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## *Chapter Eight*

# **Intrinsic Evil and the Sources of Morality**

Werner Wolbert

The debate on intrinsic evil suffers, among other things, from the homonymy of the term often overlooked, especially by its defenders. I agree with J. Selling that it is “misleading for several reasons,” that it “does not contribute to our ability to have a coherent ethical conversation,” and that “it confuses much more than it clarifies.”<sup>1</sup> My contribution will try to clarify some more of those confusions caused by the “richness” or ambiguity or homonymy of the relevant terms, especially those we find in the doctrine of the sources of morality (DSM).<sup>2</sup> In a former article Selling expresses doubts about the thesis: “that the principle factor in determining the morality of human activity was the choice of the object of a human act”: he also adds, “I have been intrigued by the challenge that this presents to anyone who is persuaded by the idea that human activity can only be morally evaluated after all the relevant factors have been taken into account.”<sup>3</sup>

### ACTS, CIRCUMSTANCES, CONSEQUENCES

Selling distinguishes between an act-in-itself and the “moral event” or “some larger combination of elements such as a behavior (act + circumstances)” and criticizes the idea (called physicalism) “that a single, physical act or omission all on its own, without any addition of circumstances, can be morally determinative.” Terms like single act, physical act, act-in-itself, however, seem to need some qualification without which we cannot precisely formulate the real point of the debate.

## No “Act-in-Itself”

First, I doubt, that there is something like the “act-in-itself.” This relates to the distinction between acts and circumstances as well as to that between acts and consequences. Eric D’Arcy states: “Circumstances may affect not only one’s final moral evaluation of an act, but also one’s characterization of it: in some circumstances X is P, in others it is Q.”<sup>4</sup> D’Arcy gives the following example: with signing one’s name, one may draw a check, enter a contract, give an autograph, issue a death warrant, or grant a reprieve. A second example: Macbeth stabbed Duncan, Macbeth killed the King, Macbeth succeeded to Duncan’s throne.<sup>5</sup> By the way, none of these descriptions does already contain any ethical evaluation; what they illustrate is: *There is not necessarily one, and only one, correct description of a given act.*<sup>6</sup> There is also no “act-in-itself” independent from the description of the act. The description may vary “with the specialized interest of the inquirer or narrator.”<sup>7</sup> It may also imply some intention; “abstaining from food” may be meant as dieting, slimming, hunger-striking or keeping a religious fast.<sup>8</sup> Special interests may also determine the terms which denote the acts and the consequences or circumstances:

Gielgud might feel that the satisfaction derived from playing Othello for the first time was heightened by the circumstance of the performance’s being at Stratford; but the Stratford Committee might feel that the fact of its being Gielgud’s first appearance in the role was a circumstance that enhanced the production.<sup>9</sup>

D’Arcy draws two conclusions from these ambiguities: First, one cannot lay down two separate lists, one of words and phrases that count always as act-terms, the other of words and phrases that count only as circumstance-terms. Second, circumstances are, however, negatively definable in the sense that, once the act-description has been chosen, they are facts and considerations not included in the definition of the act-term employed.<sup>10</sup>

If what counts as circumstance is dependent on the words and phrases, circumstances cannot from the outset be regarded as irrelevant or secondary, nor as relevant or decisive, as again d’Arcy illustrates with the following example: “the act of sexual intercourse may, in different circumstances, constitute a case of adultery or of rape, or it may constitute an exercise of the rights of marriage; or again, the act of killing a man may, in different circumstances, constitute a case of murder, or of manslaughter, or of justifiable homicide.”<sup>11</sup>

If the term used for the act does not entail any ethical evaluation, the circumstances may be relevant or decisive for the moral qualification of an action. This seems, at the first view, excluded by the traditional DSM and by the *Catechism of the Catholic Church (CCC)*.

## The Sources of Morality

The CCC states in no. 1754:

The circumstances, including the consequences, are secondary elements of a moral act. They contribute to increasing or diminishing the moral goodness or evil of human acts (for example, the amount of a theft). They can also diminish or increase the agent's responsibility (such as acting out of a fear of death). Circumstances of themselves cannot change the moral quality of acts themselves; they can make neither good nor right an action that is in itself evil.

Would the authors of the CCC have to contradict D'Arcy's statement above? Probably not. They would have to stress that D'Arcy's "circumstances" are part of the moral act which is also called the "object" insofar as it is the object of the acting person's intention. Only an act whose moral quality (good, bad, indifferent) is already taken for granted (e.g., having sex with another man's wife is adultery) can be called an object. The physical act of sexual intercourse as such cannot be assessed as right or wrong apart from the circumstances; therefore it cannot be called the "object." D'Arcy and the CCC differ in their use of the term "circumstance." Furthermore, D'Arcy's "act" cannot be called an "object," or it has to be classified as an indifferent object permitting no moral evaluation. The CCC's use of terms matches that of the manuals, for example, of Merkelbach.<sup>12</sup>

An act called "sexual intercourse" is, therefore, not yet constituted "*in esse suo morali*." Though "circumstances," by definition, do not constitute the morality of the act, as also Aquinas states: "quod circumstantiae sunt extra actionem,"<sup>13</sup> they may, nevertheless, be morally relevant; they may affect the morality of the object (CCC, 1754: "acting out of fear of death"). Totally irrelevant factors, on the other hand, would not count as "circumstances" (e.g., stealing with the right or the left hand). It is, however, morally relevant whether I rob a bank alone or together with accomplices. Those circumstances are relevant, but are not constitutive of the act (object) which remains a case of bank robbery. Circumstances may also be relevant for the degree of moral goodness or badness of an act or for its imputability.<sup>14</sup>

