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Humanae Vitae and Veritatis Splendor as Expositions of ‘Natural Law’*

Contrasted with Their Irrational Rejection

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Abstract

The paper holds that the encyclicals *Humanae Vitae* and *Veritatis Splendor* presuppose the Western and Christian view of morality as a science (natural or supernatural) which is able to uncover the real order of which human beings and their actions are a part. It shows how the theological dissidents who reject the main tenets of these encyclicals are unable to explain the moral order and, therefore, are less rational than the encyclicals and in lesser agreement with Revelation. In order to demonstrate the previous point, it classifies the dissidents in four categories according to the metaphysical views they presuppose: Kantian, Utilitarian, Weberian and so called post-Modern (Marxist, Nietzschean, Freudian, Heideggerian, etc.). Finally, it shows that the fourth kind of dissidence, the so called post-Modern, is the most frequent today and that this kind of dissidence is utterly lawless and irrational.

1 Introduction: Humanae Vitae and Veritatis Splendor

The two encyclicals by Popes Paul VI and John Paul II were a powerful thundering of the Holy Spirit amidst a disoriented world. They embody God's calling of humanity to respect the dignity of their intellect, to allow Him heal their will, to acknowledge His plan for human nature and human persons. They proclaim once more the strength

of that great discovery of the Greeks: the intellect which for the first time Thales used for the formulation of real demonstrations and to search for the *archaí*, can be used to explore scientifically the moral order. And this science, which flourished under the skillful minds of Socrates, Plato and Aristotle, and under the Stoics and the Roman Jurists, was elevated by the light of Faith and the strength of Grace to a supernatural level and became moral theology under the skillful minds of the Fathers and Doctors of the Church. Moral theology is a science which can uncover to the extent possible to the human mind assisted by Revelation and grace, the real order, the divine order in which we as human beings, with our nature and our personalities are integrated. As we shall see, the deep meaning of the theological dissidence is precisely that strange breeds have entered the Church of Christ: a breed of men who reject the reality of the divine order and even a breed of men who radically reject rationality.

The doctrine of *Humane vitae* is a confirmation of the perennial teachings of the Church on the matter of sexual morality, considering the new challenges posed by the development of techniques used for the temporal or permanent sterilization of the man or the woman and / or for the killing of the new life in the womb of the mother. (But perhaps the document did not underline sufficiently that Catholic parents in principle must receive the children that God sends, unless there are grave reasons to avoid a pregnancy.) This teaching was declared by Paul VI to be a natural law teaching and not only a revealed teaching. On this latter point, the Pope was entirely right and on a previous occasion I had the opportunity of (a) showing

that Plato, a gentile philosopher deprived of Revelation, proves the very same doctrine in the 8th book of his *Laws* (838-841); and (b) proving the depth of the Papal insight.¹

Veritatis splendor is an encyclical of wider scope. There, John Paul II endeavors to reach a clear and updated formulation of moral theology's basic tenets and to place them within the organisms of Christian life and theological wisdom. The Pope makes clear that the commandments are necessary for salvation as Christ Himself has taught unequivocally; that they are, however, just a necessary condition for a higher state of perfection, following Christ; and that the gift of the Holy Spirit is needed for the moral life of the new creature (chapter 1 and nn. 28-29). But then John Paul II confronts the subjects concerning which there has been dissent among theologians with the perennial magisterium of the Church, especially after the II Vatican Council. And he focuses on the meaning of the law and its relationship with human freedom; the relation between conscience and truth; and the structure of the moral act, including the fundamental orientation of the person to his final end. In all these subjects, John Paul II shows a thorough knowledge of Scripture and of the philosophical and theological issues. He, very especially, grasps that the main questions are: (a) whether there is a truth about the good (see n. 30); (b) if the intellect [conscience] and the will [freedom] have to conform to an order which, coming from God, they do not create, and this precisely to achieve the

¹See "¿Por qué tiene tantas dificultades la razón natural en nuestra época para reconocer las doctrinas centrales de la encíclica *Humanae vitae?*," in *Razón y tradición. Estudios en honor de Juan Antonio Widow*. Globo, Santiago, 2011, tomo II, pp. 353-377.

sought end (eternal life, happiness) and freedom (“truth will set you free”); and (c) whether there are kinds of actions which, because of their species [“object”], are always evil and therefore forbidden and incompatible with the human good even if the agent has a “good intention” and / or calculates that the total amount of consequences of his action will be good.

