A Critical Dialogue with *Veritatis Splendor* and a Proposed New Ground for Discussion

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Much has been written in response to *Veritatis Splendor* since its publication in 1993. Moral theologians of various persuasions have been engaged in the discourse over fundamental ethical issues raised by the encyclical. This critical dialogue with Ver*itatis Splendor* would perhaps not shed any new light. However, substantive issues discussed and debated have not finally reached their resolutions and therefore there is still a need for a continuing discourse. Lines have been drawn between the traditionalists and revisionists over ethical issues of depth and complexity. These issues are dealt with again in this dialogue with Ver*itatis Splendor* relative to contemporary moral theories, in particular, McCormick's writings on proportionate theory. It is hoped that some points of convergence may be arrived at or if that is not possible, at least a more profound understanding of the points of divergence. After a brief overview of Ver*itatis Splendor*, the dialogue focuses on two main issues raised in the encyclical: the objective morality of the act and the concept of intrinsic evil. Mark Lowery's article[1] has proposed a way for traditionalists and proportionalists to come to a new ground for discussion. The value of his proposal is that it attempts to look at old issues in a new way, and its readers are challenged to clarify and articulate their own stance, and in the process move further the dialogue. This critical dialogue is concerned with matters of great consequence — matters which are not for the fainthearted but for valiant and earnest seekers of the truth.

[1]Mark Lowery, "A New Proposal for the Proportionalist/Traditionalist Discussion," *ITQ*, 61 (1995) pp. 115-25.

Overview of the Encyclical

Pope John Paul II wrote his encyclical, *Veritatis Splendor*, to proclaim the splendor of the truth in an age of moral confusion and darkness. He asserts the place of the Church as a teacher and mediator of the moral truth vis-a-vis dissenting moral theologies which to his mind are systematically eroding the universality and immutability of moral norms. The encyclical is primarily for the education of the episcopate who are called upon to share with him the responsibility of safeguarding sound teaching in the face of an internal crisis which he sees as affecting the moral life and mission of the Church. He presents the content of the encyclical as fruit of his discernment and summons his brother bishops to engage in an ongoing discernment of contemporary moral thought and discourse.[2]

The encyclical is divided into three chapters. Chapter one is a biblical meditation on Jesus' dialogue with the rich young man (Matt 19:16-22). The story is familiar: an earnest young man seeks to know the way to eternal life. Jesus confronts him with the radical demand of self donation, beyond his claims to a good and righteous life. The young man departs in sorrow, an enduring portrait of one who had deliberately chosen not to be what he might have been and had in him to be. The encyclical explicitly grounds Christian morality in spirituality. At its core is a spirituality of discipleship — an openness to and intimacy with Christ which leads to a radical imitatation and following of him. Rich in powerful imagery, this first part of the encyclical is a profound meditation on the intrinsic connection between Christian moral life and faith.[3]

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[2]The encyclical addresses the most fundamental principles of Roman Catholic Moral Theology in Post-Vatican Church. It is the first authoritative magisterial teaching on the foundations of morality. Pope John Paul II, *Veritatis Splendor* (Pasay City: Daughters of Saint Paul, 1995).

[3]Religious faith is the all embracing horizon against which believers look at the whole of life, modifying and qualifying their attitudes, dispositions, values, and aspirations, which enter into the very fabric of their concrete choices and decisions. It brings to morality a depth, intensity, and urgency by situating it in relation to the person's fundamental response to the God who calls. "Faith is a decision for God, and our whole life ought to pivot on this dramatic decision which involves us even to our innermost aspiration." See Rene Latourelle, "Revelation and Faith: Personal Encounter With God," *TD*, 10 (Autumn 1962), p. 238.

There is a shift in language and tone in the second chapter as certain interpretations of Christian morality which deny and distort the sound teaching of the faith are identified and condemned. The focus of the papal discourse in this chapter is the relationship of freedom and conscience to moral truth. Freedom is a fundamental human value, but it can never be absolutized. It is by its nature relational, exercised only within the orbit of moral truth. Likewise, conscience is not its own creator of moral rightness and wrongness. It is not its own absolute arbiter. It is governed by the moral truth which it discerns and obeys. The consequence of the absolutization of freedom and conscience is the false autonomy of the individual which leads to subjectivism and relativism. While moral discourse must adequately consider the subject, it does not absolutize this consideration, making the subject the center of right and wrong, and denying the shared moral values that must bind all in community. Relativism stands in opposition to universality which must be sought, that despite the religious, linguistic, ethnic diversity and pluralism, unity may be found in the common humanity of men and women.[4] In this chapter, the encyclical rejects the theories of consequentialism and proportionalism as opposing the Church's teaching. The critical dialogue with the encyclical centers on the issues raised relative to these said theories.

Chapter Three develops a number of related points. It stresses the bond between freedom and truth, the truth in its full splendor in Christ. Commitment to the truth in Christ is costly, for consistent witnessing to this truth demands suffering and sacrifice, the final act of which is martyrdom. The encyclical declares that the validity of certain norms and rights without exception for all situations and circumstances is necessary to guarantee the foundation for ethical social existence. An important section of the chapter discusses the roles of magisterium and of the moral theologians who are exhorted to give loyal assent, both internal and external, to the magisterium's teaching.[5]

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[4]The obstacles to a consensus on what is normatively human may seem insuperable. The fact of cultural relativism challenges what may be claimed as normatively human, but there are transcendental values that call forth what a person is essentially. The normatively human is the social relational nature of a person as he/she was created to be.

