

"VERITATIS SPLENDOR" AND ACTION THEORY*

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1 THE TEACHING OF "VERITATIS SPLENDOR" ON MORAL ACTION

1.1 Introduction

The first part of this article¹ included a general overview of philosophical and theological studies on the encyclical *Veritatis Splendor* (VS) published between October 1993 and December 1994, as well as a detailed study of the problem of moral autonomy. Following the program that we had set, we should now deal with proportionalism and consequentialism, another one of the big themes covered in VS. We do not intend to carry out a general study of these two ethical orientations, nor do we want to report all

*Translated by Tom and Kira Howes.

¹ "Veritatis splendor' un anno dopo. Appunti per un bilancio (I)," in *Acta Philosophica* 4/2 (1995): 233-260.

that has been written about them in the literature on VS. The scope of this article is to present the thoughts that we were able to form concerning the problems of moral action theory, both in light of the doctrinal clarifications of VS, and in light of the discussion and deeper analysis of the subsequent philosophical and theological literature.²

VS dedicates section IV of chapter II (nos. 71-83) to the study of the moral act. Since

² In order to not force the reader to have to constantly consult the first part of this article, we shall now show, in alphabetical order, the contributions that most specifically regard the object of our current study: B. Bennàsar, "La razón moral es también teleológica," in *Moralia. Revista de ciencias morales* 17/1 (1994): 51-56; D. Composta, "Tendencias de la teología moral en el posconcilio Vaticano II," in G. del Pozo Abejón (ed.), *Comentarios a la "Veritatis splendor"* (Madrid: BAC, 1994), 301-340; J. Finnis and G. Grisez, "Gli atti intrinsecamente cattivi," in *Lettera enciclica "Veritatis splendor" del Sommo Pontefice Giovanni Paolo II. Testo e commenti, Notebooks of "L'Osservatore Romano"* 22 (Vatican City: Libreria Editrice Vaticana, 1994): 227-231; J. Finnis, "Beyond the Encyclical," in *The Tablet* (January 8th, 1994): 9-10; J. Fuchs, "Die sittliche Handlung: das intrinsece malum," in D. Mieth (ed.), *Moraltheologie im Absichts? Antwort auf die Enzyklika "Veritatis splendor"*, *Quaestiones disputatae* 153 (Freiburg-Besel-Wien: Herder, 1994): 177-193; Idem, "Das Problem Todsünde," in *Stimmen der Zeit* 212/2 (1994): 75-86; G. Grisez, "'Veritatis splendor': Revealed truth vs. dissent," in *Homiletic and Pastoral Review* (March 1994): 8-17; G. Gutiérrez, "La 'Veritatis splendor' y la ética consecuencialista contemporánea," in G. Del Pozo Abejón (ed.), *Comentarios ...*, 233-262; K. Hilpert, "Glanz der Wahrheit: Licht und Schatten," in *Herder Korrespondenz* 47 (1993): 623-630; B. Honings, "Il discernimento di alcune dottrine morali ed etiche. Una lettura della 'Veritatis splendor'," in G. Russo (cur.), *Veritatis splendor. Genesi, elaborazione, significato* (Rome: Edizioni Dehoniane Roma, 1994), 131-153; L. Janssens, "Teleology and proportionality. Thoughts about the Encyclical 'Veritatis splendor'," in *Bijdragen, tijdschrift voor filosofie en theologie* 55 (1994): 118-132; B. Kiely, "L'atto morale nell'enciclica 'Veritatis splendor'," in various editors, *Veritatis splendor. Atti del Convegno dei Pontifici Atenei Romani*, October 29th-30th 1993 (Vatican City: Libreria Editrice Vaticana, 1994), 108-118; P. Knauer, "Zu Grundbegriffen der Enzyklika 'Veritatis splendor'," in *Stimmen der Zeit* 212/1 (1994): 14-26; H. Lepargneur, "Os conceitos da 'Veritatis splendor'," in *Revista Eclesiastica Brasileira* 213 (1994): 5-35; W.E. May, "Theologians and Theologies in the Encyclical," in *Anthropotes* 10/1 (1994): 39-59; Idem, "Los actos intrinsecamente malos y la enseñanza de la encíclica 'Veritatis splendor'," in *Scripta Theologica* 26/1 (1994): 199-219; R.A. McCormick, "Killing the Patient," in *The Tablet* (30 ottobre 1993): 1410-1411; Idem, "Some early reactions to 'Veritatis splendor'," in *Theological Studies* 55/3 (1994): 481-506; R. McInerny, "Locating Right and Wrong," in *Crisis* (December 1993): 37-40; A. MacIntyre, "How can we learn what 'Veritatis splendor' has to teach?," *The Thomist* 58/2 (1994): 171-195; E. Molina, "La encíclica 'Veritatis splendor' y los intentos de renovación de la teología moral en el presente siglo," *Scripta Theologica* 26/1 (1994): 123-154; M. Rhonheimer, "'Intrinsically Evil Acts' and the Moral Viewpoint: Clarifying a Central Teaching of 'Veritatis splendor,'" *The Thomist* 58/1 (1994): 1-39; A. Rodríguez Luño, "Teleologismo, consecuencialismo e proporzionalismo," in *Lettera enciclica "Veritatis splendor" del Sommo Pontefice...*, 223-226; Idem, "El acto moral y la existencia de una moralidad intrínseca absoluta," in G. Del Pozo Abejón (ed.), *Comentarios ...*, 693-714; H. Seidl, "L'atto morale: oggetto, circostanze e intenzione," in R. Lucas Lucas (ed.), *"Veritatis splendor". Testo integrale e commento filosofico-teologico* (Milan: Paoline-Cinisello Balsamo, 1994), 335-351; J.E. Smith, "Veritatis splendor," *Commonweal* 120/18 (1993): 14-15; G. Virt, "Epikie und sittliche Selbstbestimmung," in D. Mieth (ed.), *Moraltheologie...*, 203-220; W. Wolbert, "Die 'in sich schlechten' Handlungen und der Konsequentialismus," in D. Mieth (ed.) *Moraltheologie ...*, 88-109; C. Zuccaro, "La 'Veritatis splendor'. Una triplice chiave di lettura," in *Rivista di Teologia Morale* 100/4 (1993): 567-581. We also keep in mind studies not considered in the first part of this article: M. Vidal, *La proposta morale di Giovanni Paolo II. Commento teologico-morale all'enciclica "Veritatis splendor"* (Bologna: EDB, 1994); M. Rhonheimer, "Intentional actions and the meaning of object: A reply to R. McCormick," *The Thomist* 59/2 (1995): 279-311; Idem, "Minaccia di stupro e prevenzione: un'eccezione?," *La Scuola Cattolica* 123 (1995): 75-90; and finally the editorial published by the *Osservatore Romano*, 20-V-1995, with the title "La recezione della 'Veritatis splendor' nella letteratura teologica."

the entire encyclical responds to a *prevelantly doctrinal* end,³ it is clear that section IV of chapter II also intends to illuminate some important points of Catholic doctrine and reject theses and fundamental conceptions of morality which in the last 25 or 30 years were actually presented as theoretical support for concrete ethical judgments in open contrast with “divine and natural law.”⁴ There are also some instructions proposed that are of a theological and philosophical character, but only those that are strictly necessary to establish and correctly interpret the doctrinal statements mentioned. To not lose sight of the aforementioned doctrinal motivation is a necessary condition for understanding that with these instructions, VS does not go beyond its declared intention of not invading the camp that is, and must be, proper to theological and philosophical reflection.⁵ This is demonstrated, on the one hand, by the evident fact, for example, that a complete theory is not offered on the sources of morality or on the constitution of the moral object; not even the Thomist theory, considered “still valid,”⁶ is explicated in full. Of these and other aspects of the theology of moral action there is repeated only what is required for the need of counteracting certain doctrinal errors. It seems obvious that there is the intention of leaving open the approach of VS to various philosophical and theological standpoints that are not incompatible with the “revealed truth.”⁷

1.2 Fundamental Content

The doctrinal core of this section of VS is, in my view, found in the statement regarding the existence of intrinsically evil acts (*intrinsece malum*), that is to say, in arguing that there are concrete behaviors (adultery, abortion, etc.) that are morally wrong “*per se* and in themselves, independently of circumstances, [that] are always seriously wrong by reason of their object.”⁸ It was rightly revealed that with the term ‘behavior’ VS “does not refer to the actions done by someone who is incapable of making a free choice; instead, in explaining what is meant by ‘object of a given moral act’, it clarifies that when it speaks of behavior, it precisely means the possible object of deliberate and free choice.”⁹ This explicit reference to deliberate choice is always present when VS treats of types or classes of actions that are intrinsically wrong.¹⁰ It seems evident that the

³ See. VS, nos. 4-5: John Paul II has the intention of “recalling certain fundamental truths of Catholic doctrine” which concerns “the very foundations of moral theology”, and which are “of the greatest importance for the Church and for the life of faith of Christians,” since their obscuring or negation, “even in Seminaries and in Faculties of Theology” takes place in “a genuine crisis, since the difficulties which it engenders have most serious implications for the moral life of the faithful and for communion in the Church, as well as for a just and fraternal social life.”

⁴ VS, no. 76.

⁵ See VS, no. 29.

⁶ VS, no. 78.

⁷ See VS, no. 29.

⁸ VS, no 80.

⁹ J. Finnis — G. Grisez, *Gli atti intrinsecamente cattivi*, cit., p. 227, our translation.

¹⁰ Some examples: “One must therefore reject the thesis [...] which holds that it is impossible to qualify as morally evil according to its species [...] *the deliberate choice of certain kinds of behaviour*

insistence on this language is on purpose. The reason will be investigated later. For the moment we note that VS is keen to point out that in supporting the existence of intrinsically evil acts “the Church accepts the teaching of Sacred Scripture.”¹¹ From the existence of actions that are morally evil according to their type (that is, according to their object),¹² flows a second doctrinally relevant thesis: the norms that prohibit such actions are valid *semper et pro semper*, always and for all, without exception.¹³ It is a thesis to which VS returns several times.¹⁴

Consequentialism and proportionalism¹⁵ receive a negative doctrinal judgment because they deny the two theses first presented. “For this reason — we repeat — the opinion must be rejected as erroneous which maintains that it is impossible to qualify as morally evil according to its species the deliberate choice of certain kinds of behaviour or specific acts, without taking into account the intention for which the choice was made or the totality of the foreseeable consequences of that act for all persons concerned. Without the rational determination of the morality of human acting as stated above, it would be impossible to affirm the existence of an ‘objective moral order’ and to establish any particular norm the content of which would be binding without exception”¹⁶ VS seems to want to shed light on the specific doctrinal motivation of the opinion expressed, and therefore explicitly states that these two ethical theories are not faithful to the doctrine of the Church, because on the basis of their methodology they have justified as morally good, “deliberate choices of kinds of behaviour contrary to the commandments of the divine and natural law.”¹⁷

VS goes on to provide the necessary instructions, both positive and negative, for adequately understanding the doctrinal statements reaffirmed up to that point. In a positive way, such statements presuppose the thesis that “the morality of the human act depends primarily and fundamentally on the ‘object’ rationally chosen by the delib-

or specific acts” (VS, no. 79); “circumstances or intentions can never transform an act intrinsically evil by virtue of its object into an act ‘subjectively’ good or defensible *as a choice*” (VS, no. 81); “the opinion must be rejected as erroneous which maintains that it is impossible to qualify as morally evil according to its species the deliberate choice of certain *kinds of behaviour or specific acts*” (VS, no. 82); “Judgments about morality cannot be made without taking into consideration whether or not *the deliberate choice of a specific kind of behaviour [...]*” (VS, no. 67); “Such theories however are not faithful to the Church's teaching, when they believe they can justify, as morally good, *deliberate choices of kinds of behaviour* contrary to the commandments of the divine and natural law” (VS, no. 76) (emphasis mine). On the meaning of these linguistic expressions, see my contribution *El acto moral y la existencia de una moralidad intrínseca absoluta*, 702ff.

