over and he lay on top of her. When she pushed him away, Yoder stopped, and began to shake. He immediately said that he did not intend anything sexual (Krall, 389). The journalist Price says that,

According to Colleen, Yoder specified in graphic language that he did not intend to have intercourse with her, because that would be incest with their relationship as “brothers and sisters” in the church. (Krall, Appendix K, 401).

I believe that this would be accepted as proof he did not have the intent necessary to be convicted under “sexual battery.” This lack of intent is also supported by Yoder's writings on the subject of non-sexual affection between men and women (See below, Section 10). More importantly, the required element of force cannot be proved, as shown by the Indiana case law. The most important case is *Scott-Gordon v. State*, 579 N.E.2d 602, 604 (Ind. 1991). In that case, the defendant grabbed his co-worker's buttocks and announced that he had received a “free feel.” The Indiana Supreme Court held that “not all touchings intended to arouse or satisfy sexual desires constitute sexual battery; only those in which the person touched is compelled to submit by force or the imminent threat of force violate *Ind. Code* § 35-42-4-8.” The court held that there was no evidence of being compelled to submit to touching by force. The case was considered again by an Indiana appellate court in *Bailey v. State*, 764 N.E.2d 728, 730–31 (Ind. Ct. App. 2002), where force was found to be implied because the defendant's prior conduct had given the

victim a reason to feel threatened. Furthermore, the victim had made it clear prior to the incident that his advances were unwelcome. Neither of these required elements applies to Yoder's situation. There was no prior conduct that made "Colleen" feel threatened, and once she made it clear that his advances were unwelcome, Yoder stopped.

His actions therefore did not constitute sexual battery within the meaning of Indiana's present law. But as already discussed, we do not even have to look at this case law because the sexual battery law was not in existence at the time of Yoder's conduct, and does not apply retroactively.

i) Barbra Graber, Professor of Theater at Eastern Mennonite University, has made some of the most extreme statements about Yoder's conduct. In 1997, after the church had reinstated Yoder, Yoder was invited to give a talk on the campus of that university. Graber protested his appearance, and urged the seminary to reconsider the invitation to speak on the grounds that there had been no public acknowledgement by Yoder of wrongdoing or statement of confession. The university did not cancel its invitation to Yoder (Krall, 277). Since that time, Graber has referred to Yoder's conduct as "attempted rape, the behavior of a criminal sex offender."⁷ She has referred to him as "a 'murderer'—of women's souls...Many sexual offenders are sitting in prison today for committing acts less numerous and less violating than JHY's."⁸ She has said, "...he casts himself in the familiar psychological profile of a repeat sex offender" and has referred to his conduct as "violent, criminal, perverse, misogynist, and incredibly hurtful sexual assaults."⁹ She has said that he "sexually assaulted and harassed untold numbers of women of the church." She refers to his "sexually deviant behavior," "sexually abusive assaults, sudden acts of aggression," "obscene and persistent sexual harassments," and "clear perpetrations of sexualized violence, some of them criminal."¹⁰ These statements are not correct or appropriate. There was no sexual assault or any sexual crime within the meaning of Indiana law at the time of Yoder's conduct. There could not be, since there was no sexual intercourse and no penetration. Yoder was not a sex offender. I suggest that readers look at the case law to see what serious sexual crime really looks like. It is not what Yoder did, even if subsequently enacted statutes are used to judge him.

j) Nor does "attempted rape" apply to Yoder, since that requires proof that a person, when "acting with the culpability required for commission of the crime he engages in conduct that constitutes a substantial step toward commission of the crime."¹¹ This has been clarified in case law.¹² Yoder's conduct would not be a "substantial step" within the meaning of the act; nor could it be said that he was compelling anyone by force or violence within the meaning of the law.

k) What about the term 'sexual abuse?' It also has criminal connotations. The term 'abuse' is used in Indiana's sex crimes statute to refer to matters like sadomasochistic abuse or child molestation. Neither of those apply to Yoder; all the complainants were adults at the time of his conduct. It is therefore also inappropriate to use the term 'sexual abuse' to refer to his conduct.

l) There was no rape, no attempted rape, no sexual assault, and no sexual battery. There was no criminal behavior, and so it is improper to refer to Yoder as a 'sex offender,' much less a 'repeat sex offender.' The words used by Graber have criminal connotations.

In my view, her comments are also needlessly inflammatory in this very emotionally charged discussion.

2. Anachronistic to speak of ‘harassment’

a) Ruth Krall is more nuanced in her collected essays regarding Yoder’s conduct. I appreciate Krall’s heartfelt writing, and some of her suggestions. The essays contain a large amount of useful information from various records, including the articles by the journalist Tom Price of *The Elkhart Truth*, who reported on the evidence presented to the discipline Task Force in 1992. I am very impressed that, even though Krall was asked by Marlin Miller (who was then President of the seminary) to serve on a denomination-wide Yoder discipline committee, Krall declined because of her prior professional connection with several of the women. In other words, she recognized a conflict of interest and possible bias (Krall, 371 fn58). And from a religious studies perspective, I appreciate Krall’s references to Thich Nhat Hahn, C.G. Jung, James Hillman, Erik Erikson, Adolf Guggenbühl-Craig, Sam Keen and others. But her essays are uneven in quality, and too often there is innuendo and inconsistency instead of careful comment. There is also a considerable amount of hearsay evidence regarding the experience of others, including evidence not presented in person at the church discipline hearings. Here are some specific concerns:

b) With respect to Jung, I agree that each of us, including Yoder, has a shadow side (Krall 142, 207). We need to integrate our shadow and not act it out.¹³ There are other archetypes, such as the *anima* (inner feminine figure) and *animus* (inner male figure). In Jungian terms, Yoder inappropriately projected his *anima* on women and acted out his shadow side. But it seems to me that some critics of Yoder have projected their shadow onto Yoder, demonizing him and exaggerating his conduct. Some critics of Yoder have been honest enough to admit that they have suffered abuse by other Mennonite men. But those other experiences of abuse should not be projected on to Yoder, making him the scapegoat for those other men. Each of us needs to take back our inner figures, and cease projecting them onto others. Krall seems to recognize this to some extent, for she expresses the hope that “a less projected, less polemical, and factually more realistic or accurate view of Yoder and his life might emerge” (Krall, 171). And yet her comments seem to have more to do with what we should say about Yoder than a self-critical examination of what motivates people to make these projections. This is despite her awareness elsewhere in the book that

Condemnation of the other, by rumor and gossip, services to reinforce a self-image of self-righteousness, of being better than someone else. Thus, individuals are not confronted with their own moral failings because they are busy pointing out the moral failings, in gossip or even in administrative decisions, of the other. Some Buddhist literature and some clinical literature would point out the dangers of such self-righteousness as a form of projection. (Krall, 346).

c) Krall provides a glossary of terms (Krall, 299ff), and she correctly indicates that rape requires proof of forced sexual intercourse. But she blurs this when she adds “A few states, however, include all kinds of forced sexual activities in their legal definition of rape.” She also says that ‘sexual assault’ is defined by law codes of various states. But

Krall does not examine the history of Indiana legislation; there was no sexual assault other than rape during the time of Yoder's conduct. And even with respect to the later Indiana statute, and she would appear to be in error when she says that "Grabbing, fondling, kissing, hugging, are included." As we have seen, Indiana has special requirements in addition to unwanted touching. Although it is important that we define our terms, it is also important that our definitions match up with legal statutes or sexual codes of conduct (when such codes of conduct exist). And it is important to look at the case law interpreting that statute.

d) If not 'sexual assault' or 'rape' or 'criminal behaviour,' or 'sexual abuse,' how should we characterize Yoder's conduct? As 'harassment'? Consider this statement by Krall

For more than twenty five years (1965-1992) while preaching the need for a voluntary community of Christian believers (disciples) to be accountable to each other for misbehavior and sin, a wide variety of women reported that Yoder sexually harassed and offended them. (Krall,173)

But was it even harassment? Krall says on p. 344:

I did not, at this time [1980], yet have the language of sexual harassment or hostile climate harassment to guide my thinking about Yoder and Mennonite Church institutions. The only language I (and other women like me) had to describe behavior like Yoder's was that of marital unfaithfulness, infidelity, womanizing, or adultery. The terms sexual harassment, sexual abuse, and hostile or chilly climates had yet to be coined inside the second wave of the American's women's movement in the 1980s and 1990's.

I really respect the honesty of this statement. It demonstrates the real problem. How do we describe Yoder's conduct *in terms that were current at the time*? It is what I believe Mark Thiessen Nation means when says "we should not, anachronistically, expect the world of, say, 1973 to be the world of 2013."¹⁴ The idea of sexual harassment by mere unwanted touching had not yet been developed when Yoder engaged in his conduct. Krall repeats this elsewhere in other comments. "Sexual harassment began to be investigated in the late 1980s and the law codes followed suit but many states did not have laws in place until the 1990s."¹⁵ And there is no evidence that there was a sexual code of conduct at the seminary at that time that would have defined and prohibited harassment.

e) In 1984, Yoder became a full time professor at the University of Notre Dame (also in Indiana). It now has a code of conduct with a definition of 'harassment' that might encompass conduct like Yoder's were it to occur now. The present harassment policy at Notre Dame contains a provision against "creating an intimidating, hostile, or offensive University environment."¹⁶ Even that would not make the conduct criminal. Nor would it include conduct towards those who are not students at that university. And the policy requires that the conduct has a certain purpose or effect. Even with codes of conduct, it is difficult to prove harassment, as cases from Notre Dame show.¹⁷ It should be emphasized that there was no discipline or investigation of Yoder by Notre Dame during the time that he taught there, although Krall has assembled some hearsay evidence (Krall 203-4). A conference at Notre Dame in 2002 on the theological legacy of Yoder included a discussion instigated by Gayle Gerber Koontz regarding Yoder's sexual misconduct. This was after the 4 year process of church discipline against Yoder (1992-96) had been

concluded and almost five years after Yoder's death. Some people objected to this discussion, observing that Yoder was dead and that the matter had been dealt with (Krall, 81-82). But there was never any discipline or investigation of Yoder by Notre Dame.

f) Outside of specially demarcated areas of responsibility like university codes of conduct, 'harassment' needs to be a repeated action towards the same individual in order to be considered harassment to be stopped by a court. A letter mailed from France or Jerusalem is not necessarily harassment, even if the recipient considers it to be obscene or offensive. It becomes harassment only after there is repeated contact after being told to stay away or to cease communicating. Repeated or continuing harassment of another person could constitute "stalking" under Indiana law, but note that it has to be repeated or continuing. It also needs to actually cause the victim to feel terrorized, frightened, intimidated, or threatened.¹⁸ This statute was added in 1993 and so would not apply to Yoder. In any event, Krall says that the women she talked to "were unwilling to label his behavior as stalking" (Krall, 157). The same 1993 statute defines 'harassment' for criminal purposes. It "includes but is not limited to repeated or continuing impermissible contact that would cause a reasonable person emotional distress and that actually causes the victim to suffer emotional distress." Note the reference to "repeated or continuing impermissible contact." Even though it is not limited to this, the reference to "repeated or continuing" is significant. The statute also provides that "Harassment does not include statutorily or constitutionally protected activity." Even if this statute were in force at the time of Yoder's conduct, the contact by Yoder *would be* permitted by statute enacted in 1976: A letter or telephone call is not harassment under Indiana statute if there is an intent of legitimate communication.¹⁹ In view of Yoder's writings on sexuality, I believe he had an intent of legitimate communication in relation to his views on non-sexual affection.

g) In the absence of a code of conduct at the time of Yoder's behaviour, there would have had to be repeated instances of unwanted attention to the same person for this conduct to constitute harassment towards that person. Similar behavior in relation to *different* persons does not constitute repeated behaviour as harassment. The evidence is that when Yoder was told to stop, he did stop. The eight women who spoke to the Prairie Street Task Force presented a written document that stated:

In all cases following confrontation and our refusal to respond to additional letters or contacts, John ceased the behaviors. However, John has continued the behaviors to the present with other women. (Krall, 214 fn54).

