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Intrinsic Evil in Catholic Sexual Ethics: New Insights, New Approaches, New Logic

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Chapter Four

Intrinsic Evil in Catholic Sexual Ethics

New Insights, New Approaches, New Logic

Gunter Prüller-Jagenteufel

As a participant of the workshop on the topic of “intrinsic evil” held in Vienna in January 2018, I was asked to respond to the paper presented by Stephen J. Pope. Having agreed with just about everything I found in the paper, I felt that I might expand somewhat on the inherent logic of the classic notion of “intrinsic evil” and how this logic which is intrinsically rooted in an ethics of natural law could be transformed into a more open and relevant approach based on human dignity.

If we look at the list of “intrinsically evil acts” that is presented in *Veritatis Splendor* (*VS*), 80, we immediately realize that in the original context of *Gaudium et Spes* (*GS*) this list is not presenting intrinsically evil acts, but rather “infamies” that “poison human society” and are a “supreme dishonor to the Creator.” While the notion of “intrinsic evil” refers to the logic of an ethical argument which makes sense only in the context of a deontological system of moral law, *GS* speaks about “whatever insults human dignity.”

Of course, *VS* also speaks about the dignity of the human person, but Pope John Paul II is focusing considerably less on human freedom and autonomy but rather more on the “natural inclinations” that can be derived from the bodily nature of the person. This indissoluble connection between (physical) nature and person¹ is one of the basic foundations of Karol Wojtyła’s ethics since the early 1960s. This idea—the very basis of the approach later called the “theology of the body”—leads to an ethics of natural law with a personalistic overcoat rather than to true personalism. Hence it has not remained uncriticized by theologians. However, *VS*, 47 explicitly rejects any theological critique that would call John Paul’s ethics “physicalism and naturalism” and emphatically affirms the idea that the “particular

spiritual and bodily structure” of the human person makes for the “primordial moral requirement of loving and respecting the person.” The bodily nature reveals “certain fundamental goods, without which one would fall into relativism and arbitrariness” (VS, 48). VS, 47 presents its own list of disputed acts that ought to be considered “intrinsically evil”: “contraception, direct sterilization, autoeroticism, pre-marital sexual relations, homosexual relations and artificial insemination.”

Of course, we have to question the logic of the idea that we either have to accept all of these as intrinsically evil acts or descend into relativism and arbitrariness. We have to stand firm in our position that to ask critically in which way and to what degree the bodily constitution of the human being is morally relevant does not mean to reject any such connection altogether.²

THE LOGIC OF “INTRINSIC EVIL” IN SEXUAL ETHICS

Since the idea of “intrinsic evil” is logically linked with deontological ethics, let us first look into the problem from a purely formalistic, logical perspective. The question is—according to the traditional doctrine of the *fontes moralitatis*—how does one determine the “object” (*finis operis*) of an act in contrast to the intention of the person performing it (*finis operantis*) and the circumstances (*circumstantiae*). The rightness of an act is constituted by all of these, while any defect in one of these constitutes its wrongness.³ The notion of “intrinsically evil” acts indicates that a certain act is evil in itself, the wrongfulness being embedded in the “object,” so that neither intention nor circumstances could in any way alter the negative ethical judgment.

At this point we encounter our first problem in the ethical analysis of an act. What exactly defines the “object” and what are mere “circumstances”? We are in the middle of a hermeneutical circle and how to define “object” and “circumstance” is a matter of deliberate definition—which of course is rooted in human experience.⁴ This consideration is to be found already in Aristotle’s ethics: Our verbal definition of an act always includes certain circumstances. “Adultery,” for example, is defined as sexual intercourse where at least one of the partners is married to another person. So “extramarital” is obviously not considered just a circumstance but is intrinsically relevant for the verdict that a certain sexual act is adulterous.

Another example might help to clarify this even further: How do we define “rape”?

1. We could say rape is “sexual intercourse without the consent of the partner.” Obviously the consent is not a mere circumstance but intrinsically relevant for the rightness or wrongfulness of the act because an

act against the sexual self-determination of a person is always a violation of their human dignity.

2. If on the other hand we consider the consent as just circumstantial, we could come to a different conclusion, especially when the consent is assumed as given, an assumption that used to be taken for granted among spouses. That is the reason why there was no such thing as “rape in matrimony” in Austrian law until the 1970s—and the same is true for most Western countries.
3. But what if we realize that “rape” is something completely different, something we cannot truly understand by looking at it from the perspective of sexuality? What if we recognize that rape has to be understood from the perspective of power and violence? Then we come to a completely different definition, such as: “Rape is a violent act (mostly committed by men) breaking the free will and self-determination of another person (mostly women and minors) by sexual means.” So the “object” of the act is physical or mental violence against the self-determination of another person. Obviously such an act is “intrinsically evil.”

