

ARTIFICIAL BIRTH CONTROL: AN IMPASSE REVISITED

Recently John Farrelly of the De Sales School of Theology in Washington, D.C., made a laudable effort to obviate the intellectual impasse between the magisterium and some theologians, as well as among theologians themselves, over artificial contraception.¹ The stalemated controversy is centered, as is well known, in a key teaching of the 1968 encyclical *Humanae vitae*, according to which "the inseparable connection, willed by God, . . . between the two meanings of the conjugal act," the unitive and the procreative meanings, leads to the conclusion that any use of the conjugal act that precludes its procreative purpose is contrary to the will of God and that therefore "each and every marriage act (*quilibet matrimonii usus*) must remain open to the transmission of life."²

A group of theologians who disagree with this teaching, including Josef Fuchs and Richard McCormick, subscribe—Prof. Farrelly notes—to a principle of proportionality, by which they assert that a premoral evil (in this case the artificial prevention of conception) is morally justifiable if there is a proportionate reason for allowing it. Contradicting the proportionalist school and defending the encyclical teaching is another group of theologians, among whom are Germain Grisez and William E. May, who maintain that basic human goods are incommensurable and equally unyielding in their claims on us. A moral agent, therefore, in the eyes of these theologians, may never directly exclude a good proper to his or her action. Thus the sides are seen as lined up in the Catholic Church: those who maintain that the artificially contraceptive act is sometimes morally justifiable and those who deny that it can ever be so.

Farrelly seeks to surmount the debate through a mediating position that, with regard to each side, both takes and leaves. From the proportionalists it takes the principle of proportionality, and with the school of incommensurable basic human goods it asserts that there are basic human goods against which one may never directly act. But to the proportionalists it says: the principle of proportionality is applicable only within the boundaries of another principle, the principle of totality. And to the incommensurabilists it says: not all basic human goods are incommensurable and hence equally unyielding in their claims upon persons; only those goods that are integral and constitutive values, as distin-

¹ M. John Farrelly, "An Impasse in the Church," *America* 154, no. 20 (May 24, 1986) 429–32. As indicated in his article, the author first proposed his conciliatory theory more than a decade and a half ago ("The Principle of the Family Good," *TS* 31 [1970] 262–74). During the intervening years he has not altered it in any significant way. All material from it quoted here is found on pages 430–31 of the *America* article.

² *AAS* 60 (1968) 488; English version from NC News Service.

guished from partial values, make absolute claims. Thus to both sides of the debate the mediating theory says: your central insight must be placed within and qualified by a horizon where human meanings and values are understood in terms of part-whole relationships.

This mediating position is explained through the example of a kidney transplant from a living donor. To excise the kidney is "to act directly against [the] partial good," the welfare of the donor's own organism and person. Nevertheless, "the intrinsic meaning and purpose of our use of our organs has a fuller dimension than simply our own organism and person," a dimension which "includes the welfare of others." At stake, then, are two basic goods, but they are not incommensurable and equally unyielding. Rather, they are related as partial and fuller meanings respectively. "The morally normative good here is the full good to which our use of our organs is directed, not simply the immediate good." Within this whole-part context, therefore, when there is the proportionate reason of saving another person's life, it is allowable to act directly against the welfare of one's own organism in order to achieve the "fuller" good of saving another's life.

Having exemplified with the case of the kidney transplant how proportionalism is applied within whole-part contexts of meaning and value, Farrelly applies his mediating theory to the debate at hand. This occurs in a series of steps.

1. The "marital act has a double meaning or significance, namely, a unitive and a procreative meaning."

2. But "the procreative meaning is not exclusively for begetting children but also for raising children"; for in the begetting of a child "parents by that very fact take on the task of helping that person effectively to live a fully human life."

3. The "integral or full and constitutive good" of the marital act, then, includes "not only the unitive and procreative meaning of [the] act, but the raising of the children of the family as well." As "inclusive of all these goods"—the unitive and the procreative values of the act, as well as "the welfare of the children already born and being raised"—the good of the marital act "can be called the good of the family."