The fact that the behaviour stopped shows that it was not continuing and therefore not harassment by law. If it continued with other women, that does not make it harassment. We cannot apply to his situation later codes of conduct that may cover a single instance of conduct. Note that the reference to "other women" is also hearsay evidence.

h) Nor would the sexual harassment policies of the Equal Employment Opportunity Commission apply.²⁰ Although it was enacted in 1980, it would not apply unless the complainants were employees of the seminary, and if Yoder were in a supervisory position with respect to their employment.

i) The fact that someone is offended subjectively does not mean that there is an act that needs to be disciplined. The person doing the offending must have intended the offense, and the offense must transgress some accepted standard of care or some code in

existence *at that time*. We cannot be retroactively liable for our actions. I am aware that some contemporary codes of conduct attempt to require only a subjective perception of offense, making the infraction one of absolute liability, regardless of intent. In my view, such codes of conduct go too far. In Yoder's case, the issue of intent is compounded by the fact that Yoder believed he was advancing a new way of non-sexual relating between men and women (see below, section 10). Just because someone is offended by explicit sexual language does not mean that there is an objective offense. For example, I am aware of a professor who was suspended at a Christian university because of a complaint about sexually explicit language (in a class discussing sexuality!). I was not at all convinced that this fell within the compass of that university's code of conduct or that he had been given a fair hearing. He successfully sued for compensation and an apology.

3. Not sexual abuse

I find it unfortunate that Krall associates Yoder's conduct with those of child molestation and abuse, such as the kind of abuse currently being investigated by the Catholic Church. These events also occur in Mennonite circles, but they are not what happened in Yoder's case. They create a false impression and guilt by association. Yoder's conduct had nothing to do with child molestation or sexual abuse.

4. Not clergy abuse

a) Krall also improperly associates Yoder's conduct with clergy abuse, which she discusses in detail. But she acknowledges that although Yoder was ordained as a minister, he never practiced as an ordained minister, either full time or part time (Krall, 225, 336). In fact, Yoder's ordination had nothing to do with the Prairie Street Church that started the Task Force investigation. He was ordained at a congregation in Ohio (his parental home) in 1973:

Yoder's ordination was not as a pastor of a congregation. At the urging of GBS [Goshen Biblical Seminary] professor J. C. Wenger, he was ordained in 1973 at Oak Grove Congregation in Ohio (his parental home congregation) in light of his employment by the seminary as its resident theologian. He never served a congregation (Krall, 225).

b) Since he never served a congregation, it is unclear to me why he was ordained at all. Ordination is not required in order to preach sermons in the Mennonite church (which Yoder did from time to time). Nor would he have had to be ordained to teach at a seminary. Yoder was himself "highly ambivalent" about being ordained. Krall suggests it may have been for tax purposes. She refers to it as an "aberrant ordination in Mennonite polity" since Yoder was ordained not to a congregation but "to a non-specific teaching and preaching role in the Elkhart seminaries" (Krall, 336). But teaching is different from being a pastor.

c) The Mennonite Church is not hierarchical like the Catholic Church, where priests are appointed and approved by higher bodies than a local congregation. There is no national body that appoints Mennonite ministers. The local congregation hires and supervises the

minister, but the credentials are then to be lodged with the conference (Krall, 225). A “conference” is a group or “fellowship” of individual congregations, and conferences in turn join together at a national level. There is even an international fellowship known as “Mennonite World Conference.”²¹ There are several different conferences: The Mennonite Church (MC), the General Conference (GC) and the Mennonite Brethren Conference (MB). In 2002, there was a merger in the US of the MC and GC conferences to form Mennonite Church USA. There are many smaller conferences. What is important to note is that the supervisory responsibility for a minister rests with the local congregation. So it is a little confusing when Krall says

From 1984 until 1991, as far as I know, no denominational officer at any level (congregational, conference, or national) raised the issue of his ongoing- status as ordained clergy as a factor to consider in the church’s management of sexual misconduct allegations and rumors. (Krall, 226).

Responsibility to supervise a Mennonite minister is bottom-up, by the local congregation, and not top down from fellowships or conferences of congregations.

d) The complaints of the eight women were directed to the Prairie Street Church, where Yoder was a member. Prairie Street Church set up a Task Force to investigate the allegations. We will look at this investigation in more detail below (Section 7). What is important to stress here is Yoder was never a minister at Prairie Street Church. Prairie Street Church could not discipline Yoder as minister or clergy (he was not their minister), but only *as a member of that congregation*. And yet Krall says that the complaint by the eight women was lodged with Prairie Street Church and the Indian-Michigan conference “in light of Yoder’s ordination credentials” (Krall, 230). But those ordination credentials had nothing to do with that church. There is something wrong here procedurally. Yoder was right to object. Mark Thiessen Nation comments:

Also, some have made much of Yoder’s ordination credentials. They were suspended at the beginning of the process and were never reinstated. To understand this we need to realize that Yoder never wanted to be ordained. In line with his ecclesiology he had very mixed feelings about the way in which ordination was normally done. He was only ordained because a colleague at AMBS pressed him to be. Thus, when he was told his ordination credentials would be suspended he had two responses. First, he thought this was not the way to discipline a Christian. Rather, he should be disciplined simply as a member of the church. Besides, second, in his case he saw his ordination credentials as a fiction. He never had wanted to be ordained. He didn’t need to be ordained, so keep the credentials. He wanted to be dealt with as a Christian who teaches theology for the sake of the Church.²²

e) Would it have made a difference if Yoder had been disciplined as a member of the church, and not in terms of his ordination? Quite possibly, because Yoder’s argument could have been, “I am a member who taught theology at Goshen Biblical Seminary until 1984. The seminary did not take action against me, and they are the only body that should be involved. I am now at Notre Dame and they have no complaints against me.” Krall certainly thinks that Yoder would not have been disciplined without the “key” issue of ordination. Krall says that these credentials were “the key to unlock the institutional

secrecy about his behavior” and that without them, Yoder’s behavior would not have come to public light, since his ordination was his only link to the Mennonite church “as an employee” (Krall, 236). But Yoder was not acting as an employee of any part of the Mennonite church. He was employed by Notre Dame University. He was involved in public speaking engagements. And prior to the discipline process, Mennonite institutions had informally banned him from speaking. So where was he representing the church in a way that would allow his ordination credentials to be used in this way?

f) Nevertheless, evidence that Krall may be right, and that ordination was a “key” is that an earlier task force to investigate Yoder was started by Prairie Street Church in 1985-86. It was abandoned because no witnesses would come forward to meet with Yoder, in accordance with the requirements of Matthew 18. Matthew 18:15-18 is the foundation text for Mennonite views on church discipline:

If your brother or sister sins, go and point out their fault, just between the two of you. If they listen to you, you have won them over.

But if they will not listen, take one or two others along, so that every matter may be established by the testimony of two or three witnesses. If they still refuse to listen, tell it to the church; and if they refuse to listen even to the church, treat them as you would a pagan or a tax collector. [NIV]

Since Matthew 18 does not deal solely with pastors, but with any member of a congregation having a dispute with another, I believe that this earlier hearing might have had more to do with disciplining members than with disciplining clergy. It could not discipline Yoder as clergy because Yoder had no pastoral connection with the Prairie Street Church. If that is so, then it adds support to Krall’s theory that the ordination issue was the key to getting discipline. It might have been a new argument that was used in 1991-92 against Yoder.

g) I think it is important to see documentation related to the 1985-86 inquiry, to determine its basis. And then with respect to the 1991-92 inquiry, records of the Prairie Street Church and of the Conference need to be examined. What discussion was there about the Conference taking over the supervision of the ordination credentials from Ohio in order to discipline Yoder as “clergy?” Having been stymied in its 1985-86 attempted investigation, was a new strategy developed regarding ordination? Is that why Yoder argued in 1991-92 that he should be disciplined only as a member of the Prairie Street Church? When did he make that objection? What correspondence is there between the Prairie Street Church and the Conference? Between either or both of those parties and the Ohio church that ordained Yoder? When was the Ohio Church contacted by either Prairie Street or the Conference? I do not know what took place, but it is the type of question that should be asked. This is especially so in view of the fact that the Task Force was begun in July, 1991 by Prairie Street Church to investigate rumours about Yoder. This was 7 months prior to the eight women giving their evidence to that Task Force. It is most unusual to set up a Task Force before a complaint has been made. Yoder was in Europe, and not informed until August 1991 of the formation of the Task Force, and he did not appear before them until March 14, 1992, when he was presented with the allegations. It was only *one day after meeting with Yoder* that the Task Force released a preliminary report of its findings to the Prairie Street congregation! (Krall, 353). Now

that is highly unusual. It also seems prejudicial, since the final report was not made until a few months later. With whom did the Task Force meet prior to the evidence of the eight women in February, 1992? Were any of the later eight complainants members of that congregation? What documents are there? What was said? To avoid the appearance of bias, should not a new Task Force have been appointed after the testimony of the eight women? How can the Task Force rid itself of the rumours that it was set up to investigate? In asking these questions, I do not mean to impugn the good intentions of the Task Force. I believe that their intentions were good. But procedurally there appears to be a lot that is wrong.

h) Why did the Indiana-Michigan Conference “assume” responsibility for Yoder’s ordination credentials? The Ohio church that granted the ordination is not even part of that Conference. The Prairie Street Church is a member of that Conference, but as already noted, Yoder’s ordination was not connected with Prairie Street. There is something procedurally wrong here, especially when we consider the timing. We do know that the Conference Commission contacted the Ohio Conference prior to suspending the ordination. Again, I think it is important to see documentation between and among the Task Force, the Conference and the Ohio Conference. Was there contact made with the Oak Grove Congregation in Ohio?

i) In all of this, it is important to remember that Yoder was not acting as pastor of any congregation, and that the body that should have investigated the complaints is the institution where he was teaching: Goshen Biblical Seminary.

5. Socially awkward, strange, creepy, immoral

a) If we cannot use the term ‘harassment’ except in an anachronistic way, then how should we describe Yoder’s conduct? Tom Price reports that the woman known as ‘Clara’ gave evidence:

“There were a few of us (female students) at the seminary who were at that point experiencing what we called strange behavior,” said “Clara,” who first met Yoder in the early 1970s. “We talked about it with each other. That was the extent of it. We chalked it up (as), ‘This man is strange. He is awkward. He doesn’t know how to relate.’ The best thing is to stay away from him.” (Krall, Appendix I, 391).

“Strange,” “awkward.” ‘Clara’s’ evidence *from the time in question* when she was a student (early 1970’s) is only that there were inappropriate hugs. She says that it was only later (in the mid-70’s), when she saw his writings on singleness, that she became suspicious (Krall, 392). But that is reading back into the past. Evidence of Yoder’s conduct must be based on her experience *while she was a student*. Her later reading cannot change what her reaction to the conduct was at that time. At the time she merely thought him strange and awkward. ‘Clara’ says that she later received a letter from him from Jerusalem, asking explicit sexual questions. She found the letter to be offensive, but that does not necessarily mean it was actionable or that he should be disciplined for it. Still later, in 1976, Yoder returned to the seminary and came uninvited to her apartment. When she asked him not to touch her, he stopped. It is unclear whether she was still a student at that time. But there was no repeated conduct in relation to her. As for Yoder’s

writings on singleness, we will discuss them in more detail below (Section 10). In themselves, these writings do not raise any cause for discipline.

b) In my view, on the evidence presented at the hearing we are left with descriptions of conduct like “inappropriate hugging and kissing.” Price reported on the evidence:

The women, who are on positions of national church leadership, said the allegations included improper hugging, use of sexual innuendo or overt sexual language, sexual harassment, kissing or attempts to kiss women, nudity and violent sexual behavior. Sexual intercourse was not among the allegations. (Krall, Appendix G, p. 379).

There is no evidence of a code of conduct prohibiting sexual innuendo. Overt sexual language may offend, but it is not in itself actionable unless contrary to obscenity laws. I have seen no evidence of nudity, except for fantasies of nudity. With respect to kissing, see the article by Cadoppi and Vitiello, “A Kiss is Just a Kiss...”. They conclude that, based on the *Scott-Gordon* and *Bailey* cases in Indiana, such conduct would not be unlawful in Indiana unless there were evidence of prior objection to this behaviour by the woman, and evidence that she had *previously* felt threatened by Yoder. These required elements are not found Yoder’s conduct. There is the further hurdle of proving that the kissing involved an element of force. Again, there is no evidence of this. The authors of this article argue that even in jurisdictions that do not have Indiana’s requirements of force and intent, kissing should not be criminalized.