¹¹ VS, no. 81.

¹² See VS, no. 79.

¹³ See VS, no. 82.

¹⁴ See for example VS, nos. 52, 96, 97, and 99.

¹⁵ VS means by consequentialism the ethical conception that “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” (VS no. 75). By proportionalism, rather, it means the ethical conception that “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” (VS, no. 75).

¹⁶ VS, no. 82. The internal citation is from Decl. *Dignitatis humanae*, no. 7.

¹⁷ VS, no. 76.

erate will,"¹⁸ a thesis excellently set forth and grounded by St. Thomas Aquinas, but not only by him. Also in a positive way, but already penetrating into the methodological field, VS expresses an emphatic point on whose importance we shall discuss later: "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*. The object of the act of willing is in fact a freely chosen kind of behaviour. To the extent that it is in conformity with the order of reason, it is the cause of the goodness of the will."¹⁹ On this basis, VS sheds light on the unity existing between the morality of choice and the morality of the person: the moral object "is the proximate end of a deliberate decision which determines the act of willing on the part of the acting person. Consequently, as the Catechism of the Catholic Church teaches, 'there are certain specific kinds of behaviour that are always wrong to choose, because choosing them involves a disorder of the will, that is, a moral evil.'"²⁰

Among the negative methodological indications, I consider the following two to be of particular importance. The first is at the base the concept of action: "By the object of a given moral act, then, one cannot mean a process or an event of the merely physical order, to be assessed on the basis of its ability to bring about a given state of affairs in the outside world."²¹ The second concerns, rather, the constitution of the moral object: "The weighing of the goods and evils foreseeable as the consequence of an action is not an adequate method for determining whether the choice of that concrete kind of behaviour is 'according to its species', or 'in itself', morally good or bad, licit or illicit."²² There are two observations that aim to accentuate the reasons why—already in the perspective of an action theory that intends to fully comply with our moral experience—both the 'pre-morality' of the human action, and the distinction between the plane of the morally good/evil and that of the morally right/wrong, are unacceptable: both conceptions being at the base of the proportionalist and consequentialist theories.²³

1.3 Prospects and Problems that Have Emerged in the Theological Literature

The positions that have emerged in the literature against the more specific theme of the moral act are substantially the same as we have already seen regarding chapters II and III of VS. We refer the reader to what we wrote in section 2.6 of the first part

¹⁸ VS, no. 78.

¹⁹ *Ibid.* On this aspect, see especially W. May, *Los actos intrínsecamente malos y la enseñanza de la encíclica "Veritatis splendor"*, and M. Rhonheimer, *"Intrinsically Evil Acts" and the Moral Viewpoint: Clarifying a Central Teaching of "Veritatis splendor."*

²⁰ VS, no. 78. The internal citations are from no. 1761 from the *Catechism of the Catholic Church*.

²¹ VS, no. 78.

²² VS, no. 77.

²³ Allow us to refer the reader to our study *El acto moral y la existencia de una moralidad intrínseca absoluta*, 693-702, or *Teleologismo, consecuencialismo e proporzionalismo*, 223-226.

of this article.²⁴ To this it must be added, on the one hand, that various authors have received and further explored the methodological instructions provided by VS, opening up avenues of research that promise more satisfactory solutions to some difficult analytical problems of action theory; on the other hand, other authors have focused their observations on VS, both because they believe that proportionalism and consequentialism were presented in a distorted way, and because some issues that they believe were present in traditional morality are not found in the encyclical (the possibility of an exception in some cases, *epikeia*, etc.).

I think that the entirety of the important issues raised by any of these authors could be reduced to the following five points: 1) The presentation of proportionalism and consequentialism by VS; 2) the nature and constitution of the moral object; 3) the doctrine of the sources of morality and the unity of practical reason; 4) teleology and teleologism; 5) absolute norms, exceptions, and *epikeia*.

2 DISCUSSION AND DEEPER ANALYSIS OF THE MAIN POINTS OF CONTROVERSY

2.1 The Presentation of Proportionalism and Consequentialism

Among the authors who complained of the way in which VS presents proportionalism, perhaps R.A. McCormick is the most representative. Before going into the merits of the objection, we should note that this is only one part of a more complex argument, the meaning of which would be, more or less, the following: proportionalism is presented in a distorted way because VS could not recognize that this is a valid and updated scientific systemization of various themes and problems of the traditional theory concerning actions and moral norms, without recognizing at the same time that the teaching of the Church on contraception is wrong, something that John Paul II is definitely not willing to do. Their thinking is that this position of John Paul II would compel him to refute the more modern developments of moral theology.²⁵ Because here we do not intend to leave ourselves to be conditioned by controversial ideas and dialectical tricks, we will proceed in a more analytical way, studying separately the various aspects of the problem. It seems that this method is the most appropriate to achieve the end of some useful clarification, but it has the disadvantage of not making

²⁴ See "*Veritatis splendor*" un anno dopo. *Appunti per un bilancio (I)*, 241-242.

²⁵ This is the dialectical scope for which some authors, with various nuances and from varied perspectives, dance around the teaching of the Church on contraception, although this was not a theme of fundamental morals nor an argument treated specifically by VS. See, for example, R.A. McCormick, "Killing the Patient," 1411; Idem, *Geburtenregelung als Testfall der Enzyklika*, 272; K. Hilpert, *Glanz der Wahrheit: Licht und Schatten*, 629; L. S. Cahill, "Veritatis splendor," *Commonweal* 120/18 (1993): 16; W. Kerber, "Veritatis splendor," *Stimmen der Zeit* 211/12 (1993): 794.

easily understood to the reader the far-reaching significance of the criticisms and issues raised. Therefore, this initial clarification was necessary.

We thus come to the problem of the presentation of proportionalism. McCormick summarizes the presentation of proportionalism that would have been put forth by VS in eleven lines, in which he brings together some phrases of VS 76 and others of VS 81, so that the substance of what VS says on the subject would be the following: on the one hand, proportionalism and consequentialism “are not faithful to the Church’s teaching when they believe they can justify, as morally good, deliberate choices of kinds of behaviour contrary to the commandments of the divine and natural law (76),” on the other hand: “If acts are intrinsically evil, a good intention or particular circumstances can diminish their evil, but they cannot remove it.”²⁶ The analysis of proportionalism made by VS would all be here. Faced with such an easy target, arbitrarily constructed by himself, McCormick vents his own indignation, stating that VS repetitively and carelessly presents proportionalism, as if to affirm that actions recognized as morally wrong can be made just by a good intention. This, adds McCormick, is a misunderstanding, a caricature; that which is morally wrong cannot be justified.²⁷ If the reader compares the presentation of VS given by McCormick in two articles that we are referencing with the text of the encyclical, even with the steps we listed earlier,²⁸ he or she will see that it is precisely McCormick who gives a partial and distorted view of VS: he omits a consideration of the essential points of the argument raised by the encyclical, and he consequently misunderstands the nature of the assessment formulated in no. 76. Everything suggests that the indignation of McCormick is unfounded and probably even fictitious.

An editorial published in “L’Osservatore Romano” warns against these types of moves, which certainly do not exhibit great intellectual honesty. Essentially, it is said in this editorial that the majority of scholars have understood that VS 76 “expresses a doctrinal opinion on the final results of the application of a method, without wanting to offer, at this stage, a description of that method.”²⁹ Others, however, have not recognized this, and have stated that for VS the proportionalist method simply consists in sustaining that certain ends or certain consequences can justify a morally wrong action. “However, *Veritatis Splendor*—specifies ‘L’Osservatore Romano’—does not say anything like that. The passage of no. 76 just quoted says only that the consequential-

²⁶ This is literally the summary offered by McCormick: “Now let us turn to the papal letter. There we read, of proportionalism: ‘Such theories are not faithful to the Church’s teaching, when they believe they can justify, as morally good, deliberate choices of kinds of behaviour contrary to the commandments of the divine and natural law’ (76). Later in 81 we read: ‘If acts are intrinsically evil, a good intention or particular circumstances can diminish their evil, but they cannot remove it’” (“Killing the Patient,” 1411). The same summary is revived in *Some early reactions...*, 490-491.

²⁷ “In brief, the encyclical repeatedly and inaccurately states of proportionalism that it attempts to justify *morally wrong actions* by a good intention. This, I regret to say, is a misrepresentation, what I earlier called a caricature. If an act is morally wrong, nothing can justify it” (*Some early reactions...*, 491). In the same way, see also “Killing the Patient,” 1411.

²⁸ See section 1.2

²⁹ “La recezione della ‘Veritatis splendor’ nella letteratura teologica,” *L’Osservatore Romano*, 20 May 1995, p. 1, our translation.

ist and proportionalist methodology, once applied to particular moral problems by its own supporters, gives as undeniable final results concrete ethical evaluations in open contrast with Catholic moral teaching, a discrepancy, however, that the interested authors do not hide at all.”³⁰ The editorial that we are discussing specifies moreover that the diverse aspects of the consequentialist and proportionalist method are touched on in nos. 74–75 and 77–78 of the encyclical, and some of their claims are mentioned. Following from this is the conclusion: “Providing guidance on how to understand the moral object, the encyclical warns against consequentialism and proportionalism insofar as they are theories that conceive of the constitution of the moral object in such a way so as to allow, first, an undue moral neutralization of the chosen action and then afterwards its continual redefinition on the basis of further intentions and consequences. So it constitutes in this way an argumentative context that certainly does not deny the principle that the end does not justify the means, nonetheless it renders it practically inapplicable. It is this complex methodological move that should be absolutely rejected.”³¹

These observations confirm the importance of those aforementioned passages of VS³² that we considered as methodological instructions, both positive and negative, concerning the constitution of the moral object. The editorial on the “Osservatore Romano” affirms, in fact, that in providing such instructions VS intends to oppose consequentialism and proportionalism “*as theories that conceive of the constitution of the moral object in such a way as to [. . .]*” which allows us to clearly understand that the fundamental problem of these two ethical standpoints is in their mode of conceiving the moral object of human action, namely, it is in the concept itself of moral action, and not in the mode of establishing the relation between the end and the means. We shall thus have to further consider the concept of the moral object.

2.2 The Nature and Constitution of the Moral Object

Referring to B. Schüller, McCormick retains that the thesis according to which certain actions are morally wrong in virtue of their object and independently of their circumstances is obvious from the analytical perspective if the object is considered in advance as being morally wrong. The problem is, rather, which objects can be characterized as morally wrong and according to what criteria. We shall consider, for example, lying. According to the approach of Saint Augustine and of Kant—McCormick states—every false utterance is a lie. According to other authors, on the other hand, a false utterance is morally wrong, and is thus a lie, only if the truth is denied to a person who has a right to know it. For example: to say a falsehood to protect an important secret would be a morally just action *ex objecto*, because the truly pursued end actually belongs

³⁰ *Ibid*, our translation.