So far the difference between the CCC and the "teleological and proportionalist theories," rejected by the Pope (*Veritatis Splendor* [VS], 79), is only terminological. A first real difference may be indicated when the CCC speaks of *secondary* (instead, as with Merkelbach, of *accidental*) elements, which creates another area of misunderstanding. This may be illustrated by a traditional standard example: A man steals a ladder in order to be able to enter the bedroom of a girl to have sex with her.<sup>15</sup> Assuming that the man is married, this act could count as theft or adultery. For the act being theft it is accidental (nonessential) that it serves for the goal of adultery (and vice versa).<sup>16</sup> But the goal of adultery is not "unessential," not unimportant or less

important which the term “secondary” may falsely suggest (against the tradition of the DSM).<sup>17</sup> If, however, “circumstance” is categorized as an *accidens*, the first two phrases of *CCC*, 1754 could be understood as analytically true.<sup>18</sup>

### Evaluative Words

If only factors not constitutive of the morality of an act are called “circumstances,” the act (or “object”) must be defined in a way that permits a definite moral evaluation. This can sometimes be done by using evaluative words (adultery, theft, murder),<sup>19</sup> by adding adjectives or adverbs as in *VS*, 80 (“*subhuman* living conditions, *arbitrary* imprisonment [. . .], *degrading* conditions of work”),<sup>20</sup> by excluding possibly opposing morally relevant factors (it is never right to kill a person only because I do not like her face), or by a deontological understanding.<sup>21</sup> In the first three ways one could invent innumerable acts wrong by their very object or (in this sense) intrinsically wrong. This is useless, however, because the question at stake is, normally, what action *counts* as murder, degrading conditions of work, and so forth.<sup>22</sup> Ambiguity of terminology<sup>23</sup> may also sometimes mean that the same term can be understood as evaluative or purely descriptive as the following objection against a proportionalist or teleological argumentation on mutilation illustrates:

It has been argued that mutilation, the deliberate maiming or destruction of part of the body, may not be always wrong apart from circumstances and intention. It may be necessary, for example, to sacrifice a limb to save a life, as when a foot is caught in the railroad tracks. The argument is misplaced, however, because the correct description of the act to save a life would be amputation, which in some circumstances cannot be performed with surgical neatness. Thus, mutilation is always wrong, because it is not simply descriptive but includes a nefarious motive. Its relation to amputation or surgery parallels the relationship of murder and killing.<sup>24</sup>

Prümmer (who cannot be suspected to be a proportionalist), however, defines in the index of his manual: “*Mutilatio sui semper est illicita, nisi adhibeatur ad vitam corporalem salvandam.*”<sup>25</sup> The difference between these two authors is purely linguistic; unlike Westberg, Prümmer uses the term “mutilation” in a non-normative sense. It is noteworthy, nevertheless, that, for Westberg, the nefarious or benevolent *motive* makes the difference; this would not fit the language of the DSM and its categorization of the end among the circumstances.

## Principia Divisionis

The DSM lists the end among the circumstances; it is often called *circumstantia principalissima*.<sup>26</sup> Why is it nevertheless counted separately as the third source while the complete distinction between acts and circumstances seems to leave no room for a third source? It seems that two distinct *principia divisionis* are confused here. The first distinction is between act (object) and circumstances, the second between object and end. Acts and circumstances are distinguished according to the distinction between substance (or essence) and accident. Insofar as circumstances cannot change the moral quality of the act, they are of only accidental (nonessential) significance for the act whose substantial quality is in the object. In this sense it is accidental (though not unimportant) if I commit adultery with the wife of my best friend. It does not change the substance of adultery. When the end is called the *circumstantia principalissima*, this seems to indicate not a quantitative difference to the other circumstances, but a qualitative one. Therefore, the principle of the second distinction must be different from the first. The second distinction is between morality as something given, preset (*vorgegeben*) from morality as a demand or option (*aufgegeben*). That almsgiving is something good is true independent of my decision for or against it. The amount of money (a circumstance) given does not change the substance of the act of almsgiving, but it matters nevertheless; this circumstance and its significance is also something given, independent of my decision for that option. But it is up to me whether I practice it for the end of mercy (as it is indicated in the very term “almsgiving” from the Greek *ἔλεημοσύνη*, mercy) or for reasons of vanity (to win admiration; Mt 6: 1–8.). The second distinction is therefore between a *moralitas materialis* (morality as an option, a mere possibility) and a *moralitas formalis*. The moral goodness of almsgiving presents itself to me first as a mere option which becomes reality by my decision in favor of it and determines my own moral character.<sup>27</sup> The moral demand (e.g., that theft or adultery are wrong) is something given, not a matter of my choice or decision. But to fulfil the moral demand, to avoid the wrong and to decide in favor of the right is up to me. The end, therefore, is of higher importance for the moral act than the other circumstances on which I may have no influence.