What about “violent sexual behaviour?” As already discussed, the strongest case against Yoder is the incident with ‘Colleen.’ Although socially and morally wrong, it cannot be described as “violent sexual behavior” since it would not even meet the test the element of force. In any event, as we have discussed, there can be no criminal allegations in regard to Yoder’s conduct because the only sex crimes at the time required proof of sexual intercourse.

c) Graber objects to terms like ‘inappropriate,’ ‘improprieties,’ ‘crossed boundaries,’ ‘misconduct,’ and even ‘sexual advances’ to describe Yoder’s actions. She says they are “far too mild, lack specificity.” And she says, “It baffles me that scholars and writers who dicker over the accuracy of words, cannot seem to get them right in this case.” (Graber, 2013). Yet the words that she has used are clearly not right.

d) Krall also says that code words like ‘misconduct’ are often used to cover up serious cases of abuse (Krall, 181). I agree that code words are a concern where what really occurred was a more serious offence like rape. But in Yoder’s case there was no rape, no sexual intercourse. Even the term ‘harassment’ is anachronistic. In searching for a description of Yoder’s conduct, we are not using code words, but rather attempting to state what really happened in terms that were current at the time. And what really happened is much less serious than what has been stated by so many parties to the discussion. Yoder’s actions were socially inappropriate, awkward, strange, creepy

e) I believe that Yoder’s actions were also morally wrong, given the fact that he and some of the women involved were married. Whether these acts would have been immoral had the parties not been married is something that is less clear to me. But his actions were not criminal. What is immoral and what is criminal are not always the same thing. Some

immoral conduct—that which society deems most serious— is also criminal (e.g. murder, rape, sexual assault, perjury). Some immoral conduct, like gluttony or adultery, is not criminal (adultery laws were removed in Indiana in 1976). The Mennonite Church has disciplined its members for what it believes to be moral faults that are in no way criminal—like sending their children to public school, or for consensual sex outside of marriage. It is evident that the church also believes that Yoder’s conduct was immoral. Criminal acts range from felonies (the most serious) to misdemeanors or summary conviction offences to fines for parking and speeding. Yoder’s conduct did not fall within any of those categories, even the least serious. It was not criminal. There is a vast difference between an inappropriate kiss or hug (even if it is deemed immoral and not merely socially inappropriate) and the criminal act of sexual assault or rape. I agree that Yoder’s conduct should have been stopped. But we should not exaggerate or mis-state the nature of his conduct.

f) It has been suggested that Yoder suffered from Asperger’s,²³ which made him socially inept and unable to read body language and other signals. It might also have made him unable to empathize with those whom he offended. As I understand it, some people afflicted with this kind of autism resist being touched; others want many close, tight hugs, provided that they are the ones who initiate these actions. Autism is a spectrum of symptoms, and it includes some very high functioning individuals. But their high level of functioning is restricted to certain areas. I think that Krall too easily dismisses this possibility (Krall, 156). Instead she suggests that he was a “brilliant individual with anti-social tendencies.” She does acknowledge that others regarded him as socially awkward. She concludes he was testing others by inept social responses as a way to rescue himself from boredom (Krall, 158). But that is really only her speculation.

6. Professor/Student relationship

a) The real issue is not abuse of clergy power, but of Yoder’s conduct while he was a professor at Goshen Biblical Seminary in Goshen, Indiana. That seminary began as a Bible School within the Mennonite Church Conference. It amalgamated with another seminary, Mennonite Biblical Seminary of the General Conference of Mennonites, to form the Associated Mennonite Biblical Seminaries at Elkhart, Indiana.²⁴ But at the time of Yoder’s conduct, it was still Goshen Biblical Seminary.

b) If the issue is of Yoder’s conduct at the seminary, then it is not one of clergy abuse but of improper relationships between a professor and his students. The issue of ordination is not relevant. But in that respect, it is unclear how many of the eight complainants were students. The woman known as “Colleen” was not a student at the time of the conduct she complained of. The complainant ‘Tina’ met Yoder at a conference. She does not appear to have been a student, but rather a woman that Yoder began writing to, suggesting meetings at conferences. ‘Tina’ was offended by some suggestions in the letters, including some detailed imaginings of her breasts and other body parts (Krall, 392). Is that obscene communication? Probably not by Indiana law, given the context of Yoder’s studies. And fantasized nudity is not the same as actual nudity. But Yoder did make a serious error in social judgment in assuming that his correspondent would be interested in such a discussion or fantasy. In law, these distinctions student/non-student

are important, since the duties of a professor to his student are different from the duties owed outside the classroom or even to a former student. Two of his female doctoral students have said that Yoder was socially awkward, but that he supported and empowered them.²⁵

c) Krall says that the seminary “coerced” Yoder’s resignation in 1984 by not renewing his contract (Krall, 347). Could more have been done earlier? I would be interested in knowing what legal opinions the seminary was given. Although this advice was privileged, the seminary can waive the privilege. In the absence of a written code of conduct, it would have been difficult to dismiss Yoder without risking a lawsuit by him for wrongful dismissal. But some of the faculty were aware that Yoder was seeking inappropriate hugs and kisses from students. And some students and staff warned new female students and staff not to be alone with Yoder or in closed-door classrooms (Krall, 341). It seems to me that, even characterizing his behaviour as merely socially inappropriate, the seminary could have issued a general warning to its students not to have contact with any of the faculty behind closed doors and to avoid being alone with them. (Today, it is faculty and clergy who are concerned not to close the door on their students or parishioners, for fear of false accusations of sexual impropriety, as dramatized in David Mamet’s play “Oleanna,” which deals with false accusations of abuse.²⁶ A pastor I know has a glass window installed in his study door so that people outside may look in on his consultations). But even this idea of a general warning may be anachronistic in that we know so much more today about the possibility of abuse. I do not mean that the seminary would necessarily have been legally liable for not stopping Yoder’s conduct. But they did have concerns that could and should have been made public, even if those concerns were only that Yoder was breaching social standards of propriety, or as students said, acting in a “creepy” way with “inappropriate hugs and kisses.”

7. Discipline by the Prairie Street Task Force

a) This Task Force met with Yoder 5 times. Their report of June 26, 1992 concluded that the reports of the eight women complainants were true and that “Yoder has violated sexual boundaries.” (Krall, Appendix O, 525). This conclusion of violation of sexual boundaries is a social and moral judgment. It is also what Yoder was prepared to apologize for in his prepared apology (see below Section 9(g)(i) and Krall, 229).

The Task Force report says,

...the task force has sensed in John a high degree of rationalization and a denial of the problems associated with his sexual misconduct. We have strongly recommended that John participate in therapy to work thoroughly with the issues involved and that he meet periodically with an accountability group to be assisted and monitored as he works at change. He has agreed to these two recommendations.

b) But there was an earlier report issued to the congregation dated March 15, 1992. It was released because of news coverage that Yoder’s invitation to speak at Bethel College had been cancelled. The report to the congregation was about the Task Force’s “work and

findings to date” (Krall, 353). But that is *only one day* after they met with Yoder! And it seems improper to give preliminary findings before the investigation is completed. Where is the report? What does it say?

c) In 1996, four years later, Yoder was restored to membership in the Prairie Street Church. That implies that not only were his ordination credentials suspended, but that his membership in Prairie Street Church had been suspended. Yoder and his wife attended a different church throughout that discipline period. (Krall, 358).

8. Discipline by the Indiana-Michigan Conference

a) On May 18, 1992, the Church Life Commission of the conference suspended Yoder’s ordination credentials, based on the work of the Task Force (See Krall, 356; Appendix M, 407). How can this be, if the final report by the Task Force was dated later, June 26, 1992? (Krall Appendix 9, 425). Was there a recommendation in the interim report of the Task Force dated March 15, 1992? As already noted, that report was issued one day after meeting with Yoder. There is something wrong here, either in the reporting of the dates, or else the Commission is affirming a decision already made. Assuming that ordination is in issue, a suspension might make sense pending a review of the evidence. What does not seem just is that the Commission has already concluded at this time that “restitution and therapy” will be required before the credentials will be restored. That indicates that the issue had already been judged before the completion of the investigation by the Task Force. That is not a just result.

b) Krall says that the Conference was “the holder of Yoder’s ordination credentials” (Krall, 173, 224). But in fact, it was unclear who held the ordination credentials. The Ohio church that ordained Yoder was not a part of the Indiana-Michigan Conference. Krall says,

Because the location of Yoder’s ordination credentials was unclear, Indiana-Michigan Conference officers consulted with Ohio Conference officers. In light of Yoder’s membership at Prairie Street Mennonite Church (Elkhart, IN), conference officials agreed that Indiana-Michigan Conference would assume responsibility for Yoder’s ordination credentials. Consequently, Indiana-Michigan’s Church Life Commission in consultation with Indiana-Michigan’s Conference Minister assumed full responsibility for the church’s discipline process with Yoder. (Krall, 225)

c) This shows the confusion that can result from a church polity that is based on the primacy of local congregations instead of a top-down hierarchy. How could the Indiana-Michigan Conference revoke an ordination by a congregation that was not a member of that conference? It is true that they consulted with the Ohio Conference. But is this power to supervise clergy one that can be delegated? Why is the original Ohio congregation not the one to revoke the ordination? Is it true that the reason for assuming responsibility for the ordination was that Yoder was attending the Prairie Street Church? Does this make sense? Cannot a pastor ordained by one congregation attend another congregation where he has no pastoral duties? The Indiana-Michigan Conference had not been supervising Yoder as a minister. It seems that the Conference assumed and then suspended the

credentials in the same year (1992), and very quickly. There is something wrong here from a procedural standpoint. The Conference was quick to assume supervision only to turn around and suspend the ordination. The Conference Commission met with the eight women in February 1992. The conference assumed supervision after that date, and by May had suspended the credentials. In any event, it is not a Conference that has primary supervisory duties; it is the local congregation. But there was never any local congregation that supervised Yoder within the Indiana-Michigan Conference. There seems to be a lot of confusion here, and Yoder was correct to object.

d) And, as we have seen, Yoder did object to the revocation of his credentials as a way of disciplining him. He said that if were was to be disciplined, it should be as a member of the church. Whether or not he needed these credentials while he was a professor at Goshen Biblical Seminary, he certainly did not need these credentials at Notre Dame University.

e) The Commission met with Yoder and his wife more than 30 times. At the end of a four year period, it concluded that Yoder had “made significant changes in attitudes, beliefs, and behaviors to bring closure to the process.” They recommended that the church use his gifts of writing and teaching (Krall, Appendix M, p. 408). After the discipline was completed, the Conference offered to restore Yoder’s ordination credentials, but he declined. He did not need them (Krall, 236).

9. Unjust Procedures in the Church Discipline Process

a) In my view, Yoder should not have submitted to the church discipline. Apart from the issues already stated, both the Commission’s investigation and that of Prairie Street Church Task Force were flawed and unjust. This is despite the fact (and I have no doubt) that the people involved were sincere and well-intentioned.

b) Not allowed to meet with, examine, and learn the identities of witnesses

i) Yoder was never given the names or identities of the eight complainants. Price says,

That group, however, has not told Yoder the identities of the eight women, leaving him uncertain about who has made the allegations. (Krall, Appendix I, 390).