So how we define the “object” of an act is by no means trivial but needs careful deliberation based on human experience.

THE LOGIC OF THEOLOGICAL REASONING

If we go one step further, from philosophical to theological thinking, intrinsic evil denotes an act that is always contrary to God's will, no matter what the intention or circumstances are. In tradition we can find three reasons that would justify such a judgment.⁵

An act is evil because . . .

1. God forbade it (*ex lege divino positivo*); or
2. the human person has no right to freely decide in a certain area because this area is reserved for God's decision making; such an act would therefore violate God's own and exclusive right; or
3. it is contrary to nature (*contra naturam*).

These three notions are linked, and moral theologians have worked hard to figure out why certain acts that are forbidden by God are said to be “against human nature.”

ad 1: biblical arguments

For example, adultery, divorce, homosexuality, masturbation, and so forth. All of these are explicitly forbidden in the Bible and are also considered as contrary to nature, be it the nature of human sexuality or the nature of matrimony (which is, of course, not a natural but a cultural entity; but that leads us to other problems altogether).

ad 2: theological arguments regarding reserved rights

The argument that a human being must not do what is exclusively God's prerogative is mostly considered in life-and-death matters such as suicide, euthanasia, and so on. Since God is the supreme lord over life and death, no human decision to end life is possible. It always would violate God's exclusive right to give and take life. The notion of God as the one and only life-giver links this argument to sexual ethics, especially in the area of contraception and medically assisted procreation.

We could also adjust the argument following Augustine's view on sexuality. In his perspective sexual pleasure is bad—in fact it is a punishment for original sin—because it deprives man of reason and freedom. So essentially sexual pleasure is evil because it is in itself disordered and unnatural (considering that the “nature” of man is “rational”).⁶ But the evidently evil act of sexual intercourse can be “excused” because of certain “goods” (*bona excusantia*), the goods that make marriage a respectable state: offspring (*bonum prolis*), fidelity (*bonum fidei*), and sacramentality (*bonum sacramenti*)—without probing deeper Augustine's concept of “sacrament.” To pursue these three goods in holy matrimony grants human persons a right that they originally do not have. So obviously these goods change the “object” of the act from “fornication” to “marital intercourse,” which can, even in Augustine's eyes, be tolerated.

ad 3: natural law

In contrast to Augustine, Thomas Aquinas considers sexual desire and pleasure as something natural, given the natural inclination toward procreation (*finis primarius*), marital fidelity, and sacramentality. As long as sexuality is “ordered” toward these goals, it is good; other than that it is considered “disordered” and therefore evil. So masturbation, homosexuality, and contraception are forbidden.

The scholastics (including neoscholastics) differentiate sexual sins further:

- in line with nature (*intra naturam*): every sexual act that is open to procreation;

- contrary to nature (*contra naturam*): every act that excludes procreation.

The big problem arises if we consider sins *contra naturam* to be, in principle, significantly graver than those *intra naturam*, which has been the case in tradition and sometimes still is the case. If that were true we would have to consider an act of masturbation or consensual intercourse between same-sex partners distinctly worse than an act of rape or sexual abuse of minors (given the act is heterosexual and the minors are old enough for conception)—which is evidently absurd.

LOGICAL AND HERMENEUTICAL PROBLEMS OF NATURAL LAW ARGUMENTS

Natural law arguments presuppose that each and every act against “nature” is an act against “God’s will.” This idea presupposes that nature is a perfect expression of God’s intentions, as stated in *Humanae Vitae*, 11:

God has wisely ordered laws of nature and the incidence of fertility in such a way that successive births are already naturally spaced through the inherent operation of these laws. The Church, nevertheless, in urging men to the observance of the precepts of the natural law, which it interprets by its constant doctrine, teaches that each and every marital act must of necessity retain its intrinsic relationship to the procreation of human life.

Bruno Schüller explains what “natural law” consists of by referring to the highly influential moral theologian Franz Hürth (1880–1963): the will of the creator is incorporated into the human organs and their natural function, therefore any intervention is frustrating the divine plan.⁷ Schüller puts it this way: “The presented type of argument is based on the idea, that through the works of nature God himself speaks directly, while through the works of men it is only man who speaks, without any link to God.”⁸ But that kind of thinking overlooks the hermeneutics of our perception of nature. While Aquinas holds fast—as do the Stoics—that *secundum naturam* is quite the same as *secundum rationem*, because human reason has to determine the intrinsic teleology of nature, neoscholastics supposedly try to recognize nature from the fact itself. This, of course, inevitably leads to an ontological fallacy.