VS, 78 states: “The morality of the human act depends primarily and fundamentally on the ‘object’ rationally chosen by the deliberate will.” This is correct if morality is understood as *moralitas materialis*, the area of the morally right or wrong. By choosing the right and avoiding the wrong the person (or the will) becomes a good one. The distinction between object and end is about the relation between the moral right or wrong action to moral goodness or badness, to the morally good or bad conviction (*Gesinnung*) of the acting person. When the “choice for the object” is regarded as rational, the moral judgment on the action considered has already been settled. That,

however, does not tell us anything about the criteria of that judgment, the criteria of right and wrong, about right- and wrong-making properties.<sup>28</sup> Aquinas is very clear on the difference between *moralitas materialis* and *formalis* when he states:

[I]n exteriori actu potest considerari *duplex* bonitas, vel malitia: *una* secundum debitam materiam, et circumstantias; alia secundum ordinem ad finem. Et illa quidem, quae est secundum ordinem ad finem, tota dependet ex voluntate; illa autem, quae est ex debita materia, vel circumstantiis, dependet ex ratione: et ex hac dependet bonitas voluntatis, secundum quod in ipsam fertur.<sup>29</sup>

Pope John Paul II (and with him often traditional moral theologians) fails to distinguish between these two types of goodness and seems to insinuate that for “proportionalists” the second goodness may change the *malitia secundum debitam materiam* into something good or less bad. By distinguishing terminologically between the morally right and the morally good those misunderstandings could be avoided, especially the wrong impression that the question of the right- and wrong-making properties, the general problem of normative ethics, can be answered within the framework of the DSM, which the CCC insinuates by counting the consequences of an act among its circumstances.

## Consequences

The distinction between act (action) and consequences is normally not made according to the distinction between substance and accident, and it is not a fixed one. D’Arcy states correctly:

The term which denotes the act, in the description of a given incident, may often be elided into the term which denotes a consequence of the act: “doing X with the consequence Y” may often be re-described simply as “doing Y.”<sup>30</sup>

Insofar as the consequences may already be part of the object,<sup>31</sup> they can only be of primary importance. In other cases we may not be able to give a simple name (doing X) to an action with all relevant consequences because of the lack of the respective linguistic resources.<sup>32</sup> Those consequences can never be of secondary significance.

The statement of the CCC, however, wants to reject a teleological normative approach and seems to overlook that traditionally only *some* acts are regarded as forbidden or wrong regardless of the consequences (and, in this sense, intrinsically evil or wrong), for example, lying, direct killing of the innocent, homosexual intercourse, and so forth. It is the deontologists’ need to distinguish between act and consequences in order to stress that in some cases consequences do not matter. It is, however, misleading to say that the

“act-in-itself” matters, and calling those acts intrinsically evil may support that misconception. What is relevant for a deontological ethical evaluation is a certain *property* of the act not related to its consequences for the well-being of the people concerned. In Catholic tradition those properties are the contradiction to nature (*contra naturam*) or lack of authority (*defectus iuris in agente*). A teleologist could avoid the language of consequences and speak of the “nature of the *whole action*” which has to be taken into account.<sup>33</sup>

## EXCEPTIONS

Actions called intrinsically evil are generally regarded as not allowing exceptions<sup>34</sup> while teleologists seem to make exceptions possible.<sup>35</sup> The difference, however, is not about the possibility of exceptions, but about the reasons, the kind of arguments valid for justifying exceptions. The assertion that there are some norms not allowing exceptions may result from a prejudice we find, among others, in Kant’s ethic. Kant presupposes that exceptions are (in general) made in favor of our inclination (“zum Vortheil unserer Neigung”); and these inclinations are (unthinkingly) understood in an egoistic sense.<sup>36</sup> Exceptions seem, therefore, in some way to contaminate moral purity, and the exclusion of exceptions may appear as a sign of moral seriousness or “radicalness.” In fact, however, exceptions are often made in a general interest, while allowing them is often a demand of justice. There is also a linguistic aspect: the possibility or necessity of exceptions may depend on the complete or incomplete formulation of a norm. It makes no difference to say: “Direct killing of an innocent is always forbidden” or: “Killing of an innocent is always forbidden, except indirect killing and killing of a guilty.”<sup>37</sup>

A teleologist could, for instance, formulate: torture is never allowed as a means of punishment. Whether there can ever be an “appropriate” use of torture to some good end<sup>38</sup> is a question of debate not to be solved by declaring torture intrinsically evil but by checking the arguments for and against its use. *VS*, 80 lists “physical and mental torture and attempts to coerce the spirit” among the intrinsically evil acts. I am not sure whether the pope would condemn the use of torture in order to get knowledge of a planned terrorist attack (because torture does not belong to the classical catalogue on intrinsically evil acts). It is a matter of debate whether the use of torture would be justified in that case from a teleological standpoint.

## DIFFERENT PERSPECTIVES

According to Pope John Paul II, the key point of the debate in moral theology is a correct understanding of the DSM (*VS*, 74): “Precisely with regard to this



problem there have emerged in the last few decades new or newly-revived theological and cultural trends which call for careful discernment on the part of the Church's Magisterium."

As the previous considerations should have shown, there may be some justified doubts whether the understanding of that doctrine in the *CCC* and in *VS* is the correct one. With regard to *VS*, it is not so much the Pope's presentation of that doctrine in *VS*, 78, but his conclusions about the problem of "intrinsic evil" that have to be questioned (79):

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

Assuming that the two parts of this statement are not to be understood synonymously, the question arises what kind of theory is rejected in the first part. Is it something similar to a consequentialist theory rejected by the second part? I agree with Selling's comment on the role of intention and ends and some linguistic confusion in that debate. Selling mentions mutilation; the difference between him and the Pope would probably only be about the use of the term "mutilation." If both spoke instead of "surgery," the difference would probably disappear. When I speak of "almsgiving" the intention of alleviating misery is already implied in the term used. This observation illustrates how opponents in the moral theological debate are often talking at cross purposes for which I try to give some reasons.