Humanae vitae was bitterly contested by Catholic theologians and clerics, not suprisingly. The issues dealt with were too dear to the powers of this world (which nowadays are clearly not Christian), and too many theologians and Catholic universities received substantial funding from such powers and wanted to fit in with the neo-Malthusian culture which those powers promote.² But even *Veritatis splendor* received a strong opposition and was harshly contested, despite its dealing with more general issues not so directly applied to human action: some dissident theologians grasped that the basic tenets from which they had criticized *Humanae vitae* were skilfully addressed by John Paul II. The negative critical responses against the encyclicals by Catholic theologians can be classified according to the philosophical categories which theologians necessarily use even if they speak very much against “metaphysics” and “philosophy” and praise instead “social” or other “sciences.” There are mainly four kinds of categories on which an author can fall, Kantianism, Utilitarianism, Weberianism and post-Modern. Most authors have traces of two or more of these categories, since Kant and Marx have

²See E. Michael Jones, *Libido Dominandi*, Saint Augustine Press, South Bend, 2006.

influenced the Utilitarian, and authors with Kantian leanings are affected by Utilitarian or so called post-Modern influences. For example, a mostly Utilitarian author such as Louis Janssens has undoubtedly Marxist influences.³ The classification is useful, however, because it helps to reduce the different views to their principles.

2 Four kinds of positions that reject the real order of reality

- (a) Some responses use Kantian concepts such as “autonomy” (in theological jargon, “conscience”⁴), “option,” “choice” and the like. In Chile, for example, Tony Mifsud claims that the Law cannot replace the individual’s discernment because if it did, the decision would be not free and responsible, but immature and heteronomous.⁵

³In “Ontic Evil and Moral Evil” he holds mainly a proportionalist view, but he clearly adheres to some Marxist theses such as these: the endeavours to overcome ontic evil require from us that we do not tolerate the current structures of production; the proposal of an utopia without ontic evil, as that contained in Marx’s *Communist Manifesto*, is good; thanks to Marx in Belgium was suppressed the work of children. See “Ontic Evil and Moral Evil”, in *Proportionalism. For and Against*, Christopher Kaczor, editor. Marquette University Press. Milwaukee, Wisconsin, 2000, pp. 100-147.

⁴I do not mean that in every case “conscience” is jargon. I mean that in contexts in which what is meant is [Kantian] “autonomy” the use of “conscience” instead is jargon.

⁵I must clarify that Mifsud is not a Kantian. He draws from whatever sources to defend lawlessness, as we will see. But one of those

- (b) Some other responses use Utilitarian concepts such as “pre-moral goods,” “well being,” simply “goods.” In this group we have, of course, a host of philosophers and theologians from the Anglosaxon world and from Europe. These are the most rational and articulate of all. For this reason we will examine here the general type to which they belong (Utilitarianism and its principles) but also the potentially most damaging and truth-like critiques which they particularly formulate. Louis Janssens’ reaction to the encyclical was to claim that if John Paul II invoked Thomas Aquinas, then he should have accepted the “teleological”, that is, proportionalist (Utilitarian) view.⁶ A similar reaction was that of Richard McCormick. John Paul II teaches that the proportionalist theologians have departed from the truth because they hold that some morally wrong or evil actions according to the moral object can become good because of their consequences and because of a good intention. McCormick denies this. He replies that no theologian holds such tenet. Curran’s reaction was in the same line and also claiming for his view the support

sources is, without a doubt, Kant. Of course, he does not assimilate Kant, he just uses the “quotable Kant.”

