

CURRENT THEOLOGY

NOTES ON MORAL THEOLOGY: 1985

The "Notes" for 1985 deal with four general areas: fundamental moral theology; the use of Scripture in moral theology; the ethics of sexuality and the theology of marriage; and the morality of nuclear deterrence.

EXCHANGES ON FUNDAMENTAL MORAL THEOLOGY

Over the past 25 years James M. Gustafson has produced a small library of moral theological literature, from *Treasure in Earthen Vessels* (1961) and *Christ and the Moral Life* (1968) through *Christian Ethics and the Community* (1971) and *Can Ethics Be Christian?* (1975) to *Protestant and Roman Catholic Ethics* (1978). His thoughtful and erudite work culminated in his two-volume masterpiece, *Ethics from a Theocentric Perspective: Theology and Ethics* (1981) and *Ethics and Theology* (1984). Gustafson is without doubt one of the major moral theologians of his generation.

Gustafson's work, especially the last two volumes, was the subject of a symposium of articles involving Stanley Hauerwas, Lisa Cahill, Stephen Toulmin, Paul Ramsey, and this author.¹ It would be futile to attempt to digest these studies accurately. I can only indicate the main thrust and invite the reader to a firsthand acquaintance.

Hauerwas attempts to show that Gustafson has somewhat qualified his early emphasis on historicism;² he contrasts his own notion of history ("through Jesus' resurrection God decisively changed our history") with Gustafson's more universalistic notion. Cahill argues that Gustafson ultimately offers a theism which is more consistent with a naturalistic view of the world than it is with standard Christianity.³ Where suffering is concerned, Gustafson appears unconvinced that a religious perspective can endow suffering with either purposiveness or resolution. Cahill also questions Gustafson's reliance on scientific evidence about the natural world as a test for the credibility of theological proposals. Toulmin sees Gustafson's ethics as both conservative and revolutionary.⁴ It is conservative because he uses the language of religion as it stands, revolutionary because he takes new scientific ideas about the place of humanity in

¹ *Journal of Religious Ethics* 13 (1985) 1-100.

² Stanley Hauerwas, "Time and History in Theological Ethics: The Work of James Gustafson," *ibid.* 3-21.

³ Lisa Sowle Cahill, "Consent in Time of Affliction: The Ethics of a Circumspect Theist," *ibid.* 22-36.

⁴ Stephen Toulmin, "Nature and Nature's God," *ibid.* 37-52.

nature with profound seriousness and addresses their meaning for theism candidly and fearlessly. My own essay questions Gustafson's reading of these scientific ideas (Does the antiquity and future of the universe really decentralize human beings?), his Christology (Is Jesus uniquely important as example?), and his rejection of biblical revelation-inspiration.⁵ The symposium concludes with a long, informal letter from Paul Ramsey that ranges over a checkerboard of issues with typical Ramseyian flamboyance born of anecdotes, asides, self-citations, and exhortations.⁶

Gustafson has responded to these essays.⁷ His response is almost totally negative. His respondents have either overlooked what he wrote or misconstrued it, with the exception of Toulmin. The impression is unavoidable that Gustafson views his work as almost beyond question or criticism; for nowhere does he concede anything to his critics save Toulmin. He merely reasserts, defends, or "begs, pleads, cajoles my critics" to read more carefully what he wrote. That, I think, is unfortunate. It results in a kind of standoff rather than constructive engagement. Moreover, it leads to the conclusion that while Gustafson is open to be challenged by colleagues in other disciplines, he is not so open with theological colleagues. He ascribes to them an "intellectual sectarianism" that is scarcely worth noting. This is a far cry from the typical Gustafson who has instructed us so richly over the years. *Sed tolle et lege* to test my assessment.

The years immediately ahead promise to be interesting for those who navigate the choppy and perilous waters of moral theology. Just three years ago Cardinal Edouard Gagnon, head of the Vatican's Pontifical Council for the Family, suggested that 90 percent of American moral theologians should seek employment elsewhere ("change 90 percent of the teachers of moral theology and stop them from teaching" was the cited elegance).⁸ That is rather remarkable therapy. But what is the disease?

⁵ Richard A. McCormick, S.J., "Gustafson's God: Who? What? Where? (Etc.)," *ibid.* 53-70.

⁶ Paul Ramsey, "A Letter to James Gustafson," *ibid.* 71-100.

⁷ James M. Gustafson, "A Response to Critics," *Journal of Religious Ethics* 13 (1985) 185-209.

⁸ *Wanderer*, Sept. 29, 1983. A similar "final solution" was proposed recently by John Kippley: "Declare Curran, McCormick, McBrien, Kosnik, Keane etc. as 'not a Catholic theologian' and get them out of their prestigious positions of power" (*Fellowship of Catholic Scholars Newsletter* 8 [Sept. 1985] 9). That little "etc." is daunting. It could come close to emptying the classrooms of the Western world. For further reflections on such "final solutions," cf. G. J. O'Brien, "Integralism," *New Catholic Encyclopedia* 7 (1967) 552-53. The article ends ominously by noting that while organized integralism disappeared, "the integralist mentality still exists." Archbishop John Quinn concedes as much in "Synod '85: Keeping Faith with the Council," *America* 153 (1985) 135-38. The major failing of integralists is, among other things, ignorance of history. Proportionate penance is a reading of Benedict XV's *Ad beatissimi apostolorum*.

If one is allowed a mischievous suspicion, one might suggest that Gagnon and Cardinal Joseph Ratzinger have occasionally “coffeed” over the subject. In a recent book, *Rapporto sulla fede*—a summary of some August 1984 interviews held in the south Tyrolean town of Bressanone—Ratzinger identifies it as “consequentialism” and “proportionalism” and sees it as infecting especially American moral theologians.⁹ According to consequentialism, “nothing is good or bad in itself. The goodness of an act depends only on its end and on its foreseeable and calculable consequences.”¹⁰ The diagnosis continues by revealing that this view is prevalent “in the United States, where it is elaborated and diffused more than anywhere else. Some moralists have tried to soften ‘consequentialism’ by ‘proportionalism’: the morality of an act depends on the evaluation and comparison made by man among the goods which are at stake. Once again, it is an individual calculation, this time of the ‘proportion’ between good and evil.”¹¹

When the interviewer, Vittorio Messori, correctly pointed out that traditional theology evaluated and compared the goods at stake in our actions, Ratzinger replied: “Certainly. The error consists in constructing a system on what was only an aspect of traditional moral, which ultimately, certainly did not depend on the personal evaluation of the individual. Rather, it depended on the revelation of God, on ‘instructions for use’ inscribed by Him in an objective and indelible way in His creation. Therefore nature, therefore man himself insofar as he is part of created nature, contain in themselves their own morality.”¹²

Denial of all this leads to devastating consequences. Ratzinger sees this proportionalist methodology at the root of some liberation theologies. Thus “‘the absolute good’ (and that is the building of a just society, a socialist one) becomes the norm that justifies all the rest, including, if necessary, violence, homicide, lying.”¹³ Ratzinger refers several times to an individual calculus, “the ‘reason’ of each individual,”¹⁴ to highlight the subjectivism that seems to be his main concern in this “system.”