But how are we to determine the intrinsic teleology of “nature”? Theologians and secular ethicists alike question the “assumption of an unambiguous and obvious teleology of nature” that could be considered “authoritative and normative” for ethical considerations.⁹ Further, the idea of “natural law” itself is prone to ideology, as critics have expressed long before Vatican II:

“Like a harlot, natural law is at [the] disposal of everyone. The ideology does not exist that cannot be defended by an appeal to the law of nature.”¹⁰

PERSONALIST ARGUMENTS

It seems fitting that John Paul II, in his theological works as professor of ethics as well as in his documents as bishop and pope, tried to reframe natural law norms into personalist ones. I deliberately use the term “reframed” and not “transformed,” because under close scrutiny we realize that Karol Wojtyła’s idea of person in his argument is rather superficial. The underlying physical nature plays by far the stronger part in his argument. John Paul II considers the “nature” of sexuality essentially as “total personal self-giving” (*Familiaris Consortio*, 11) which includes the bodily expression of the person. Therefore, every act outside this totality does not meet the essential purpose of human sexuality and is therefore intrinsically evil.

Although John Paul II may appear to present a different point of view, his logic is essentially the same as that of natural law, especially because the ideal is not seen as an aim to strive for but a norm to be fulfilled. This means to stress the idea of the “theology of the body” to the extreme (“totality”) which is at least questionable logic. The claim of this “theology of the body” seems theologically and logically unsound because there is neither proof nor convincing arguments, only the *allegation* that each and every sexual encounter between two persons ought to be an expression of “total self-giving.” The experience of the vast majority—I daresay, all—married couples contradicts this idea: Of course, sexual intercourse is an expression of love, but under human conditions this love is always finite and ambiguous, never “totally” pure. So the weight of “totality” makes this idea rather an ideology than a theology.

“INTRINSIC EVIL” IN A NEW APPROACH TO SEXUALITY

We have mentioned that from *Gaudium et Spes* to *Veritatis Splendor* the ethical approach and its fundamental principles have changed: from human dignity back to the pre-Vatican II idea of natural law, although in a personalist disguise. Stephan Goertz comes to the point: “In *Veritatis splendor* the absolute in morals has changed its place. No longer is the freedom and dignity of the human person an absolute end but the absolute condenses in single rules that push everything situational and circumstantial of moral action into the background.”¹¹

I will try to show that new concepts of sexual ethics based on the idea of human dignity and human rights are not inferior in comparison with the traditional ones that build on natural law. They are by no means relativist and

even lead to a new concept of “intrinsically evil” acts. Some of these coincide with the traditional ones, some of them do not. But nevertheless, they prove to be consistent and of high moral standards.

One well-known example is Margaret Farley’s book *Just Love*¹² which convincingly sums up the mainstream of modern theological thinking on sexuality and matrimony. The basic principle for Farley’s approach is the personal relationship between equal partners, so sexual relations are linked to questions of honesty, justice, and power relations as well as love, mutual dedication, and commitment. Farley’s starting point in her deliberations is not the philosophical concept of a determined “nature” of sexuality but human experience from an intercultural and interreligious background. Thereby the notions of “natural” or “according to God’s will” turn out to be matters of hermeneutics; there is no self-evident “natural” sexual behavior: “The supposed bedrock of evidence that experience provides disappears in the endless circles of social construction.”¹³

If the supposed self-evident “nature” of human sexuality is obviously a socio-historic construct, the question has to be raised, “Whose experience counts when experiences differ?”¹⁴ But Farley does not stop by deconstructing traditional moral judgments. She reconstructs a consistent “framework” for sexual ethics on a new basis, meaning to say: just and loving sexual relationships. According to her approach those are determined by the following criteria:¹⁵

(1) Do no unjust harm:

The basic principle of *non nocere* applies to any human action except in situations of self-defense or accepting necessary negative side effects in the pursuit of a greater good. As obvious as it may seem, there are many physical, psychological and social consequences that have to be considered in sexual relationships—and more often than not are neglected.

(2) Always pay attention to the free consent of the partners:

While as self-evident as the first criterion this is by far the most crucial one. The whole discussion about sexual violence, abuse, and misconduct shows the frequent neglect of this criterion.