Nor was he given the opportunity to meet with them. This failure to identify the complainants is in law a breach of natural justice, which would entitle Yoder to overturn or quash the decision. It has taken the common law many centuries to provide protection for accused people. The church’s justice should be no less just. Would someone sue over a church discipline decision? It has happened before, especially where economic interests are affected, as in the case of shunning of a member. In Yoder’s case, he had concerns that the publishing of his books was being hurt pending the disciplinary hearing (Krall, 231). And certainly his reputation was sullied by the disciplinary actions.

ii) This failure to give the names of the complainants is also a breach of Matthew 18, the foundation text for Mennonite views on church discipline. It applies to a dispute of any member with another member. As discussed, the issue of ordination did not apply to the Prairie Street Church. The Conference attempted to make it apply to them by assuming

supervision from Ohio. Even if that made it an issue of ordination, should not Matthew 18 still apply?

iii) Yoder thought that Matthew 18 should apply to the 1992 disciplinary hearing. Stanley Hauerwas says, “He did not think the process was following the rule that he should be allowed to confront his accusers.” (Hauerwas 2010, 244). As we have seen, an earlier inquiry was attempted by Prairie Street Church in 1985-86; it did not proceed because individuals did not come forward. The church felt that the requirements of Matthew 18 had not been met in that there was at that time no one who would meet with Yoder (Krall, 349).

iv) In 1992, two women theologians presented papers at the Believers Church Conference on Church Discipline at Goshen College. They argued that Matthew 18’s requirements should not apply to sexual abuse cases (Krall, 354). One of these theologians noted that Yoder, who was also at the conference, was “provocative, disruptive and offensive.” But why would he not be provocative when this argument was being made at that very time to deny his basic rights? Why should there be no confrontation and cross-examination of evidence in sexual abuse cases? In law, there is a right to examine complainants. There are limits on the type of questions that can be asked (for example, one cannot question about past sexual history). But the right to examine allegations is a primary right of an accused person. The days of Star Chamber trials and secret proceedings by anonymous witnesses and the requirement for self-incrimination should be over.

v) Krall’s view is that Matthew 18 need not have been followed because Yoder’s

...insistence on a literal enforcement of the Matthew Rule of Christ text was another public rationalization which allowed him to continue doing what he was already doing—harassing a wide variety of women all around the world. Such an obsessive or literalist approach to this text was yet another way to bully other churchmen—his institutional supervisors and conference ministers—into a refusal to act. (Krall, 373 fn74).

In my view, Krall fails to consider the need to protect the accused. Her argument works only if one has already concluded guilt. Meeting with witnesses and examining their evidence is not bullying. It is a fundamental right. Furthermore, since the very basis of church discipline is based on this text from Matthew, it is inconsistent to be literal in reading part of the text and not literal for other parts. I also find it inconsistent for Krall to refer to ‘harassment’ when she acknowledges that that term was not in use at the time of the conduct complained of. And her reference to “women all around the world” is an example of hearsay and innuendo. Evidence needs to be given by people who come forward publicly, and not repeated in this indirect way.

vi) Why did the complainants not come forward in 1985-86? Price reports that ‘Tina’ indicated that none of the eight women who later complained were willing to sit down publicly with Yoder, fearing that this would affect the climate of their being ordained (Krall, Appendix I, 396). But why would it would hurt their chances of being ordained? Is it because their act of publicly coming forward might have been criticized as contrary to the principles of non-resistance in the church in which they sought to be ordained? Even if their possible ordination was a valid objection in 1985-86, it does not seem to be a valid objection in 1992, when they gave evidence by writing, but anonymously and

without meeting with Yoder. By that time, as Price says, they were all in positions of national responsibility in the church.

vii) Stan Hauerwas, Glen Stassen and James W. McClendon thought it would be inconsistent for Yoder to refuse to submit to the church discipline given his views on ethics and a free church (Krall, 355-56). They said that not to submit would bring his ethics into question. I am not sure that that is correct. The procedure adopted was not what Yoder believed should take place.

c) **The Lapse of Time and its Effect**

i) **Limitation Periods.** In criminal cases, even for serious cases of rape, Indiana has statutes of limitations. The limitation period is 5 years, unless minors are involved, or there is recently discovered DNA.²⁷ For other offences, the period is two years. And as we have seen, the U.S. Supreme Court has held in *Stogner v. California* that limitation periods cannot be changed retroactively, even for serious cases of child abuse. Should not the church have the same forgiveness over time for conduct that is much less serious, and in fact not criminal at all? Memories fade, records are lost, facts are unconsciously and unintentionally embellished or revised. Discussions with others can change initial perceptions.

ii) **Changing perceptions over time**

I am very troubled by what Krall says

Inside the Mennonite academic women's community of Elkhart County the nascent awareness that Yoder's behavior was not only inappropriate or immoral but also interpersonally violent took some time to mature. (Krall, 344).

This is in the context of Krall's recognition "The terms *sexual harassment, sexual abuse, and hostile or chilly climates* had yet to be coined inside the second wave of the American women's movement in the 1980's and 1990's." But if Yoder's actions were not perceived as violent at the time they took place, then he should not be accused of having committed violent acts. Whether or not they were violent is not something that can 'mature' over time. I believe that the complainants' emotional pain at the time of their evidence in 1992 was real. What needs to be understood is to what extent that pain was different from what they experienced at the time of the incidents. If it was increased by consciousness-raising events that they attended years later, where they were urged to view these actions as violent, then that is a serious problem that should not be ignored. It is somewhat analogous to the "false memory" issues that arise from time to time in sexual abuse cases. I am not saying that this is what happened. But it should be tested, especially in view of Krall's comment that the awareness that Yoder's behavior was "not only inappropriate or immoral but also interpersonally violent took some time to mature."

iii) This 'maturing' process seems to be indicated by the chronology of events. Some of the women affected by Yoder's conduct (in the 1970's) met for the first time at a conference on "Violence Against Women" held at the seminary in 1991. They discussed the needs to "heal their wounds." They asked Marlin Miller, President of the Seminary to write a letter to all the women of whom he had a record of filing complaints regarding Yoder at the Seminary. "The purpose of the letter was to invite Yoder's victims to form a support group oriented around healing their own wounds and protecting other women"

(Krall, 223). Some of these women met in February 1992 to talk about what they had experienced and what they had heard about other women [note the hearsay element]. It was from this group that the eight complainants were selected to talk with the Prairie Street Church task force and the Conference Commission. Among the things they requested was a suspension of Yoder's ordination (Krall 224).

iv) If Yoder's conduct in the 1970's was not experienced as violent at that time, and if it is only in retrospect, using ideas formulated by the women's movement in later decades that this perception changed, then this is a strong argument for imposing limitation periods as a matter of fundamental justice for Yoder. If the women's consciousness was raised by attending a conference on violence against women, and if this caused them to re-evaluate their experience with Yoder, then that is not a just way of proceeding. We need to understand and judge his conduct in terms of the standards and perceptions at the time. In 1982, Marlin Miller refused to act on old complaints, but said that he would re-open disciplinary conversations with Yoder if anything new had happened since December 1980 (Krall, 342). It is unclear why this date was chosen, but Miller's sensitivity to time as a factor in seeking justice does appear to be correct. Why was Miller later prepared to write to the women regarding the old complaints?

d) Inquisitorial versus adversarial procedure

i) Both the Task Force and the Commission used the inquisitorial method of interviewing witnesses, instead of the adversarial method customary in common law countries like the United States, Canada and Great Britain. In an inquisitorial system, the investigating body is itself actively involved in investigating the facts, as opposed to being a neutral or impartial referee between a prosecution and a defense.²⁸ But even in an inquisitorial proceeding, the identity of the witnesses should not be kept secret. In an adversarial system, there is more opportunity for cross-examination of witnesses. Now the very term 'adversarial' may signal to some that it should not be used in a peace church. But that is insufficiently self-critical of how adversarial a complaint process already is. I agree that mediation should first be attempted, but if it fails, then there should be recognition of how an inquisitorial process, especially in the hands of lay persons, can sometimes itself lead to injustice, especially where names of witnesses are kept secret, and hearsay evidence from people not present is considered. Vigorous cross-examination is sometimes the only way to discover the truth (See below, section 13b on H.P. Friesen case). This is not necessarily because people are deliberately lying. Our perceptions and memories are fallible. Furthermore, important distinctions need to be brought out. What happened at the time of Yoder's conduct, as opposed to later reconstructions of what happened (like 'Clara's' later suspicions based on her readings of Yoder's works)? Who was and who was not a student? At what time? To whom were complaints made? When? What was said? When, if ever, did the complainants begin to regard the actions of Yoder in terms of violence? Was it after consciousness raising sessions or women's conferences on violence? What conferences on women's issues did the women complainants attend between the 1970's and 1992? Did any of the complainants receive the letter from Marlin Miller which he sent to all women who had complained to him at the seminary? What was in the letter? Did any of the eight women meet with Prairie Street Church prior to February, 1992 regarding Yoder? What was said? What discussions were there about

strategy for discipline? Was there any suggestion of what evidence should be given by complainants? Where is the written document that was presented by the eight women in February, 1992? Who prepared it? What discussions were there with others in preparing it? Are there drafts of that document? If so, to whom were the drafts circulated? Are there any documents or notes from the 1970's that relate to these issues? Were any documents destroyed? When? Why?

ii) Yes, cross-examination like this is uncomfortable for the complainants. But it is also uncomfortable to be an accused. It is important to try to uncover errors of fact and perception, whether there has been any bias, and whether there was coaching by other women as to what to say. I am not saying that this is what happened. Even with cross-examination, the same result might have been reached. But we would have more clarity about the facts. We would not be hearing calls for new hearings even today on the subject. I repeat that these are just questions I think should have been posed. Being able to examine witness evidence is part of procedural justice. And procedural justice is important—even if the same result would have been achieved with better procedure. In law, there is a maxim that “Justice must not only be done, but must be seen to be done.”

iii) Too often, disciplinary committees neglect the rights of the accused. Again, this need not be deliberate. It may be very well-intentioned, as was the case in “Bishop” David Toews’s judgment of H.P. Friesen (see below, section 13b). But serious mistakes that affect people’s reputations and livelihoods can and have been made by church disciplinary committees.

iv) Why were the eight complainants unwilling to provide their identity? They were already in established positions of national church leadership, so they cannot have been afraid of problems of career advancement. Even if that was the reason, is it a valid reason? If they were in positions of national church leadership, was it not all the more important that they come forward publicly, so that there be no appearance of this being a matter of a power struggle? Why would they need protection? For their physical safety? There is no evidence that Yoder ever physically harmed anyone. The proceedings could be kept secret from the public, although I don’t see the point of that, since public protests were already occurring regarding Yoder’s speaking engagement. Proceedings can be secret, but the ability of an accused to meet with the witnesses who are subject to cross-examination cannot be avoided if justice is to be done. I would make exceptions in the case of child abuse, but even there, there are horrendous stories where the children’s evidence was false.²⁹

e) Hearsay Evidence

It is clear that the Church Task Force accepted hearsay evidence about women who were not interviewed. Krall reports that “As part of their Statement to Prairie Street, the eight women reported that they knew first-hand and by name, *an additional 30 women*” (Krall, 355). ‘Clara’ said that the issue had international dimensions (Krall, 390). It is improper and prejudicial to hear evidence of what people said who are not present at the hearing. Nor should Krall be repeating such hearsay evidence, or hearsay evidence reported to her by Marlin Miller of 38 women or even more (Krall, 355).

It seems that the Task Force was even set up with hearsay in mind—“to investigate rumors and complaints regarding Yoder’s abusive and sexual misconduct behaviors.” Even to

frame the Task Force in terms of abusive and sexual misconduct is to prejudge the issue, using loaded words. The Task Force was formed in July, 1991; Yoder was not even informed of it until August, and he didn't meet with the Task Force until March 14, 1992 when he was presented with the allegations (Krall, 353). In other words, not only did the Task Force interview witnesses who were not identified, the Task Force commenced the process and formed its allegations before meeting with Yoder. In law, this would form a reasonable apprehension of bias on the part of this Task Force before it met with Yoder.

f) Admissions by Yoder

The fact that Yoder acknowledged the truth of some of the allegations does not correct the procedural unfairness of the discipline process. What pressure was brought to bear for this "confession?" It is also clear he was only partially satisfied with what was alleged. This causes difficulty now because we do not know what he was unwilling to admit. We do know that he was less satisfied with the task force of the Prairie Street Church than the Commission of the Conference. Price reports that Yoder said:

"They speak for me—not with perfect accuracy, but accurately enough that I don't want to debate what they say," Yoder said this morning, terming the task force's statement as "less accurate" than that of the commission. "Both of them have the right to attribute things to me that they have attributed to me." (Krall Appendix G, 380).

But where he disagreed is not clear. What did he believe was inaccurate? We don't know.

g) Apologies

i) The fact that Yoder did not know his accusers also meant that he could not give a personal apology to them. It is inconsistent for these people to now complain that they have not received an apology (Krall, 233, 359-60). Krall does suggest that some of them may have agreed to the forgiveness offered by the church (Krall, 233). In 1997, Yoder did say in response to a question "There isn't anyone I've hurt that I haven't wanted to apologize to and I am grateful for those who have forgiven me" (Krall, 228). He also insisted that "the Mennonite Church had formally instructed him not to apologize to any of his victims" (Krall, 363). He had a prepared the following written apology, which he was not allowed to read at EMU.