1. There is often a—reflected or unreflected—presumption that the solution must come from a rereading of our moral theological tradition, especially of Aquinas. The doctrines mostly debated are DSM<sup>39</sup> and the principle of double effect. The debate on the correct understanding of Aquinas, however, is always in danger of mingling historical and systematic questions. It is nearly a commonplace to say that moral theology of the past served as instruction for confessors. What is mostly overlooked is the different perspective resulting from that orientation. The penitent's and the confessor's view on the penitent's behavior are retrospective. Since the choices and decisions have already been made, they have to assess the moral goodness of the act primarily (whether the penitent acted from a sincere conviction, whether there were mitigating or aggravating circumstances, whether he or she did the right thing perhaps with a bad intention or vice versa). The distinction between object, circumstance, and end may be helpful for a careful judgment when confessor and penitent try to assess the morality

(moral goodness) of the act by checking its sources. The judgment is not about the moral rightness, except if the penitent asked the confessor whether his/her behavior was right or wrong. That question is normally regarded as settled when the penitent confesses that he/she lied or committed adultery or bank robbery. At that point, there will be no more uncertainty about the quality of the object and its “essential” meaning for the moral state of the penitent.

Unfortunately, critics of traditional moral theology (sometimes called “revisionist”) tend to read the doctrine of the sources of morality as a treatise on normative ethics. But the normative question is how we determine the moral quality of the object (the rightness or wrongness of the action or behavior). John Paul II and conservative moral theologians<sup>40</sup> insinuate that for proportionalists a good intention or important circumstances may justify an act already judged as definitely wrong. Traditional moral theologians, however, know quite well that circumstances may change the object. In cases of extreme need the taking of foreign property may not count as theft. Insofar as the good intention of saving one’s life and that of one’s family may justify that kind of action which normally counts as theft; in that case the circumstances become elements of the new object. Why could not, similarly, the intention to save the life of the mother change the object of abortion? Those questions cannot be judged in the context of DSM, but by an inquiry on the problem of abortion and killing in general. Sometimes the argument is more about words and language, and even traditionalists sometimes seem not to understand the language of their tradition.

2. Selling’s approach to the question of intrinsically evil acts starts from a consideration of the way ethical decisions are made which, for him, is misread by the DSM. But Selling’s perspective is a prospective one, whereas from the retrospective perspective of the DSM the decisions have already been made and objects are classified as intrinsically evil. Distinguishing an essential “object” from accidental circumstances, however, makes little sense when I have still to decide what to do and to consider the ethical implications; that is, when I still need to ask, for instance, which circumstances are essential or/and which secondary.
3. Selling’s description of moral decision-making seems to be dominated by a first-person perspective. But ethicists, at least, are used to judge from a third-person perspective and may be asked for ethical advice. The steps of the process of decision-making and its difficulties may count as mitigating circumstances for those who regard the decision made as wrong (e.g., in the case of an unsuccessful surgery), or they may contribute to a better understanding of the acting person’s situa-

- tion and its relevant factors. But they are neither a necessary nor sufficient criterion of the moral rightness or wrongness of the action.
4. This difficulty may be connected with another one: the relation of description and evaluation in Selling's approach. His description of moral decision-making seems to get some normative meaning from a kind of Knauerian normative theory he seems to hold and take for granted, more or less. The language of means that have to be proportionate to the end seems to fit into Selling's description.<sup>41</sup>
  5. Selling states "that the intention of the person takes precedence in the order of evaluating human activity."<sup>42</sup> But there is often not only one intention. The acting person may have several intentions, several ends (e.g., in the case of abortion).<sup>43</sup> A physician may have the ends of curing patients, making money, and improving or maintaining his reputation. These ends may sometimes be in harmony (a difficult successful surgery is also useful for the surgeon's reputation), sometimes not (when an unnecessary surgery is made for economic reasons). The term "motivation" seems to presuppose a plurality of intentions and to denote the dominating intention often formulated with virtue- or vice-terms (ambition, vanity, avarice—mercy, helpfulness, honesty). The greedy motivation of a physician as such, however, does not make his decision a wrong one. The ambitious successful surgeon may do the right thing from a morally deficient motivation (even though not every kind of ambition is bad). And a good intention (e.g., alleviating pain or relieving from pain) does not as such justify the measure chosen in pursuing that end (e.g., mercy killing or theft). When it does, it changes the "object."

## INTRINSIC WRONG

There will never be a fruitful debate on intrinsic evil without differentiating the various meanings of that term. A person not acquainted with Catholic moral theology would probably understand "intrinsic evil" as the opposite of "intrinsic good." The latter is roughly synonymous with "good for its own sake, as an end, as distinct from good as a means to something else."<sup>44</sup> Since "intrinsic evil" is about human acts in our context, we should prefer to speak of intrinsic *wrong*. During my dealing with problems of normative ethics, I have detected nine different meanings of "intrinsic wrong."

1. Wrong by its very nature, not by command of a lawgiver.<sup>45</sup>
2. Wrong by its object, not by its circumstances.
3. Wrong because of some property of the act (against nature or lack of entitlement (*defectus iuris in agente*); deontologically forbidden.

4. Wrong because against nature. Only the first deontologically relevant property makes the action intrinsically wrong.<sup>46</sup>
5. Wrong because of the evaluative term used (e.g., murder, usury, theft, adultery).
6. Wrong without exceptions.
7. Wrong because the evil consequences are implied in the description (e.g., poisoning).
8. Wrong because grave violation of human dignity.<sup>47</sup>
9. Mortal sin.