⁶Cfr. “Teleology and Proportionality: Thoughts about the Encyclical *Veritatis Splendor*,” in *The Splendor of Accuracy: An Examination of the Assertions made by Veritatis Splendor*, eds. Joseph A. Selling and Jan Jans, (Grand Rapids, Michigan: William B. Eerdmans Publishing Company, 1995), pp. 99-113. Janssen’s claim is just outrageous because there is a chasm between the Utilitarian view of ethics and the Thomistic one, as we shall prove.

of Aquinas by a gross manipulation of the texts and the terms (*happiness* and *teleology*, for example).⁷

- (c) Some others vaguely follow Max Weber and his attempt to find a way which takes into account autonomy regarding the values and calculations regarding the consequences of an intra-worldly action.
- (d) Some others are utterly irrational and can be inscribed in the tradition of the Marxian, the Nietzschean-Freudian-Heideggerian or Kabbalistic rejection of rationality. Many of these are probably crypto adherents to the gender-ideology movement and many others are open adherents to such movement. The prevalent positions in our time are these of the fourth kind. Clear examples are Víctor Manuel Fernández, Father Tony Mifsud, s. j., and all the liberationist theologians who write about morality. On this fourth group we will not criticize models from which their principles are taken, because the models which do exist are multiple and most of them are anti-moral (they do not have a body of moral thought, therefore). We will present some of the concrete dissenting authors' theses and reasonings.

⁷"*Veritatis Splendor: A Revisionist Perspective*", in *Veritatis Splendor: American Responses*, eds. Michael E. Allsop & John J. O'Keefe, (Kansas City: Sheed & Ward, 1995): 226-7. The reactions of these three theologians were summarized by Wilson Muoha Maina in his paper "The Shaping of Moral Theology: *Veritatis Splendor* and the Debate on the Nature of Roman Catholic Moral Theology," pp. 201-208, in *Journal for the Study of Religions and Ideologies*, vol. 12, issue 35 (2013), pp. 178-221.

What these four kinds of positions have in common is the rejection of the real order of reality to which man has to adhere through his intellect and will, with his freedom. To discover the demands of such real order is what John Paul II calls “the truth about the good” or “the truth about moral good” (VS n. 60). The light of this truth in the human mind constitutes the principles of moral knowledge which guide man amidst the darkness of this world and prevents him from incurring in the indubitable evil excluded by the negative precepts of God’s Law. This truth is also the only safeguard of the weak facing today’s powerful Leviathan which yearns to usurp the place of God. That is to say, this truth is precisely the way of freedom as the same Pope declares with great clarity, echoing Christ in John’s Gospel: “you will know the truth and the truth will set you free” (Jn 8:32, VS n. 31). Indeed, none of the main moral theories which are seen as alternatives to the classical and Christian morality embody even the will to protect the freedom and dignity of common human beings, as we expect to show in this paper.

2.1 Kantianism

Kantianism is known as a defence of any human being *vis à vis* Utilitarianism. But, is it really? The authors who claim so fail to realize that Kant’s morality is unable to ground a judicious conception of Law which truly grants freedom. According to Kant, the legislative power cannot do injustice to any person, because any decision of the legislative power is a decision of us all and *volenti non fit inju-*

ria⁸. This entails such despotism that, in reading Kant and other *enlightened* authors, one can begin to understand the anarchists of the 19th century who bluntly declared: “the representative of the sovereign [the people] will always be the owner of the sovereign”, and then proceeded to propose the abolition of all governments, which is no more than an undesirable utopia. The respect of the will of the subjects is not and cannot be the only rule to judge the legitimacy and justice of government. The notion of moral [or practical] truth is necessary to protect the weak from the abuse of power.⁹

Beside this, as John Stuart Mill pointed out, the categorical imperative does not exclude that all the rational agents agree in a maxim of action absolutely insane, except if one can judge about it in the light of the objects to which it is applied (which Kant forbids). Thus, according to Mill, the categorical imperative could be the ground for

⁸See *Metaphysics of Morals*, Doctrine of Law, Public Law, chapter 46. In chapter 49, general observation A, Kant also claims that the people subject to the supreme power (the *Leviathan*, we could say) may not reason on the origin of such power, which is *inscrutable*. Moreover, such supreme power has no duties but only rights towards its subjects: such would be the meaning of the maxim: “all authority comes from God”!