I am grateful for the resources of forgiveness in the Christian Gospel and in the Christian community. I have thanked the individuals to whom I did wrong in the past, whether by failing to respect borders or otherwise, who have been willing to respond with pardon to my testimony of repentance, and I have addressed the same request to others.

I am grateful as well to the Prairie Street congregation and other agencies which have affirmed their acceptance. I regret the institutional decisions which have permitted the persistence of the misperception that I had not repented and apologized. Over the past four years an intensive process of fraternal group study and two series of professional analysis have reinforced the credibility of my resolve that this kind of offense will not recur (Krall, 229).

Even that prepared apology does not satisfy some people (Krall, 229). Is that because his apology gives no specifics of wrongs except that he failed to “respect borders?” But that is the heart of his conduct: socially inappropriate conduct. And the Task Force itself had come to the conclusion that he had violated “boundaries” (Krall, 230). Has he not responded to the finding? What about his actions being immoral? He does say he has repented, and that it is a misperception to think otherwise.

ii) To expect some national pronouncement by the Mennonite Church for Yoder is similarly misguided. He was not acting in a pastoral or clergy capacity. Any apology must come from the seminary, and I understand that an apology has already been given by some institutions to some people (Krall, 234). Second, the Mennonite Church is not a hierarchy. Its responsibilities are not top-down, but rather bottom-up. So even if ordination is an issue (I don’t think it should be), supervision of clergy is at a local or district level.

iii) Of course there can be no apology for that which Yoder did not do. If there was no criminal act, no sexual assault, and if it is anachronistic to speak of ‘harassment,’ Yoder could not be expected to apologize for such acts. And nor should anyone in the Mennonite Church today or in the seminary issue an apology for what did not happen.

h) The Discernment Group

i) In August, 2013, the Mennonite Church set up the “John Howard Yoder Discernment Group” to reexamine Yoder’s conduct, and to examine what the Church should have done differently.³⁰ The announcement of the formation of this group raises many troubling issues, since it refers to ‘sexual abuse’ by Yoder, and asks what the church should have done differently. This is to ask the wrong question. As discussed, ‘sexual abuse’ has criminal connotations, particularly with reference to child molestation. There was no sexual abuse by Yoder. As we have seen, there was no sexual assault or any criminal behaviour at all that can be attributed to Yoder during the relevant period of time. The Mennonite Church, in setting up this Discernment Group, is therefore asking the wrong questions. Much more neutral language needs to be used with respect to Yoder’s conduct, which was socially inappropriate and immoral, but not criminal.

ii) There is considerable pressure for the Discernment Group to hear new evidence. But that would be a terrible mistake. The deficiencies in the church discipline process cannot be corrected now by interviewing more people and getting more facts from those who were offended by Yoder’s conduct. That risks producing an injustice greater than the original church discipline hearing. Time limitations were already a concern during the church discipline process in 1992. They are of far greater concern in 2014, 30 years after Yoder ceased teaching at the seminary, and 40 years after some of the incidents in the mid-1970’s. There is also the risk that evidence by new anonymous witnesses would improperly make allegations in terms of today’s terminology of sexual assault or sexual abuse. As we have seen, we cannot use terms like ‘sexual assault’ or ‘sexual abuse’ to describe Yoder’s conduct. There were no laws forbidding his conduct at the time, and even those that were enacted subsequently do not apply. There were procedural injustices in the original church discipline process. These procedural injustices would be even more pronounced today, including issues of bias, anonymous witnesses, and of course, the lack

of an opportunity for Yoder to defend himself posthumously. This is not a model of justice that should be followed by the Mennonite Church. If it wants to protect women (and men) against sexual misconduct, the solution is not to try to reinterpret the past based on today's laws, and to make Yoder a scapegoat for offences that did not even exist at the time, but to enact better laws and better codes of conduct.

iii) The Discernment Group has appointed Dr. Rachel Goossen, an historian, to review the history of events involving Yoder's misconduct.³¹ She has been given permission to look at files that have previously not been made public. As I understand it, her mandate is not to adjudicate on Yoder's conduct, but to examine the church's response to the allegations. I trust that Dr. Goossen will take into account the history of Indiana's sex crimes legislation, and the fact that there were no sex crimes applicable to Yoder's conduct during the time in question when he taught at the seminary. And I trust that Dr. Goossen will also look at the procedural issues in the church discipline process itself.

10. Yoder's writings on singleness and on non-sexual relations between the sexes

a) Yoder's conduct relates to his teachings on being single, and to his belief that we may touch or show bodily affection in a non-sexual way. I myself think that this belief is unworkable in today's society. I side with the view expressed in the movie "When Harry Met Sally"—that men and women have difficulty in just being friends in a non-sexual way. But that does not mean that Yoder's attempt (or "experiment" as Hauerwas describes it in *Hannah's Child*) was itself wrong, *provided that the women whom he approached consented*. One of Yoder's articles: "What is Adultery of the Heart?" is discussed by Tom Price (Krall, Appendix K, 400). Krall discusses a memorandum entitled "A call for Aid" (Krall 200-1). See also his article "Singleness in Ethical and Pastoral Perspective," (Yoder 1974), where he says that singlehood is not abnormal, and that support should be given to singles and childless couples. Indeed, echoing Paul, he says, "marriage is fine and singleness is better." He speaks of some couples making a permanent commitment to childlessness, which would be analogous to the commitment of celibacy (p. 11). Another option would be a household of mixed singles. And he says,

If we were able to free ourselves from the tyranny of assuming that relations between two persons must always be seen as potential courtship, we would discover a new liberty for the expression of affection and moral support between persons, whether of the same sex or of both sexes, without being frightened by the fear of misinterpretation or unwholesome developments. In some places we may have been taught by "the youth culture" to rediscover the possibility that spiritual intimacy and physical touching need not lead to sexual expression, so that the married person may be free to express visible affection or affirmation to others than his or her spouse, and the single person may receive physical and spiritual affirmation from others of the opposite or the same sex without fear of scandal. The same would apply to other kinds of closeness; --counselling, traveling, working together—which in our environment are easily rendered suspect (p. 7).

b) Can we not interpret at least some of his conduct as attempting to fulfill this ideal? The catch is that the other party must also consent to the experiment. And that was Yoder's mistake—failing to perceive or being unwilling to perceive this lack of consent in the

women to whom he gave his inappropriate hugs, kisses and embraces, or to whom he wrote in relation to his experiments.

c) In his article “Single Dignity” (Yoder 1976), he says,

Still deeper than the issues we have been looking at is the possibility that the reason our mostly-married society has difficulty in handling the threat which the single person represents is that in relation to this person there comes to the surface a deep moral-cultural problem, a fundamentally inadequate grasp of the entire realm of the bodily, the sexual, the animal in human nature. The understanding of the bodily nature of the human being which lies beneath the surface in our western culture has numerous non-biblical sources, in addition to whatever has survived from the biblical view of human nature.

The neo-Platonic view depreciated the body. The effect “is to be ashamed of the body and to try to flee it into asceticism, or to compartmentalize one’s life between a spiritual and an animal sector, each following its own inherent dynamic, in either case the body is looked at as something other than the real person.” Or the other response is to regard the body and sexuality

as dramatic, irrational, drives, comparable to fire or to a wild animal, which may with difficulty be tamed but are always in danger of breaking loose in a wild way....Christianity tries to tame them, to keep them in legitimate channels, but always with an abiding fear of their wild power which is the reminiscence of the pagan rootage.

Monasticism tried to avoid bodily satisfaction, comfort and pleasure, as well as sexual expression. Protestantism over-corrected by making marriage normative, a positive duty.

Yoder regards both the monastic and the Protestant understanding of sexuality as “mono-dimensional”:

At one end of the line is total distance from another person and at the other end is marital intercourse. People can differ as to “how far” it is morally appropriate to go along this line, with whom, with how many people, and whether it is ever proper without the benefit of clergy. But all would seem to agree there is but one continuum, so that the person who wishes to be faithfully monogamous will need to retain a great, in fact a somewhat fearful distance from all other persons of the other sex except for his/her spouse. (p. 2)

But the other dimension is the care for those within the incest taboo—mothers, sisters, who are not feared as sexual threats. As a society evolves, “this family safety” is expanded:

The nurse with her male patient, the male gynecologist, the school teacher or the counselor when his or her sex is the opposite of his/her pupils, are not normally feared in our society as sexual threats. That is to say: there exists a fundamentally non-erotic category of relationships between the sexes. (p. 3)

In these familial relationships, we are aware of sexuality, but not in an erotic way. Lust is not the only way to think of a woman. Jesus changed the rules. “What if he is really

saying that his intent is to see all women as sisters or daughters?" Yoder says it is striking that early Christian usage speaks of believing women as sisters.

If it be the case that the liberation which Jesus brings in the realm of sexuality is to enable us to perceive of persons of the other sex no longer in an erotic context but in a "familiar" context, then what is at stake in the way we treat single persons is far more than the comfort, dignity, and mental health of those single persons themselves. It is a question of whether all of the rest of us perceive our bodyliness and our marriedness in a biblical context, or whether we are the prisoners of other understandings of lust and animality which owe more to the mystery of fertility religions or to Gnosticism.

...

To look in a more positive direction; if we could discover the real dynamic of the freedom with which Jesus could deal with any kind of woman, even the one publicly marked by her being a sexual object, as a sister without erotic dimensions, then we might be far more able to give to our single sisters and brothers moral and social support including the residential closeness, the affirmations of touch and time together, the respect of togetherness without fear, which would not simply be compensations for their special suffering status but affirmations of their dignity in the family of Christ.

Again, this is not objectionable as ideas for discussion. It becomes objectionable only when imposed on someone who is not ready for it, and who has not consented to it. (And, as I mentioned, I think that it will also prove to be unworkable in today's society, even for those who consent).

d) Now some people believe that Yoder used these ideas not because he believed them but in order to seduce women. I think that is a rather uncharitable view. It is also not believable. If Yoder had wanted to seduce through his writing, he could have used much simpler language than that. Did any of the women complainants read these works at the time of the conduct complained of? 'Clara' says she read some of them later. Why did they offend her so much? Why did it not rather show her what Yoder was attempting to do in his social awkwardness? I cannot see how the reading of this text would make one "suspicious" of Yoder. Rather, it would clarify his actions.