[5]Richard McCormick, S.J. has suggested that when we are faced with the Church's authoritative fallible teaching, two extreme reactions are to be avoided. The first is to

Veritatis Splendor and Contemporary Moral Theories: McCormick's Writings on Proportionate Theory

Veritatis Splendor takes a very critical and negative position on consequentialism and proportionalism which it defines in the following terms:

> The former claims to draw the criteria of the rightness of a given way of acting solely from a calculation of foreseeable consequences deriving from a given choice. The latter, by weighing the various values and goods being sought, focuses rather on the proportion acknowledged between the good and bad effects of that choice, with a view to the "greater good" or "lesser evil" actually possible in a particular situation (n. 75).

In the spirit of a critical dialogue, it must first be established that there is no monolithic view of these theories, inasmuch as there are differences that individual theologians bring to their analyses. Richard McCormick's writings on proportionate theory, for instance, represent a teleological model of ethical argumentation. This model (from *telos* or goal) holds that a particular way of acting is ethically right or wrong based in part on the consequences it produces. An extreme teleology has been made popular by Joseph Fletcher in his situation ethics. Sometimes called utilitarianism or consequentialism, this form of absolute teleology counts only consequences. It is described as the ethical attitude which seeks to produce the greatest good for the greatest number. McCormick's writings represent a middle position described as mixed teleology, which differs from strict consequentialism, insofar as it regards moral obligation as arising from the way in which the good or evil is achieved by the moral agent and from elements other than

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hold that the teachings are only good as the arguments or reasons that support them. This places the pope and bishops on the same level as theologians, stripping them of their authoritative power. The other extreme is to hold that a teaching is valid independently of the reasons and arguments. This eliminates on principle the very possibility of objectively founded dissent. Richard McCormick, S.J. "Notes on Moral Theology," *TS*, 29 (1968), pp. 731-32. See also Ronald R. Burke, "*Veritatis Splendor*: Papal Authority and the Sovereignty of Reason," in *Veritatis Splendor: American Responses*, ed. Michael E. Allsopp and John J. O'Keefe (Kansan City, MO: Sheed & Ward, 1995), pp. 119-35.

consequences.[6] Common to all proportionalists like McCormick, some of who are eminent and distinguished moral theologians like Janssens, Schüller, Fuchs, and Böckle, etc., is the stance that in conflict situations, where it is not possible to realize all values at the same time, causing certain disvalues (nonmoral or premoral evil) does not make the action morally wrong, if when all things considered, a proportionate reason is established to justify the disvalue/s. "Thus, not all killing is murder, not all falsehood is a lie, not all taking property is stealing, and not every artificial intervention preventing or promoting conception in marriage is necessarily an unchaste act."[7] The notion of proportionate reason is not new. It has functioned in Catholic moral theology for many decades. What the revisionists are doing is applying it in new ways.

Morality of the Act

The critical dialogue between *Veritatis Splendor* and the moral theories with a specific focus on McCormick's writings, is based on the key question: how is the morality of an act judged? In Aquinas' thought, it is stated:

> [J]ust as a natural thing has its species from its form, so an action has its species from its object .... And therefore, just as the primary goodness of a natural thing is derived from its form, which gives it its species, so the primary goodness of a moral action is derived from its suitable object: hence some call such an action

[6]See Bruno Schüller, "Various Type of Grounding for Ethical Norms," in *Readings in Moral Theology: Moral Norms and Catholic Tradition*, ed. Charles Curran and Richard McCormick, S.J. (New York: Paulist Press, 1979), p. 185; Neil Brown, "Teleology or Deontology," *ITQ* 53/1 (1987), p. 36; Charles E. Curran, "Utilitarianism and Contemporary Moral Theology: Situating the Debate," *LS* 6 (Spring 1977), pp. 239-72; Samuel Scheffler, *The Rejection of Consequentialism* (Oxford: Clarendon Press, 1982), p. 9; Lisa Sowle Cahill, "Teleology, Utilitarianism, and Christian Ethics," *TS* 42 (December 1981), pp. 605-16.

[7]Richard McCormick, "Killing the Patient," *Considering Veritatis Splendor*, ed. John Wilkins (Cleveland, Ohio: The Pilgrim Press, 1994), pp. 17-18. "The characterization of proportionalism in *Veritatis Splendor* does not fairly reflect the nuances of McCormick's discussion. Moreover, the central questions that McCormick raises remain important for particular issues in Bioethics." B. Andrew Lustig, "*Veritatis Splendor*: Some Implications for Bioethics," in *Veritatis Splendor: American Responses*, p. 258.

> good *in its genus*; for instance, *to make use of what is one's own.* And just as, in natural things, the primary evil is when a generated thing does not realize its specific form (for instance, if instead of a man, something else be generated); so the primary evil in moral actions is that which is from the object, for instance, *to take what belongs to another.* And this action is said to be *evil in its genus*, genus here standing for species, just as we apply the term *mankind* to the whole human species (I-II 18.2).[8]

The object of an act in Aquinas' thought refers to its species, or to the kind of act that it is, considered from a moral point of view, that is, it is an act of murder, of theft, of adultery, etc. The object is distinguished from the end of the agent acting or the circumstances surrounding the act. Neither the end nor circumstances qualify what the act is and vice versa. Aquinas states that "the specific difference derived from the object is not an essential determination of the species derived from the end, nor is the reverse the case" (I-II 18.7). Supplying his own example, he states that he who commits theft for the sake of adultery, is guilty of a twofold malice in one action. The object of his act of theft is not subsumed in his aim in that act, which is to have the means to engage in adultery (I-II 18.7). In the same vein, circumstance in Aquinas' thought, so long as it is but circumstance, does not specify an action, for an action is specified by its object (I-II 18.10). This means that the circumstances do not determine the essential rightness or wrongness of an act, but may only mitigate or exacerbate it.