Because of its strong emotional force the term “intrinsic evil” seems to connote something grave, for example, a grave violation of human rights.<sup>48</sup> But even a relatively harmless lie is to be categorized as intrinsically wrong in the meanings (3) and (4) above. This demonstrates the need for distinctions as listed above, not least for pastoral reasons.

But there is also the problem of moral theologians confirming the position of *VS*, but pointing only to examples fitting to, for instance, meaning (8) and diverting the debate to issues undisputed and so taking their stand on the right side. The considerations offered above should have shown that the debate on intrinsically wrong acts concerns only the meanings (3) and (4).

## CONCLUSION

The following conclusions should be drawn from the considerations offered in this chapter:

1. Whoever uses the language of intrinsic evil should declare precisely in what sense he or she uses the term.
2. Because of the homonymy of the term any moral theologian could affirm that there are intrinsically wrong (evil) acts.
3. The mere use of the term may, however, give the false impression of accordance with *VS* and may be sometimes intended in that way.
4. The term intrinsic evil connotes the idea of a grave evil (grave sin). But even a slight lie would be intrinsically evil from a deontological point of view. This could be fatal from a pastoral point of view. Another consequence could also be that it makes really great evils look less serious.
5. The best and most desirable solution would be to get rid of the term.

## NOTES

1. Joseph A. Selling, "The Naming of Evil in Fundamental Theological Ethics," this volume, 160.
2. One of the best (or worst) examples of confusion of different meanings of "intrinsically evil" may be the book of Servais Pinckaers, *Ce qu'on ne peut jamais faire. La question des actes intrinsèquement mauvais. Histoire et discussion* (Fribourg: Editions Universitaire; Paris: Editions du Cerf, 1986).
3. Joseph A. Selling, "Looking toward the End: Revisiting Aquinas' Teleological Ethics," *Heythrop Journal* 51 (2010): 388. Selling uses the language of *Veritatis Splendor* (*VS*) that speaks of the *choice* of the object though Aquinas says simply: "actio habet speciem ex objecto" ("an action is specified by its object"). Thomas Aquinas, "Summa Theologiae," accessed May 15, 2018, <https://dhsprory.org/thomas/summa/index.html>, I-II, q. 18, a. 2. The language of choice in *VS*, 79 ("deliberate choice") could be due to the influence of the New Natural Law Theory (John Finnis, Germain Grisez, Joseph Boyle).
4. Eric D'Arcy, *Human Acts* (Oxford: Oxford University Press, 1963), 1.
5. *Ibid.*, 2.
6. *Ibid.*, 10.
7. *Ibid.*
8. *Ibid.*, 13.
9. *Ibid.*, 59.
10. *Ibid.*, 61.
11. *Ibid.* D'Arcy reminds one of the model of Bohr's atom: "*this* nucleus when surrounded or accommodated by *these* circumstances gives us *this* sort of atom; in the same way, *this* act when surrounded or accompanied by *these* circumstances gives us *this* sort of offence."
12. "Circumstantia moralis est accidens actus humani ipsum in esse suo morali iam constitutum moraliter efficiens" ("A moral circumstance is an accidental property of a human act that influences the act regardless of its being already morally constituted"). Benedictus H. Merkelbach, *Summa Theologiae Moralis*, vol. 1, 5th ed. (Paris: Desclée, 1946), no. 151. Cf. Bruno Schüller, "Die Quellen der Moralität," *Theologie und Philosophie* 59 (1984): 535–59; Werner Wolbert, *Gewissen und Verantwortung. Gesammelte Studien* (Freiburg i.Ue: Academic Press; Freiburg i.Br.: Herder, 2009), 227–46.
13. Thomas Aquinas, "Summa Theologiae," I-II, q. 18, a. 3, ad. 1 ("circumstances are outside the action").
14. In the second case, the circumstances are evaluated after the action, whereas normative reflections on right and wrong are done before; Johannes Gründel, *Die Lehre von den Umständen der menschlichen Handlung im Mittelalter* (Münster: Aschendorf, 1962), 2.
15. In Austrian and Bavarian popular language this is called with one word *fensterln* (derived from *Fenster*—window) and could be called a "single act" if one uses that German word.
16. For different concepts of "circumstance," for example, among the Dominican theologians, see Gründel, *Die Lehre*, 524, for Bonaventure see *ibid.*, 651.
17. "Secondary" could, however, also be understood correctly. See Iosephus Gredt, *Elementa Philosophiae Aristoteolicae-Thomisticae*, vol. 2, 10th ed. (Barcinone: Herder, 1961), no. 923: "Secundaria moralitas est ex circumstantiis et ex fine" ("The secondary morality is from the circumstances and the end"), but comments (n. 923): "circumstantiae sunt extra substantiam actus moralis et quasi accidentia eius" ("circumstances are outside the substance of the moral act and like its accidents"). Cf. John R. Connery, "Catholic Ethics: Has the Norm for Rule-Making Changed," *Theological Studies* 42 (1981): 239. Connery uses the example given above in the following way to illustrate the difference between Aquinas and the "proportionalists": "While both admit a double malice in the act, the proportionalists relate it all to the end of the act; the stealing is wrong because of the absence of a proportionate reason." This sounds good "Knauerian," but is a misinterpretation of Knauer's ethical theory (which I do not share). Even Connery would probably not deny that taking the property of another person may be allowed in cases of necessity (to avoid dying of hunger or cold). But this would not be called "stealing." (It was called *fringsen* in Germany after World War II, because Cardinal Frings of Cologne had declared stealing coals from the allied forces as allowed.). Similarly Brian V. Johnstone,

“Intrinsically Evil Acts,” *Studia Moralia* 42 (2005): 401: “But proportionalists were mistaken if they argued that ulterior intentions could transform the moral meaning of the act already constituted in the basic fundamental intention.” Proportionalists may have sometimes used similar formulations that caused misunderstandings like that.