11. Spiritual Marriage

a) What has really surprised me is that I have seen no discussion at all of Yoder's theories of being single in relation to what happened in the early church in the practice of taking spiritual brides, and of virgins sleeping with men in a "chaste" way (the *agapetae* or *syneisaktoi*). Greg Peters describes the practice:

The idea of "spiritual marriage" (*syneisaktism*) as found in 1 Corinthians 7:25-38 becomes in later exegesis a reference to the practice of "female Christian ascetics who lived together with men, although both parties had taken the vow of continency, and were animated with the earnest desire to keep it." In the Greek-speaking church, the participants of this practice were termed "beloved" (*agapetai*

or *agapetoi*), and in the Latin-speaking church, the participants were known as *agapetae* or “*virgins secretly introduced*” (*virgines subintroductae*). The earliest non-biblical reference to the practice is from the first century CE, and there are numerous references to the practice from the second century onwards. Both orthodox and heterodox ecclesiastical authors as well as secular emperors were familiar with the practice, which had spread to most church provinces in ancient Christianity by the fourth century. Although references to the practice are scarce in comparison to other ancient ascetic phenomena, it is certain that celibate men and women lived together in a chaste relationship for mutual support and encouragement.³²

b) According to Carl von Weizsacker, 1 Corinthians 7 is the first reference to this. Hans Achelis concluded that the apostle Paul was the one who developed the practice of *syneisaktism*. (Peters, 57).

c) Yoder makes no direct reference to his practice. But he does refer to monastic ideals, and to couples who agree not to have children as engaging in a kind of celibacy. And the way that he refers to single women as “sisters” is reminiscent of how these *agapetai* were referred to. Morton Hunt says,

Paul of Samosata, Bishop of Antioch at the end of the third century, was sharply scolded by a group of fellow bishops for having two “blooming and beautiful spiritual sisters who traveled everywhere with him.”³³

d) Non-canonical works speak of Paul in relation to a woman named Thecla.³⁴ Even if that was not true of Paul, it does indicate a practice when that text was written. A most interesting paper on the topic of the *agapetae* has been published on the blog “Finding Tangle” says

Thecla was highly revered by early female ascetics as a model for pious living, and some scholars, including Clark and Cloke, have asserted that the example of Thecla influenced the persistence of *syneisaktism*, even after it had been formally banned by church leadership throughout the empire. Condemnation of the practice can be traced throughout the early councils and decrees, beginning with the council of Antioch in 268 A.D. and a ban on the practice was even included at the Council of Nicaea in 325 A.D.... The *Subintroductae* through *syneisaktism* sought a way to merge two developing realities of Christian life – celibacy and inter-gender friendship – in a practice that offered the possibility of a “spiritual marriage but without sexual sharing.”³⁵

e) The practice of spiritual brides seems to have been widespread in the early church. Irenaeus, Jerome, Chrysostom, Epiphanius and Eusebius all complained about them. Tertullian and Hermas praised them.³⁶ Scholars also point to passages in *The Shepherd of Hermas*.³⁷

f) I certainly don't think that this is a helpful practice for today (any more than was Gandhi's practice of chaste sleeping with nude women), but it shows that Yoder's ideas were not unique in the history of the church. If we are offended by these ideas of Yoder, that is not sufficient to discipline him even if we disagree with Yoder. What is needed is a critical assessment of Yoder's writings on sexuality, relating them to their historical

sources as well as the tensions within the Mennonite faith regarding sexuality that prompted Yoder to repeat some of the experiments of the early church.

g) However, the early church's idea of non-sexual relationships with women may also reflect a very strong misogyny. The monasticism of the time sought to relate to women not as sexual beings. April D. DeConick is very helpful in showing how early Christian monastic practices were misogynistic and demeaning to women's sexuality. Non-sexual affection may have links to the early church's attempt to live even now like angels, interpreting in an encratic way Jesus's saying that "When the dead rise, they will neither marry nor be given in marriage; they will be like the angels in heaven" (Mark 12:25). The angels were frequently regarded in male terms, and so for a woman to live like an angel, she had to take on male characteristics. Her sexuality was denied.³⁸ Can the same critique be made of Yoder's ideas on non-sexual intimacy? But if one takes this approach in critiquing his ideas, one must also affirm the goodness of sexuality and the body. Yoder was correct to point out that we have depreciated the body and sexuality based on neo-Platonic ideas. There has been a long history of repression of sexuality in Mennonite thought and practice, going back to Menno Simons, who adopted the idea that Christ had only "celestial flesh" and not physical flesh. This is related to his views on conception, and that the origin of the child is from the father, not the mother, who is just the "field."³⁹ Menno Simons obtained this idea from Melchior Hoffman; it has distinct Neo-Platonic underpinnings. This idea of the incarnation seems to have led to Menno's ideas of the purity of the church and self-discipline:

In this context Menno embraced Hoffman's much criticized doctrine of the incarnation, which taught that the Son of God had not taken any human, or sinful, qualities from Mary....

By the end of the 1540s, the "church without spot and wrinkle," based on the Melchiorite doctrine of the incarnation, increasingly became a higher priority. In order to maintain the purity of the bride of Christ, disciplinary regulations like the ban, shunning, and avoidance in marriage were necessary.⁴⁰

This raises a very interesting question. If we reject a Neo-Platonic anthropology, what consequence will this have on the very idea of church purity and church discipline? Some of the comments by non-Anabaptist theologians, mentioned in Tom Price's first article about the conduct of Yoder, deserve closer examination. Price refers to Gabriel Fackre's comment on "the ongoing debate between views of the church as the community of saints or haven of sinners" and that the "perfectionist ethics" represented by Yoder are not sufficiently self-critical about moral or spiritual life." (Krall, Appendix H, 384).

I view Melchior Hoffman's influence on Menno Simons as regrettable. In my view, Mennonites would be better off today had Menno followed the ideas of Hans Denck and the earlier German mysticism of the *Theologia Deutsch*, Tauler, and Eckhart.⁴¹ But that is another story.

12. Effect on Yoder's theological reputation and writings

a) What effect does Yoder's conduct have on the evaluation of his writings? It may affect the importance we give to his writings on being single and on non-sexual showing of affection. But as already stated, I think it really works the other way around—these works cast light on his conduct.

b) Nor should Yoder's conduct affect our evaluation of his other works. That would be an argument *ad hominem*, which is invalid in logic, and unfair in practice. Whatever we think of Gandhi's practice, we still consult him with respect to what he says on non-resistance. And whatever Tillich's moral failings may have been, we still regard him as a great theologian (Krall thinks that this does impact our assessment of Tillich's work; Krall 135 fn42). Similarly, Thomas Merton's love affair should not detract from contributions he made (See Krall, 209 fn13).

c) Even Graber says that her goal is not to stop the study of Yoder's works.⁴² And yet in a recent posting, she gives a very uncharitable reading of Yoder's last work, *The End of Sacrifice*, which he wrote after the conclusion of the disciplinary process. Graber's view is based on her belief that he is a "repeat sex offender," a view that is not accurate since it carries with it criminal associations, whereas Yoder's conduct was not criminal. The book contains an important article on Yoder's understanding of the atonement in relation to theories of people like René Girard, comparisons to Socrates, and to myths. The introduction says that this book "puts an end to the notion that Yoder had no theology of atonement." Yoder argues that "the death of Christ brought a decisive end to sin" (p. 15). And he offers a significant view of the atonement that avoids the implications of the need for violence that is associated satisfaction theories of the atonement. In his theology of the atonement "there is no appeal to a divine command, as in the "satisfaction" theories of the atonement, where it is God who wants the suffering" (p. 188). I find this most interesting and informative. It helps us to counter the idea that Christ's atonement was a form of "cosmic child abuse" by the Father. Nor are Christians to see themselves as agents of the wrath of God. It is helpful to read these ideas in conjunction with *The New Yoder*, which also discusses Yoder's thought in relation to Girard. These ideas are also relevant to victims of trauma and abuse. For if we have a violent idea of the atonement, as satisfaction of wrath, how does this affect those who have suffered violence? Cynthia Hess says,

...Christian communities enact the identity of one whose life culminates in an event of traumatic violence. What might it mean for traumatized persons to perform this story of one who was tortured on a cross before being raised from the dead? Would this performance be one that heals, or would it be one that induces yet another mimetic replay of the victims' traumas. Many feminist and womanist theologians point out ways in which the symbol of the cross has functioned to generate mimetic reproductions of violence.⁴³

d) And yet Graber can only see Yoder's book *The End of Sacrifice* in these terms:

...these writings seem to paint the picture of a man who, far from realizing the seriousness of his actions, saw himself as some sort of sacrificial Christ figure crucified by an angry feminist lynch mob for the sake of the community. He seems to define the women who dared to stand up against his assaults and sexual harassments as mere players in a larger drama of vengeance against men for their

having been cast as the “weaker sex.” But most importantly, he casts himself in the familiar psychological profile of a repeat sex offender: the only person he is capable of feeling sorry for is himself.”⁴⁴

That is in my view an example of how not to read Yoder in the light of his discipline by the church. It does not take his ideas seriously as a theological response to issues concerning violence and the atonement.

e) If in fact Yoder did follow Christ’s idea of making a sacrifice to end violence, and if that included the way that he submitted to the church discipline, just as Socrates submitted to his trial without running away, that would be in continuity with Yoder’s ideas of voluntarily accepting suffering and subordination. It is also in continuity with his belief that we trust God to work out justice for us. Such views are not to be mocked or discounted because of the church discipline of Yoder. I note that Hauerwas sees Yoder’s submission to church discipline in terms of Yoder’s humbling himself:

The fact that he has submitted to his church’s discipline process regarding sexual misconduct is but a testimony to his commitment to nonviolence as the community’s form of behavior.⁴⁵

f) I do not believe that Yoder’s conduct has implications for his theology, except in the way that he submitted to the church discipline. But *the women’s complaints about Yoder may have implications for his theology*. Yoder believed his conduct was an attempt to put in practice his ideas of relating to single women on a non-sexual basis. But if the women he approached were not ready for this kind of experiment, or if they did not consent, then I agree that they had the right to complain and resist, and I agree that Yoder’s actions should have been stopped. How does that square with Yoder’s teaching that we should freely accept subordination? I think it is a direct challenge to it, *and a direct challenge to the idea of non-resistance in general*.⁴⁶ The women should have (and did) resist. ‘Colleen’ would have been justified in throwing Yoder out of the house, instead of meekly allowing him to remain as a guest for another night. In saying this, I am not blaming her. I am asking to what extent the Mennonite doctrine of non-resistance prevented a more aggressive response. I do not believe that there was any conduct that could have been reported to the police, but Krall points out that theological concerns might have prevented such reporting in any event.⁴⁷ The book *Beyond the Pale* contains an article by Rosetta E. Ross that questions Yoder’s interpretation of the *Haustafeln* [household codes of conduct adopted in later parts of the New Testament] as recommending the free acceptance of subordination. She cites theologians who call for “a moratorium on use of servant language for already-subordinated persons.” Other articles are equally emphatic in rejecting some virtues-based ethics, since their effect is also to disempower those who are already subordinated.⁴⁸

g) A rights-based approach to ethics, and one that advocates resistance and not subordination, is a direct challenge not only to Yoder but also to the Mennonite peace position. Naturally, pacifism will be reinterpreted, but it will not be in terms of Yoder’s theology. There are gains here, but there is also the loss of a heritage. We experience disappointment when there are moral failings in our religious leaders. But perhaps more than that, we experience fear and anger when our very challenge and resistance to what we perceive to be wrong in turn challenges the foundations of our beliefs. It appears to

me that perhaps one reason that Yoder's misconduct causes so much anger and controversy is that it has caused Mennonites to doubt, or at least to become more critically self-aware of some of the theology that has formed their past identity

h) The right of the women to resist, and to seek changes in men's attitudes also challenges another key idea of Yoder's—that we are to let God take care of historical developments, and that we should not attempt to decide the course of history. Yoder says,

We assume that we both can and should 'take responsibility' for the macro course of events, and then from that objective we derive the justification for the practical measures it takes to get there, such as getting elected to office, organizing and deploying military might, and whatever else it takes....

Yet if in order to 'be involved' you commit yourself to values less clear or less imperative than your own, which are more acceptable because the 'public' out there already holds them, then your involvement adds nothing to the mix but numbers. Joining the majority on grounds that others are already committed to, in favour of policies which others already support, winds up paradoxically having the same effect as abstention; it lets the values of the others be decisive.⁴⁹

Yoder's warning is that we should not try to take charge of history.