³¹ *Ibid*.

³² Cf. *supra*, section 1.2

to the object.³³ So it also happens with other behaviors: sexual self-stimulation for a clinical analysis of sperm that is for the purpose of future procreation does not fall under the moral category of masturbation, which implies that it is not enough to materially describe the chosen behavior in order to have the moral object. It would be necessary to include in the object all of the morally relevant circumstances, and then the proportionalists would agree in affirming that there are intrinsically evil actions *ex objecto*.³⁴ In this sense, McCormick sustains that the proportionalists speak of an “*expanded notion of object*,” which includes the foreseen and willed consequences.³⁵ For J. Fuchs, for example, it cannot be said without further clarifications whether or not it is licit to lie, to kill, etc., because the *complete object* of the act is the basic ethical action (*Grundakt*) along with the intention, the circumstances and foreseeable consequences: elements which considered attentively allow one to distinguish lying from the action of keeping a secret or a clinical analysis of sperm from masturbation, etc.³⁶ On this basis, and with reference to VS 76, McCormick sustains that in order to know if certain behaviors that cause non-moral or pre-moral evils are or are not contrary to the divine and natural law, it is necessary to consider the morally relevant circumstances and consequences, among which there may be a proportionate reason that justifies the causing of a non-moral evil; and in this case one could not speak in a rigorous sense of a morally wrong action that is thus contrary to the divine and natural law.³⁷

These considerations give rise to the impression that these authors are operating with a perspective that does not exactly facilitate the understanding of what VS calls the ‘moral object’. McCormick sustains that traditional morality could speak of a morality *ex objecto* because it considered the object not ‘in a very narrow sense’, as ‘the material happening’, but included other elements, those that would precisely fall under the ‘expanded notion of object’³⁸ Fuchs wrote, in an analogous sense, that “it cannot be said, thus, that to kill, insofar as it is the carrying out of a human act, is morally good or evil, because to kill, in itself, does not yet express the intention and end of the moral subject and, therefore, in itself it cannot be a human action.”³⁹ Without this intention

³³ See R.A. McCormick, “Killing the Patient,” 1410.

³⁴ “I believe all proportionalists would admit this *if the object is broadly understood as including all the morally relevant circumstances*” (“Killing the Patient,” 1411).

³⁵ R.A. McCormick, *Some early reactions...*, p. 501.

³⁶ “Objekt der sittlichen Entscheidung für eine Handlung ist also nicht der (z.B. physische) Grundakt (in seiner ethischen Relevanz, wie Tötung, Falschaussage, Aneignung, sexuelle Stimulation) als solcher, sondern das Gesamt von Grundakt, besonderen Umständen und der gewollten oder (mehr oder weniger) absehbaren Folgen, also niemals aus den Folgen allein, wie nicht selten behauptet wird” (J. Fuchs, *Das Problem Todsünde*, p. 83). In *Die sittliche Handlung: das intrinsece malum*, pp. 181-185, J. Fuchs considers that the doctrine concerning the sources of morality would partially present the nature of the object in a partial way. The object would actually be constituted by the formed whole of the object, the end, and the circumstances; thus it can be said that all three elements have relevance for human action and, duly measured and pondered, enter into its moral evaluation. All of this does not mean, however, that the object is simply “matter” of the action, without relevance or significance for it. Analogical observations are found in P. Knauer, *Zu Grundbegriffen der Enzyklika “Veritatis splendor.”*

³⁷ See “Killing the Patient,” 1411.

³⁸ See “Killing the Patient,” 1411.

³⁹ J. Fuchs, *Il carattere assoluto delle norme morali operative*, in Idem, *Responsabilità personale e*

one could not distinguish, for example, murder from killing for legitimate defense. Therefore, it must be held—Fuchs adds—that “an action, in its materiality (homicide, wounding, going to the moon) cannot be justified from the moral point of view without considering the motive for which the subject acts. Without this motive, in fact, there is not yet a human action and only a human action can be properly evaluated as good or evil. A pre-moral evil carried out through a human action cannot be willed as such and must be justified in the totality of the action by proportionate reasons.”⁴⁰ Following from this is the conclusion that “a moral judgment can be formulated only from the simultaneous consideration of three elements (action, circumstances, and end) premoral in themselves. The execution of the three elements (a. taking money from another person, b. who is very poor, c. in order to please a friend) is not the combination of three human actions that can be evaluated separately, but constitutes a unique human action.”⁴¹ A moral norm, in order to be truly universal, must take account of the three elements in their entire scope, but this “is theoretically impossible,” and thus in the moment of the application of the norm, it will be discovered that its scope is less than what was thought.⁴²

As different authors have noted,⁴³ in the reasoning of those like McCormick and Fuchs there is an error at the level of the theory of action, which perhaps proceeds from the inheritance of a certain moral casuistry. The error consists in the physicalist consideration of the moral action (the ‘killing in itself’, of which Fuchs speaks), deprived of any intrinsic intentionality, which he tries to overcome through the addition of elements taken from the intentionality of the subject (the *finis operantis*), from the circumstances, or from the consequences. McCormick and Fuchs are right in saying that an action described in a purely physical way cannot be morally evaluated, because it is not a human action, given that a human action is an essentially intentional reality,⁴⁴ but instead of seeking to understand the intentionality (and thus the morality) intrinsic to the action, which had been taken away by them in order to be able to consider the

norma morale (Bologna: EDB, 1978), 110. This contribution was published before in German: “Der Absolutheitscharakter sittlicher Handlungsnormen,” in *Testimonium Veritati. Philosophische und theologische Studien zu kirchlichen Fragen der Gegenwart*, ed. H. Wolter (Frankfurt: 1971), 211-240.

⁴⁰ J. Fuchs, *Il carattere assoluto...*, 111. Fuchs points out that the last phrases also respond to the thought of Van der Marck, Van der Poel, and Knauer.

⁴¹ *Ibid.*, p. 112.

⁴² Cf. *Ibidem*.

⁴³ See especially W. May, *Los actos intrínsecamente malos y la enseñanza...*; M. Rhonheimer, *Intrinsically Evil Acts...*, and *Intentional actions and the meaning of object...*; e A. Rodríguez Luño, *El acto moral y la existencia de una moralidad intrínseca absoluta*.

⁴⁴ Here the term ‘intentional’ derives from ‘intentionality’, and not from what the manuals call ‘intention’. As I wrote elsewhere, “it is important to not confuse ‘intentionality’ with ‘intention’. Intentionality is an essential characteristic of the will, so is it also for all the will’s various acts: intention, choice, consent, etc. Intention is, in contrast, only one of the acts of which the human will is capable. The will has other acts, which also are intentional, however which are very different from the act called intention. Every act of the will is intentional, however not every intentional voluntary act is an act of intention” (A. Rodríguez Luño, *El acto moral y la existencia de una moralidad intrínseca absoluta*, 703-704). For greater clarifications concerning the general characteristics of the intentionality of the will, different in part from that of intelligence, see A. Rodríguez Luño, *Ética* (Florence: Le Monnier, 1992), no. 79; regarding the various acts of the will, see nos. 80-81 and 95-97 of the same book.

action as a pre-moral reality, they want to introduce intentionality (and thus morality) on the basis of the agent's intention, of the circumstances, and of the foreseeable consequences. As Rhonheimer has written, for them human action, as an intentional and thus moral reality, would be the sum of a physical or physically described action (the 'killing in itself' of Fuchs) plus the attitude of the subject toward an end (the *finis operantis* of the manualist tradition, which VS 80 calls "ulterior intentions") and toward the circumstances and consequences; however, the true problem is that, already at the level of action theory, a physical action plus an intention does not produce as a result an intentional action, but a very different reality.⁴⁵

We seek to understand the core of the problem, which is of extreme importance for our study. The terminology of the traditional manuals, which perhaps was not very clear or was not always explained with sufficient clarity, refers to the moral object with the term *finis operis*. Since in action theory the end is always the term of the intentionality of the will guided by the reason,⁴⁶ this meant that in human action, if it is described correctly, there is a first intentionality in relation to which the intention of the agent (*finis operantis*) represents a "ulterior intention."⁴⁷ As an example, one could mention the distinction between intentional homicide and unintentional manslaughter (*omicidio preterintenzionale*) in the Italian penal code.⁴⁸ The psychical element of intentional homicide "consists in a conscious and non-coerced will, and the intention of causing the death of a man. If someone causes the death of a man without the intention of killing him, the homicide is preterintentional (art. 584 CP) or manslaughter (art. 589 CP)."⁴⁹ This intention, which contains the end of killing (this would be the *finis operis* of the manualist tradition), responds to what we have called intentionality, and not to what the manualist tradition calls intention; the latter would instead be the motive or purpose for which the agent performs the action animated with the intentionality of killing (for example, to kill someone in order to marry his spouse). If there does not exist the intention of killing (*finis operis*), then we have an essentially different action, which can be an unintentional manslaughter, negligent homicide, or something else. In general an offense is preterintentional, or beyond the intention, when from the action or omission a harmful or dangerous event happens that is more serious than what was willed by the agent.⁵⁰ In our example, the psychical element proper to the preterintentional homicide "is constituted by a conscious and non-coerced will and by

⁴⁵ "The problem is that 'physical act' plus 'intention' (defined by some 'reason') will never result in a 'intentional action'. 'Intentional action' is a concept belonging to action theory, not to moral casuistry. It's not part of a theory about to combine 'reasons' and 'intentions' in order to normatively justify an action (that is, to know whether it is 'allowed' and right or 'illicit' and wrong). The concept of 'intentional action' expresses the very nature of human acting. So one has to talk about the acting person and about what's going on in his or her will when he or she acts. The discourse will be about choice and about intention *involved* in human act, that is, in chosen acts (or behaviors, to use the encyclical's term)" (M. Rhonheimer, *Intentional actions and the meaning of object*, cit., pp. 286-287).

⁴⁶ Cf. A. Rodríguez Luño, *Etica*, cit., nos. 87-92.

⁴⁷ Cf. VS, no. 80.

⁴⁸ Cf. V. Manzini, *Trattato di diritto penale italiano* (Turin: Unione Tipografico-editrice Torinese, 1937), vol. VIII, pp. 19 ff. e 120 ff.

⁴⁹ *Ibid.*, p. 21.

⁵⁰ See art. 43 CP, and V. Manzini, *Trattato...*, p. 122.

an intention of committing an offense of battery or of personal damage, without the intention of killing."⁵¹

Even taking account that the juridical conceptualization is different from the moral one, the proposed example provides us with a neutral ground (neither proportionalist nor non-proportionalist) for the comparison. The penal code must distinguish various penal cases abstractly and universally in order to coin analytical categories that are applicable to the various particular actions. In moral terms, we would have to say that it intends to qualify certain actions according to their species or their object,⁵² and for this purpose it must prescind from the specific ends and particular motives (the *finis operantis* of the manualistic tradition) that explain the position of the concrete act on the part of a real subject. On the other hand, one cannot prescind from the intentionality constitutive of the action (the *finis operis*), because without the intentionality conceived by the reason and made its own by the free will there is no human act, there is no moral object, and thus it is neither possible to definite it nor to distinguish it from other acts: in our example, without considering the intentionality there does not exist a human action that can be qualified as an intentional homicide or as a preterintentional homicide (*genus moris*), but only as a physical event (*genus naturae*).