Where did all of this originate? According to Ratzinger, it began shortly after Vatican II with the discussion on the specifically Christian character of moral norms. Some theologians concluded that there are none. “From this false starting point one arrives inevitably at the idea that morality is to be constructed uniquely on the basis of reason and that this autonomy of reason is valid even for believers.”¹⁵ Ratzinger reads this to

⁹ Joseph Ratzinger, *Rapporto sulla fede* (Milan: Edizioni Paoline, 1985). This was also published as *The Ratzinger Report* (San Francisco: Ignatius, 1985). References hereafter are to *Rapporto* and *Report*. I initially worked from the Italian version, and the citations I use are my own translations.

¹⁰ *Rapporto* 91; *Report* 90.

¹¹ *Rapporto* 91; *Report* 90.

¹² *Rapporto* 91–92; *Report* 91.

¹³ *Rapporto* 92; *Report* 91.

¹⁴ *Rapporto* 92; *Report* 91.

¹⁵ *Rapporto* 90; *Report* 89.

mean that the "Decalogue upon which the Church has built its objective morality" is viewed as only a "cultural product" which need not apply to us. Since the Decalogue no longer provides a firm basis, these moralists have turned to a "morality of goals" or consequences. Thus "the moral theologians of the West end up confronted with an alternative: it seems necessary to them to choose between dissent from contemporary society or dissent from the magisterium."¹⁶ No small number have chosen this latter route and, as a result, search for theories or systems that admit compromises between Catholicism and cultural currents.

Proportionalism is not Ratzinger's only target. Another is "exaggerated personalism," an approach that so dichotomizes person and nature that the only reference point for human sexuality is "in the will of the person."¹⁷

There is little doubt that Ratzinger views these developments as contributing to the "progressive process of decadence"¹⁸ in the Church since Vatican II. For he believes that "today the area of moral theology has become the principal locus of tension between the magisterium and theologians."¹⁹ He mentions several areas where this appears: premarital sexual relations, masturbation ("presented as a normal phenomenon of adolescent growth"), admission of the divorced and remarried to the sacraments, radical feminism, homosexuality.

During a press conference in Rome (May 30, 1985), Ratzinger stated that the views expressed in *Rapporto* were "completely personal" and "in no way implicate the institutions of the Holy See." In case the point was overlooked, Pope John Paul II underscored it when he stated that Ratzinger "is free to express his own opinion. His opinion corresponds to many events, but it cannot be understood in this [meaning] that the Council, Vatican II, was a negative influence."²⁰

Rapporto deserves and will get careful theological scrutiny because of both the former theological reputation and the present position of its author. Ratzinger's indictment of moral theology is but a part of his overall plan of "restoration."²¹ Therefore, before turning to my own reactions on the moral-theological section, it might be well to summarize some general theological reactions that attempt to highlight the assumptions and presuppositions of that "restoration." These reactions were provided by a group of British theologians and were drafted expressly for the hierarchy of England and Wales.²²

¹⁶ *Rapporto* 86; *Report* 86.

¹⁸ *Rapporto* 27; *Report* 30.

¹⁷ *Rapporto* 89; *Report* 88.

¹⁹ *Rapporto* 87; *Report* 87.

²⁰ NC release as in *National Catholic Reporter*, Sept. 6, 1985, 4.

²¹ "The search for a new equilibrium" (*Rapporto* 36; *Report* 37).

²² *New Blackfriars* 66 (1985) 259-308 (hereafter *NB* 66) The authors were working from an abridged version of Messori's interviews that appeared in *Deutsche Tagespost*, Dec. 7-8, 14-15, 1984. For other reactions cf. *America* 153 (1985) 388-91 (Peter Steinfels); *Commonweal* 112 (1985) 635-42 (George G. Higgins, Monika K. Hellwig, George A. Lindbeck).

Eamon Duffy (Faculty of Divinity, University of Cambridge) faults the “simplistic world of easy dualisms from which Cardinal Ratzinger’s oracular voice seems to emanate.”²³ For instance, there is the world-Church dualism. The world is the residence of the demonic, poisoned by the “‘liberal-radical ideology of individualistic, rationalistic, hedonistic’ tertiary educated bourgeoisie.” At the other end of this stark polarity is an altogether idealized church (truth, beauty, incorruptibility, stability, a superhuman reality with a “core” in dogma). *Fuga saeculi* is suggested. Of course, Ratzinger admits that the Church needed to absorb the best values generated by two centuries of liberal culture and he argues that “that has taken place.”²⁴ Duffy responds: “This is breath-taking in its superficiality.”²⁵ As a retort, he notes:

Most people would agree that among the “best values of liberal culture” are the belief that government should be accountable, that the governed have a right to a say in their government, and the right of accused persons to a fair and open trial. It is hard to see how the head of the Congregation for the Doctrine of the Faith could maintain with a straight face that *these* values have been “taken on” by the Catholic Church. It is, indeed, difficult to see that they are even compatible with the structures and procedures by which at present dioceses are governed, bishops chosen and appointed, or orthodoxy maintained.²⁶

In his idealized account of the Church, Ratzinger sees the theological task as defense of an unadulterated deposit. Duffy regards this as unreal, as “an attempt to bypass the messiness of reality and of engagement with the puzzle and pain of being human.” In another context, Walter J. Burghardt, S.J., refers to this as “nonhistorical orthodoxy . . . a view of truth existing apart from its possession by anyone, apart from history. . . .”²⁷

Nicholas Lash (Norris-Hulse Professor of Divinity, University of Cambridge) disagrees with Ratzinger’s “unqualified bleakness.”²⁸ “It is not Catholicism,” he says, “that is ‘decomposing’ or ‘collapsing,’ but that particular citadel which we once erected.” That “citadel” was the disengagement for several centuries from the forces shaping the modern world. This disengagement spawned the “classicist mentality,” to use Bernard Lonergan’s phrase, which conceives culture normatively and abstractly.