The understanding of object as distinguished from the end of the acting agent in Aquinas' thought is specifically altered in Veritatis Spendor:

> *The morality of the human act depends primarily and fundamentally on the "object" rationally chosen by the deliberate will*, as is borne out by the insightful analysis, still valid today, made by Saint Thomas. In order to be able to grasp the object of an act which specifies that act morally, it is therefore necessary to place oneself *in the perspective of the acting person.* . . . (n. 78).

[8]All citations in this article from St. Thomas are taken from *St. Thomas Aquinas Summa Theologica*, trans. Fathers of the English Dominican Province (Allen, Texas: Christian Classics, 1981).

This statement in *Veritatis Splendor*, however, seems to be contradicted by a subsequent statement:

> *One must therefore reject the thesis*, characteristic of teleological and proportionalist theories, *which holds that it is impossible to qualify as morally evil according to its species*—its "object"—*the deliberate choice of certain kinds of behaviour or specific acts, apart from a consideration of the intention for which the choice is made or the totality of the foreseeable consequences of that act for all persons concerned* (n. 79).

In the first statement, the object of the act which specifies the act morally cannot be grasped apart from the acting person, which presumably means apart from the context, intention, and circumstances of the person. In the second statement, however, teleological and proportionalist theories are rejected on the ground that they do not hold that certain acts are morally good or evil according to their object, apart from their intention, circumstances, and consequences. The object of the act is the primary criterion in determining whether the act is bad or good.

An essential question, however, is asked: how is the object of the act precisely discerned? In Aquinas' thought, the species of the act determine its object (I-II 18.5). Thus, the generic descriptions which give the species of the actions will also describe their objects.

> [I]t becomes apparent that the generic concepts in terms of which Aquinas identifies the objects of acts are taken from the same basic moral notions that serve as the starting points for moral reflection for nearly everyone else: for example, murder (II-II 64), injury (II-II 65), theft and robbery (II-II 66), fraud (II-II 77), usury (II-II 78), and lying (II-II 110). These basic concepts of kinds of actions are associated with widely accepted moral prohibitions (theft, murder, lying, adultery) or with stereotypical ideals of good behavior (almsgiving, restitution, prayer). Since the precepts of morality can all be traced to the natural law, which is contained (in diverse ways) in the precepts of the Decalogue (I-II 100.1,3), he would agree with the encyclical that the intrinsic wrongness of some kinds of actions is given by the natural law; moreover, he

> would agree that these acts are such because they involve some kind of harm to another (I-II 100.5, II-II 72.I).[9]

Veritatis Splendor provides the criteria in determining the object of the act:

> The primary and decisive element for moral judgment is the object of the human act, which establishes whether it is *capable of being ordered to the good and to the ultimate end, which is God.....* It is precisely these which are the contents of the natural law and hence that ordered complex of "personal goods" which serve the "good of the person": the good which is the person himself and his perfection. These are the goods safeguarded by the commandments, which, according to Saint Thomas, contain the whole natural law (n. 79).

Further questions are posed to the criteria provided by Aquinas and *Veritatis Splendor* in determining the object of the act. In reference to the list of actions cited by Thomas as actions which are evil or good by virtue of their object, the question asked is: how are we to determine which action is considered murder, theft, lying, etc? In reference to Veritat*is Splendor*, it is not clear how one is to know and determine the actions which serve the "good of the human person." Whatever is meant by object of the act based on the criteria set by Aquinas and Veritat*is Splendor*, it is one that presupposes a moral judgment and is not simply equated with the description of what is done as an independently given datum.[10]

> [I]t is not the case that the object of an action can serve as an independently given datum for moral evaluation. The determination of the object of an act presupposes that we have described the act correctly, from a moral point of view, and that process requires normative judgments about the significance of different aspects of the action. In other words, the determination of the object of an act is the ou*tcome* of a process of moral evaluation, not its presupposition.[11]

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[9]Jean Porter, "The Moral Act in *Veritatis Splendor* and in Aquinas' *Summa Theologica*," in *Veritatis Splendor: American Responses*, p. 284.

[10]*Ibid.*, 283.

[11]*Ibid.*, 284.

For instance, the articles in which Aquinas distinguishes murder from legitimate forms of killing corroborate the fact that the object of the act as understood from his moral theory is not an independently given datum outside of a moral determination of relevant circumstances and intentions. The articles show in some detail that Aquinas, in determining whether the object of the act may be rightly categorized as murder, ascertains all the relevant human factors relative to who the victim is (duly convicted criminal, or conversely, is innocent) (II-II 64.2), who the killer is (authorized executioner, not a private citizen) (II-II 64.3), and under what circumstances the killing takes place (the moral significance of place and time) (I-II 18.10).

From this assessment of Aquinas's account of the moral act, the determination of the morality of an act by virtue of its object presupposes a prior consideration of the action, taken as a whole. Only after it is morally determined that a particular action falls within the scope of a more general prohibition (murder, theft, lying, etc.), is it judged as essentially morally wrong.