But from the women's standpoint, we should seek change in history, and to take charge. Those who are concerned about sexual abuse will attempt to change the law and to change attitudes regarding it. But in doing so, are they not using a "common denominator moral language of rights-based ethics? And although there is something positive in this new awareness of the right to resist, there is also the possibility that it will be used to such an extent that the Mennonite heritage is merged into the surrounding culture. There is a real danger of this occurring, especially when the discussion turns into the kind of culture wars, of men versus women, instead of a search for justice for all, including the accused.

i) Even if some forms of resistance were justified, some other forms of resistance were improper—for example contacting Yoder's publisher to attempt to get them to cease publishing Yoder's books. That was a tort—interference with contractual relations, and the publisher, Herald Books, was right to reject that attempt.⁵⁰

13. The Mennonite Church is insufficiently self-critical about its church discipline

a) Historically, the Mennonite Church has shown itself to be insufficiently self-critical in its discipline process, and insufficiently self-critical of its own possibility of being wrong. The following instances from my own family history show to what extent well-intentioned people can make serious mistakes in disciplining members of the church.

b) This was demonstrated in my own family history in the very long Saskatchewan trial of my great uncle H.P. Friesen, in the Friesen/Braun trials. The Mennonite Church (including "Bishop" David Toews) made unconscionable factual errors in judging H.P. Friesen. Friesen was ultimately vindicated and Braun was deported to Siberia. But one of the trial judges said that he had never seen a trial with more perjury (even though most witnesses were Mennonites who believed in speaking the truth without an oath). People

make honest mistakes, but they are mistakes, and they affect others. A further tragic effect is that this dispute between Mennonites may have prevented the further immigration to Canada of thousands of Mennonite refugees in Russia. Our actions have consequences that we often do not anticipate. My concern is that in Mennonite Church discipline, the rights of the accused are not sufficiently protected. See my summary of the Friesen/Braun cases.⁵¹

c) My maternal grandfather I.P. Friesen, the brother of H.P. Friesen, was also shunned by the Mennonite Church, for sending his children to public school. He appealed to the Lieutenant-Governor of Saskatchewan for “British justice and fair play.” A provincial commission of enquiry took place. Soon after, public schooling was made mandatory, and 8,000 Canadian Mennonites emigrated to Mexico and Paraguay.⁵² Again, the consequences of church discipline went beyond what was anticipated.

d) My great-grandfather Johann Driedger, a merchant, was not allowed to recover on fire insurance from Mennonite Mutual Insurance because he had been doing business with outsiders.⁵³

e) Should the church even continue to have these discipline hearings? Are there enough safeguards? Is it reasonable to suppose that lay persons not trained in legal procedures can judge their fellow church members? The common law has evolved over many centuries in order to put such protections in place. Safeguards such as the right to cross-examination, documentary evidence, and the rule against hearsay are also there to protect and accused. They also help to keep personal motivations, even unconscious, from influencing the decision. Does the inquisitorial approach of taking witness statements in the absence of the accused give enough protection? Is it even in accordance with the Biblical text from which the Mennonite church derives its mandate of discipline? How can the best-intentioned people on a discipline committee still make horrendous mistakes? Is that just a risk that the believer’s church must run? Or does it say something about the very ethics of the Mennonite church—its “totalitarian” encompassing of ethics—in the sense of asserting control over the total life of its members, as opposed to a more differentiated ethic advocated by people like Niebuhr, where there are different mechanisms for determining ethics in schools, business, professional associations, criminal law. The distinction between a differentiated culture and an undifferentiated counterculture of pure saints is of course a dividing line in the Niebuhr/Yoder debate. It is my belief that, in failing to honour such cultural differentiation, the Mennonite church has also failed to be sufficiently protective of the accused person’s rights, and has been insufficiently critical of how power is often used inappropriately and even abusively by the church disciplining body.

f) We should even ask whether some of the church discipline processes may reflect a way of engaging in conflict and violence that (in Jungian terms) are a result of the repression by Mennonites of violence in other areas of their lives due to the doctrine of non-resistance.⁵⁴

14. Other theological issues

In some ways, Yoder's theology appears to be the best expression of the ethics of the historical Jesus, and an explanation of his voluntary subordination and emptying of himself, even to his death on the cross. And Yoder has provided a way of understanding that death without the violence associated with theological ideas of the atonement as satisfaction. But these ideas of voluntary subordination, servanthood and non-resistance are now being challenged on the basis of new rights-based ethics that demand resistance and change of societal structures. What does this do to our view of the atonement? What does this do to our evaluation of the ethics of Jesus? Are we back to Albert Schweitzer's idea that they were really only an interim ethic in anticipation of an imminent second coming? Do we have to replace them with more realistic ethics, just as the early church replaced them with the *Haustafeln* or virtue-based ethics? Is the Mennonite Church undergoing a similar process of integrating with outside culture and its rights-based theories of ethics? For example, the Mennonite Church seems to be recognizing that law is not the taboo profession it once was, but that it should be used to protect the rights of its members. What does this say for the "totalitarian" view of church discipline by the church? Is that still a sustainable idea in a differentiated society? To what extent will the theology and even the founding ideas of Mennonite and Anabaptist thought be changed as the Mennonite Church integrates with the rest of society, and chooses rights-based ethics?

15. Conclusion

In the discussion about Yoder we can be respectful of each other and still disagree. I have tried to be respectful of both the women who complained of Yoder's conduct and of Yoder who was the subject of church discipline. Both deserve justice. I do not doubt that these women have experienced and may still be experiencing emotional pain. Their stories are important. But we just do not know enough of the facts, since their evidence has been anonymous and not subject to examination in the way I have suggested. Even their joint statement to the Task Force and Commission has not been made public. Their stories have also become confused with stories of others who did not give evidence. And the issue has been compounded by others who were not involved at all in Yoder's conduct, but who have used his situation as a way to discuss their own emotional distress caused by abuse by other men.

The issue is one of justice and truth. We need to describe what really happened, using accurate language. Yoder's conduct was not criminal. It was not sexual assault or even sexual abuse. Although in terms of some present-day sexual codes of conduct, it was harassment, it is anachronistic and unjust to apply that term to conduct in the 1970's. It was not clergy abuse, since he was not acting as a pastor, but as a professor in a seminary. The issue of his ordination credentials is not relevant. It is the seminary that should have taken action to stop this behaviour.

The new Discernment Group needs to take into account the history of legislation, and the fact that at the time of Yoder's conduct, there were no criminal laws that applied to his conduct. His conduct should not be called 'sexual abuse' or 'sexual assault.' And it would be improper to again start interviewing witnesses some 40 years later to try to establish new evidence against Yoder.

Yoder's conduct was socially inappropriate. He was strange, awkward, creepy. To the extent that he did not obtain consent from the women he offended, his actions were also immoral. That is a sufficient description of his conduct in order to have had it stopped. And measures should be put in place to prevent this from happening again.

As important as these issues are, it seems to me that there are even larger issues at stake than uncovering facts about what Yoder did or did not do. What needs to be investigated is the nature of the discipline process within the Mennonite Church, how such a process is often itself an abuse of power, and whether that power should be exercised at all in reference to conduct occurring outside of the church and for which there already exist other disciplinary proceedings.

And finally, the rise of rights-based ethics, and the justified resistance to the violation of such rights will have profound implications for Mennonites' self-understanding of their heritage of non-resistance and the way that they understand the ethics of the historical Jesus. It will challenge some of Yoder's ideas of voluntary subordination. It may have implications for our understanding of servanthood, and perhaps even the theological meaning of Christ's atonement. It will encourage Mennonites to get involved in the legal and political process. To what extent will the theology and even the founding ideas of Mennonite and Anabaptist thought be changed as the Mennonite Church integrates with the rest of society, and chooses rights-based ethics? The anguish caused by Yoder's conduct will go beyond the emotional hurt caused by his actions. There will also be the anguish of coming to terms with a loss of tradition and heritage.

Select Bibliography

Boyarin, Daniel (2010): "Judaism as a Free Church: Footnotes to John Howard Yoder's *The Jewish-Christian Schism Revisited*," in *The New Yoder*, ed. Peter Dula and Chris K. Huebner (Wipf & Stock).

Burr, Catherine (2011): "False Allegations of Sexual Harassment: Misunderstandings and Realities," *Academic Matters: The Journal of Higher Education* (Oct-Nov 2011). [<http://www.academicmatters.ca/2011/10/false-allegations-of-sexual-harassment-misunderstandings-and-realities/>].

Cadoppi, Albert and Vitiello, Michael (2011): "A Kiss is Just a Kiss, or is it? A Comparative Look at Italian and American Sex Crimes," *Seton Hall Law Review*, Vol. 40: Iss 1, Article 3, online at [<http://scholarship.shu.edu/cgi/viewcontent.cgi?article=1039&context=shlr>]

Day, Wylark (2003): *The Conclusion of the Sexual Revolution: Volume III of Sex and the Bible: Restoring the Foundations of Human Sexuality* (Wylark Day), 273.

DeConick, April D. (2011): *Holy Misogyny: Why the Sex and Gender Conflicts in the Early Church Still Matter* (Continuum).

Friesen, J. Glenn: "The Friesen-Braun Trials: from the book *The Fangs of Bolshevism*" [<https://jgfriesen.files.wordpress.com/2023/10/trials.pdf>]

Friesen, J. Glenn: “Unto the Third and Fourth Generation: The long shadow of my grandfather I.P. Friesen” [<https://jgfriesen.files.wordpress.com/2023/10/ipfriesen.pdf>].

Graber, Barbra (2013): “What’s to be done about John Howard Yoder?” [<http://www.ourstoriesuntold.com/2013/07/17/whats-to-be-done-about-john-howard-yoder/>] (Jul 17, 2013).

Grislis, Egil (1990): “The Doctrine of Incarnation according to Menno Simons,” *Journal of Mennonite Studies* 8 (1990), 17ff.

Grimsrud, Ted: *Thinking Pacifism* at [<http://thinkingpacifism.net/2010/12/30/word-and-deed-the-strange-case-of-john-howard-yoder/>]

Hauerwas, Stanley (1993): “When the Politics of Jesus Makes a Difference,” *The Christian Century* Oct 13, 1993.

Hauerwas, Stanley (2010): *Hannah’s Child: A Theologian’s Memoir* (Eerdmans).

Heinzecker, Hannah (2013): “Can Subordination ever be revolutionary? Reflections on John Howard Yoder,” Aug 9, 2013 [<http://www.femomite.com/2013/08/09/can-subordination-ever-be-revolutionary-reflections-on-john-howard-yoder/>].

Hess, Cynthia (2010): “Traumatic Violence and Christian Peacemaking,” *The New Yoder*, (Eugene, Oregon: Cascade Books).

Krall, Ruth Elizabeth: “The Elephants in God’s Living Room: Clergy Sexual Abuse and Institutional Clericalism. Vol 3: The Mennonite Church and John Howard Yoder: Collected Essays, 227. [<http://ruthkrall.com/wp-content/uploads/2014/03/The-Elephants-in-God%E2%80%99s-Living-Room-Vol-3-%C2%A9.pdf>].

Nation, Mark Thiessen with Dawn, Mirva (2013): “On Contextualizing Two Failures of John Howard Yoder, *Anabaptist Nation*” [<http://emu.edu/now/anabaptist-nation/>], dated Sep 23. 2013.

Packull, Werner O. (1977): *Mysticism and the Early South German-Austrian Anabaptist Movement 1525-1531* (Herald Press, reprinted by Wipf & Stock).

Peters, Greg (2014): “Monasticism: Instrument of the Holy Spirit in the Renewal of Today’s Church,” *The Holy Spirit and the Christian Life: Historical, Interdisciplinary and Renewal Perspectives*, ed. Wolfgang Vondey (Palgrave Macmillan).

Ross, Rosetta E. (2011): “John Howard Yoder on Pacifism,” *Beyond the Pale: Reading Ethics from the Margins*, ed Migel A. De La Torre, Stracey M. Floyd-Thomas (Westminster John Knox Press).

Visser, Piet (2001): “Mennonites and Doopsgezinden,” *A Companion to Anabaptism and Spiritualism, 1521-1700*, ed. John D. Roth and James M. Stayer (Brill, 2001),

Yoder, John Howard (1974): “Singleness in Ethical and Pastoral Perspective (1974) [<http://replica.palni.edu/cdm/ref/collection/p15705coll18/id/2497>]. This website provides digital resources for many of Yoder’s works.

Yoder, John Howard (1976): “Single Dignity,” (Regent College). [<http://replica.palni.edu/cdm/compoundobject/collection/p15705coll18/id/2462/rec/6>]

Yoder, John Howard (2003): *The Jewish-Christian Schism Revisited* (ed. Michael G. Cartwright and Peter Ochs (Eerdmans)).

Endnotes

¹ The revisions are the result of an online discussion of my article on the blog of Mark Thiessen-Nation, “Anabaptist Nation.” My conclusions are the same, but the reasoning is stronger in light of the history of Indiana legislation. At the time of Yoder’s conduct at the seminary, the only sex crimes required proof of sexual intercourse. That did not occur.

² Boyarin engaged with Yoder’s ideas (Boyarin 2010). Yoder frequently refers to Segal (Yoder 2003).

³ *Indiana Code* 35-42-4. Chapter 4. Sex Crimes [<http://www.in.gov/legislative/ic/code/title35/ar42/ch4.html>].

⁴ INCASA: “Definition of Forcible Rape Change [<http://www.incasa.org/2012/03/13/definition-of-forcible-rape-change/>]. Krall acknowledges this (Krall, 305 fn9; 326 fn2).