The worlds of meaning and value have, as it were, an identifiable “center” from which discrepancy and distance can readily be measured. Accordingly, to the

²³ Eamon Duffy, “Urbi, but Not Orbi . . . : The Cardinal, the Church and the World,” *NB* 66, 272–78.

²⁴ *Rapporto* 34; *Report* 36.

²⁵ “Urbi” 275.

²⁶ *Ibid.*

²⁷ Walter J. Burghardt, S.J., “Who Chilled the Beaujolais?” *America* 153 (1985) 361.

²⁸ Nicholas Lash, “Catholic Theology and the Crisis of Classicism,” *NB* 66, 279–87.

classicist, dissent is tantamount to unfaithfulness,²⁹ significant disagreement is suspect of sedition and genuine pluralism appears to be the mask of anarchy.³⁰

Such a classicist mentality is the interpretative framework of Ratzinger's assessment of our predicament. That framework is collapsing. Theology, the conscious reflection upon the message of the gospel, occurs in a quite specific situation. Our situations are diverse, confusing, conflictual and can no longer be confined within the normative grammar of Ratzinger's classicist view.

Lash insists that a church without tension is a mausoleum from which the Spirit has departed—a point the classicist mentality does not really understand. He repeats Duffy's point about the injustice of church procedures: "One of the standing scandals of twentieth century Catholicism has been the 'onesidedness' of the relationship between theology and governance."³¹

John Mahoney, S.J. (Heythrop College), discusses three aspects about which Ratzinger expresses disquiet: the salvation of non-Christians, developments in moral theology, and episcopal activity in the Church.³² He is rightly amazed at Ratzinger's description³³ as "traditional doctrine" and one "taken for granted without any fuss" of the idea that salvation is possible outside the visible Church to anyone who follows his conscience. For centuries the visible Church was viewed in "container" terms and the understanding of *extra ecclesiam nulla salus* was given a very narrow, fortress-in-the-desert reading. Only in the past 30 years, through a growing appreciation of Christ's saving grace in history and a fresh awareness of the nature and function of the Church, has the doctrine developed to its present status.

When he turns to moral theology, Mahoney sees Ratzinger's view of the American Church and American moral theology (neither of them possessed of redeeming qualities) as "remarkably sweeping." The Cardinal sets up a confrontation between the magisterium and society and sees moral theologians as forced to choose between them. This is simplistic. It ignores the mediating role of moral theology between gospel values and modern culture. It also identifies the moral experience and reflection of the Church with the magisterium in a way that would be unrecognizable to Vatican II. Moreover, it totally overlooks the critical function of moral theology (to aid in correcting and purifying the mag-

²⁹ This attitude is reflected in James Hitchcock's *The Dissenting Church* (New York: National Committee of Catholic Laymen, 1983). The fact of dissent is recorded but the merits of the issue almost never discussed. Thus mere dissent is viewed as self-invalidating.

³⁰ "Catholic Theology" 282.

³¹ *Ibid.* 283.

³² John Mahoney, S.J., "On the Other Hand . . .," *NB* 66, 288-98.

³³ *Rapporto* 211.

isterium's teaching) and, more generally, its mediating function between the hierarchical magisterium and the faithful.³⁴

Fergus Kerr, O.P. (Faculty of Theology, University of Oxford), looks at the British and Irish scene to grade Ratzinger's assessment. Not surprisingly, the grade is low.³⁵ He characterizes Ratzinger's viewpoint: "pervaded with images of entropy," "the church infected by some degenerative malady," "dismally negative," "grim and doleful rhetoric." The Church is pictured as "drowning under hostile seas," plagued with "alarming symptoms of almost terminal disease." Kerr views all of this as an "alarmist and lurid diagnosis" that is quite unintelligible in Britain. Of course there are problems. But Catholic consciousness in Britain and Ireland means above all "justice and peace," a new and healthy transformation of moral awareness. Kerr believes that Ratzinger's deliverances on the "crisis of faith" in the Church constitute "an oratorical fantasy populated with strawmen and bugaboos," and even at times theological smears.

It is clear from this sampling that *Rapporto* is facing into some stiff theological winds. My own overall impression is that Ratzinger has magnified certain minor and academic theological discussions and movements into major faith crises. This is an ongoing temptation for an academic. When it is wrapped in the rhetoric of apocalypse, it leaves one with the impression of watching an exhausted boxer in the later rounds of an uneven fight: wild swings, mostly misses, and a sad sense of regret that it was allowed to go this far.

I am interested here in two important aspects of *Rapporto*: the personal-opinion aspect and Ratzinger's understanding of recent developments on moral norms (proportionalism).

The fact that the head of the Sacred Congregation for the Doctrine of the Faith expresses such personal and negative opinions (what Nicholas Lash elsewhere refers to as "nightmares of the negatives"³⁶) about *après-concile* developments is loaded with theological concerns. For instance, to what extent are his opinions accurate, especially about theology's role in all of this? What are the criteria of judgment? What are the sources of information? What do such negative judgments imply about the movements of the Holy Spirit in the Church? About the responsibility and actual performance of bishops? What concept of church undergirds Ratzinger's views? What concept of magisterium is at work? To what

³⁴ Ulrich Kühn argues that there is a mutual critical relationship between church and theology; cf. "Kirche als Ort der Theologie," *Kerygma und Dogma* 31 (1985) 98-115.

³⁵ Fergus Kerr, O.P., "The Cardinal and Post-Conciliar Britain," *NB* 66, 299-308. For a much more positive and realistic assessment than Ratzinger's, cf. "Vatican II and the 1985 Synod of Bishops," *Origins* 15 (1985) 178-86.

³⁶ *Tablet* 239 (1985) 298.

extent are his judgments linked to an attempt to modify or restrict certain emphases found in Vatican II?