18. A quite different definition can be found in Jeremy Bentham, “An Introduction to the Principles of Morals and Legislation,” in *The Collected Works of Jeremy Bentham: An Introduction to the Principles of Morals and Legislation*, eds. J. H. Burns and H. L. A. Hart (London/New York: Methuen, 1982), 89: “The circumstances are no objects of the intention. A man intends the act: and by intention he produces the act: but as to the circumstances, he does not intend *them*: he does not, inasmuch as they are circumstances of it, produce them.”

19. These are the Aristotelian examples in his *Nicomachean Ethics* 1107a9ff (apart from examples of vices). This passage is not a proof for the traditional concept of intrinsic evil (in fact, most commentaries do not comment on that passage). Aristotle “is making a purely logical point which arises from the fact that certain words are used to name not ranges of action or passion but determinations within a range with the implication, as part of the meaning of the word, that they are excessive or defective, and therefore wrong.” William F. R. Hardie, *Aristotle’s Ethical Theory* (Oxford: Clarendon, 1968), 139. Two kinds of acts are called intrinsically evil by Aristotle: those which are wrong by definition (adultery) and those which are wrong by defect or excess. Francis Sparshott, *Taking Life Seriously. A Study of the Argument of the Nicomachean Ethics* (Toronto: University of Toronto Press, 1994), 108: The first kind of action that is ruled out is the kind that is wrong by definition. It is never right to commit adultery, because the word *adultery* means sexual intercourse of a kind that is defined as forbidden. It is an important fact about Aristotle’s society, if not ours, that there is such a thing as adultery. The person who is contemplating sexual liaison and who realizes that it would be adulterous is prevented by that realization from debating the pros and cons of such an indulgence—the question “how much?” is ruled out as irrelevant. [. . .] The other kind of action that is ruled out is one that is excluded by the decision process itself. To speak schematically, as Aristotle does, if I have decided what the virtue of generosity requires of me in a certain situation, all other responses are defined as either excessive or defective. We may give them names: they are either stingy or spendthrift. But we have now divided our notional continuum into two contiguous continua; and on these two continua there are not “right amounts,” because all degrees of stinginess and spendthriftiness are predetermined to be wrong. We could say, if we wished, that spendthriftiness and stinginess are wrong “by definition,” just as adultery is; but Aristotle treats the two cases as differently, because adultery is made wrong by considerations of “justice”—in effect, contractual considerations, aspects of the social compact—and the term “adultery” is chosen to indicate that these conditions are violated; spendthriftiness and stinginess are wrong by excess and defect, and the terms are chosen to indicate that the relevant quantitative determination has already been made. There can’t be a right amount of an excess or a defect.

20. Cf. Selling, “The Naming of Evil,” 93: “excessive pain.”

21. There is no problem to declare the following acts as intrinsically evil (wrong): Acting against one’s conscience, acts of sacrilege, formal cooperation with injustice committed by other people, scandal, and induction to sin. See Eberhard Schockenhoff, *Grundlegung der Ethik. Ein theologischer Entwurf* (Freiburg i.Br.: Herder, 2007), 374. Those norms could be called reflexive (with Bruno Schüller, *Die Begründung sittlicher Urteile: Typen ethischer Argumentation in der Moralthologie*, 3rd ed. [Düsseldorf: Patmos, 1987], 76) because those phrases express the relation of morality to itself: It is morally good to decide in favor of the morally good (and so to follow one’s conscience). It is morally bad (intrinsically evil) to approve or to entice to morally bad behavior. There is no problem with such a kind of intrinsically evil. When Schockenhoff speaks of “external consequences” (*äußere Handlungsfolgen*), however, he presents these analytical phrases as arguments for a deontological position. Besides: whether consequences are internal or external, depends on the term used for the act. If I “poison” somebody, the following death will count as internal consequence; if I “give cyanide” it may count as external.

22. This is overlooked by *Veritatis Splendor*. Jean Porter, “The Moral Act in *Veritatis Splendor* and in Aquinas’ *Summa Theologiae*: A Comparative Analysis,” in *Veritatis Splendor: American Responses*, eds. Michael Allsopp and John J. O’Keefe (Kansas City, MO: Sheed and

Ward, 1995), 281: "The difficulty is this: Veritatis Splendor reflects a widely shared assumption that Aquinas' criteria for the evaluation of an action can be applied to specific acts prior to and independently of the process of determining the moral evaluation of a specific action" and 284: "The determination of an object of an act presupposes that we have described the act correctly from a moral point of view."

23. Selling, "The Naming of Evil," 90–91.

24. Daniel Westberg, "Good and Evil in Human Acts (Ia IIae, qq. 18–21)," in *The Ethics of Aquinas*, ed. Stephen J. Pope (Washington, DC: Georgetown University Press, 2002), 95. It is noteworthy that the nefarious or benevolent *motive* makes the difference which would be excluded within the DSM and its terminology. Cf. Selling, "The Naming of Evil," 90–91.

25. Dominicus M. Prümmer, *Manuale Theologiae Moralis*, vol. 3 (Freiburg: Herder, 1923), 651: ("Mutilation is always illicit unless it is performed in order to save corporal life.") This is a kind of summary of the respective paragraph in II n. 116 where this phrase is not to be found.