The moral object and intentionality do not exclude one another: rather, without an intentionality conceived by the practical reason and accepted by the agent there is no moral object.⁵³ In this sense Saint Thomas proposes the following theses:

- 1) "*species moralium actuum constituuntur ex formis prout sunt a ratione conceptae*",⁵⁴
- 2) "*bonum per rationem repraesentatur voluntati ut obiectum; et inquantum cadit sub ordine rationis, pertinet ad genus moris, et causat bonitatem moralem in actu voluntatis*";⁵⁵
- 3) "*bonitas voluntatis dependet a ratione, eo modo quo dependet ab obiecto*";⁵⁶
- 4) "*actus exterior est obiectum voluntatis, inquantum proponitur voluntati a ratione ut quoddam bonum apprehensum et ordinatum per rationem*".⁵⁷

⁵¹ V. Manzini, *Trattato...*, p. 131.

⁵² See VS, no. 79.

⁵³ See M. Rhonheimer, *Intentional actions and the meaning of object...*, 284-285. What we call intentionality here, Rhonheimer calls intention, following the terminological use proposed by G.E.M. Anscombe (*Intention*, 2nd ed. Oxford: Blackwell, 1963). Substantially it is the same, but we would like to avoid for the reader the purely linguistic confusion with the Thomist *intentio* (*Summa Theologica*, I-II, q. 12), which aims at the *finis operantis*. The intentionality of which we speak is constitutive of the Thomist *electio* (*Summa Theologiae*, I-II, q. 13), which corresponds to what Rhonheimer calls a *basic intentional action* (See M. Rhonheimer, *The Perspective of Morality*. Washington D.C.: CUA Press, 2011, 101ff.).

⁵⁴ *Summa Theologiae*, I-II, q. 18, a. 10.

⁵⁵ *Ibid.*, I-II, q. 19, a.1, ad 3.

⁵⁶ *Ibid.*, I-II, q. 19, a. 3.

⁵⁷ *Ibid.*, I-II, q. 20, a. 1, ad 1.

According to Saint Thomas, whose thought is reposed by VS,⁵⁸ the moral object is not the physical or physically described behavior chosen by the will, as the interpretation of VS put forward by the proportionalists would have it, but it is a chosen human (and thus moral) action, which is constituted as a human action that is qualifiable in itself and distinguishable from the moment that the will accepts (as a “proximate end”: VS no. 78) the basic intentionality (*finis operis*) conceived by the reason. According to the previously cited Thomistic theses, this basic intentionality is a form that constitutes the moral species (first thesis); it is presented to the will *as an object* insofar as it contains a reference to the rational moral order (second thesis); thus moral the good/evil of the will that is *eligens* depends on the reason through the object that is established by it (third thesis); which is a chosen behavior but only inasmuch as it is seen as a *bonum apprehensum et ordinatum a ratione*” (fourth thesis).⁵⁹

We shall now see the concrete way in which VS presents the moral object, especially in nos. 78–79. The fundamental thesis is that the chosen behavior, without necessity of considering “ulterior intentions”⁶⁰ is not only *not* a pre-moral reality, but it is that on which the morality of the human act depends “primarily and fundamentally.”⁶¹ To understand this thesis, it is necessary to put oneself “in the perspective of the acting person,” and therefore by the object “one cannot mean a process or an event of the merely physical order” (the ‘killing in itself’ of Fuchs) “to be assessed on the basis of its ability to bring about a given state of affairs in the outside world .”⁶² In fact, no one chooses a physical event. Jack the husband does not choose the physical event “sexual relations in itself,” but he has a sexual relations with Jill, who is his wife, and thus he decides to carry out an act of conjugal love, or with Jezebel, a single woman who is not his wife, and thus he chooses the act called adultery. Equally, no one chooses in the concrete the physical event “to take an antiovolatory drug in itself.” Jezebel decides to take it to render infertile a conjugal act, and thus she chooses the action contraception; or she takes it to prevent the effects of a foreseeable rape if the enemy army manages to enter into the city, and thus the chosen action is another, essentially different from contraception, etc. The object is “rationally chosen,”⁶³ that is, it is chosen after having been evaluated by the reason and thus presented to the will as a conjugal act, adultery, contraception, just prevention before a possible rape, etc. From this thesis concerning the moral object, certain important corollaries are derived, which we shall study in the following sections after having provided clarifications concerning the moral object, and which are still necessary.

The proportionalist method presupposes a physicalist concept of human action (‘killing

⁵⁸ See VS, no. 78.

⁵⁹ See W. May, *Los actos intrínsecamente malos...*, 200-207; M. Rhonheimer, *Intentional actions and the meaning of object...*, 284-285; A. Rodríguez Luño, *El acto moral y la existencia de una moralidad intrínseca absoluta...*, 706ff.

⁶⁰ VS, no. 79.

⁶¹ VS, no. 78.

⁶² *Ibid.*

⁶³ VS, no. 78.

in itself’), which is considered premoral⁶⁴ in the sense of not yet being morally qualifiable, since to receive an ethical evaluation it must necessarily be integrated with the intention, circumstances, and consequences. Recalling the last example, the proportionalists consider the action ‘contraception’ more or less as ‘the taking of an antioviulatory drug in itself’,⁶⁵ and then it is easy for them to affirm that it cannot be an intrinsically evil action. Other elements (‘to render infertile a conjugal act’, ‘against the goods of marriage’, ‘for a truly therapeutic motive independently from consideration of pregnancy’, ‘to prevent the effects of a rape in the case of war’, etc.), which are considered as intentions, circumstances, and consequences. Regarding this concept of action it is appropriate to formulate the following considerations:

1) If this physicalist concept of human action responded to what is truly moral activity, then it would be true that it is difficult, at least in many cases, to speak of intrinsically evil actions, because we will often encounter actions there are not sufficiently characterized on the level of the *genus moris*. To show this, Saint Thomas compares the conjugal act with adultery.⁶⁶ However, for the reasons already indicated,⁶⁷ the physicalist description inadequately reflects the essentially intentional nature of free action. A conjugal act and adultery are two essentially different moral actions; we could even say that they are two different moral universes, which do not have any moral element in common. The proportionalists would say that they have a premoral element in common, and Saint Thomas would admit this if it meant simply that they are “*unus actus secundum speciem naturae*,”⁶⁸ but the proportionalists mean more than this: they identify that element with the (premorale) human action considered in itself, to then go on to sustain later that it is not clear that sexual relations with another’s wife is in each case adultery in a moral sense, because ‘the action in itself’ is always a premoral reality for which one could not exclude *a priori*, perhaps in exceptional circumstances, the existence of a proportionate reason.⁶⁹ We shall focus on this point later on. To render intuitive the inadequacy of the proportionalist method, it may be enough to point out as being repugnant to moral experience and to the dignity of a good husband—who has always been faithful to his wife and to the demands of conjugal morality—the simple hypothesis that his behavior, as an “action in itself,” could have something in common with the way of acting of hardened adulterers or fornicators. In reality, from the standpoint of andrology or gynecology there exists a common element, but there is no common element from the moral standpoint. If it is retorted that ‘the action in itself’ is common only on the premoral level, that is to say, on the level previous

⁶⁴ See footnote 41 above.

⁶⁵ See R.A. McCormick, *Geburtenregelung als testfall der Enzyklika*, 272.

⁶⁶ "Actus coniugalis et adulterium, secundum quod comparantur ad rationem, differunt specie, et habent effectus specie differentes: quia unum eorum meretur laudem et praemium, aliud vituperium et paenam. Sed secundum quod comparantur ad potentiam generativam, non differunt specie. Et sic habent unum effectum secundum speciem" (S. Tommaso, *Summa Theologiae*, I-II, q. 18, a. 5, ad 3).

⁶⁷ See above the examples treated by the Italian penal code, and also the reason indicated in footnote 45. See also A. Rodríguez Luño, *Etica*, nos 105-107.

⁶⁸ See *Summa Theologiae*, I-II, q.1, a.3, ad 3.

⁶⁹ It seems to me that the argumentation put forward by J. Fuchs is along these lines: J. Fuchs, *Die sittliche Handlung: das intrinsece malum*, 183.

to properly moral consideration, I respond that it is methodologically mistaken, and really tendentious, that the moralist may exit from the standpoint that is proper to him. Only confusion and sophistry would result from this.

2) The proportionalists think that VS understands human action physicalistically—as, in reality, they actually understand it—and then they make the criticism that VS speaks of actions that are intrinsically evil for their object.⁷⁰ However, neither VS nor the Church has ever understood human action in this way. *Humanae Vitae*, for example, does not condemn the action “to take an antioviulatory pill in itself”; rather, it states that “any action which either before, at the moment of, or after sexual intercourse, is specifically intended to prevent procreation—whether as an end or as a means. (16)”⁷¹ is to be excluded. And immediately after, in no. 15, it sustains the licitness of truly therapeutic means that, as an indirect foreseeable but not desired effect, can impede procreation. The expression “is specifically intended to prevent procreation—whether as an end or as a means,” clearly indicates that for the moral action ‘contraception’, it is enough that what is contraceptive is what we have called the intrinsic intentionality of the action, whether it be the intention of the agent (the *finis operantis* of the manuals). The action ‘contraception’, the therapeutic use of an antioviulatory pill, and the prevention of a rape in a period of war, are moral choices that are essentially different at the level of the moral object (*finis operis*). Their diversity does not derive from ulterior intentions (*finis operantis*)⁷². If a physicalist description of the action ‘contraception’ were instead accepted, in order to distinguish it from the prevention of rape, there would be no other way of getting out than to make recourse to ulterior intentions (*finis operantis*), but in doing so *the notion of the moral object itself would be destroyed*, that is to say, the possibility that the actions have an ethical identity, definable in the abstract, independently of ulterior intentions or of consequences, an ethical identity will not be able to be change if the basic intentionality of the action is opposed to an essential demand of one or more ethical virtues (justice, chastity, etc). If one had to make recourse to the *finis operantis* to distinguish actions that in reality are essentially different in virtue of their object (for example, contraception or a therapeutic use of an antioviulatory pill), then one would have to debate case by case the morality of each of the particular actions that are truly contraception in the moral sense (a denial of the *intrinsece malum*), and thus the proportionalists would have achieved the goal that truly interests them. It seems to me that McCormick does not hide it.

⁷⁰ In *Geburtenregelung als testfall der Enzyklika*, 272, McCormick explains that for VS contraception is indubitably an act that is “evil in itself,” in the sense of being evil “always and without exceptions,” evil *ex objecto* (no circumstance or intention can modify such objective evils). From fear arise however—McCormick adds—certain inconsistencies if one wants to understand the object of contraception: in a strict sense, such an object would only be a *materia circa quam*, but then one would have to add something to render it more clearly evil, like the expression “against the good of matrimony,” just as the object of stealing was qualified not simply as ‘the seizing of another’s good’, but one adds ‘against the understandable (*einssehbar*) will of another’. The expression ‘an act evil in itself on account of its object—McCormick concludes—has little use and is inconsistent.