4. With the "full good" of the sexual act identified as "the good of the family," we have the context in which to consider two points. First, there are circumstances in which "to have another child for the present is counter to the welfare of the children already born and being raised, because of limited . . . resources." Secondly, there are circumstances in which "spouses may prudently judge that periodic continence or natural family planning . . . are not feasible means to prevent the conception . . . of another child." (It is not clear whether Farrelly would apply his idea of "the good of the family" in an analogous way to a childless couple, but

the only way in which the concept is understood in both points here is in terms of "the welfare of the children already born and being raised.")

5. Therefore, when "the full meaning" of the sexual act—the good of the family—"cannot be preserved from serious harm by lesser means, it is morally permissible to act counter to the procreative consequences" of the act "by direct temporary sterilization or contraception that is not abortifacient." (It seems that Farrelly would never allow direct *permanent* sterilization as a moral possibility. Compare Step 4, where it was asserted only that a couple can prudently decide that "to have another child for the present" is contrary to the good of the family.)³

Like the kidney donation, then, artificial contraception and temporary sterilization can constitute cases in which, for the sake of preserving a "fuller" or "integral" good, it is morally justifiable to act directly against a "partial" good.

It should be noted, however, that this mediating theory entails an unremarked shift of meaning between Steps 2 and 3. The shift occurs in the way in which the orientation of the sexual act to the welfare of offspring is understood. In Step 2 the *procreative meaning* of the sexual act *includes* an orientation toward responsibility for rearing any offspring resulting from the act, since by the "very fact" of begetting a child parents "take on the task of helping that person effectively to live a fully human life." The procreative meaning of the act—including its orientation toward responsibility for possible offspring—involves an openness of the couple toward the future, an openness both toward accepting new life should procreation occur and toward then taking responsibility for the human formation of this new life in the world.

In Step 3, however, the orientation of the sexual act toward responsibility for care of possible future offspring resulting from the act, seen in the previous step as an extension of its procreative meaning, is quietly transformed into an orientation toward "the raising of the children of the family," i.e. toward "the welfare of *the children already born and being raised.*" This newly-appearing good of the children already born and being reared is now placed as a third good alongside the unitive and the procreative meanings, and then "all these goods" together are referred to as "the good of the family."

Two things follow readily from this shift of meaning. First, it becomes possible to assert that "the full and constitutive good" or "full intrinsic meaning" of the sexual act is "the good of the family" while understanding

³ Permanent sterilization is explicitly rejected in the *TS* version of the theory (272 f.). There it is considered as against the essential good of procreation in marriage, whereas temporary sterilization is seen as contrary to only a nonessential part of this essential good. Apparently this view is presupposed in Farrelly's latest statement of his theory.

this good or meaning predominantly in terms of "the welfare of the children already born and being raised." Then within the context of the good of the family as the full and normative good of a couple's present sexual act it can readily be made evident that there are possible family circumstances in which the admittance of the "partial" good of "procreative consequences" would militate against the good of the family and in which, therefore, a couple can reasonably act directly against this partial good in a last-resort effort to preserve the full and normative good.

With the shift of meaning in Step 3, then, Farrelly's theory has already in principle reached its goal; for the rest follows easily. The shift itself, however, will seem to many to be more a gratuitous mental leap than a rational necessity.

The present moral obligation of a couple to care for the children they already have has its origin, of course, in certain past sexual acts of theirs and is thus intrinsically, albeit indirectly, related to those past acts. It is one thing, however, to state the undeniable truth that certain past sexual acts have an intrinsic relation to a couple's present responsibility for "children already born and being raised" (Step 2); but it is something quite different to assert that the *present* sexual act of a couple has an *intrinsic* relation to their present responsibility to care for the children procreated through past sexual acts (Step 3). The latter statement does not follow necessarily from the former.

I suspect, moreover, that many married people would experience the link between their *present* sexual activity and "the welfare of the children already born and being raised" by way of the unitive rather than the procreative orientation of sexual intercourse: the more deeply the couple is united as wife and husband, the deeper their union as mother and father and the greater the flourishing of the family.

Although Farrelly's theory is not logically compelling in all respects, it does contribute significantly to the contemporary discussion. With its partial-fuller approach to understanding moral reality, it moves moral theology nearer to a reflectively holistic or unitary perspective. From a holistic perspective it is clear that every moral reality is part of a moral universe which must be understood, analogously to the physical universe, as constituted by increasingly encompassing, concentric units of meaning and value and that human meanings and moral values, therefore, are generated and exist in the dialectics and tensions of overlapping dimensions of the interpersonal, social universe.