McCormick's exposition of the theory of proportionate reason shows that all the dimensions of an action are assessed before its moral nature is finally determined.[12] The three criteria of the proportionate theory do not only ask what? (object) but also why? (intention), how?, what else? (means), and what if? (consequences). It proposes an integral and total methodology for ethical reasoning in conflict situations. The criteria of the proportionate theory are threefold, all of which must be realized in one composite act for the presence of proportionate rea-

[12]Aquinas identifies three criteria by which human acts are to be evaluated: its object (I-II 18.20), the circumstances in which the act is done (I-II 18.3), and the agent's aim in acting (I-II 18.4). Richard McCormick argues that in adopting the personalist moral criterion, that is, the "human person adequately considered," Vatican II committed the Church to "an inductive method in moral deliberation about rightness and wrongness in which human experience and the sciences play an indispensable role." Richard McCormick, S.J. "Moral Theology from 1940 to 1989," and "Moral Theology in the Year 2000," in *Corrective Vision: Explorations in Moral Theology* (Kansas City, MO: Sheed & Ward, 1994), pp. 1-40. See also Maura Anne Ryan, "Then Who Can Be Saved?: Ethics and Ecclesiology in *Veritatis Splendor*," in *Veritatis Splendor: American Responses*, pp. 1-15.

son to be ascertained:

(1) The value sought is greater than or at least equal to the value sacrificed;
(2) There is no other way of saving the value here and now;
(3) The protection of this value will not undermine it in the long run.

The proportionate theory argues that in a conflict situation, a premoral or nonmoral evil may be caused, reluctantly and regretfully, to be sure, to protect a higher good.[13] Thus it is allowed that one may perform an action which has both a good and an evil aspect provided there is a proportionate reason. If a proportionate reason exists, the evil aspect remains only a premoral or nonmoral evil and the total action is judged as morally good.[14] The presence of the proportionate reason is morally decisive in determining whether the evil as a means does not constitute a moral evil but only a premoral or nonmoral evil. In the absence of a proportionate reason, the means is morally evil and the whole action is judged as morally evil. The notion of proportionate reason is crucial, for apart from its consideration, an action involving evil is too quickly classified as moral evil.[15]

The proportionate theory hinges on the distinction between premoral/nonmoral and moral good/evil. This distinction is premised on the principle that good/evil of an act cannot in itself be morally defined in a definitive way apart from its uniquely human features and circumstantial qualifiers. This does not mean that premoral or non-

[13]Richard McCormick, S.J., "Ambiguity in Moral Choice," in *Doing Evil to Achieve Good*, eds. Richard McCormick, S.J. and Paul Ramsey (Chicago: Loyola University Press, 1978), p. 39.

[14]McCormick, *Notes on Moral Theology 1965 Through 1980* (Washington, D.C.: University Press of America, 1981), pp. 581-82. Morally good, morally right, morally wrong, morally evil, are used synonymously in the text. There are moralists, however, like Schüller and Fuchs, who distinguish between morally good/bad person and morally right/wrong actions. Judgment of moral actions are judgment on the means of acting. Moral goodness/badness relates to the fundamental stance out of which agents move themselves. A person who is good may actually act wrongly. Cf. James F. Keenan, "What is Good and What is Right," *Church* 5 (Summa 1989), pp. 22-28.

[15]McCormick, A Commentary on the Commentaries," in *Doing Evil to Achieve Good*, eds. Richard McCormick, S.J. and Paul Ramsey (Chicago: Loyola University Press, 1978), p. 202.

moral judgment has no moral weight, but that on a first level, it is not yet morally decisive. Premoral or nonmoral good/evil is not morally neutral. On the contrary, it is regarded as something generally fulfilling or not fulfilling for human nature. It counts as an essential factor in a total moral evaluation, but taken by itself, it is not morally decisive or definitive. McCormick points out that it is at least confusing to speak of death, suffering, poverty, regardless of how they are caused, as moral evil.[16]

It is not accurate to hold that the proportionate theory only takes account of intention and circumstances in determining the morality of the act, and also that intention and circumstances can alter the evil in the act, making what is morally evil, morally good. Depending on intention and circumstances which figure in ascertaining the presence or absence of proportionate reason according to objective moral criteria, the evil in the act remains evil, but becomes either moral evil which is condemned or remains premoral or nonmoral evil which is justified. If there is a proportionate reason, the evil remains premoral or nonmoral and the total action is judged as morally good.

For instance, in the act of self-defense, the person kills his/her assailant. The death of the assailant is evil, but because of the presence of proportionate reason, the evil of death is premoral or nonmoral which is justified and the total action of self-defense is morally good. Proportionate reasoning which is seriously criticized in Veritatis Splendor is used in *Evangelium Vitae* to justify capital punishment cases. The encyclical recognizes that the question of capital punishment is one in which a conflict situation is involved and as such, a proportionate weighing of values is necessary, in view of the "greater good" or "lesser good" in a given situation.

> This should not cause surprise: to kill a human being, in whom the image of God is present, is a particularly serious sin. *Only God is the master of life*! Yet from the beginning, faced with the many and often tragic cases which occur in the life of individuals and society, Christian reflection has sought a fuller and deeper understanding of what God's commandment prohibits and prescribes.

[16]Richard C. Sparks, "The Storm Over Proportionalism," *Church* 5 (Spring 1989), p. 9; McCormick, S.J., *Notes on Moral Theology 1981 Through 1984* (Lanham, Maryland: University Press of America, 1984), p. 55.