⁷¹ Paul VI, Enc. *Humanae vitae*, no. 14.

⁷² I cannot pause to draw out the distinction at the level of basic intentionality (*finis operis*). See the study of M. Rhonheimer, “Minaccia di stupro e prevenzione: un'eccezione?”.

3) That the moral object is not ‘the physical action in itself’ is further confirmed by the traditional doctrine according to which certain elements—which in a physical sense could be considered circumstances—pertain in reality to the moral object.⁷³ As I wrote on another occasion,⁷⁴ the following general criteria could be adopted: a circumstance is that characteristic that would not have any relation with the moral order if it did not accompany something that in itself already possesses a relationship of conformity or opposition with the virtues. For example, whether there is much or only a little money is morally significant only if it concerns stolen money, that is, if it concerns the amount stolen. In contrast, if a determinate quality is the *primary* reason for which an action is opposed to the moral order, such a quality constitutes the moral object. For example, if a person interrupts a religious ceremony singing a popular song (that he would be able to freely sing at his own house), it cannot be said that the chosen action is that of singing and that the being present at a religious ceremony is a circumstance of place: the moral action (*genus moris*) that is considered contrary to the virtue of religion is ‘the interruption of an act of cult’, and the singing is a circumstance (the means employed to interrupt the act).

It seems to me that these considerations allow us to better understand the meaning and scope of something emphasized earlier. Proportionalism and consequentialism “conceive of the constitution of the moral object in such a way as to allow, first, an undue neutralization of the chosen action and, afterwards, its continual redefinition on the basis of intentions and further consequences.”⁷⁵ The neutralization of the chosen action, or its physicalist consideration, impedes understanding what is the human action’s conformity or not “to the order of reason,”⁷⁶ and thus it may explain why Schüller and McCormick are asking themselves about the the criteria for knowing which objects are morally wrong.⁷⁷ The criterion proposed by VS is intelligible only if the behavior is not understood as “a process or event of the merely physical order,”

⁷³ See Saint Thomas, *Summa Theologiae*, I-II, q. 18, aa. 10-11. The reasoning in the two articles depends upon the thesis formulated at the beginning of article 10: “ita species moralium actuum constituuntur ex formis prout sunt a ratione conceptae”.

⁷⁴ See *Etica*, nos. 252-253.

⁷⁵ *La recezione della "Veritatis splendor" nella letteratura teologica*, 1.

⁷⁶ See VS, no. 78.

⁷⁷ McCormick, in critical dialogue with other authors, does not see why every concrete choice of speaking falsehood or of taking life necessarily and directly implies the denial of the basic good of truth or of the good of life: “Whatever the case, this opens up on a key question to be put to Rhonheimer: Why, in choosing to kill a person or deceive a person, does one necessarily ‘take a position with his will with regard to *good* and *evil*’? One could understand why if the description of the action already includes the wrong-making characteristics. For Rhonheimer in at least one case it does. He defines theft as misappropriation of another’s goods. Finnis and Grisez have encountered this same question in the past. Why, it has been asked, does every concrete choice to speak a falsehood or take a life necessarily involve one in directly rejecting the basic good of truth itself or the good of life?” (R.A. McCormick, *Some early reactions...*, 501-502). If the expression ‘choosing to kill a person’ also includes legitimate defense, McCormick is undoubtedly right, but then such an expression is morally inadequate, because it comprises essentially different moral actions and is thus ambiguous; moreover, in legitimate defense one does not choose the death of a person: ‘*illicitum est quod homo intendat occidere hominem ut seipsum defendat*’, even if it can be licit ‘*occidere aliquem se defendendo*’ (Saint Thomas, *Summa Theologiae*, II-II, q. 64, a.7).

which would then be evaluated “on the basis of its ability to bring about a given state of affairs in the outside world.”⁷⁸ However, in connection with the physicalist concept of action there is a second problem regarding the mode of conceiving the principles and unity of the practical reason, on which we shall focus hereafter.

2.3 The Sources of Morality and the Unity of the Practical Reason

VS affirms that the moral object, as the proximate end of a deliberate choice, “determines the act of willing on the part of the acting person.”⁷⁹ The statement is followed by two citations. The first is from the *Catechism of the Catholic Church*: “There are concrete acts that it is always wrong to choose, because their choice entails a disorder of the will.”⁸⁰ The second is from Saint Thomas Aquinas: “it often happens that man acts with a good intention, but without spiritual gain, because he lacks a good will. Let us say that someone robs in order to feed the poor: in this case, even though the intention is good, the uprightness of the will is lacking. Consequently, no evil done with a good intention can be excused. ‘There are those who say: And why not do evil that good may come? Their condemnation is just’ (Rom 3:8).”⁸¹

This thesis will certainly be opposed by the proportionalists who grant weight to the distinction between the morally good/evil (*gut/schecht*) and the morally right/wrong (*richtig/falsch*).⁸² The moral good or evil would depend on the *principle* for which the person acts: to act well and to act for a good principle.⁸³ The evil principle is egoism or particularism. The good principle is charity, which is understood in a prevalently formalistic way, usually as impartiality, for which reason it *remains completely open to question as to how this virtue should be carried out concretely in each particular case*. The same happens with the other ethical virtues. The truly charitable agent would assume as an intention or motive principle the criterion of the maximization of non-moral goods: “the moral goodness of man is exercised in the will of achieving the greatest possible amount of non-moral goods, not in the effective achievement of this will.”⁸⁴ Therefore, moral goodness and moral error would be perfectly compatible:

⁷⁸ VS, no. 78.

⁷⁹ VS, no. 78.

⁸⁰ No. 1761; cf. VS, no. 78.

⁸¹ *In duo praecepta caritatis et in decem legis praecepta. De dilectione Dei*, in *Opuscula theologica*, II, no. 1168, Ed. Taurinensis (1954), 250. Cf. VS, no. 78.

⁸² See for example B. Schüller, *La fondazione dei giudizi morali. Tipi di argomentazione etica nella teologia morale cattolica* (Assisi: Cittadella Editrice, 1975), 62-74.

⁸³ See *Ibid.*, 66ff.

⁸⁴ *Ibid.*, p. 88.

“One can grasp in its inmost depths the moral good [. . .] and nonetheless carry out ethically unjust acts on account of an erroneous evaluation of non-moral content.”⁸⁵ The reason is very simple: the knowledge of the morally just (concrete moral knowledge) would be a morally neutral activity.⁸⁶ “a man’s morality cannot depend on his more or less in depth knowledge of non-moral content; it is completely based on man’s free self-determination.”⁸⁷ That is to say, the morally good/evil is based exclusively on the intention, on the ethical quality of the motive principle: in this ambit would fall the absolute duty of charity understood as impartiality, the golden rule, etc. The judgment of the morally right/wrong, however, is of a technical character. Thus, for example, a person could put forth an objective justification in favor of an abortion.⁸⁸ If some months pass by and that person comes to understand that the decision has caused, contrary to what he or she foresaw, more evil than good, he or she would have to conclude that the action carried out in that case was *morally wrong*, but it would still be affirmed that the agent is *morally good*, because the intention was inspired by a good principle and, above all, because the greater evil which results is due to a defect of knowledge or of foresight to the events.

On the basis of these reasonings, many proportionalists deny the thesis formulated by the *Catechism of the Catholic Church*: “There are concrete acts that it is always wrong to choose, because their choice entails a disorder of the will.”⁸⁹ More specifically, what is denied is that the choice of certain behaviors is inseparable from a moral disorder of the will, or that one can speak of a morally evil will *ex integra causa* and that one can and must speak of a morally evil will *ex qualunq̄ue defectu*—as the classical doctrine on the sources of morality sustains in contrast.

The proportionalist distinction between the morally good/evil and the morally right/wrong presupposes the rupture of the unity of the practical reason.⁹⁰ Two theses of Saint Thomas allow us to briefly clarify the problem. The first is that the ends of the ethical virtues (that is, the moral goods that we call justice, fortitude, temperance, humility, etc.) are the principles of prudence.⁹¹ The second is that the proper and principal act of the ethical virtues is the just choice (what the proportionalists would call *the morally*

⁸⁵ *Ibid.*, 71, our translation.

⁸⁶ See *Ibid.*, 62.

⁸⁷ *Ibid.*, 72, our translation.

⁸⁸ This is the example proposed by B. Schüller, *Ibid.*, 69.

⁸⁹ No. 1761; see VS, no. 78.

⁹⁰ We certainly keep in mind that in certain more intricate cases the concrete moral conscience can be erroneous on account of an error of a purely intellectual nature. In this case, there is nonetheless a rupture of the unity of the practical reason, though it is involuntary and inculpable. However, here we speak critically of a method of moral analysis for which the rupture becomes a general rule.

⁹¹ "Morali autem virtuti coniungitur prudentia intellectualis virtus existens, secundum quamdam affinitatem, et e converso, quia principia prudentiae accipiuntur secundum virtutes morales, quarum fines sunt principia prudentiae" (*In decem libros Ethicorum Aristotelis ad Nicomachum Expositio*, 3rd ed. Turin-Rome: Marietti, 1964, lib. X, lect. 12, no.2114). "Ea ad quae inclinant virtutes morales, se habent ad prudentiam sicut principia: non autem factibilia se habent ad artem sicut principia, sed solum sicut materia" (*Summa Theologiae*, I-II, q.65, a.1, ad 4). See A. Rodríguez Luño, *La scelta etica. Il rapporto tra libertà e virtù* (Milan: Ares, 1988), 127ff and also *Etica*, nos. 178 and 224-226.

just action).⁹² Saint Thomas emphasizes the unity of the practical reason. The reason that has as specific principles the ends of the virtues is the same that determines what here and now is suitable to do (prudence). Indeed, it can determine what here and now must be done insofar as practical reasoning has its point of departure in the desire for the ends of the virtues and, through a process of always greater concretization, it comes to determine the concrete action by which here and now the virtue is carried out, that is to say, the concrete action with which here and now justice, temperance, etc. are carried out. The virtue of prudence renders perfect the maximally concrete moment of the practical reason: the judgment concerning the choice of what to do here and now. That the just choice is the principal act of ethical virtue means that in practical reasoning, directed at action, the desire of the virtuous end is the initial phase of a process that will culminate in the concrete and particular action, which is the same as considering a good intention as a undeveloped and still imperfect, although necessary, moment of moral action. The intention of the virtuous end is the principle of the deliberative process, to which should be added a right discernment concerning the concrete mode of achieving it (prudence). The selection of what must be done here and now in order to achieve an intention often presents new difficulties and resistances that must be overcome. It thus follows that the choice, presupposing and conserving the ethical significance of the intention, adds new elements; the good intention comes to fruition, or is negated, in choice. Failure on the level of the concrete decision would undermine the good intention. The good intention can yield or be lost before the first encountered obstacle, either out of a lack of firmness of will or because prudence is lacking.