⁹A sad confirmation of this insight is the work of Tristram Engelhardt who, from his negation of the political relevance of moral truth, has come to the conclusion that the only rule which the bioethicist should follow is that declared in the positive norms of his respective political community. That is to say, he has become the servant of power. See “Beyond the Principles of Bioethics: Facing the Consequences of Fundamental Moral Disagreement,” in *Ethic. An International Journal for Moral Philosophy* (2012), Vol. 11, n. 1, pp. 13-31.

an insane rule of action.¹⁰ This is precisely what we see in the work of that eminent Kantian, Hans Kelsen: the “*a priori* ought” commands us to obey the rules of positive Law whatever their content.¹¹

Kant himself realized that the merely formal imperative was not sufficient ground for any reasonable morality. Thus, in the Introduction (section 2) to his *Metaphysics of Morals* he claims that the “most elevated principles” must be applied to the objects of experience according to rules. In this way, we are forced to “take as an object the particular *nature* of man, which we only know through experience, in order to *bring to light* in it the consequences which can be deduced from the universal principles [...]”. So much for the purity of the *formality* of the categorical imperative. As it turns out, the human will cannot be both right and “autonomous.” Moreover, as we have seen, it cannot be “free” from the demands of moral truth and at the same time free from being subject to an exterior tyranny (or to the tyranny of passions). Here John Paul II and Paul VI were fully prophetic: “As Cardinal John Henry Newman, that outstanding defender of the rights of conscience, forcefully put it: ‘Conscience has rights because it has duties.’” (VS, 34); and “responsible men can become more deeply convinced of the truth of the doctrine laid down by the Church on this issue if they reflect on the consequences of methods and plans for artificial birth control. [...] Finally, careful consideration should be given to the danger of this power

¹⁰ *Utilitarianism*, Capítulo I, p. 165-166; y Capítulo V, p. 216. En: Plamenatz, John. *The English Utilitarians*. Basil Blackwell. Oxford, 1949, pp. 161-228.

¹¹ See *Pure Theory of Law* (French edition), chapter 9, section 2.

passing into the hands of those public authorities who care little for the precepts of the moral law. Who will blame a government which in its attempt to resolve the problems affecting an entire country resorts to the same measures as are regarded as lawful by married people in the solution of a particular family difficulty? Who will prevent public authorities from favoring those contraceptive methods which they consider more effective? Should they regard this as necessary, they may even impose their use on everyone. It could well happen, therefore, that when people, either individually or in family or social life, experience the inherent difficulties of the divine law and are determined to avoid them, they may give into the hands of public authorities the power to intervene in the most personal and intimate responsibility of husband and wife.” (HV, 17)

We need to take into account the reality, nature of things to find moral [and political] judiciousness. But, are we to take it into account in the Utilitarian way? Let us see.

2.2 Utilitarianism

Utilitarianism rose from John Locke’s statement of the “good” as that which causes or increases pleasure.¹² An old English tradition had rejected the existence in reality of a goodness which could be grasped by the intellect and which could proportionately move the will and, for this reason, had postulated that God’s commandments and, therefore, the dividing line between [moral] good and evil, were arbitrary. Locke laid the ground to build a new moral con-

¹² *Essays Concerning Human Understanding* II 20.

ception. Helvetius and Bentham put themselves hard to work: “good” would be that which procures the greatest amount of pleasure not for me, the Utilitarian philosopher, but for the greatest number of people.