One question deserves underlining here. Do the “completely personal” opinions of *Rapporto* represent the theological assumptions and attitudes theologians will encounter as they deal with the Congregation? If so, and if these assumptions and attitudes are one-sided, and even inaccurate (as I believe they are), what is the possibility of anything approaching an objective hearing at the Congregation for the Doctrine of the Faith? Very little in the proceedings of the present Congregation inspires confidence here.³⁷

Furthermore, and no less importantly, if the assumptions and attitudes of *Rapporto* provide the theological climate of the Congregation, to what extent is orthodoxy being confused with a particularist (“classicist”) theology, and therefore being compromised, and that at the very time it is being authoritatively imposed? To say, as Ratzinger does, that the views expressed in *Rapporto* are “completely personal” and “in no way implicate the institutions of the Holy See” sounds innocent enough. Actually, it raises theological concerns—really worries—of the first magnitude. Ratzinger is telling us that his own personal theological views have nothing to do with the way he judges the theology of others. Is that not roughly similar to saying that one’s political views have nothing to do with the way one votes? It would require a rather remarkable epistemology to sustain such a separation.

Closely related to this concern is the fact that the way the Congregation is proceeding inspires nothing but fear. This is a distraction. That is, as theologians spend far too much time and energy looking over their shoulders, they are distracted from the enormous issues that face contemporary society. In the meantime, leadership quietly passes beyond the Church to voices not deeply influenced by religious faith as the Church preoccupies itself with its own authority. This is the sad heritage of ecclesiastical narcissism.

I want now to turn to my second concern, Ratzinger’s understanding of recent developments on moral norms. His presentation abounds with misrepresentations and misunderstandings. I note the following.

1. *Nature of consequentialism and proportionalism.* Ratzinger describes the former as follows: “nothing is good or bad in itself. The goodness of an act depends only on its end and on its foreseeable and calculable consequences.” Of course, no one holds such a view, because the discussion is about moral rightness and wrongness, not moral goodness or

³⁷ The silencing of Leonardo Boff is instructive here. For the injustice of this outcome, cf. Wolfgang Seibel, S.J., “Restauration,” *Stimmen der Zeit* 203 (1985) 577–78; also L. Kaufmann, “Zum Schweigen gebracht,” *Orientierung* 49 (1985) 110–13; David Seeber, “Mehr als Restauration,” *Herder Korrespondenz* 39 (1985) 245–49.

badness. Furthermore, even when the discussion is of rightness-wrongness, what does “nothing . . . in itself” refer to? The object of the act? In the narrow or broad sense, this latter including the morally essential circumstances? And what is a “consequence,” the immediate intersubjective implication of the action, or a further-on aftereffect? What many insist on is that circumstances can sometimes so affect the generic character of an action (e.g., killing) that they change its very object or meaning (“*circumstantia . . . in quantum mutatur in principalem conditionem objecti, secundum hoc dat speciem*”).³⁸

2. *Proportionalism as a system.* I have no idea what Ratzinger means by a “system.” Most theologians writing on this subject today (cf. Scholz below) use the notion of proportionate reason in cases of conflict. My suspicion is that Ratzinger is listening to a group of complainants who describe as a “system” what its proponents propose much more modestly.

3. *Personal evaluation vs. morality based on revelation.* Ratzinger contrasts these two as if a choice between them had to be made, as if morality is based either on revelation or (exclusively) on personal evaluation. Several things are wrong here. First, clearly Christian morality is revealed morality. But that is not the question. The question concerns concrete or behavioral norms. Second, Ratzinger implies that if a morality is revealed, no personal evaluation is necessary. That means that God’s revelation, what Ratzinger calls His “instructions for use,” is so utterly detailed that it covers all imaginable variations and conflicts and dispenses with human reflection. That is, of course, absurd, and no one ever held it. Finally, if Ratzinger’s real concern is the *individual* (hence potentially subjectivist) character of the discernment to be made, then the proper reply is twofold. First, evaluation by an individual does not mean individualistic evaluation. We form our consciences in community. Second, as Edward Vacek, S.J., has noted, being true to the relational character of reality is not being arbitrary and subjectivist.³⁹

4. *The origin of proportionalism.* Ratzinger sees the origin of this *Denkform* in a rationalism (a morality “constructed uniquely on the basis of reason”) that resulted from the denial of the specifically Christian character of moral norms. He sees this as a “false starting point” that leads to the autonomy of reason and to reduction of the Decalogue to a cultural product. I want to underline several confusions here.

First, I submit that the contemporary discussion on moral norms in the Catholic community started some 20 years ago with Peter Knauer’s seminal study on double effect. The discussion on “autonomous morality” was only parallel to, not precisely generative of, the discussion on norms.

³⁸ 1-2, q. 18, a. 10 c, ad 2.

³⁹ Edward Vacek, S.J., “Proportionalism: One View of the Debate,” *TS* 46 (1985) 287-314, at 296.

Furthermore, in saying that revisionist tendencies are "elaborated and diffused more than anywhere else" in the United States, Ratzinger overlooks or ignores the work of Knauer, Schüller, Janssens, Fuchs, Scholz, Häring, Aubert, Gründel, Furger, W. Ernst, D. Mieth, Böckle, Molinski, H. Weber, and others nearer to home.

Second, had Ratzinger distinguished within the notion of morality the pairs good-bad, right-wrong, he (a) would not have opposed Christian morality and morality based on reason; (b) would not have seen the denial of specifically Christian behavioral norms as a new rationalism;⁴⁰ (c) would not have accused some contemporary theologians of holding that the Decalogue is a mere "cultural product" (I know of no one who makes such a claim). Ratzinger's mistake is to conceive the discussion loosely in terms of morality in general ("From this false starting point one arrives inevitably at the idea that morality is to be constructed uniquely on the basis of reason").⁴¹ Discussions of the past 20 years have not questioned whether there is a Christian morality or whether there are Christian moral norms. Of course there are. The discussion has focused on the concrete (or behavioral) norms touching the rightness or wrongness of human activity. It is these that are knowable by human reason, as Catholic tradition has asserted for many centuries.

I have taken considerable pains and space (disproportionate? I leave to charitable readers—at least those who are not "incommensurablists"—the weighing of the goods and evils involved) to emphasize certain misconceptions in *Rapporto* (what Kerr refers to as "strawmen and bugaboos") because it is obviously important that contemporary writing on moral norms be understood in high places. I am persuaded that it is not.

In what follows I will review some recent literature that continues this discussion.