From these considerations we can extract two conclusions. The first is that the determination of the action to be done is not only not an ethically neutral activity, as Schüller thinks, but it is the object of the specific virtue of the practical reason as such, the crossroads of all moral activity, since on the one hand it presupposes the intentional dimension of the ethical virtues and, on the other, it is the condition of possibility of their concrete realization.⁹³ The second is that unity is the normal condition of the functioning of the practical reason. The reason that determines an end is the same reason that determines the ideal action for achieving that end, and the same unity exists between the *voluntas intendens* and the *voluntas eligens*. Practical reasoning starts from the virtuous end (justice, temperance, etc.) and in itself concludes in the just and temperate choice.⁹⁴ Thus, according to the normal functioning

⁹² "Principalitas virtutis moralis in electione consistit" (*De Veritate*, 10th ed. Turin–Rome: Marietti, 1965, q. 22, a. 15, ob. 3). "Haec enim cognitio ad electionem requiritur, in qua principaliter consistit moralis virtus" (*Scriptum super Sententiis*, ed. Vivès, Paris 1872–1880, lib. III, d. 35, q. 1, a. 3, sol. II). "Proprium virtutis moralis est facere electionem rectam" (*Summa Theologiae*, I-II, q. 65, a. 1). "Electio maxime videtur esse propria virtuti" (*In decem libros Ethicorum...*, lib. III, lect. 5, n. 432). See A. Rodríguez Luño, *La scelta etica...*, 25–33 and 142–145, and *Etica*, nos. 211–213.

⁹³ See *Summa Theologiae*, I-II, q. 58, aa. 4–5, and *De Veritate*, q. 5, a. 1. The distinction between the intentional act and the elective act of the ethical virtues studied in a broad manner by A. Rodríguez Luño, *La scelta etica*.

⁹⁴ The reason itself functions well, also regarding morals. Saint Thomas thus affirms that "perversitas enim rationis repugnat naturae rationis" (*In decem libros Ethicorum...*, lib. II, lect. 2, no. 257),

of human moral action, the erroneous choice presupposes a moral disorder of the will, as is affirmed in no. 78 of VS and in no. 1761 of the *Catechism of the Catholic Church*, because the virtuous end (justice, temperance, etc.) is affirmed or denied properly in the concrete choice. Imprudence, that is, the practical reasoning and judgment that conclude in a choice contrary to virtue, is a moral fault, and not a technical error of evaluation. Analogically, habitual imprudence is a vice.

The result reached in this section and in the preceding one is that proportionalism is extremely problematic both in its mode of conceiving moral action and for what regards the concept of the practical reason. We must now focus on the general ethical approach that determines both problems.

2.4 Teleology and Teleologism

We can take our cue from L. Janssen's article on VS.⁹⁵ The author rightly emphasizes the first order role played by the final end in the moral conception of Saint Thomas Aquinas, in such a way that it could be affirmed that the rectitude of the will must be judged teleologically.⁹⁶ From this undeniable fact would spring that it could be said that there exist intrinsically evil acts on the basis of their object or proximate end only if the proximate end or object has already been determined from a teleological perspective. And this would imply that not only could it be said that the end toward which the agent aims is an element of the object, but also that the end is the formal element that determines if the material element of the object is or is not *materia debito modo disposita*.⁹⁷ Janssens adds other analyses, and concludes clarifying that his proportionalist position is perfectly compatible with the thought of Saint Thomas, which renders a little less than incomprehensible the critiques leveled against proportionalism by VS.

We have already focused on the interpretation to give to the concepts of the object and end in the Thomistic theory of moral action. It now seems necessary to us to clarify the terms 'teleology' and 'ethical teleology', which are extremely ambiguous. Exploiting such semantic ambiguity through and through, Janssens intends to demonstrate that Thomistic ethics, since it is manifestly 'teleological' in a first sense that we shall subsequently explain, must also be proportionalist or 'teleological' in a second sense, which in reality is different and actually incompatible with the first sense. Thus the

and also that "corrupta ratio non est ratio, sicut falsus syllogismus non est syllogismus" (*Scriptum super Sententiis*, lib. II, d. 24, q. 3, a. 3, ad 3).

⁹⁵ See *Teleology and proportionality. Thoughts about the encyclical "Veritatis splendor."*

⁹⁶ "Rectitudo voluntatis est per debitum ordinem ad finem ultimum" (*Summa Theologiae*, I-II, q.4, a.4, c.).

⁹⁷ See *Teleology and proportionality ...*, 129.

argumentation of Janssens ends up vitiated by a paralogism. With greater shrewdness, VS keeps in mind the distinction that exists between the different senses of ‘teleology’ and thus, on one hand, states that the moral life “has an essential ‘teleological’ character, since it consists in the deliberate ordering of human acts to God, the supreme good and ultimate end (telos) of man.”⁹⁸ and, on the other hand, it rejects in no uncertain terms the ethical theories “called ‘teleological’.”⁹⁹ We shall focus on this problem because, beyond the objection formulated by Janssens, the understanding of the existing distinction between the different forms of ‘teleology’ will permit us to understand from another perspective what has been said so far.

It is widely shared by philosophical historiography that between the ethical theories of antiquity and of the middle ages on one hand, and the modern and contemporary ethical theories on the other, there exists a fundamental difference.¹⁰⁰ The classical ethical theories, for example that of Aristotle and with certain characteristics of his own also that of Saint Thomas, are principally occupied with the supreme good or with man’s happiness, that is to say, they are occupied with the success of human existence taken as a whole. The point of view in which the proper significance of the theme of happiness is born and is maintained is that of human action, but seen ‘from the inside’ of the acting subject, and thus in its intrinsic intentional dynamism. Thus it is said that they are *ethics elaborated from the perspective of the first person*, from the point of view of the person who acts,¹⁰¹ which must concede great attention both to the desire of the complete human good that constitutes the horizon of action and the dynamic foundation of the practical reason, and to the virtues that are specific principles¹⁰² and the guarantee of rectitude¹⁰³ of the practical reason. The ethics of the first person presupposes that the truth concerning the good of man exists and is achievable,¹⁰⁴ and is configured on the argumentative level and at the level of its content as *an ethics of the virtues*.¹⁰⁵

⁹⁸ VS, no. 73.

⁹⁹ VS, no. 74; see also no. 79.

¹⁰⁰ See V.J. Bourke, *Storia dell'etica. Esposizione generale della storia dell'etica dai primi pensatori greci fino ad oggi* (Rome: Armando, 1972), 8; H. Reiner, *Etica. Teoria e storia* (Rome: Armando, 1971), 13-15. For more specific aspects, see E. Tugendhat, *Problemi di etica* (Turin: Einaudi, 1987); J. Habermas, *Teoria della morale* (Rome-Bari: Laterza, 1994), 81ff. The expression ‘modern and contemporary ethics’ is not employed here in a merely chronological sense to designate each and every ethics elaborated during the modern age, but as an historiographical category to understand in the context of the debate between the sustainers of virtue ethics and those of the ethics of duty, which in the last thirty years scholars of the anglosaxon and German cultural areas have been employing: such scholars include G.E.M. Anscombe, I. Murdoch, E. Pincoffs, A. MacIntyre, S. Hauerwas, W. Frankena, M. Baron and others yet. For a complete look at the relevant bibliography, see G. Abbà, *Felicità, vita buona e virtù. Saggi di filosofia morale* (Rome: LAS, 1989), ch. II.

¹⁰¹ See VS, no. 78.

¹⁰² See Saint Thomas Aquinas, *In decem libros Ethicorum...*, lib. X, lect. 12, no. 2114; and *Summa Theologiae*, I-II, q. 65, a.1, ad 4.

¹⁰³ *Summa Theologiae*, I-II, q.58, a. 5.

¹⁰⁴ Adopting the language of VS, we shall say that the ethics of the first person presupposes that a true response can be given to the “question [. . .] about the full meaning of life” (VS, no. 7).

¹⁰⁵ G. Abbà writes that “Aristotele inaugurated ethics as a specific philosophical discipline, setting up as a *researching concerning the better life to carry out*, thus concerning the virtues of living well”

Modern and contemporary ethics abandon for various and complicated reasons the problem of the ultimate good of man,¹⁰⁶ and center their attention on the problem of determining what is the correct (*right*) or erroneous (*wrong*) action and on identifying and giving foundations to the necessary norms for establishing such determinations. These ethical theories assume the point of view of an external observer and of the judge of actions of others: *it is an ethics elaborated from the point of view of the third person, which loses sight of the intentional dynamism proper to moral action as such.* The fundamental approach is the following: Tom has carried out the action 'x': is such an action either licit or illicit, obligatory or morally prohibited? In this way, the ethics of the third person is on the argumentative level and on the level of content *an ethics of acts and of norms, which moreover sees human actions always from the outside, in a rather physicalist sense.*¹⁰⁷ Before this modern ethics of norms or normative ethics, classical ethics assumes the form of a teleological ethics (of the *telos* or ultimate end of man) and of the virtues: we thus have the first concept of teleology, which we shall call *practical teleology*.¹⁰⁸ It is in this sense that VS affirms that Christian morality is essentially teleological.

We now see how the second concept of teleology emerges, that is to say, the sense according to which proportionalism and consequentialism are called 'teleological ethics' (VS employs the expression 'teleologism'). From within modern ethics, and as an internal problematic to it that always regards the foundation of the rules for moral judgment or the foundation of duty, a contraposition was created between deontology and teleology. On the level of the foundation of first principles, deontology is a form of justification for which the first principles are derived in a way so as to presuppose no goal or ultimate human end, nor any determinate conception of the ultimate end of man: "the right comes before the good not only insofar as its demands have precedence, but also insofar as its principles have an independent derivation";¹⁰⁹ in this sense, the classic model of deontology is the ethics of Kant. On the more concrete level of normative ethics, coming to be called deontological is every ethical conception comprising certain ethical duties and prohibitions that have unconditional precedence over other moral considerations, as well as over considerations of a finalistic or functionalistic character; in these sense, beyond Kant, the contemporary liberals who sustain the primacy of the right over the good, such as Rawls,¹¹⁰ are also deontologists. On both levels of

(G. Abbà, "Figure di etica: la filosofia morale come ricerca delle regole per la collaborazione sociale," in *Salesianum* 57 (1995): 253).

¹⁰⁶ I traced a comprehensive vision of these motivations in my contribution "Significato della "Veritatis splendor" per l'etica contemporanea," in *"Veritatis splendor". Genesi, elaborazione, significato*, ed. G. Russo (Rome: Edizioni Dehoniane Roma, 1994), 67-83, which would have to be integrated with the consideration of the difficulties that modern ethics, especially Kantian ethics, sees in classical ethics: see what I wrote regarding this argument in *Etica*, nos. 150-155.

¹⁰⁷ For an organic vision of the structural and contentual differences of content between an ethics of the first person and an ethics of the third person, cf. A. Rodríguez Luño, *Etica*, chs. VII and VIII.

¹⁰⁸ The denomination seems justified to me because classical teleology responds, as has been said, to the intentional dynamism proper to moral action (praxis) when it is seen from the perspective of the person who acts.

¹⁰⁹ M. Sandel, *Il liberalismo e i limiti della giustizia* (Milan: Feltrinelli, 1994), 12-13.