⁵ See the U.S. Supreme Court decision in *Stogner v. California* (01-1757) 539 U.S. 607 (2003) 93 Cal. App. 4th 1229, 114 Cal. Rptr. 2d 37, reversed. California had enacted a new criminal statute of limitations permitting prosecution for sex-related child abuse where the prior limitations period had expired. The Supreme Court held that the law was forbidden by the ex post facto provisions of the Constitution. The law was struck down. The man could not be prosecuted for crimes committed 25 to 42 years earlier.

⁶ Alberto Cadoppi and Michael Vitiello: “A Kiss is Just a Kiss, or is it? A Comparative Look at Italian and American Sex Crimes,” *Seton Hall Law Review*, 2011, Vol. 40: Iss 1, Article 3, online at [<http://scholarship.shu.edu/cgi/viewcontent.cgi?article=1039&context=shlr>]

⁷ Posting by Barbra Graber Sep 14, 2013 in response to Mark Thiessen Nation’s blog “What to say about John Howard Yoder’s sexual misconduct,” on *Anabaptist Nation* at [<http://emu.edu/now/anabaptist-nation/2013/08/13/what-to-say-about-john-howard-yoders-sexual-misconduct/+&cd=1&hl=en&ct=clnk&gl=ca>].

⁸ Graber’s posting Mar 2, 2011 in response to “Word and Deed: The Strange Case of John Howard Yoder,” on Ted Grimsrud’s blog *Thinking Pacifism* at [<http://thinkingpacifism.net/2010/12/30/word-and-deed-the-strange-case-of-john-howard-yoder/>].

⁹ *Ibid.*, postings by Graber on Jul 24, 2011 and Feb 13, 2014.

¹⁰ Barbra Graber: “What’s to be done about John Howard Yoder?” [<http://www.ourstoriesuntold.com/2013/07/17/whats-to-be-done-about-john-howard-yoder/>] (Jul 17, 2013).

¹¹ *Indiana Code* IC 35-41-5. Chapter 5. “Offenses of general Applicability” at [<http://www.in.gov/legislative/ic/code/title35/ar41/ch5.html>]

¹² See for example the decision of the Court of Appeals of Indiana in *Ott v. State of Indiana* 648 N.E. 2d 671 (1995) or the Indiana Supreme Court in *Seeley v. State of Indiana* 547 N.E. 2d 1089 (1989).

¹³ Apart from the dark shadow that we repress, there is also a “golden shadow” that should be acted out, since it represents those good parts of ourselves that we have

repressed, believing we could never be like the person we admire when in fact these are the very qualities that we need in order to fulfill our own lives.

¹⁴ Mark Thiessen Nation with Mirva Dawn: “On Contextualizing two Failures of John Howard Yoder” [<http://emu.edu/now/anabaptist-nation/>], dated Sep 23, 2013.

¹⁵ Krall confirms this in a posting Jul 18, 2013: “Sexual harassment began to be investigated in the late 1980s and the law codes followed suit but many states did not have laws in place until the 1990s.” [<http://www.ourstoriesuntold.com/2013/07/17/whats-to-be-done-about-john-howard-yoder/>].

¹⁶ Notre Dame’s policy provides:

Sexual harassment of any kind is inconsistent with the University’s values and incompatible with the safe, healthy environment that the Notre Dame community expects. The determination of what constitutes sexual harassment will vary with the particular circumstances, but may be described generally as unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal, or physical conduct of a sexual nature when such conduct has the purpose or effect of unreasonably interfering with an individual's performance, creating an intimidating, hostile, or offensive University environment, or limiting participation in University activities.

[<http://csap.nd.edu/policy/sexual-harassment-policy-and-grievance-procedures/>]

¹⁷ “U. of Notre Dame to Clarify Sexual-Harassment Policies in Settlement with education department,” *The Chronicle of Higher Education*, [<https://chronicle.com/article/U-of-Notre-Dame-to-Clarify/128128/>]. See also “Reported sexual assault at Notre Dame campus leaves more questions than answers,” *National Catholic Reporter* [<http://ncronline.org/news/accountability/reported-sexual-assault-notre-dame-campus-leaves-more-questions-answers>].

¹⁸ *Indiana Code* IC 35-10. Chapter 10. Stalking. [<http://www.in.gov/legislative/ic/code/title35/ar45/ch10.html>].

¹⁹ *Indiana Code* IC 35-45-2-2, Section 2(a) Harassment; “obscene message” defined [<http://www.ai.org/legislative/ic/code/title35/ar45/ch2.html>].

²⁰ http://www.eeoc.gov/laws/types/sexual_harassment.cfm

²¹ For a listing of all the different conferences, see Mennolink at [<http://info.mennolink.org/conferences.html>].

²² Mark Thiessen Nation, with Marva Dawn: “Contextualizing two failures of John Howard Yoder,” (Sep 23, 2013) [<http://emu.edu/now/anabaptist-nation/2013/09/23/on-contextualizing-two-failures-of-john-howard-yoder/>].

²³ DSM-V now includes Asperger’s under autism disorders.

²⁴ “Goshen Biblical Seminary: Goshen, Indiana , GAMEO [[http://gameo.org/index.php?title=Goshen_Biblical_Seminary_\(Goshen,_Indiana,_USA\)](http://gameo.org/index.php?title=Goshen_Biblical_Seminary_(Goshen,_Indiana,_USA))]

²⁵ Mark Thiessen Nation, with Marva Dawn: “Contextualizing two Failures of John Howard Yoder,” (Sep 23, 2013) [<http://emu.edu/now/anabaptist-nation/2013/09/23/on-contextualizing-two-failures-of-john-howard-yoder/>]

²⁶ Catherine Burr: “False Allegations of Sexual Harassment: Misunderstandings and Realities,” *Academic Matters: The Journal of Higher Education* (Oct-Nov 2011).

[<http://www.academicmatters.ca/2011/10/false-allegations-of-sexual-harassment-misunderstandings-and-realities/>].

²⁷ “Statute of Limitations: Indiana. Rape, Abuse,” Incest National Network. [<http://rainn.org/public-policy/legal-resources/indiana/statutes-of-limitations>]

²⁸ “Inquisitorial system,” *Wikipedia* [http://en.wikipedia.org/wiki/Inquisitorial_system].

²⁹ One example is The Martensville Sex Scandal, where emotional hysteria produced ‘evidence’ of ritualized sexual abuse of children at a ‘Devil Church.’ i[http://en.wikipedia.org/wiki/Martensville_satanic_sex_scandal].

³⁰ See notice by the Executive Director of the Mennonite Church, dated Sept 23, 2013, online at [<http://www.mennoniteusa.org/2013/09/23/11987/>].

³¹ See notcie dated Jan 27, 2014, online at [<http://www.mennoniteusa.org/2014/01/27/historian-to-examine-churchs-response-to-john-howard-yoders-abuse-of-women/>].

³² Greg Peters, “Monasticism: Instrument of the Holy Spirit in the Renewal of Today’s Church,” *The Holy Spirit and the Christian Life: Historical, Interdisciplinary and Renewal Perspectives*, ed. Wolfgang Vondey (2014, Palgrave Macmillan), 49-50 citing Hans Achelis, Antoine Guillaumont, Rosemary Rader, V. Emmoni, and others.

³³ Cited by Wylark Day in *The Conclusion of the Sexual Revolution: Volume III of Sex and the Bible: Restoring the Foundations of Human Sexuality* (2003, Wylark Day), 273.

³⁴ See the apocryphal book “The History of Thecla, the disciple of Paul the apostle.” [http://www.tertullian.org/fathers/apocryphal_acts_06_thecla.htm#1].

³⁵ “Yearning for Complementary Companionship: Virgins Subintroductae and Male = Female Relations in the Church,” “Finding Tangle,” Jul 24, 2012 [<http://findingtangle.wordpress.com/2012/07/24/yearning-for-complementary-companionship-virgins-subintroductae-and-male-female-relations-in-the-early-church/>]

³⁶ *Ibid.*

³⁷ *The Shepherd of Hermas*. Estimated date of book is CE 100 to 160 “[<http://www.earlychristianwritings.com/shepherd.html>]

³⁸ See April D. DeConick: *Holy Misogyny: Why the Sex and Gender Conflicts in the Early Church Still Matter* (Continuum, 2011).

³⁹ Egil Grislis: “The Doctrine of Incarnation according to Menno Simons,” *Journal of Mennonite Studies* 8 (1990), 17ff.

⁴⁰ Piet Visser, “Mennonites and Doopsgezinden,” *A Companion to Anabaptism and Spiritualism, 1521-1700*, ed. John D. Roth and James M. Stayer (Brill, 2001), 305-306.

⁴¹ See Werner O. Packull: *Mysticism and the Early South German-Austrian Anabaptist Movement 1525-1531* (Herald Press, 1977, reprinted by Wipf & Stock).

⁴² On Nov 17/13 Graber posted:

My hope has never been that JHY be written off as a creepy pervert and his writings forever banned. My hope is for scholars and theologians to stop their attempts to cover up and minimize the facts of this complex, brilliant and troubled man’s life. My plea is that the lauding of his writings be tempered by the realities of his life.

⁴³ Cynthia Hess, “Traumatic Violence and Christian Peacemaking,” *The New Yoder*, (Wipf & Stock, 2010), 210.

⁴⁴ Feb 13, 2014 posting by Graber [<http://thinkingpacifism.net/2010/12/30/word-and-deed-the-strange-case-of-john-howard-yoder/>]. See also Krall 102-3 regarding a rough draft of this book.

⁴⁵ Hauerwas: “When the Politics of Jesus Makes a Difference,” *The Christian Century* Oct 13, 1993, pp. 982-987 [<http://www.religion-online.org/showarticle.asp?title=109>].

⁴⁶ After writing this, I learned of the posting by Hannah Heinzecker on *Femonite* entitled “Can Subordination ever be revolutionary? Reflections on John Howard Yoder,” Aug 9, 2013 [<http://www.femonite.com/2013/08/09/can-subordination-ever-be-revolutionary-reflections-on-john-howard-yoder/>]. She makes the same link to Yoder’s idea of “revolutionary subordination” (Chapter 9 of *Politics of Jesus*). She criticizes it as “happy subordination to unjust structures.” She asks how this relates to Yoder’s conduct and whether the women should have been subordinate. Of course she rejects that idea. Or at least, she says that it can never be revolutionary.

⁴⁷ Cf. Ruth Krall’s comment of Jul 18, 2013:

In addition, most Mennonites of the generations we are talking about were taught it was a sin to go to the civil authorities so there were strong cultural prohibitions against any civil or legal procedures inside the body of Christ against a brother or a sister in the church. [<http://www.ourstoriesuntold.com/2013/07/17/whats-to-be-done-about-john-howard-yoder/>].

Krall makes a similar point at p. 371 fn 63:

I also think (from the vantage point of 2012) that even if Mennonite women had this information, they would have been reluctant, on religious and theological grounds, to report Yoder’s behavior to local law enforcement agencies.

⁴⁸ Rosetta E. Ross: “John Howard Yoder on Pacifism,” *Beyond the Pale: Reading Ethics from the Margins* (ed Migel A. De La Torre, Stracey M. Floyd-Thomas)

⁴⁹ Chapter 9, “On not being in charge” in Yoder’s *The Jewish-Christian Schism Revisited*, 168ff.

⁵⁰ Loren Johns’ memorandum of Oct 18, 2004 indicates that in 1985 or 1986, Herald Press received a request from someone, probably a leader in the church, asking that Herald Press no longer publish Yoder’s writings. Herald Press refused to do so, since these accusations had not been found to be true by any church disciplinary process. [<http://rossbender.org/AMBS-JHY.pdf>].

⁵¹ J. Glenn Friesen: “The Friesen-Braun Trials: from the book *The Fangs of Bolshevism* [<https://jgfriesen.files.wordpress.com/2023/10/trials.pdf>]

⁵² J. Glenn Friesen: “Unto the Third and Fourth Generation: The long shadow of my grandfather I.P. Friesen [<https://jgfriesen.files.wordpress.com/2023/10/ipfriesen.pdf>]. The article also contains an account of abuse by him of my mother.

⁵³ *Ibid.*

⁵⁴ See the posting by Scott Holland of Sept 24/2013:

Because Mennonites refuse to go to war they must nevertheless shed blood in church because they too are marked by the anatomy of human aggression.

[<http://emu.edu/now/anabaptist-nation/2013/08/13/what-to-say-about-john-howard-yoders-sexual-misconduct/>].