> There are in fact situations in which values proposed by God's Law seem to involve a genuine paradox. This happens for example in the case of leg*itimate defence*, in which the right to protect one's own life and the duty not to harm someone else's life are difficult to reconcile in practice.... (n. 55).
> .... Public authority must redress the violation of personal and social rights by imposing on the offender an adequate punishment for the crime, as a condition for the offender to regain the exercise of his or her freedom. In this way authority also fulfills the purpose of defending public order and ensuring people's safety, while at the same time offering the offender an incentive and help to change his or her behavior and be rehabilitated (n. 56).[17]

Evangelium Vitae is guided by the principle that punishment is not only for the purpose of defending public order but also to rehabilitate the offender. Executing the offender is an extreme measure to be taken only when it would not be possible otherwise to defend society and to protect the safety of persons. Thus, while life is a fundamental value, in cases of extreme conflict situations, where the defense of society is on the line, the taking of the life of the offender is evil, but it is not moral evil. It is premoral or nonmoral evil, and the whole action is morally justified.

In the case of the use of contraception, if proportionate reason is established, the evil of contraception which is the frustration of the fruit of the conjugal act is a justified premoral or nonmoral evil, and the total action is morally good. Evil is not changed or removed, but is either exacerbated or mitigated by intention and circumstances as traditional moral theology holds.

The description of good or evil as premoral or nonmoral has the natural law as its basis, in terms of what in general is fulfilling or harmful to human nature. Proportionate reason provides the moral methodology in judging evil as premoral or moral evil. It does not claim to be by itself the creator or arbiter of what is right or wrong, good or evil, but only a systematic way of discovering, discerning, and demonstrating within the framework of objective ethical values, why and when evil remains premoral or nonmoral and justified, and when evil is moral evil and condemned.

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[17]Pope John Paul II, *Evangelium Vitae* (Pasay City: Daughters of Saint Paul, 1995).

Intrinsic Evil

In the encyclical, the following statements are read in reference to proportionalism: "Such theories, however, are not faithful to the Church's teaching, when they believe they can justify, as morally good, deliberate choices or kinds of behavior contrary to the commandments of the divine and natural law" (n. 76).; "If acts are intrinsically evil, a good intention or particular circumstances can diminish their evil, but they cannot remove it" (n. 81). What is implied in these statements in reference to proportionalism belies a misunderstanding and misrepresentation of the theory.

There is no proportionate theory that justifies as morally good that which is contrary to the divine and natural law. What is asserted by the theory is an assessment of the action in all its dimensions before it is judged as contrary to the divine and natural law. The crux of the matter is the concept of "intrinsic evil." *Veritatis Splendor* holds that there are certain specific kinds of behavior that are always wrong to choose independent of intention and circumstances, such as homicide, genocide, abortion, euthanasia, suicide, physical and mental torture, arbitrary imprisonment, deportation, slavery, prostitution and trafficking in women and children (n. 80). On the other side, when contemporary moral theologians say that certain disvalues in our actions can be justified by a proportionate reason, they do not hold that morally wrong actions (ex *objecto*) can be justified. They are only insisting that actions cannot be definitively based on their object understood in a narrow and restricted sense.

Here lies the major problem. When traditional morality judges certain acts as intrinsically morally wrong, circumstances and intention are included in the assessment of the object of the act. Thus, theft is always wrong, because it is not just taking another's property, but doing so unjustly, against the reasonable will of the owner. Murder is always wrong, because it is an unjust taking of another's life. An act of taking the life of an enemy is changed from murder to possible heroism, because of the change of circumstances. Prohibition against killing can be set aside in cases of self-defense, exaction of death penalty, and just wars.[18] But when the same traditional moral theology deals

[18]Bernhard Haring, "A Distrust that Wounds," in *Considering Veritatis Splendor*, p. 10.

with masturbation, contraception, and sterilization, the objects of these acts are restricted and narrowed to their material dimensions, admitting no qualifications or exceptions. There is inconsistency here.[19] For certain acts, the object is taken in a broader moral sense, but for other acts, the object is taken in a narrow and restricted sense. "If the teaching is to be consistent, it will, for instance, describe the object of sterilization and contraception as against the good of marriage, if these acts are to be always wrong."[20]

The proportionalists would admit that some acts are intrinsically evil, if the object of such acts broadly includes all the morally relevant circumstances. They do not intend to loosen the notion of intrinsic evil and of moral absolutes, but precisely to tighten it by defining it in terms of an integral and total meaning of the human act. Thus no acts, in themselves are intrinsically morally evil, but only when specified by intention and circumstances. Until then, they are called premoral or nonmoral evil.

Contemporary moralists, particularly the revisionists, refuse to use the term intrinsic evil, as it is understood in the tradition. They refer to the term "virtually exceptionless" to describe acts in which the degree of evil is such that it is virtually impossible to conceive of concrete cases where they are justified morally. Cruelty to children, indiscriminate bombing of non-combatants, genocide, rape, and incest are examples

[19]Charles Curran points out that different methodological approaches exist in papal teaching on social and sexual personal morality. In general, social teachings employ a more historically conscious approach than the teachings on sexual personal morality which employ a more classicist approach. The different methodological approaches have raised problems of consistency and coherence for papal moral teaching. "Two Traditions: Historical Consciousness Meets the Immutable," Com*monweal* (October 11, 1996), pp. 11-13. In response to Curran's article, John S. Grabowski and Michael J. Naughton claim that Curran's diagnosis of the moral teachings of the Church is problematic and borders on caricature. "Doctrinal Development: Does it Apply to Family and Sex?," *Commonweal* (June 6, 1997), pp. 18-20.