¹¹⁰ Cf. J. Rawls, *Una teoria della giustizia*, 5^a ed. (Milan: Feltrinelli, 1993), section 5.

ethical reflection, modern teleology (consequentialism and proportionalism)—which I shall call *normative teleology*¹¹¹—are opposed to deontology thus conceived. On the foundational level, *normative teleology* sustains that the highest good or happiness is the criterion for establishing which actions are right or wrong, because the right is none other than the maximization of the good; a good example is the utilitarian ethics of J.S. Mill.¹¹² On the more concrete level of moral judgment *normative teleology* is consequentialism,¹¹³ according to which actions or rules are always and fundamentally evaluated by their consequences for the optimization of the comprehensive state of reality, from the standpoint of its extra-ethical content.¹¹⁴ In this way, a new type of ethics takes shape, set up as a normative science for the production of a good state of affairs.¹¹⁵

These considerations allow us to formulate four important observations for our current study. The first is that *Christian morality, which is presented by VS, cannot be considered in any way as a deontological ethics*. Many have erred who have spoken, with regard to VS, of a deontological option or of a debate between deontology and teleology.¹¹⁶ In Christian morality, the foundation and determination of what is right is not independent from the ultimate good, nor is the conception of the good independent from what is right. Christian morality escapes these alternatives that are typical of the ethics of norms.¹¹⁷ Christian morality is that which we have previously called a *practical teleology*, which represents a moral universe completely different from deontology. The fact that Christian morality attributes an absolute value to certain ethical demands does not mean anything in this regard, because such an attribution is found in all ethical systems that are not completely relativistic. Even the proportionalists admit that the moral demands based on their method are absolute, and they are not made to be deontologists for this reason.

The second observation is that *normative teleology*, like proportionalism and consequentialism, is a scientific mode of founding and presenting ethics that has nothing

¹¹¹ The denomination responds to the fact that this second type of teleology responds to the problems of foundations characteristic of the ethics of the third person or the ethics of norms.

¹¹² Cf. *Utilitarianism* (Indianapolis: Hackett Pub. Co., 2002) ch. I. It should be kept in mind, however, that not every theological ethics is necessarily utilitarian in a rigorous sense.

¹¹³ See M. Sandel, *Il liberalismo e i limiti della giustizia*, 13.

¹¹⁴ See, for example, the description put forth by the moral theologian B. Schüller: “According to the first type of argumentation, a model of behavior is judged by its consequences. An action or omission is morally right when its good consequences prevail over its evil consequences. The form of moral judgment delivered in this perspective is called ‘teleological’. If the moral judgment concerning a model of behavior is not made in light of its consequences, either at all or not at least not exclusively so, then one often speaks of a ‘deontological’ ethical judgment” (*La fondazione dei giudizi morali*, 109, our translation). This terminology, as Schüller explains, comes from C.D. Broad, *Five Types of Ethical Theories*, 9th ed. (London: Routledge & Kegan Paul, 1967), 206f.

¹¹⁵ Cf. G. Abbà, *Figure di etica...*, 254.

¹¹⁶ See, for example, H. Lepargneur, *Os conceitos da "Veritatis splendor"*, 33; W. Wolbert, *Die 'in sich schlechten' Handlungen und der Konsequentialismus*, 98.

¹¹⁷ It is not possible to focus more on this point, which is rather complicated. Concerning it, see A. Rodríguez Luño, *Etica*, nos. 44 *in fine*, 146 *in fine*, 152 *in fine*, 160; R. Spaemann, “La responsabilità personale e il suo fondamento,” in *Etica teleologica o etica deontologica? Un dibattito al centro della teologia morale odierna*, various editors (Rome: CRIS Documenti, 49/50, 1983), 13-14.

to do with *practical teleology*.¹¹⁸ It could seem that both have in common at least a general approach of a teleological character.¹¹⁹ But in reality, this is not so. In *practical teleology* (one thinks, for example, of Saint Thomas) and in *normative teleology* (one thinks of J.S. Mill), the concepts of ultimate end or happiness are conceived in such a way as to be irreconcilable. The moral reflection of J.S. Mill is not interested in determining in a concrete way what is the good life of man, nor does it admit in general that to assume a certain type of personal life can be the object of an ethical demand, and less still can it accept the assumption that a type of life may constitute the core of the moral question. The concept of happiness is of interest only insofar as it allows for the justification of judgments concerning external actions (act utilitarianism) or concerning rules (rule utilitarianism): the end or happiness is always and only, with the words of J.S. Mill, *a test of right and wrong*, simply a criterion for judging if particular actions are right or wrong, which is the really the only matter of interest. One must speak *first* of the good because the right will be defined *afterwards* as the maximization of the good. If virtues are spoken of, it will only be insofar as they are personal dispositions that facilitate respect for norms. *Practical teleology* stands precisely at the other pole. In it the final end is at the core of the moral life; the end is not a good that can be ‘maximized’ by right actions,¹²⁰ nor is it possible ‘to deduce’ right actions from the idea of the end; the ethical virtues are the principles of the practical reason and the foundation of ethical norms.¹²¹ From these fundamental differences arise opposing positions regarding the existence of intrinsically evil acts.

The third observation is that the point of view of the third person, characteristic of *normative teleology* (consequentialism and proportionalism) and from any ethics of norms, determines the physicalist concept of moral action, of which we have spoken. To evaluate the conformity of an action to a norm it is enough to consider the action fundamentally from the outside. *Practical teleology*, on the other hand, insofar as it is an ethics of virtue or of the first person, must always and above all consider the voluntary intentionality intrinsic to the human action, because otherwise it would not

¹¹⁸ With this we do not intend to suggest that Catholic theologians that follow proportionalism do not have anything in common with the Christian moral perspective of VS. Here we are not speaking of contents, but of the fundamental structures, methods of analysis, and conceptualizations of two systems for the scientific presentation of morality. Considered thus, they are completely different, and I would even say incompatible. Regarding the contents, there are certainly many points in common, but also significant points of contrast; we all knew it, and the debate over VS is confirming it.

¹¹⁹ J.S. Mill himself, in chapter II of his work *Utilitarianism*, proposes the possibility, not very convincing, of a “theological utilitarianism.”

¹²⁰ Against any conception that affirms that the end or good can be ‘maximized’ by human actions taken in their exteriority and totality, needs to remember among other things that, as Max Scheler pointed out, the goods can be ‘produced’ by actions just as much when they are peripheral and external, or when they are linked to sensible pleasure or well-being of an extra-ethical character (see *Der Formalismus in der Ethik und die materiale Wertethik*, volumen II of *Gesammelte Werke*, ed. Maria Scheler. Bern: Francke Verlag, 1954, section V). Thus it seems very difficult to avoid that such a conception lead to a hedonistic vision of the good.

¹²¹ This last point would require a long discussion. It may be enough, however, to observe how structured on the virtues the morality of Saint Thomas is, that is to say, the II-II *pars* of the *Summa Theologiae*. See also the monograph of G. Abbà, *Lex et virtus. Studi sull'evoluzione della dottrina morale di san Tommaso d'Aquino* (Rome: LAS, 1983).

be possible to always establish a relation between the action and the virtues, and thus between the action and the order of right reason.

The fourth and final observation is that the relationship between a norm on one hand, and the action to do or not do on the other, is completely different in practical teleology and in normative teleology. This difference is of extreme importance both for properly understanding what VS affirms concerning intrinsically evil actions and absolute negative norms, and for understanding why VS is accused of not conceding due attention to exceptions and *epikeia*, as we shall see hereafter.

2.5 Absolute Norms, Exceptions, and *Epikeia*

Some authors retain that traditional Catholic moral theology, with the at least tacit approval of the Church, admitted to exceptions that regarded the norms that VS now presents as norms that rigorously apply *semper et pro semper*. It seems that with this observation they do not intend to directly suggest that the exceptions could or should be admitted, but rather to affirm that in the past, these exceptions have been peacefully admitted and recognized, even if they have been presented and justified in a different manner. It intends to present, in the end, a state of affairs in which VS would incomprehensibly enter into contradiction. Thus it is sustained that on the basis of the concept of *epikeia*, of the principle of double effect, or through subtle conceptual distinctions, one would successfully render compatible the absolute value of the principle ‘do not kill’ and legitimate defense, the death penalty, certain forms of letting one die, and certain types of self-sacrifice that seem like suicide for moral reasons (for example, to safeguard one’s chastity); the absolute value of the principle ‘do not steal’ and the licitness of taking from others necessary goods in order to pull oneself out of a state of extreme necessity; the absolute value of the commandment ‘do not lie’ and various forms of ambiguous speech and mental reservations, etc.¹²² According to these authors, traditional morality wished to resolve in this way the same problems that proportionalism intends to resolve, but it did it in a way that was not very coherent and comprehensible. In fact—as G. Virt observes—it did it in a tautological and inconclusive way: it employed linguistic evaluative expressions that gave the problem to be resolved a resolution in advance or did not resolve it at all. If murder is defined as an unjust killing, it is clear that murder will never be licit, but this does not help to resolve, for example, the problem of legitimate defense, nor does it permit us to know if certain concrete behaviors are or are not murder.¹²³ G. Virt and

¹²² Arguing in this direction are H. Lepargneur, *Os conceitos da "Veritatis splendor"*, 19-20; K. Hilpert, *Glanz der Wahrheit: Licht und Schatten*, 626-627; J. Fuchs, *Das problem Todsünde*, 79.

¹²³ See G. Virt, *Epikia und sittliche Selbstbestimmung*, cit., 213-218.

K. Hilpert complain about the silence of VS regarding the important virtue of epikeia, which should make it possible to give morality a more realistic approach, and which would have an important role not only on the level of civil laws, but also on the level of moral precepts.

We concede quite voluntarily that a tautological argument is not an argument. However, in order to know if a concrete moral argument is tautological, certain peculiar characteristics of moral epistemology need to be kept in mind. If a person affirms, for example, that sexual relations between two unmarried persons are fornication and thus morally illicit because fornication is an act contrary to the virtue of chastity, it can be thought that the person does not demonstrate anything because he takes for granted what is to be demonstrated, that is to say, he does not respond to the question: why should such sexual relations always and in each case be considered as fornication and thus contrary to the virtue of chastity? It is true that such a person has not put forth a rational argument that sustains his claim, but this does not automatically imply that his reasoning is circular or unfounded. It needs to be considered, in fact, that ethics is for the most part reflective knowledge, which has its specific point of departure in moral experience, that is to say, in the spontaneous activity with which the practical reason directs the moral life of man,¹²⁴ an activity that exists before ethics is developed as a scientific discipline. Ethical reflection clarifies, finds, and systematizes the spontaneous moral concepts, judgments, and intuitions that nonetheless manage to grasp important aspects of moral reality. Since this moral reality is not created by ethical reflection, so neither is the intrinsic disorder of sexual relations outside of marriage made visible only by stringent rational argument. Such a disorder is grasped by the practical reason at a pre-scientific level in moral experience, and this understanding is the basis for the use of an evaluative moral category like that of fornication. It is true that at this level the employment of the negative evaluative category has not yet received a full logical and scientific foundation, but this does not mean that its use is not founded absolutely speaking or that it is purely tautological. The evaluative category is employed because its ontological foundation has been grasped, that is to say, the moral negativity of a certain type of action, and this ‘spontaneous grasp’, which it seems to me is epistemological dimension of the natural moral law, epistemologically justifies the pre-scientific use of the evaluative categories.¹²⁵ It can certainly be admitted that in prior epochs, in which there existed a greater cultural and moral homogeneity in society, the scientific foundation of normative propositions was less necessary than it is today, and this can explain how it was sometimes overlooked. However, there is a great distance between this defect of scientific foundation and a ‘tautological and inconclusive’ morality. On the other hand, the old morality at least had the advantage of respecting the evident facts of moral experience, the content of Revelation, and did

¹²⁴ Significant in this regard is the distinction between the *ratio practica in actu exercito* and the *ratio practica in actu signato* put forth by Cajetan, *Commentario a la "Summa Theologiae"*, I-II, q. 58, a. 5, VIII, in the Leonine edition of the *Summa Theologiae* (Rome: Typographia Polyglotta S.C. De Propaganda Fide, 1891).