Utilitarianism in all its forms, including proportionalism and consequentialism, entails an essential paradox which, according to Eric Voegelin, is the mark of the driving force of the Utilitarians, the will to power.¹³ Indeed, according to them, human beings are “pleasure machines” unable to build by themselves any moral or political order. They need the Utilitarian, who, out of his philanthropy (!) proposes a system in which the general interest is or can be realized: the greatest pleasure of the greatest number. So, the One who does not seek his own pleasure is the Utilitarian. Wow! He is a god among animals. The despotic tendencies of Utilitarianism are very apparent in Mill’s works. He, for example, stated:

[...] education and opinion, which have so vast a power over human character, should so use that power as to establish in the mind of every individual an indissoluble association between his own happiness and the good of the whole; especially between his own happiness and the practice of such modes of conduct, negative and positive, as regard for the universal happiness prescribes; so that not only he may be unable to conceive the possibility of happiness to himself, consistently with conduct opposed to the

¹³Cfr. *From Enlightenment to Revolution*. Durham, Duke University Press: 1975, pp. 50-52.

general good, but also that a direct impulse to promote the general good may be in every individual one of the habitual motives of action, and the sentiments connected therewith may fill a large and prominent place in every human being's sentient existence.¹⁴

But the despotic potential of the principle was fully developed by a different author, Aldous Huxley, in his famous *Brave New World* towards which we are marching at full speed.

Some authors have pointed out the essential shortcomings of Utilitarianism with great acumen. And some of them have done so despite they are unable to find an alternative which satisfies them. Perhaps the clearest of these is H. L. A. Hart. Let us briefly examine his criticism to then draw the necessary consequences.

In "Between Utility and Rights," H. L. A. Hart has achieved an important critique of Utilitarianism. He has objected that in the Utilitarian doctrine, "separate individuals are of no intrinsic importance but only important as the points at which fragments of what is important, i.e. the total aggregate of pleasure or happiness, are located;" moreover, Utilitarianism treats "individual persons as of no worth; since not persons for the Utilitarian but the experiences of pleasure or satisfaction or happiness which persons have are the sole items of value;" besides, "there is nothing self-evidently valuable or authoritative as a moral goal in the mere increase in totals of pleasure or happiness abstrac-

¹⁴Chapter 2, pp. 179.

ted from all questions of distribution;” and, lastly, Utilitarianism “treats the pleasure or happiness of one individual as similarly replaceable without limit by the greater pleasure of other individual.”¹⁵ The most important point he makes is that in which Hart’s agreement with John Paul II is apparent: there is nothing intrinsically valuable [or disvaluable], not even persons [much less actions], according to Utilitarianism.

After examining the general principle of Utilitarianism, let’s examine now the most powerful of the concrete objections against *Veritatis splendor* raised by the dissident theologians who follow the Utilitarian pattern. As already pointed out, McCormick denies that any theologians hold as good actions that are bad according to their moral object. Both Janssens and McCormick give the example of stealing in extreme need, in order to try to show that the object “broadly understood” could include as “relevant circumstances” the calculus of the consequences.¹⁶ McCormick added another similar example: saying a falsehood to a person who asks for information he does not have the right to obtain. In the light of these cases, McCormick claims that in order to establish if the object of an action is good or not, one has to use the proportionalist principle: whether some premoral disvalues are caused, and whether they are caused “for a proportionate reason.”

¹⁵See “Between Utility and Rights”, pp. 829-831, in *Columbia Law Review*, Vol. 79, No. 5 (Jun., 1979), pp. 828-846.

¹⁶Richard McCormick, “*Veritatis Splendor* and Moral Theology,” p. 10, in *America* (October 30, 1993, Vol. 169 No. 13), pp. 8-11.; Louis Janssens, “Teleology and Proportionality: Thoughts about the Encyclical *Veritatis Splendor*,” pp. 108-109.