(3) Mutuality:

In any human relationship it is important that giving and receiving are somehow in balance. Anything else is not only unjust but also destroying the relationship in the long run.

(4) Equality:

While partners never are the same, their basic equality has to be honored since it is intrinsically linked to the criterion of mutuality and is rooted in the

fundamental equality of all human beings. This is even more necessary because the ecclesial magisterium focuses now primarily on the quite new notion of “complementarity” which in fact obscures this basic criterion. In fact, it is the so-called nature of the woman that is used as an excuse to openly violate it.

(5) Mutual commitment:

For sexual relationships to flourish, it is important that both partners are committed to the “joint venture” of their life together. Asymmetries in that area, especially constant neglect of commitment by one of the partners, is damaging not only the relationship but also the partner.

(6) Fruitfulness:

Every sexual relationship, even more, every human relationship, needs to be fruitful, which means to grow to something greater than just the sum of its parts. While traditional Church teaching focused on children alone, this task stands also for childless couples¹⁶ and same-sex partners: The relationship will prove satisfying if it engages in some greater “project.”

(7) Social justice:

Partners in any sexual relationship also have to consider the basic principles of social justice. Logically self-evident, since justice always has to be observed, it is often overlooked because sexual relationships are widely considered as something private. While they may be intimate, they are by no means private but considerably affect the social sphere. That is why this criterion has to be mentioned explicitly. This is true also vice versa: since partnerships and families are affected by the state of social justice, just and loving relationships that prove to be fruitful also for society are dependent on what this society can provide for them—not only materially but also non-materially.

On that ethical basis Farley’s approach leads to a new set of criteria for “intrinsically evil” behavior. For example, any form of violence or deceit is intrinsically immoral. So also is adultery, not because of “natural” reasons but because it violates the marital commitment. Even more, the abuse of power to coerce or seduce someone into a sexual relationship and sexist behavior in general clearly falls under the “new” verdict of “intrinsic evil.” So we can see quite clearly that a truly person-based, culturally sensitive, and socially aware ethical approach does not lead to relativism. On the contrary: to take human autonomy, cultural and social traditions, and so on, into account in one’s ethical argument leads to clear and unambiguous ethical judgments, especially in the hottest topics of today: sexual abuse and misconduct.

On the other hand, some relationships that traditionally have been considered “intrinsically evil” do not show up on that list as long as they coincide

with the mentioned criteria. So, for example, premarital or same-sex relations are not considered “intrinsically disordered” but rather evaluated according to personalist criteria.

To sum it up in the words of Todd A. Salzman and Michael G. Lawler: “For any sexual act to be truly human, it must exhibit [. . .] equality between the partners, equal freedom for both partners, free mutuality between the partners, and the mutual commitment of both partners.”¹⁷ In such a personalist concept of sexual ethics, the logic and meaning of “intrinsic evil” is not that much different from the traditional one. But the concrete judgment applies to a different class of acts, namely those that violate the personal dignity of one or both partners involved.

Here are two examples:

(1) Adultery

The grave sin of adultery never really fit into the framework of natural law since matrimony is not a “natural” but mainly a cultural entity. Even the idea of “natural marriage,” derived from the book of Genesis, proves to be a questionable concept. The exact definition of adultery differs between the Old Testament tradition and the later Christian concept which is also connected to the rejection of polygamy in Christian times (while polygamy had been not uncommon in the Old Testament times). So adultery was rather connected to the sacramentality of marriage, not so much to the nature of human sexuality. From the perspective of just and loving relationships, on the other hand, it is quite easy to determine that adultery is an intrinsically evil act. It clearly breaks the marital vow toward the other partner.¹⁸

(2) Rape and sexual violence

According to natural law, sexual coercion has not been considered “intrinsically” evil but rather evil because of the circumstances. The free will of the partner—usually, of course, the female one—was one of those circumstances. That a person within a marital relationship could be raped and abused was hardly part of moral reasoning. On the other hand, contraception and all kinds of circumstantial activities (sometimes even kissing) were considered evil because they did not serve the purpose of procreation but rather the bodily pleasure which was at least questionable. If, on the other hand, we evaluate rape and coercion according to the criteria of just and loving relationships, it is unequivocally clear that any form of violent or coercive behavior is wrong—always and under any circumstances—because such actions violate the basic rights of the human person to integrity and freedom, including sexual self-determination.