26. Thomas Aquinas, "Summa Theologiae," I–II, q. 7, a. 4.

27. Josephus de Finance, *Ethica generalis*, 3rd ed. (Romae: Aedes Universitatis Gregoriana, 1966), 253 (no. 238): "Agere propter debitum finem est ita agere ut actus cum omnibus suis circumstantiis sumptus, cohaereat cum proposito generali agendi secundum rationem" ("In order to act for the end, one is obliged to choose means in such a way that the act with all its circumstances is in accordance with the general intention to act according to reason").

28. Joseph Schwane, *Allgemeine Moraltheologie* (Freiburg: Herder, 1885), 48, heads the chapter on the sources of morality: "Über die Quellen der Moralität und ihren bestimmenden Einfluß auf das Genus, die Spezies und den Grad der Moralität" ("On the sources of morality and their specifying influence on the genus, species and degree of morality"; quoted from Schüller, "Die Quellen," 551).

29. Thomas Aquinas, "Summa Theologiae," I–II, q. 20, a. 2, resp ("[W]e may consider a twofold goodness or malice in the external action: one in respect of due matter and circumstances; the other in respect of the order to the end. And that which is in respect of the order to the end, depends entirely on the will: while that which is in respect of due matter or circumstances, depends on the reason: and on this goodness depends the goodness of the will, in so far as the will tends towards it.") See also Antonio Ballerini, *Opus Theologicum Morale in Busenbaum Medullam*, vol. 1 (Prati: Giacchetti, 1898) no. 82: Distinguenda est autem potissimum bonitatis *materialis* et *formalis*. Prior est convenientia actus cum regula, non habitia ratione agentis et idcirco actus materialiter spectatur: ita v.gr. ablatio rei alienae, periurium. etc. Altera est convenientia actus cum regula, prout actus procedit a libera voluntate et praevia cognitione eiusdem regulae. Tunc enim solum haberi potest formalis bonitas et malitia actus, cum hic scienter et libere ponitur; hoc enim est proprium actus humani. ("Above all, one has to distinguish between material and formal goodness. The first is the concordance with the rule independent of the judgment of the agent, e.g., taking another person's property, perjury, etc. The other one is the concordance of the act with a rule, insofar as the act proceeds from a free will and previous knowledge of the same rule. Therefore it is sufficient to have the formal goodness and badness of the act because it is done knowingly and freely; this is the property of the human act.")

30. D'Arcy, *Acts*, 15.

31. In German, one could distinguish *handlungsbeschreibende* and *nicht-handlungsbeschreibenden Folgen*; Michael Lehmann, "Gesinnung und Erfolg. Zur normativ-ethischen Diskussion in der deutschsprachigen Ethik um die Wende zum 20. Jahrhundert," (PhD diss., University of Münster, 1990), 166.

32. German popular language offers this in the case of *fensterln* and *fringsen*; see footnotes 15 and 17.

33. Walter T. Stace, *The Concept of Morals* (Gloucester, MA: Peter Smith, 1975) 119; similarly Louis Janssens, "Norm and Priority in a Love Ethics," *Louvain Studies* 9 (1977): 231.

34. Generally, but not always. Cf. Joannes P. Gury, *Compendium Theologiae Moralis* (Ratisbonae: Joseph Manz, 1853), no. 23.2. Gury distinguishes: *intrinsic* mala sunt triplicis classis: 1° Quaedam talia sunt *absolute*, et independentes ab omni circumstantia; quia ex sese necessariam involvunt repugnantiam cum recto ordine, ut est odium Dei, blasphemia, etc. – 2° Alia sunt *intrinsic* mala, non praecise in se, sed ratione adjuncti aut conditionis alicuius quae

pendet a dominativa potestate Dei, aut hominis; talia sunt ablatio rei alienae, laesio corporis vel famae, et similia quae aliquando licita evadunt. – 3° Alia tandem mala sunt tantum ratione periculi quod ordinarie adjunctum habent ut aspectus objecti turpis, lectio pravi libri, etc. Haec, data rationabili causa, licita fiunt.” (“[T]here are three classes of intrinsic evils: 1 Some are intrinsically evil in an absolute sense and independent of every circumstance; they involve in itself a contradiction to the right order, e.g., hate of God, blasphemy, etc. – 2 Others are intrinsically evil, not precisely *in se*, but because of some additional condition depending on the commanding power of God or of man, as taking another’s property, causing bodily harm or ruining another’s reputation and similar things which are sometimes allowed. – 3 Others are evil because of some danger normally connected with them as looking at a bad object, reading of a bad book, etc. [ . . . ]. These things are allowed given a rational reason.”)

35. That was B. Schüller’s idea in his first article on that subject (“Zur Problematik allgemeiner verbindlicher ethischer Grundsätze,” *Theologie und Philosophie* 45 [1970]: 1–23; trans.: “What Ethical Principles Are Universally Valid,” *Theology Digest* 19 [1971]: 23–28). Later, after having read, for example, R. Hare’s *Freedom and Reason*, he understood that universalizability is an essential property of every normative ethical judgment. Unfortunately, that article is one of the few translated into English and often serves to present Schüller’s position. For a correct report on the European debate see Bernard Hoose, *Proportionalism: The American Debate and its European Roots* (Washington, DC: Georgetown University Press, 1987).