[20]Richard McCormick, S.J., "Killing the Patient," in C*onsidering Veritatis Splendor* 19. "The pope's efforts to uphold laws that are intrinsically or always and without exception wrong by reason of the object is fraught with difficulties ... In reality, Ver*itatis Splendor* itself does not succeed in making a consistent call to prove its own position about acts that are always and intrinsically evil by reason of the object alone." Charles E. Curran, "V*eritatis Splendor*: A Revisionist Perspective," *Veritatis Splendor: American Responses,* p. 233.

of virtually exceptionless acts. This describes a moral assessment in terms of the weighing of nonmoral evil and nonmoral good, in the interaction of object, intention and circumstances. This is a different assessment from that of the notion of intrinsic evil, which is deontologically established, in terms of the very nature of the act, apart from any consideration of intention and circumstances.[21]

A New Ground for Discussion Proposed

Mark Lowery proposes a way for the proportionalists/traditionalists to come to a new ground for discussion. In his proposal, he distinguishes the circumstances that specify the object of the act from the intention and circumstances of the moral agent. For instance, incest is an act of sexual intercourse specified in a particular way by particular circumstances but not by any particular moral agent. All intrinsically evil moral acts are specified in one way or another, but these specifications are distinct from the circumstances and intention of the agent.[22]

> Consider the example of incest. If we look at the act itself, we find that it is the act of sexual intercourse specified in a particular way by particular circumstances that do not yet involve any particular moral agent. A man has intercourse, with his daughter. This is an intrinsically evil kind of act. Now consider a concrete instance of this particular act: a man, Joe, commits incest with his daughter. He has performed a particular kind of act that is evil. His concrete act matches the abstract act of intercourse specified in a particular way and labelled incest, and hence he performs an intrinsically evil act. Joe's own circumstances, along with his intent, are an altogether different matter. He might perform this act during a time of great stress or personal grief. He may have had some similar experience in his childhood. He may be under the illusion that he is showing love to his daughter. All such circumstances belong uniquely to Joe, and only affect the culpability of his act. They cannot change the intrinsically evil nature of the act.[23]

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[21]See Philip S. Keane, S.S., *Sexual Morality: A Catholic Perspective* (New York: Paulist Press, 1977), pp. 50-51.

[22]Lowery, "A New Proposal for the Proportionalist/Traditionalist Discussion," p. 118.

[23]*Ibid.*, p. 119.

Lowery points out that in the method he proposes, the moral object is specified outside the individual moral agent's specific intention, while in proportionalism, there is no act which is intrinsically evil, apart from the acting agent. If his position is taken, an action may be judged as intrinsically evil, insofar as it is specified by circumstances proper to the action, while the intention and circumstances of this moral agent determines only his/her moral culpability. He distinguishes the word specifications from circumstances, reserving the word specification to the circumstances which help define and determine the object of the act, and the word circumstances to refer to the moral agent. He holds that all moral objects that are intrinsically evil are understood to be specified or circumstantialized in one way or another.[24]

The method, as a whole, is characterized by the following: First, it simplifies the moral judgment of the act. It is not complicated by the factors affecting the moral agent in personal and specific ways. For instance, the killing of an innocent person is intrinsically evil regardless of whether this was committed by someone with noble intention or under extraordinary personal circumstances.[25] The intention and circumstances of the moral agent may affect his/her culpability or blameworthiness but do not alter or change the intrinsic evil of the act itself. Second, the method is premised on the principle that a moral object that is intrinsically evil will always bear some general specifications. Thus, murder is the killing of the innocent; stealing is taking something against the reasonable will of the owner; lying is perpetrating a falsehood upon one who has the right to know the truth.[26] The personal and specific circumstances and intention of the moral agent do not enter into the assessment of the moral object. Third, the specifying of the moral object is done, not by the individual moral agent, but by nature, which stands objectively above the agent. Lowery criticizes the proportionate theory for making the moral agent as the final arbiter of moral life.[27]

Lowery's proposal is criticized based on his basic assumptions. First to be noted is his misinterpretation of what proportionalists are say-

[24] *Ibid.*
[25] *Ibid., p.* 121.
[26] *Ibid.*
[27] *Ibid.*, p. 123.

ing. They are not saying that objective wrongfulness depends on the agent for his idea of specification of the object is precisely what many of the proportionalists would hold. This is illumined in Louis Janssens' article,[28] where in elucidating Thomas' four classes of human acts, he cites the first class of actions as intrinsically evil actions. Such actions as adultery, theft, murder connote immediately a moral deformity, and therefore, they can never be done in a good way. Their very names indicate their moral specifications. Janssens differentiate these acts from acts which involve some deformity or disorder considered only from the material object of the action. In the acts classified as intrinsically evil actions is presupposed a prior moral judgment based on what Lowery defines as the general specification of the objective act from the circumstances proper to it, as distinguished from the personal and specific circumstances of the individual moral agent. This specification of the object is illustrated in the following statement of McCormick on human sexual intercourse. He suggests that human sexual intercourse has a significance and meaning prior to the specific intention and circumstances of the individual moral agent.