¹²⁵ On the relationship between moral experience and scientific ethics, and on the gnostic dimension of natural moral law, allow me to refer the reader to my book *Etica*, cit., nn. 32-33, 179, 197-198.

not try to draw moral good/evil back to being a good/evil of an extra-ethical nature.

I retain, nonetheless, that in order to arrive at the heart of the problem the relationship between moral norms and actions needs to be considered. Is the foundation of a norm the morality of the commanded or prohibited action, or is the morality of the action derived from its relation with a norm that finds its basis in the advantageous state of affairs derived from the regulation of action contained within it? From the perspective of an ethics of norms, which is the perspective of proportionalism and consequentialism, the second alternative is the case. First comes the norm, and then the good or evil action. The problem, characteristic of every third person ethics, had been explicitly posed by Kant when he explained “*the paradox of method in a critical examination of practical reason*”: namely, “that the concept of good and evil is not defined prior to the moral law, to which, it would seem, the former would have to serve as foundation; rather the concept of good and evil must be defined after and by means of the law.”¹²⁶

This is the common approach to many laws and civil regulations. The necessity of safeguarding a certain state of affairs, which certainly contains certain values, justifies a norm, according to which good and evil actions are distinguished, actions that do not have intrinsic positivity or negativity independently from the norms. Therefore, there may be exceptions or interpretations according to *epikeia* that are always in concrete situations in which not respecting the rule does not endanger the value that justifies it. A good example might be with street laws. The orderly movement of vehicles, necessary for the value of the safety of citizens, for example, requires keeping to the right and stopping in front of red traffic lights, and forbids the contrary. However, there can be exceptions and even *epikeia*: on a Sunday in August, when the city is deserted, it does not make much sense to wait at a traffic light, if visibility is good and there is complete certainty that there is no risk of danger for oneself or anyone else; in the same conditions it is morally possible to keep to the left side of the road for a few yards in such a way as to avoid an irregularity on the street, etc. All of this is possible because there is not an intrinsic disorder to those actions, which are good or evil only for their relation to a rule that is generally conducive to an advantageous or even necessary state of affairs.

However, the properly moral perspective, and especially that of VS, is something else. Beyond the logical-formal aspects, each truly ethical norm has an ontological foundation, which is the ethical positivity or negativity intrinsic to an action, which must be described in a non-physicalist way, that is to say: according to its *genus moris* and not according to its *genus naturae*, and thus highlighting the type of relationship that exists between the intrinsic intentionality of the action itself (*finis operis*) and the constitutive principles of the practical reason (the virtues). The norms that are valid *semper et pro semper*, of which VS speaks, are comprehensible only in this perspective, in which they respond to the fact that there exist actions with a negative moral identity that always remains, because in their intrinsic voluntary intentionality there

¹²⁶ *Critique of Practical Reason* (New York: The Liberal Arts Press, Inc, 1956), 65.

is an important contrast with the principles of the practical reason (the virtues). It is not exact to say that these actions are evil in themselves independent of their context, because in reality they are actions that carry with themselves, and inseparably, a context, a network of ethical relations sufficient to univocally and invariably determine their essential morality. Adultery, for example, is an act that negatively inserts itself into the network of ethical relations established by marriage. More generally, and in the last analysis, there will be an intrinsically evil act whenever a behavior is chosen, in virtue of its intrinsic voluntary intentionality (*finis operis*), that adversely affects the network of relationships toward God, toward one's neighbor, and toward oneself (self-regard) that is determined by charity. The perspective assumed by VS is not therefore objectivist or abstract, but relational, that is to say, based on concrete ethical relations in which a person or persons are involved.

If the actions are considered in their intentional identity in relation to the principles of the practical reason, to speak of exceptions or *epikeia* does not make sense. It would be as to say that, for an exception, one could morally allow sometimes a little bit of injustice, a little lust, and so forth, perhaps until arriving at a compromise with the cultural tendencies in vogue. Another thing is the problem that comes about when norms are not well formulated, on account of oversight, because in some cases it is difficult to arrive at a linguistic formulation that grasps the moral identity of the action (*genus moris*) and not only its physicalist description, or because a more accurate analysis of the exact nature of a principle of the practical reason is needed (for example, what does lying mean exactly, because lying is wrong). VS explicitly states that “there is a need to seek out and to discover the most adequate formulation for universal and permanent moral norms in the light of different cultural contexts, a formulation most capable of ceaselessly expressing their historical relevance, of making them understood and of authentically interpreting their truth. This truth of the moral law — like that of the ‘deposit of faith’ — unfolds down the centuries: the norms expressing that truth remain valid in their substance, but must be specified and determined ‘*eodem sensu eademque sententia*’ in the light of historical circumstances by the Church's Magisterium, whose decision is preceded and accompanied by the work of interpretation and formulation characteristic of the reason of individual believers and of theological reflection.”¹²⁷

The thesis that is the ontological foundation of the properly moral negative norms is the intrinsic negativity of the prohibited action (and not rather a state of affairs that the norms would be generally conducive to) allows us to clarify various aspects of the problem that we are treating. Perhaps the most important is that falling under a norm are particular actions that possess the same specific moral identity or, at least, the same generic moral identity. In no way can actions that are physically similar but humanly and morally heterogeneous fall under the same norm, *even if they are actions that finish by producing the same state of affairs*. Some authors do not keep this in mind, and they consider, for example, the licitness of legitimate defense as an

¹²⁷ VS, no. 53.

exception to the principle ‘do not kill’, which would not therefore be valid *semper et pro semper*.¹²⁸ Allow me an observation that might seem like a joke: to present the problem in this way is like saying that the licitness of the conjugal act is an exception to the principle ‘do not fornicate’. From the moral point of view, and also from the simply human and psychological point of view, between direct killing of an innocent and legitimate defense there exists a difference that is not less than that between fornication and conjugal relations. Someone could say that for someone who must judge a concrete action *from the outside*, sometimes it may not be easy to know if it is a direct killing or legitimate defense. However, this is a question of fact that regards precisely the judgment from the outside, but does not touch upon the moral substance of the problem. It is more difficult to distinguish between fornication, adultery, and conjugal relations for the one who must judge the action without knowing the identity and the civil condition of those concerned.

It seems to me that almost all of the problems raised by the authors cited at the beginning of this section derive simply from the normativist perspective and from the consequent physicalist conception of human action, which they also, erroneously, attribute to VS. The proportionalists retain that VS, when it speaks of norms that are valid *semper et pro semper*, it is speaking of norms in such a way that all actions are intrinsically evil that finish by producing in some way (even involuntarily) a certain state of affairs.¹²⁹ But this is not true. We have seen that VS always uses the language that means something else entirely. Intrinsically evil behaviors are seen as an object of choice,¹³⁰ that is to say, as choices that have a precise intentional identity recognized by the practical reason and accepted by the will. It seems that some authors have not understood it, and continue to consider as morally identical or analogous actions that produce an identical or analogous state of affairs, and thus they make to fall under the same pronounced norm homicide and legitimate defense, lies and the protection of a secret, and suicide and martyrdom, without even keeping in mind the established distinctions, for example concerning homicide, from the penal law, which in theory would have a method of analysis less attentive to the voluntary intentionality intrinsic to the action than that of morals. Perhaps they think themselves capable of thus demonstrating that there do not exist absolute norms, but the only thing they bring forward as evidence is a theory of action infected with an unacceptable physicalism.

It is true that in practice oftentimes it is necessary to be able to make reference to

¹²⁸ John Paul II has clarified this mistake in his recent encyclical *Evangelium Vitae*, 25-III-1995, no. 55.

¹²⁹ The proportionalists generally consider that the person who acts is *equally* responsible for all foreseeable consequences. In the context of their physicalist concept of action, intentionality and preterintentionality do not count for much, as they also do not take account of whether an evil consequence depends on the free action of another. Neither do they consider as being different the responsibility for a foreseen consequence that follows from an act that is evil in itself (this is the case with a preterintentional homicide according to the Italian penal code, which is an unforeseen effect of an illicit action: battery or injury) or from an act that had been morally obligatory. For proportionalism all of this is at the same level.

¹³⁰ See above the texts cited in footnote 10.

human behaviors with a certain amount of brevity, without having to give exhausting explanations concerning the intrinsic intentionality of the action (*finis operis*). This creates certain problems, especially when deeds whose intrinsic voluntary intentionality is not evident or unambiguous are in question. That is, there exist cases in which, for the one who must judge, it is difficult to understand what is the *finis operis*. It can not be excluded that at times in the past, some tried to resolve this practical difficulty with solutions of a physicalist type, and it will probably still be necessary to work to resolve in a satisfying way certain problems of analysis of the human act.¹³¹ But at the same time it seems to me that it must be said that the authors who criticized VS in this regard have not advanced any concrete proposal. Rather, they insist without tiring in their physicalist conception of actions, with the aim of obscuring things that were already clear. To be more explicit: they repeat without tiring that the action ‘to take an antiovolatory pill in itself’ is not intrinsically evil (something quite easy to understand) with the (instrumental) intention of calling into question the illicitness of actions that are really contraception, whose morality—according to them—should be discussed on a case by case basis.

To conclude, it can be noted that the root of the incomprehension of which we are now focused is an extremely normativistic consideration of morality: a consequence of taking on the perspective of the third person. Ethical norms would be generally functional norms for obtaining and safeguarding positively regarded states of affairs, or if we wish, to protect certain values.¹³² They do not express essential demands of the virtues of good living, indispensable demands for what is good for man. Having accepted the normativist approach, the admission of exceptions and the extension of *epikeia* to the properly ethical norms can also be coherent, but in my opinion it does not respond to the reality of the human moral life, and according to VS it would not conform to Revelation and the doctrine of the Church. It would be advisable to question that approach to morality based on a state of affairs to be reached and on a physicalist description of actions. This would make it possible to calmly rethink certain problems of the theory of moral action, for whose just solution the encyclical *Veritatis Splendor* offers important methodological instructions.

¹³¹ By way of example of what is being done along these lines and seeming to me to be worthy of attention is the delimitation of the essence of a lie and of the principle ‘do not kill’ proposed by M. Rhonheimer, *The Perspective of Morality. Philosophical Foundations of Thomistic Virtue Ethics* (Washington: The Catholic University of America Press, 2011), 350ff. For what regards the distinction between contraception and the prevention in the case of a rape, see, by the same author, “The Use of Contraceptives Under Threat of Rape: An Exception?”

¹³² See, for example, K.W. Merks, “Autonome Moral, in *Moraltheologie im Absichts?*, ed. D. Mieth, 64-66.