So far from being relativist or even consequentialist, such a new understanding of sexual ethics is not only deeply rooted in the human person but also leads to clear, definite, and unambiguous moral guidelines and judg-

ments, including a viable concept of “intrinsic evil”—not any longer linked to a metaphysics of natural law but to an anthropology of autonomy and mutual responsibility. While Joseph A. Selling’s caution¹⁹ vis-à-vis the concept of intrinsic evil still stands—that it “short-circuits” ethical deliberations and therefore serves as a discussion stopper—I do not consider this problematic. Rather I think such a notion is helpful to clarify: under no circumstances whatsoever can we tolerate the violation of the fundamental dignity of another human person.

NOTES

1. John Paul II, “Familiaris Consortio,” accessed May 10, 2018, http://w2.vatican.va/content/john-paul-ii/en/apost_exhortations/documents/hf_jp-ii_exh_19811122_familiaris-consortio.html, 32. While the English translation reads “the deepest interaction of nature and person,” the Latin original says “nexu omnino intimo naturae ac personae,” which literally translates as “connection,” “union.” This connection is characteristic for Karol Wojtyła’s ethics and leads rather to an ethics of natural law with a personalistic overcoat than to a true personalism.

2. Werner Wolbert, “Die ‘in sich schlechten Handlungen’ und der Konsequentialismus,” in *Moraltheologie im Abseits? Antwort auf die Enzyklika ‘Veritatis splendor’* ed. Dietmar Mieth (Freiburg i. Br./Basel/Wien: Herder, 1994), 89–91.

3. The classical teaching reads: “Bonum ex integra causa, malum ex quocumque defectu.”

4. Please note that “deliberate” is clearly distinguished from “arbitrary.” Deliberate means well-considered, so we can dismiss any reproach of “relativism.”

5. Bruno Schüller, *Die Begründung sittlicher Urteile. Typen ethischer Argumentation in der Moraltheologie*, 2nd ed. (Düsseldorf: Patmos, 1980), 171–263.

6. Stephan Ernst, “Argumentationsmodelle in der theologischen Sexual- und Beziehungsethik,” in *Zukunftshorizonte katholischer Sexualethik*, ed. Konrad Hilpert (Freiburg i. Br./Basel/Wien: Herder, 2011), 163–64.

7. Schüller, *Die Begründung*, 221–22.

8. *Ibid.*, 233: “Hinter dem dargelegten Argumentationstyp steht die Vorstellung, durch die Werke der Natur spreche Gott unmittelbar selbst, durch die Taten der Menschen hingegen spreche der Mensch und nicht Gott.”

9. Ernst, “Argumentationsmodelle,” 167: “Vor allem aber wird die Voraussetzung einer eindeutigen und klar erkennbaren Teleologie der Natur, die ethisch maßgeblich und normierend ist, in Frage gestellt.”

10. Alf Ross, *On Law and Justice* (London: Stevens & Sons, 1958), 261.

11. Stephan Goertz, “Autonomie kontrovers. Die katholische Kirche und das Moralprinzip der freien Selbstbestimmung,” in *Nach dem Gesetz Gottes. Autonomie als christliches Prinzip (Katholizismus im Umbruch 2)*, eds. Stephan Goertz and Magnus Striet (Freiburg i. Br./Basel/Wien: Herder, 2014), 175: “Das Absolute in der Moral hat in Veritatis splendor wieder einmal seinen Ort gewechselt. Nun ist nicht mehr die Freiheit und Würde des Menschen absoluter Zweck, nun gerinnt das Absolute in einzelnen normativen Sätzen, die alles Situative, alle Umstände des Handelns in den Hintergrund drängen.”

12. Margaret A. Farley, *Just Love. A Framework for Christian Sexual Ethics* (New York/London: Continuum, 2006).

13. *Ibid.*, 192.

14. *Ibid.*, 193.

15. *Ibid.*, 215–32. Farley refers to these criteria as “norms”; I personally prefer the term “criterion” since it provides a frame for assessing the ethical rightness of a concrete relationship, not just single “acts.”

16. Gunter M. Prüller-Jagenteufel and Veronika Prüller-Jagenteufel, "Geschenktes Leben?! Theologisch-spirituelle Erkundungen zum unerfüllten Kinderwunsch," *Diakonia* 32 (2001): 259–65.
17. Todd A. Salzman and Michael G. Lawler, *Sexual Ethics. A Theological Introduction* (Washington, DC: Georgetown University Press, 2012), 86.
18. Eberhard Schockenhoff, *Naturrecht und Menschenwürde. Universale Ethik in einer geschichtlichen Welt* (Mainz: Matthias-Grünwald-Verlag, 1996), 229.
19. Joseph A. Selling, *Reframing Catholic Theological Ethics* (Oxford: Oxford University Press, 2016), 20–22.

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