> I am suggesting that human sexual intercourse has a sense and meaning prior to the individual purposes of those who engage in it, a significance which is a part of their situation whether or not the partners turn their minds to it. It is an act of love, and therefore has a definition which relates it immediately to the love of man and woman — with all the demands of this love. Furthermore, I am suggesting that we can come to know this meaning even if the scientific empiricism of our time has not proved it and cannot prove it.
> .... Since sexual intercourse and its proximate antecedents represent *total personal* exchange, they can be separated from total personal relationship (marriage) only by undermining their truly human, their expressive character—in short their significance.[29]

Actually, one hardly sees a difference between what Lowery is saying and what the proportionalists have been saying. McCormick,

[28]Louis Janssens, "A Moral Understanding of Some Arguments of Saint Thomas," *ETL* 63 (1987), *Fasciculus* 4:355-60.

[29]Richard McCormick, S.J., "Human Significance and Christian Significance," in *Norm and Context in Christian Ethics*, ed. by Gene Outka and Paul Ramsey (New York: Charles Scribner's Sons, 1968), pp. 252, 254.

Janssens, Fuchs, *et al* could easily agree with Lowery's idea of specification as referring to the circumstances which describe precisely what is going on (the object). The problem pertaining to the 'object' arises from a very narrow, physicalist understanding of it in certain areas found in textbook theology over the past decades. Contemporary theologians, on the contrary, assert that 'object' must be understood in a broader sense, including all the circumstances that truly specify the act and make it what it is. Lowery could certainly accept this. One wonders, therefore, whether he has truly provided any new ground for discussion as he claims. One also wonders on what basis he speaks of proportionalists as arbitrary and subjective in deciding what circumstances are to count as specification of the object. An apparent misreading of proportionalism is an assumption of the new ground for discussion he proposes. Lowery, more than he seems to realize, actually shares much more with the proportionalists who are simply incorporating into their definition of the 'object' circumstances that experience, wisdom, common sense, and sound theological instincts ascertain.[30]

The strict distinction between the act and the moral agent in both the proportionate theory and Lowery's method, however, is possible on the level of abstract concepts, but not on the level of real persons in actual moral situations, where the person and the act are intrinsically related. The specific intention and circumstances of the moral agent determine what he or she is doing. The "how" and "why" of his/her action enter deeply into the act, and determine in part the very nature and content of the act itself, beyond its generic specifications.[31] Thus to give a meal to a poor person has the appearance of goodness. But if one does it for self-aggrandizement or to humiliate the person, the moral nature and quality of the act is modified. It would not be accurate, then, to describe the act as an act of charity or benevolence. The description of the content of a moral act contains assumptions about the agent's intention and circumstances.[32]

That Lowery's method is premised on the principle that a moral object that is intrinsically evil is specified or circumstantialized corrects

[30]This is based on Richard McCormick's assessment of Lowery's proposal communicated through e-mail, 9 September 1998.

[31]Vincent MacNamara, *Faith and Ethics* (Dublin: Gill & Macmillan, 1985), p. 108.

[32]*Ibid.*, p. 107.

the understanding of intrinsic evil as referring to acts which are evil in themselves, apart from any consideration of intention and circumstances. What seems to be wrongly assumed, however, is that the specification of a generic moral act can be applied to specific acts with certainty in every case and also that the evaluation of a generic moral act can be applied to specific acts prior to and independently of the process of determining the moral evaluation of the specific act.[33] Thomas Aquinas accounts for the difficulty in applying general principles to the specific:

> .... to the natural law belongs those things to which a man is inclined naturally: and among these it is proper to man to be inclined to act according to reason. Now the process of reason is from the common to the proper.... The speculative reason, however, is differently situated in this matter, from the practical reason. For, since the speculative reason is busied chiefly with necessary things, which cannot be otherwise than they are, its proper conclusions, like the universal principles, contain the truth without fail. The practical reason, on the other hand, is busied with contingent matters, about which human actions are concerned: and consequently, although there is necessity in the general principles, the more we descend to matters of detail, the more frequently we encounter defects.... It is therefore evident that, as regards the general principles whether or speculative or of practical reason, truth or rectitude is the same for all, and is equally known by all. As to the proper conclusions of the speculative reason, the truth is the same for all, but is not equally known to all.... (1-11 94.4).

The specifications of generic moral concepts (e.g., murder is killing of the innocent) cannot be applied to specific acts without first determining the moral evaluation of the specific act. It must first be ascertained, given the morally relevant factors and contingencies, how to accurately define the specific act morally, before it can be judged as falling under the general prohibited acts. The more one descends to specifics, especially in concrete conflict situations, general principles can only be applied with a certain tentativeness and with a keen openness to data. The proportionate theory provides the methodology for ethi-

[33]Porter, "The Moral Act in *Veritatis Splendor* and in Aquinas' Summa Theologiae: A Comparative Analysis," p. 286.

cal deliberation in conflict situations where people find themselves under the most complex and difficult circumstances.