The question that Farrelly's theory has overlooked, however, is: How full is full? In other words, what criterion determines what counts as "the full meaning" of an act?

Dealing with the kidney-transplant example, the theory argued that "the intrinsic meaning and purpose of our use of our organs has a fuller

dimension than simply our own organism and person" and that this fuller dimension "includes the welfare of others." What others? Farrelly does not say; but, presumably, he would reply that the answer to this question is as broad as the imperative to love one's neighbor. The moral justification of kidney transplants cannot embrace a principle of discrimination against one's neighbor on the basis of race, creed, color, gender, social status, etc. It includes, rather, anyone in the human family who can be medically aided by this surgical technique. Thus, when Farrelly states that "the welfare of others" is encompassed by the fuller "intrinsic meaning and purpose of our use of our organs," we are apparently to understand that the use of our organs is oriented, beyond the individual, to the good of the entire human family.⁴

When this mediating theory turns to sexuality, however, there is another shift, a shift in the criterion for determining what constitutes the fuller "intrinsic meaning and purpose of our use of our organs." The criterion is no longer "the welfare of others" in the sense of the good of the entire human family, the good of all to whom neighbor-love is owed. The fuller intrinsic meaning and purpose of the use of the sexual organs, unlike that of the kidneys, is restricted to "the good of the family," a good predominantly understood as "the welfare of the children already born and being raised."

Through this reduction in the criterion of what constitutes the fulness of meaning and purpose in the use of our bodily organs from the good of the human race to the good of the nuclear family, it becomes possible for this theory—unlike proportionalism—to reject peremptorily all other discrepancies from the sexual ideal except artificial contraception and temporary sterilization. For these other deviations, such as an act of premarital intercourse, readily appear as contradicting "the good of the family" and hence as "sacrifices of the full meaning or good for a partial meaning"; and "there is an absolute prohibition against acting against the full meaning of sexual intercourse to preserve a partial good."

There is a certain irony in this reduction of the criterion of what constitutes the fulness of meaning in the use of human organs. While it is only through recent technological advances making organ transplants possible that a person has been enabled to imagine a moral bond with all humanity precisely through kidney function, the bond with humanity through the sexual function has been known throughout the entire history of theology. Human sexuality has always been recognized as ordered, beyond the individual and the family, to the *bonum speciei*, to the good of the entire human race.

⁴ See the *TS* version (266 f.), where this seems to be affirmed indirectly.

Theology has always known, then, that the good of the nuclear family alone does not constitute "the full intrinsic meaning and purpose" of the sexual act. The present planetary age is a time, not for losing sight of the orientation in human sexuality toward the solidarity of the human family, but for plumbing the moral implications of this orientation in light of "the signs of the times."

However it may appear on its surface, the impasse in the Church regarding birth control is not simply a matter of a theory of proportionality versus a theory of incommensurability. To recognize that there are more complex dimensions of the controversy, one has only to advert to the fact that incommensurabilists generally maintain that the prohibition of artificial contraception is an infallibly taught and hence irreformable Church doctrine. Ultimately, far deeper than the surface debate, the heart of the impasse seems to lie in different paradigms of self-understanding.

In recent years it has been pointed out many times that there are two very different types of consciousness in the contemporary Church. What also should be noted, however, is that each type exists not only in a purer form but also in various degrees of admixture and confusion and that all this diversity underlies contemporary discussion in the Church.

With regard to the human person and his or her acts, one type of consciousness, the classicist, perceives the moral agent as the performer of individual acts, each of which constitutes by itself a totality of moral meaning to be measured against the agent's rational human nature. Historical consciousness, however, sees human acts in a considerably different light. On this view, both temporality and historicity are of the very essence of personhood; the human person is understood primarily as a human life, a human process extended through time and situated both within a particular culture and within a specific epoch of the history of humankind. Accordingly, historical consciousness does not regard the human act as if it were an individual totality of moral meaning that can prescind from the meanings of a person's life-patterns and the overall direction of the life-process. Such isolated acts, therefore, are not considered to be the point of departure for ethical considerations. Rather, moral deliberations of historical consciousness look first to the direction of the Christian life-process and then to its fundamental segments of significance in order to determine how a specific act is related to the Christian patterns of authentic human existence.