Franz Scholz, in a very useful summary article, highlights those features of the debate that are shared by the disputants and those that still

⁴⁰ It is neither new nor rationalistic. For example, Hurth and Abellan write: "All moral commands of the 'New Law' are also commands of the natural moral law. Christ did not add any single moral prescription of a positive kind to the natural moral law" (*De principiis, de virtutibus et praeceptis* [Rome: Gregorian, 1948] 43). The "natural moral law" is by definition knowable by human insight and reasoning. I find it surprising that one who admits that traditional Catholic theology has always weighed and balanced the goods at stake in our actions would attribute such weighing and balancing to a new rationalism in theology. Cf. also E. Genicot, *Institutiones theologiae moralis* 1 (Brussels: Edition Universelle, 1951) n. 90: "Praecepta moralia specificae nova nulla Christus addidit iis quae jure naturali omnes astringebant." If even greater antiquity is considered pressing, cf. F. Suarez, *De legibus* 1 (Venice, 1790) lib. 10, cap. 2, n. 5-12.

⁴¹ I have adverted elsewhere to Ratzinger's confusion of parenthesis with normative discourse; cf. *Notes on Moral Theology: 1965-1980* (Lanham: University Press of America, 1981) 634-35.

divide them.⁴² He is interested above all in the pastoral implications of the debate and attempts to establish “peace of a sort” (*Gaudium et spes*, no. 81) in this area.

Scholz begins by regretting the fact that the controversy has been conducted in terms of deontology and teleology, especially as elegantly defined by C. D. Broad. People understand the terms differently. “As a matter of fact, it is increasingly clearer that neither of the two types of grounding [of norms] can succeed without essential elements of the other.”⁴³ For instance, Neo-Scholastic deontologists use the rule of double effect, at the very heart of which is a weighing of goods (*Güterabwägung*). On the other hand, teleological tendencies grant the absolute binding force of the precept of love of God and neighbor. Furthermore, concrete rules that result from a weighing of goods can be “here and now absolutely binding.” Thus, for Scholz, “we are dealing in ethical practice with different accents rather than with mutually exclusive concepts.”

Scholz then shows the various forms deontological and teleological approaches may take. He identifies two forms of deontology, the pure traditional form and the modified form. According to the traditional form, there are certain things (in the area of bodily integrity, sexuality, truthfulness) that one must never do. Obviously, severe pastoral dilemmas can arise from this understanding, but they have been mitigated in a variety of ways. Scholz mentions the following: (1) the doctrine of the so-called “philosophical sin”; (2) a restrictive reading of the precept; (3) the transformation of prohibitive commands (*Erfüllungsgebote*) into goal commands (*Zielgebote*); (4) the restrictive reading of “intrinsic evil” by, for example, Archbishop Denis Hurley’s “principle of overriding right”; (5) an illegitimate broadening of the notion of indirect to include actions that would formerly have been seen as direct and not permissible; (6) John Wright’s notion of certain prohibitions as “obligatory ideals”; (7) John Paul II’s use of the law of graduality. Some of these considerations (1, 5, 7) provide pastoral relief *a parte subjectiva* (by diminishing guilt), others (2, 4) *a parte objectiva* (by restricting the reach of the precept), still others (3, 6) by a combination of both.

Then there is a kind of “modified” deontology. Here Scholz borrows from W. D. Ross’s notion of “prima-facie duties” and “actual duties,” “prima-facie rightness, wrongness.” The term “prima facie” indicates that certain features of acts have a *tendency* to make an act right or wrong. In so far as it has these features, it is right or wrong. But it is actually right or wrong only in terms of its wholeness or entirety. The features that create this tendency to rightness or wrongness are the

⁴² Franz Scholz, “Gemeinsames, Trennendes, Missverstandenes,” *Theologie der Gegenwart* 27 (1984) 209–20.

⁴³ *Ibid.* 209.

deontological element. Thus W. D. Ross is viewed as a deontologist by his philosophical colleagues. But these features can be outweighed in actuality, though they never cease to exert their claims. In this way the practical pastoral dilemma is mitigated. Scholz's only point here is that the term "deontology" yields different readings.

He makes the same point with the term "teleology" when dealing with Christian and especially Catholic teleologists. Scholz identifies one group (associated with Bruno Schüller) as holding that consequences uniquely determine rightness or wrongness. Actually, I am not sure that this is accurate. Another group (Fuchs, Furger, Scholz, Ernst, this author, et al.) would hold that consequences are decisive but not the only decisive factor in determining moral rightness or wrongness.

Scholz then turns to those common elements that all Catholic moral theologians share. All are convinced that there is an objective moral order, that it is knowable, that human beings cannot always live up to its demands, that moral knowledge is universalizable, that the love command is the unconditional grounding precept, that such an ethic originates not with the duty to maximize good in the world, but with the moral demands of relationships in the world.

According to Scholz, what divides Catholic moralists these days is a single tenet: "Is it possible to have inherently evil actions in the sense of the moral theological tradition? This is emphatically affirmed by deontologists but denied by teleologists."⁴⁴ In other words, in some areas the object in a narrow sense (without circumstances, e.g., sterilization, contraception, and, earlier, falsehood and mutilation) is sufficient to qualify an act as intrinsically evil according to some. Not so for others. Scholz's essay is an irenic attempt to show that certain differences among Catholic theologians have been magnified out of proportion, so to speak.

James J. Walter seeks to bring greater clarity to the discussion of proportionalism by distinguishing three levels of inquiry: (1) the *definition* of proportionate reason; (2) the *criteria* that guide and establish the assessment of proportionate reason; (3) the *modes* by which we know that the criteria have been fulfilled.⁴⁵

As for definition, proportionate reason refers to a formal structural relation between the premoral value(s) and disvalue(s) in the act (*debita proportio*). Thus the term includes a concrete value (reason or *ratio*) in the act and its proper structural relation (*debita proportio*) to all of the other elements (premorale disvalues) in the act. Walter argues—correctly, in my view—that definitional clarity is required if we are to avoid some

⁴⁴ Ibid. 216.