36. Immanuel Kant, *Grundlegung zur Metaphysik der Sitten* (Köln: Anaconda Verlag, 2016), 424: Wenn wir nun auf uns selbst bei jeder Übertretung einer Pflicht Acht haben, so finden wir, daß wir wirklich nicht wollen, es solle unsere Maxime ein allgemeines Gesetz werden, denn das ist uns unmöglich, sondern das Gegentheil derselben soll vielmehr allgemein ein Gesetz bleiben; nur nehmen wir uns die Freiheit, für uns oder (auch nur für diesesmal) zum Vortheil unserer Neigung davon eine Ausnahme zu machen. (“Now if we attend to ourselves in every transgression of a duty, then we find that we do not actually will that our maxim should become a universal law, for that is impossible for us, but rather will that its opposite should remain a law generally; yet we take the liberty of making an exception for ourselves, or [even only for this once] for the advantage of our inclination.”)

Sometimes colleagues from other theological disciplines feel obliged to show moral theologians the right path. Karl-Heinz Menke (professor for Dogmatics in Bonn) argues that in the case of exceptionless norms one should not argue according to the principle of self-determination, because this would make the truth “zum Spielball meiner Interessen und meines Nutzens” (“a toy of my interests and my benefit”). Karl-Heinz Menke, *Macht die Wahrheit frei oder die Freiheit wahr?* (Regensburg: Pustet, 2017), 99; quoted from Stephan Goertz, “Wider die Entweltlichung,” *Herder Korrespondenz* 71, no. 12 (2017): 14. Kant’s concerns may be legitimate as a warning or caveat against self-deception, but not as a valid argument in ethical controversies.

37. For Gury, *Compendium*, no. 23.2, those traditional prohibitions allow for exceptions because of a *defectus iuris in agente*; see footnote 34.

38. I would, at least, have strong doubts about that.

39. Todd Salzmann, *Deontology and Teleology: An Investigation of the Normative Debate in Roman Catholic Moral Theology* (Leuven: Leuven University Press, 1995), 267–503; Gerhard Stanke, *Die Lehre von den “Quellen der Moralität”: Darstellung und Diskussion der neuscholastischen Aussagen und neuerer Ansätze* (Regensburg: Pustet, 1984); Richard Bruch, “Grundsätzliches zur Thomas-Interpretation,” in his *Moralia Varia. Lehrgeschichtliche Untersuchungen zu moraltheologischen Fragen* (Düsseldorf: Patmos, 1981), 102–4. Bruch observes that Aquinas suffered the same fate as the Bible of which the reformed theologian Petrus Werenfels (+1703) remarked in a famous distich (103): “Hic liber est, in quo quaerit sua dogmata quisque; invenit et pariter dogmata quisque sua” (“This is the book into which everyone looks for his [her] dogmas and he [she] will find them”).

40. Connery, “Catholic Ethics.”

41. For Knauer’s approach, its development and critical remarks see A. Weiß’s contribution in this volume.

42. Selling, “The Naming of Evil,” 92.



43. In this case, the “intention for which the choice is made” does count for Germain Grisez, contrary to *VS*, 79; *The Way of the Lord Jesus II: Living a Christian Life* (Quincy, IL: Franciscan Press, 1993), 500: “Sometimes intentional abortion does not involve intentional killing.” In cases of health problems for the mother and of rape “the proposal adopted is, not to kill the unborn baby, but to have him or her removed from the womb, with death as a foreseen and accepted side effect. An abortion carrying out such a choice would not be an intentional killing.” Even though this “still involves wrongfully accepting the baby’s death” (*ibid.* 501), intention determines the object in that case.

44. Charles L. Stevenson, *Ethics and Language*, 2nd ed. (New Haven, CT: Yale University Press, 1946), 174; Werner Wolbert, “Good and Evil,” in *The Oxford Encyclopedia of the Bible and Ethics*, vol. 1, ed. Robert L. Brawley (New York: Oxford University Press, 2014), 343–49.

45. Plato’s dialogue *Euthyphron*. An example for something possibly extrinsically wrong would be fasting; Alphons of Liguori, *Theologia Moralis*, vol. 2 (Mechliniae: Verhoeven, 1845), a 4 § 2XXXVI: “Si extrinsece tantum, et vi legis positivae est rationi conforme, uti ieiunium, tunc potest esse aliquando bonum, aliquando vero malum ex circumstantiali” (“If fasting is only extrinsic, and in conformity with reason by virtue of positive law, then it can be sometimes good, but sometimes bad due to the circumstances”).

46. Concerning the second deontological argument see Gury, *Compendium*, no. 22. For the first one, see Werner Wolbert, “Die Weisheit der Natur. Natürliche und künstliche Empfängnisverhütung,” in *Humanae Vitae—Die anstößige Enzyklika: Eine kritische Würdigung*, eds., Konrad Hilpert and Sigrid Müller (Freiburg i. Br.: Herder, 2018), 61–73.

47. The list of intrinsically evil acts in *VS*, 80 is taken from *Gaudium et Spes*, 27; that paragraph is titled: “*De reverentia erga personam humanam*” and does not use the term “intrinsic evil.” John Paul II, “Veritatis Splendor,” accessed May 25, 2018, [http://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf\\_jp-ii\\_enc\\_06081993\\_veritatis-splendor.html](http://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_06081993_veritatis-splendor.html), 80; Second Vatican Council, “Gaudium et Spes,” accessed May 25, 2018, [http://www.vatican.va/archive/hist\\_councils/ii\\_vatican\\_council/documents/vat-ii\\_const\\_19651207\\_gaudium-et-spes\\_en.html](http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_const_19651207_gaudium-et-spes_en.html), 27.

48. According to John Paul II, “Veritatis Splendor,” 80, “they radically contradict the good of the person made in his image.”

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