In the present controversy the incommensurabilist position corresponds to the presuppositions of classicist consciousness about the moral agent, but the classification of the proportionalist and the Farrelly theories is somewhat complex.

The incommensurabilist regards a sexual act, independently of its

intent and circumstances, as a self-contained unit of moral meaning. The sexual act is understood as intrinsically ordered to the two ends of marital union and procreation. To act, therefore, to preclude either good from the individual act, regardless of intention or circumstances, is to direct the act against its natural end, reducing it to an unnatural, intrinsically evil act.

Both the proportionalist and the Farrelly views of the sexual act, however, appear to have classicist consciousness at their point of departure but to move away from it in the direction of historical consciousness. Both commence their deliberations by considering the human act in its object and then move outward, each in its own way, from the abstract object of the act into some context of the life-process.

At its foundations proportionalism rejects the idea that an action, sexual or other, can be judged *morally* evil prior to consideration of its intent and circumstances. Evil *ex objecto* in an act, proportionalists maintain, can be only premoral or nonmoral, not moral, evil. If the term, an intrinsically evil act, is to be retained at all in moral theology, it can rightly be applied only to an act considered in its totality of object, intention, and circumstances.⁵

Thus proportionalism embodies a movement of thought away from a classicist understanding of the human act as having its basic moral meaning already contained in its object to a conception of the human act that is morally self-contained only as a totality of object, intent, and circumstances. The proportionalist, therefore, rejects the classicist understanding of the contraceptive act as already immoral in its object and maintains instead that the nonmoral evil of the object can be morally justified if the circumstances in which the act is performed provide a proportionate reason for it.

The Farrelly theory likewise begins by considering the sexual act in itself, *ex objecto*. Accordingly, the sexual act is understood, first of all, as an act intrinsically ordered to the twin goods of union of spouses and procreation. From this initial consideration of the sexual act as ordered to unitive and procreative purposes the theory moves the sexual act outward into a larger totality, the good of the family, in which the welfare of children already being reared is prominent.

What incommensurabilism, proportionalism, and the Farrelly theory all have in common is their point of departure in considerations of sexual morality: the individual human act is considered to be the basic unit of moral intelligibility and meaning. What both proportionalism and the Farrelly theory share, however, separating them from incommensurabil-

⁵ See Richard A. McCormick, *Notes on Moral Theology 1965 through 1980* (Washington, D.C.: University Press of America, 1981) 585 f.

ism, is that they move the basic moral meaning of the sexual act away from the act considered only in its object of unitive and procreative ends. Both thus move the basic moral meaning outward, in the direction of life and history. Proportionalism does so by including circumstances and intent alongside the object as determinants of the basic moral meaning of the act. And the Farrelly theory (maintaining that the sexual act is *intrinsically* oriented to "the welfare of the children already born and being raised") does so by considering the welfare of the already existing children as part of the *object* itself of the sexual act. (Both proportionalism and incommensurabilism regard the children's welfare—more realistically, in my judgment— as *circumstances* of the act.)

In addition to the incommensurabilist, the proportionalist, and the Farrelly theories there is a fourth approach to the controverted question at hand. Unlike the other three approaches, the fourth does not regard the individual human act as the fundamental unit of moral meaning and, therefore, does not adopt it as the point of departure for its moral deliberations. Moreover, unlike the proportionalist and the Farrelly theories, which are characterized by movement from the individual human act outward toward life and history, the fourth approach moves from life-in-history, which it regards as the basic unit of moral meaning and the point of departure for moral deliberation, toward the individual human act, seeking to understand whether and/or how the latter can be incorporated within the horizon of authentic Christian existence and meaningful history. This fourth approach is that of historical consciousness.

For historical consciousness, then, Christian moral reflection begins by asking: What is the Christian life and what can it authentically become in our time? On this view, one seeks to understand the relation of sexuality to marriage, not by beginning with an abstract analysis of a seemingly self-enclosed inner orientation of the sexual act, but by asking questions of a different sort: (1) What is this state of life that is called Christian marriage, and what are its possibilities in present-day society? (2) What place do sexuality and sexual behavior have in an authentically Christian contemporary marriage?