⁴⁵ James J. Walter, "Proportionate Reason and Its Three Levels of Inquiry: Structuring the Ongoing Debate," *Lowain Studies* 10 (1984) 30–40.

basic misrepresentations. One such misrepresentation—which Walter attributes to John R. Connery, S.J.—is that proportionate reason is identical with a good intention, as the term “intention” was understood in the manualist tradition. Thus Connery writes: “According to Thomas, therefore, an act can be bad apart from a good intention, i.e., a proportionate reason.”⁴⁶ Another misrepresentation, closely related to the first, is that proportionate reason refers to something added to an act already defined. Walter insists that it constitutes the very description of the moral act.

Next, Walter lists six possible criteria for assessing whether a *debita proportio* is present. (1) A noncontradiction between the means and the end, or the end and further ends (2) The means do not undermine the end (3) The means do not cause more harm than necessary. (4) In the action as a whole the good outweighs the evil. (5) The means are in a necessary causal relation to the end. (6) The means possess the inherent ability to effect the end. Since *debita proportio* is a broadly human assessment, and one that must be made in a wide variety of conflict situations, it should not be surprising that there are any number of ways of approaching it—a point to which I will return below.

Finally, Walter turns to a third level of inquiry: how we know that the criteria have been fulfilled. To the three I had earlier listed (experience, sense of profanation, trial and error)⁴⁷ he suggests adding three more: discursive reasoning, long-term consequences, the experience of harmony or guilt over our actions. This last was originally proposed by Louis Janssens.⁴⁸ Walter’s modest aim was greater clarity. I think he has achieved it.

Brian V. Johnstone, C.S.S.R., takes an entirely different point of view.⁴⁹ He reviews the various interpretations given to the term “proportionate reason” in contemporary discussions and finds problems in all proposed explanations. For instance, if weighing of values and disvalues in our actions is meant by the term, there is the problem of incommensurability. If one appeals to a hierarchy of values, one must establish an analytically sound basis for such a hierarchy and show how it functions in moral argument. Johnstone believes that this has not been done. If proportion is used in the sense of urgency (some values being more urgent than others), he argues that this can apply to some policy decisions, “but it

⁴⁶ TS 42 (1981) 239.

⁴⁷ TS 42 (1981) 89.

⁴⁸ Cf. Charles E. Curran and Richard A. McCormick, S.J., eds., *Readings in Moral Theology No. 1* (Ramsey, N. J.: Paulist, 1979) 72.

⁴⁹ Brian V. Johnstone, C.S.S.R., “The Meaning of Proportionate Reason in Contemporary Moral Theology,” *Thomist* 49 (1985) 223–47.

does not seem that it can serve as a general theory of value preference." Then there is Peter Knauer's notion of counterproductivity. Here there is no attempt to weigh values against each other (*Güterabwägung*), nor is there appeal to a hierarchy of values. Rather, an act is judged disproportionate (= morally wrong) if it threatens the long-term realization of the very value sought in the act. Johnstone does not see how such a notion establishes an *ethical* criterion. As for my suggestion that some examples of disproportion can be explained by examining the association of basic goods (i.e., the manner of protecting a good [e.g., life] could undermine this good by harm to an associated good [e.g., liberty]), Johnstone believes that this involves so complex and hypothetical a calculation of contingent probabilities that it cannot provide a secure basis for a moral norm. He concludes that the "meaning of proportion has not yet been sufficiently clarified. It has not not yet received that degree of refinement which would make it an appropriate tool for moral analysis." While I would agree with Johnstone that greater clarity is always welcome and needed, I do not share the conclusion stated in his last sentence.

In his apostolic exhortation *Reconciliation and Penance*⁵⁰ John Paul II listed several influences that undermine the sense of sin in our time. One such influence he identified as a "system of ethics."⁵¹ He stated: "This may take the form of an ethical system which relativizes the moral norm, denying its absolute and unconditional value, and as a consequence denying that there can be intrinsically illicit acts, independent of the circumstances in which they are performed by the subject." The Holy Father was, I believe, ill served by his theological advisors in framing the matter in this way.

Equivalently the Pope is saying that certain actions can be morally wrong *ex objecto* independently of circumstances. As Bruno Schüller, S.J., has shown, that is analytically obvious *if the object is characterized in advance as morally wrong*.⁵² No theologian would or could contest the papal statement understood in that sense. But it is not the issue. The problem is: What objects should be characterized as morally wrong and on what criteria? Of course, hidden in this question is the further one: What is to count as pertaining to the object? That is often decided by an

⁵⁰ Washington, D.C.: USCC, n.d. (exhortation given Dec. 2, 1984).

⁵¹ Another would be certain notions of the fundamental option. For a good review of Karl Rahner's various contributions to moral theology, including the concept of fundamental option, cf. Ronald Modras, "Implications of Rahner's Anthropology for Fundamental Moral Theology," *Horizons* 12 (1985) 70-90.

⁵² Bruno Schüller, S.J., "Die Quellen der Moralität," *Theologie und Philosophie* 59 (1984) 535-59, at 547.

independent ethical judgment about what one thinks is morally right or wrong in certain areas.

Let the term "lie" serve as an example here. The Augustinian-Kantian approach holds that every falsehood is a lie. Others would hold that falsehood is morally wrong (a lie) only when it is denial of the truth to one who has a right to know. In the first case the object of the act is said to be falsehood (= lie) and it is seen as *ex objecto* morally wrong. In the second case the object is "falsehood to protect an important secret" and is seen as *ex objecto* morally right (*ex objecto* because the very end must be viewed as pertaining to the object).

These differing judgments do not trace to disagreements about the founts of morality (e.g., about the sentence "an act morally wrong *ex objecto* can never under any circumstances be made morally right"), but to different criteria and judgments about the use of human speech, and therefore about what ought to count as pertaining to the object. In this sense one could fully agree with the Pope that there are "intrinsically illicit acts independent of the circumstances" and yet deny that this applies to the very matters apparently of most concern to him (sterilization, contraception, masturbation). Take masturbation, for instance. Noldin writes:

All those things pertain to the object of the act that constitute its *substance*, viewed not physically but *morally*; furthermore, all those things constitute the substance of an act which are so essential and necessary to it that if something is lacking or added, the act is different. Thus, the object of theft is someone's property taken against his reasonable will; for if the thing is not someone else's, or is taken with the owner's consent or not against his reasonable opposition, it is not theft.⁶³

When masturbation occurs in the context of *in vitro* fertilization, there are many theologians who believe that this context enters the very object of the act. Patrick Verspieren, S.J., correctly indicates that this is the viewpoint of "many theologians and moralists."⁶⁴ In other words, they regard it as a different act, much as they would where the definition of theft is concerned. Those who think differently have attributed an independent moral character to self-stimulation that they do not to "speaking falsehood" or "taking another's property."