Lowery claims that in the method he proposes, the moral object is specified by nature which stands objectively above the agent. He criticizes the proportionate theory for making the agent as the final arbiter of the moral life. There are two things that Lowery puts to question: first, the relation of the moral agent and natural law and second, the ethical basis of rightness and wrongness of the proportionate theory. First, natural law is above the agent, insofar as he/she is not the creator of the natural law, but the natural law can only be discerned by rational moral agents. For St. Thomas, "natural law is nothing else than the the national creature's participation of the eternal law" (I-II 91.2).[34] The force of "law," as the force of reason in the Thomistic sense of recta ratio — the inclination to grasp the whole of reality and come to moral truth.[35] Natural law, then, means that reason is the basic standard by which we discern moral obligation in human interpersonal and social relations. "The doctrine of the natural law has no Roman Catholic presuppositions. Its only presupposition is threefold: that man is intelligent; that reality is intelligible; and that reality, as grasped by intelligence, imposes on the will the obligation that it be obeyed in its demands for action or abstention."[36] Natural law, which is the criterion or norm binding all persons and nations, and constituting an unconditional and obliging drive towards full humanity and authentic personhood, involves the moral agent's inquiry, discernment, and judgment.[37]

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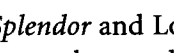
[34]Catholic teaching holds that original sin has wounded but not deformed or destroyed the nature of persons, and thus the basic capacities of their intellect and will are still able to recognize and do what is good even with difficulty. Their wounded nature, however, due to the effects of original sin already inclines them to evil even prior to the exercise of their free choice.

[35]Richard M. Gula, S.S., *Reason Informed by Faith* (New York: Paulist Press, 1981) 225-27. Janet E. Smith shows how personalism and natural law are compatible and skillfully integrated into *Veritatis Splendor.* "Natural Law and Personalism in *Veritatis Splendor,*" in *Veritatis Splendor: American Responses,* pp. 154-207.

[36]John Courtney Murray, S.J., *We Hold These Truths: Catholic Reflections on the American Proposition* (New York: Sheed & Ward, 1966), p. 109. See also William May, "The Natural Law, Conscience, and Development of Psychology," *Communio* 2 (Spring 1975), pp. 3-31.

[37]John Macquarrie, *Three Issues in Ethics* (New York: Harper and Row, 1970), p. 91.

To say that in the proportionate theory, the moral agent is left as the final arbiter of moral rightness and wrongness is to misrepresent the theory as espousing arbitrary, individualistic subjectivism. The determination of premoral/moral good and evil, and the weighing of the values, means, and consequences in the proportionate theory is governed by objective norms grounded in natural law — that which fosters the good of persons and promotes their human flourishing and which rejects that which diminish persons and destroy basic common values. The threefold criteria of proportionate reasoning are applied within the framework of objective moral norms guided by the demands of interpersonal and social relations. McCormick speaks of "being a Christian as being a member of a body, a commun*io*, a people with reflection and memory."[38] Thus, the resources and perspectives of ethical deliberation go beyond the individual capacities. They are drawn from the collective wisdom embodied in the laws and rules that have guided people of the past in their personal and communal living. The rich sources of faith, the Scriptures and Church Teaching, provide a faith horizon against which present realities and experiences are placed in their wider perspectives. This counterbalances the self-interest, biases, unconscious drives which we all tend to bring into human decisions.



The critical dialogue with Verita*tis Splendor* and Lowery's proposed method has shown that there is no human theory which can fully and perfectly grasp the dynamics of moral thinking, knowing, and deciding, and thus, the need for a continuing discourse. The proportionate theory provides a moral methodology for determining what is morally good in conflict situations. It seeks to define the meaning of an action from a total and integral perspective, and in engaging the moral agent in relation to his/her act on all levels of ethical interaction. Thus, it does not speak of intrinsic evil prior to a full assessment of the moral

[38]McCormick, S.J., *Notes: 1981-84, 70.* As human beings, we live always in relation to others, and as Christians, in a believing community, an *ecclesia.* "Our being in Christ is a shared being. We are vines of the same branch, sheep of the same shepherd." This fact with deep biblical roots, brings to form the essential equality of persons (regardless of functional importance) and his radical sociality, his interdependence with others. McCormick, *Health and Medicine on the Catholic Tradition* (New York: Crossroad, 1984), p. 125.

objectivity of an act. It is, however, inaccurate to say that it altogether denies the notion of intrinsic evil and of moral absolute. Once the moral objectivity of an act is determined and judged as morally evil, it absolutely admits no exception. Prior to a full ethical account of the act, good or evil remains premoral or nonmoral.

The proportionate theory, contrary to its misrepresentation, is in continuity with Veritat*is Splendor* and traditional moral theology, insofar as it holds that evil is not altered or removed by intention and circumstances, but can be exacerbated or mitigated. Premoral or nonmoral evil may be justified in cases where proportionate reason is established, but moral evil whether as a means or end is condemned in every circumstance. The final specification of an act as morally evil, however, is based on all morally relevant circumstances of one composite act.

The proportionate theory does not espouse individualism, subjectivism, and relativism as condemned by *Veritatis Splendor.* While the misuse of the theory may lead to subjectivism, the theory is not inherently subjectivistic. Its threefold criteria are systematically and coherently applied within the framework of objective norms grounded in the natural law as discerned and interpreted by the collective moral wisdom of the community.

The theory is used to determine the objective morality of an act in a conflict situation. It does not make any judgment on the moral culpability of the person, which is discerned in the light of the moral agent's freedom and knowledge engaged in an act of light or grave matter. The theory, however, must aim toward a greater relation between the meaning-giving human subject and the objective act. While it determines the objective assessment of the act based on its general intention and circumstances, it must see more thoroughly how the specific intention and circumstances of the moral agent also enters into the act and qualifies it morally. This takes into full account the integral nature and totality of the human moral act.

In this critical dialogue, attempts were made to define the points of convergence and divergence, of continuity and discontinuity of positions taken by Veritatis *Splendor*, traditional moral thought, and contemporary moral theories towards a greater understanding of the moral truth, the full splendor of which is Christ.