Because they differ in their anthropologies—their ways of understanding the human being as a moral subject in the world—and differ, consequently, in their modes of moral deliberation, classicist consciousness and historical consciousness inevitably evaluate some specific moral matters differently. A particular act of sexual intercourse, for instance, regarded as a totality of moral meaning by itself, can be understood as an act directed against conception, a contraceptive act in the literal sense of the term. But the same particular act, seen as essentially a moment within a state of life and a part of a larger, continuing temporal human

process from which it derives moral meaning and identity, can be understood as an act not *against* but *regulative of* conception—and hence as an act misleadingly and erroneously designated as a *contraceptive act*.⁶

While for both proportionalist and Farrelly theories, therefore, the question is whether and/or when the premoral evil of contraception is morally permissible, this is not the question for historical consciousness. Acting *against* conception is no more permissible than is acting against life or bodily health or human consciousness. But the question is: What counts as an act against conception, a contraceptive act, and what counts as the very different human act of responsibly regulating conception?

For historical consciousness, this question cannot be answered by simply analyzing the intrinsic orientation of the sexual faculty anymore than a similar, corresponding question about consciousness can be answered by only an analysis of the mind's capabilities. Analysis of the intrinsic end of the human mind, with its openness to infinity, reveals that human consciousness is ordered to the knowledge of all reality, ultimately (at least for graced consciousness) to the knowledge and contemplation of the Divine Reality itself. What, then, is the act against human consciousness, the anticonscious or contramental act? Is it every attempt at any time whatsoever to exclude from the mind awareness of reality and even the contemplation of God? To end one's night prayers and to get into bed in order to induce sleep or to submit to an anesthetic in order to prepare for needed surgery—to seek deliberately to shut out consciousness of reality, even of God, in such ways—are, of course, acts very different in their human, moral meanings from delivering a knockout blow in a prize fight. It is the latter that can rightly be named the contramental act, the act *against* human consciousness. As to the acts of yielding to required sleep and of seeking the deep unconsciousness necessary for some surgery, historical consciousness need say only: "There is an appointed time for everything, and a time for every affair under the heavens" (Eccl 3:1), a time to watch and a time to fall asleep. And the biblical text can serve as a reminder that (1) it is not through an analysis of the intrinsic finality of the human mind that a person recognizes his or her moral responsibility to yield to sleep (even at times with the artificial aid of a sleeping pill) or to the artificially produced unconsciousness required for surgery; and (2) an analysis of the intrinsic finality of the mind in no way discloses that acting to exclude consciousness in these ways is an acting *against* consciousness, an anticonscious or contramental act.

What classicist consciousness, therefore, would consider to be the

⁶ Attention has been drawn elsewhere to some of the imprecise and uncritical uses of language that bedevil the present controversy; see N. Rigali, "The Moral Act," *Horizons* 10 (1983) 260, n. 17.

intrinsic finality of the human mind is, in the eyes of historical consciousness, an abstraction, an abstract finality. The real finality of the mind as it exists in this present life, historical consciousness asserts, is a finality of the human-mind-in-time-and-history. And, maintaining that it is its real finality-in-time-and-history that is the intrinsic finality of the mind of a person-in-time-and-history, historical consciousness affirms that the human mind is intrinsically ordered to a rhythm of life, ranging from divine contemplation, through the uncontrolled vagaries of the subconscious in dreams, to dreamless sleep and unconsciousness.

Similarly, historical consciousness understands the intrinsic finality of human sexuality not as an abstract, seemingly self-contained purpose or set of purposes, but as the sexual finality of persons-in-time-and-history. On this view, human sexuality, too, is ordered to a rhythm of life, ranging from acts realizing the highest potentiality of sexual activity to acts in which the actualization of the full potentiality would, because of time and circumstances, be irresponsible and in which, therefore, exclusion of potentiality is required by the sexual finality itself, the sexual finality of persons-in-time-and-history.

The present impasse, then, appears to be rooted in the diversity of two kinds of consciousness, classicist and historical, with their in-betweens. It would be easier to resolve if it were only a debate within the boundaries of either kind. But, again, if it were only such a disagreement, it might never have become an impasse in the first place.

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