Several studies graciously use this author's work to review some recent trends. Michael K. Duffey (Marquette) criticizes the use of the term "nonmoral" to designate the evils sometimes inextricably bound up in

⁶³ H. Noldin, A. Schmitt, G. Heinzl, *Summa theologiae moralis* 1 (34th ed.; Innsbruck: F. Rauch, 1962) n. 70, p. 75.

⁶⁴ Patrick Verspieren, S.J., "Moralité de l'IVAD," *Project* 195 (1985) 33-40, at 34.

human actions.⁵⁵ It leads, he contends, to two confusions. First, the term suggests “not in the moral arena at all.” Second, it suggests that in a preliminary stage of moral evaluation there are only “brute facts.” He states: “Thus it is being erroneously suggested that description and evaluation are logically distinct operations which are done in that order.”

Recent authors use this terminology, Duffey argues, to correct “the excessive moral certitude with which the manualists undertook moral evaluation.” He then states: “What is now being said is that certain moral acts ought not to be given automatic moral condemnation, and that another evaluative step, determining the ‘proportionality’ of the good and evil which is being brought about, must be done.”⁵⁶ Duffey fears that the use of the moral-nonmoral distinction applied beyond the sexual sphere, and especially in the area of life-taking, will create serious misconceptions.

Borrowing from Julius Kovesi, Duffey proposes that we distinguish between complete and open moral notions. Open moral notions require further specification before we can make final moral judgments. “Lying is such a notion since although we say that lying is wrong, we admit that under certain circumstances it would be justifiable.” Complete moral notions (e.g., murder) need no such further specification. Both of these notions are *moral* and can in no way be identified with “nonmoral actions.” Duffey regards this latter term as misleading. As he puts it, “There has been a tendency in contemporary ethics to regard certain complete notions as open ones and to create another category, the ‘nonmoral,’ whereby a number of acts are removed from moral purview.” This has the effect of suggesting that description and evaluation are separate functions, and that the nonmoral and moral are distinct realms.

I want to raise several points here. First, Duffey says: “What is now being said is that certain *moral* acts ought not to be given automatic condemnation, and that another evaluative step . . . must be done.”⁵⁷ This is not what Schüller, Janssens, Fuchs, Cahill, et al. say. They would insist that you cannot speak of a “moral act” at all unless you include all morally relevant circumstances. This misrepresentation is especially egregious when Duffey attributes to Schüller the idea that acts of “infidelity, lying and acts of injustice” are morally neutral.

Second, the term “nonmoral” in no way suggests that “a number of *acts* are removed from moral purview.” It is used to refer to aspects or dimensions of a total act. Furthermore, in designating such dimensions as nonmoral *evils*, contemporary authors explicitly state the general moral obligation to avoid causing them in our conduct.

⁵⁵ Michael K. Duffey, “The Moral-Nonmoral Distinction in Catholic Ethics,” *Thomist* 49 (1985) 343–66.

⁵⁶ *Ibid.* 352.

⁵⁷ My emphasis.

Third, I should like to ask Duffey what term he would use to designate the disvalues in our conduct when an open moral notion suffers an exception (his example: verbal deception to save someone from a crazed pursuer).⁵⁸ The tradition used *malum mere physicum*.

Fourth, recent revisionist authors are not, I believe, motivated to correct "the excessive moral certainty" of the manuals. They are rather concerned with the fact that a moral character was given to an action independently of its morally relevant circumstances.

Fifth, I believe that Duffey slips into equivocity in his use of the term "evaluation." What makes a thing a falsehood (in contrast to, say, a compliment)—what is, therefore, its evaluation in that sense—does not *always* tell me if it is morally right or wrong (evaluation in that sense). It seems that the term "evaluation" is being used in two different senses here.

Finally, the term "nonmoral" will bring the confusions Duffey asserts only if it is used as he uses it: as applying to moral acts (rather than dimensions of actions) thought to be by such designation "removed from moral purview" (which the term in no way suggests).

Paul Quay, S.J., has returned to this matter in a long study.⁵⁹ Since it appeared in this journal, it needs but a few brief remarks. Quay argues that the use of the terms "nonmoral, premoral, ontic" as used by Janssens, Schüller, Knauer, Fuchs, and myself are equivocal. Sometimes they mean negative value, at others they refer to a *malum naturae*. He further argues that if revisionists are to avoid approving the doing of moral evil that good may come, "ontic" or "nonmoral" evil must be identical in meaning with *malum naturae*. In other words, no considerations of human value or disvalue may enter. Choice must be of *bona* or *mala naturae* simply without "human evaluation and other characteristically moral aspects." As soon as human evaluation is introduced, we have the equivocity Quay rejects.

Concrete moral precepts, he insists, bear on the "free choice or refusal of certain types of interior, personal orientations." Thus, the precept not to kill the innocent does not directly prohibit choosing the *malum naturae* of another's death. "The evil that is prohibited . . . is the *moral* attitude of the free agent towards other persons as adopted and expressed, say, in his deliberately killing one who is innocent." He concludes: "All such analyses show that the essential evil, forbidden by a negative precept . . . is entirely and antecedently moral" and does not deal with merely

⁵⁸ Duffey repeatedly uses the term "lie" whereas much recent writing distinguishes a falsehood and a lie, this latter being viewed as a value term or a "complete moral notion." Indeed, Duffey indiscriminately lists value and nonvalue terms (e.g., "adultery, killing noncombatants, lying, contraception and masturbation," 357).

⁵⁹ Paul Quay, S.J., "The Disvalue of Ontic Evil," *TS* 46 (1985) 262–86.

bona or *mala naturae*, as revisionists seem to say. Revisionists, he urges, overlook the idea that, although a person's death is a mere *malum naturae*, "an intent to cause his death is not . . . [therefore] the principal aspect of a human act is ignored: that it makes the acting person to be morally good or bad."

Two points only will be noted here. First, Quay has introduced terminology that no one uses (*malum naturae*). In this sense he is not dialoguing with those he criticizes but insisting that others use his terminology. In the discussion of moral norms no one identifies "ontic, nonmoral, premoral" evil with *malum naturae*. In the context of this discussion, the evils (or, *pace* Quay, what others refer to as "disvalues") refer to harms, lacks, pain, deprivations, etc. that occur in or as a result of human agency. We are simply not interested in *bona* or *mala naturae* in this discussion. Therefore the equivocity Quay finds in the use of the terms "nonmoral, ontic" is of his own making, as are all the conclusions he builds on it.

Second, Quay constantly confuses the pairs morally good-bad, morally right-wrong. Clearly, the deliberate choice of a morally wrong action will make the person morally bad. But saying that an action will make a person morally bad does not tell us why it is morally wrong in the first place. It supposes moral wrongfulness (as Quay does throughout in his examples, e.g., masturbation for sperm-testing). The discussion of concrete moral norms is about those features and characteristics that make acts morally right and wrong in the first place. One bypasses this question altogether with references to "the kind of person who so reads," "the moral attitude of the free agent towards other persons," "free choice or refusal of certain types of personal, interior orientation," "the holy, sacred, the personal, the respect-worthy." These considerations bear directly on the goodness or badness of persons.⁶⁰

Several hard cases have proven to be of interest to philosophers and theologians as testing grounds for their attempts at systematic explanation. Some of these are: killing innocent civilians in a just war to shorten the war and save lives; executing an innocent man when that is the only way to stop a rioting mob bent on killing several people for a crime they did not commit; the case of Mrs. Bergmeier, who can achieve freedom from unjust detention only by having sexual intercourse with her jailer, etc. Authors who appeal to the notion of proportionate reason to justify

⁶⁰ This confusion of morally good-bad, morally right-wrong leads Quay to overlook those characteristics that found judgments of rightfulness-wrongfulness. Thus, he shows no awareness that the prohibition against killing the *innocent* represents a teleological narrowing of the prohibition against killing that could only have occurred via the very proportioning he rejects. On this point he should be referred to Cardinal Ratzinger.

at times the causing of disvalues will often try to show its absence or presence in cases like the above.

I am flattered that Sanford S. Levy (Montana State University) has submitted such attempts on my part to critical scrutiny. Knauer, Janssens, and this author had used a variety of ways of explaining proportion and disproportion.⁶¹ For instance, proportionate reason “means the value being sought will not be undermined by the contemplated action,” what Levy calls “the undermining principle.”

Levy makes some worthwhile points, particularly in reference to my proposal of a “theory of associated goods.” He does not think much of it, and I would add that I am certainly not wedded to it. I shall take his critique into account in the future. However, I am convinced that our assessments of proportion and disproportion are destined to remain somewhat intuitive without our full ability to state them adequately in reasoned analysis. Levy is nervous with that because “such appeals to intuition are unsatisfying for those with rather different, or no, intuitions on the matter.”

Levy himself, for example, is not convinced of the immorality of killing an innocent child to end a war and thus save thousands of lives. I think he is wrong here, but it is difficult to make the point persuasively. It would be instructive to see how he would develop his position. Increasingly I am comfortable with the idea that we cannot adequately explain all cases, that no systematic analysis will cover everything, that it may even be a mistake to expect such clarity.

A final gloss on this literature is in place. The notion of proportionate reason is used in a variety of different contexts: excusation from positive laws, excusation from affirmative obligations, nonimputation of unintended evil effects. Furthermore, evil effects can be of many kinds, in many contexts, and caused by persons with a variety of obligational ties to others. Therefore it should not be surprising that the notion yields different understandings according to context. Put negatively, the notion cannot be reduced to a single structure, as the study by James Walter notes. This does not mean that it is too vague to be systematically applicable—and here I disagree with Brian Johnstone’s conclusion. Moral theologians have been analyzing problems with this thought-structure for centuries, as Cardinal Ratzinger clearly admits. It means simply that it is a human prudential judgment in a variety of irreducibly different settings.

This is quite clear in the manualist treatment of the matter. Thus, in explaining the principle of double effect, Antonius Lanza states that the

⁶¹ Sanford S. Levy, “Richard McCormick and Proportionate Reason,” *Journal of Religious Ethics* 13 (1985) 258–78.

gravity of one's reason for acting must be proportionate. This is determined by studying the distance that separates cause and effect, the weight and nature of the precept obligating one to avoid the evil effect, the hoped-for good, and the right one has to pursue it.⁶² These dimensions of the proposed action must be weighed together (*simul*). Thus, one must consider the requirements of justice, charity, piety, the common good, etc. This means that both proportion and disproportion will be due to different characteristics depending on the circumstances.

Lanza concludes: "If, after all things are considered, the reason for acting seems reasonable, the effect is properly permitted and not imputed to the agent."⁶³ He expressly omits any material criterion for weighing and comparing,⁶⁴ and appeals to the judgment of the prudent person as the ultimate criterion.⁶⁵

Three things are clear in such statements: (1) Proportionate reason is a human (not mechanical) judgment.⁶⁶ (2) It must weigh many dimensions (*omnibus perpensis*). (3) Its best measure is the prudent person. This suggests that systematic analysis may be too much to expect in all instances.

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THE USE OF SCRIPTURE IN MORAL THEOLOGY

Roman Catholic moral theologians are discovering what their Protestant counterparts have long acknowledged about using the Bible in ethics: it is a complex process. Several recent works by Catholic authors attest to a growing interest in unraveling the process so that Scripture can be integrated more critically into moral reflection. In a fine review article Kenneth R. Himes, O.F.M., suggests that the theologian faces four related tasks here. (1) Exegetical task: determine the meaning of the text as found in the Bible. (2) Hermeneutical task: determine the meaning of the text for today: the issue of interpretation. (3) Methodological task: how one employs Scripture within the various levels of moral reflection. (4) Theological task: explain the relationship of the Bible to other sources

⁶² Antonius Lanza, *Theologia moralis* 1 (Turin: Marietti, 1949) n. 177, pp. 208-9.

⁶³ *Ibid.* 208-9.

⁶⁴ "Dicimus 'si omnibus perpensis, causa agendi rationabilis apparet': quare abstinemus a quolibet materiali criterio comparationis et ponderationis" (n. 177).

⁶⁵ "Quare sufficit ut actio, omnibus perpensis, prudenti rerum aestimatori rationabilis apparet" (n. 177).

⁶⁶ In commenting on those authors who explain proportionately grave reason as involving "compensatio materialiter aequalis," Lanza states: "Quod mechanicum quodammodo sapit."