But this equates to applying precisely the Utilitarian calculus of all the consequences. He particularly applies this view of the moral object to masturbation and sterilization which, according to him, would be wrong or evil only when performed against the good of marriage.¹⁷

The bottom of what is the matter concerning Utilitarianism in general and proportionalism in particular was pointed out by Immanuel Kant: any pleasurable object [or “pre-moral” good] is judged with the faculty of feeling [pleasure] and so understood is unworthy of becoming the source of a rule for the will.¹⁸ If this is the core of what is wrong about Utilitarianism, as it is, moral thinking, therefore, must transcend the tradition that denies that there are goods which can be grasped by the intellect (and not by the senses) and towards which the will may proportionately direct itself. Here is where John Paul II’s “truth about the good” or “about the moral good” comes in. Such truth encompasses the real intelligible good and

¹⁷Richard A. McCormick, “*Veritatis Splendor* and Moral Theology,” pp. 9-10. That McCormick’s ethics is Utilitarian can be perceived more clearly in his paper “Ambiguity in Moral Choice”, in: *Proportionalism. For and Against (cit.)*, pp. 166-214. He assumes here other positions, close to that which Leo Strauss praises in Machiavelli, Hobbes and Locke: resigning to en flesh in this life the Christian “ideal,” heroic charity which, supposedly, *nobody* has en fleshed [this is a way to eliminate the saints as the measure of moral action, and, thus, it is also the way to eliminate moral absolutes as “impossible.” See pp. 211-213.

¹⁸*Critique of Practical Reason*, Parte I, Libro I, Capítulo I, Teorema II, Nota 1; and Remarck II (pp. 42 and 47 of the original edition). Notice that J. S. Mill in the copied text talks about the “sensitive existence” of human beings.

its proportion to the agent. This is formulated in the first principle of morality: “the apprehended *convenient* [proportionate] good must be done and evil avoided.”¹⁹ The very notion of “truth about the good” places us in the context of a real order²⁰ which we have to investigate rather than technically devise by a calculus of consequences. The prudential reasoning in difficult situations does not intend to see if the harm inflicted to a *pre-moral* good is proportionate to the good consequences which will follow from it. It attempts rather to unveil whether the nature of things is such that the action respects it. For example, if I kill in legitimate self-defence, whether the killed aggressors are two, three or one is indifferent, because what is at stake here is not a Utilitarian calculus. And, when a terrorist asks me to kill an innocent with the promise that if I do it he will not kill, it is indifferent whether he threatens to kill two, three or a thousand more. What matters is the nature of things. In the same way, when I have to consider if I can get involved in sexual activity, I have to judge whether I will respect the nature of my body and that of my partner in such activity, because, as John Paul II states very accurately, “the natural moral law expresses and lays down the purposes, rights and duties which are based upon the bodily and spiritual nature of the human person. Therefore this law cannot be thought of as simply a set of norms on

¹⁹In *De malo* VI 1 c., Aquinas states that the proper object of the will is the “bonum conveniens apprehensum”, and not just the “bonum apprehensum.”

²⁰In *VS* there are many indications that John Paul II is talking about this real order. See, for example, nn. 60, 61, 62, 72, 73, 79, 80, 82.

the biological level;²¹ rather it must be defined as the rational order whereby man is called by the Creator to direct and regulate his life and actions and in particular to make use of his own body.” (VS, 50, quoting CDF) The morality concerning moderation is rooted, as John Paul II and Paul VI understood very well and McCormick instead refused to understand (only God knows why!), in the order of the natural inclinations. This was pointed out by Plato in the *Phaedrus* (237e-238a) and in a superbly clear way in the *Laws* (8, 838-841), as I have already pointed out.

A different issue is whether I can intervene the human body to really heal a really grave sickness, even if I know that from such intervention sterility will follow. Already Pius XII had made the relevant distinction:²² one can do this because this would be an act of serving human nature not of submitting it to dualistic domination. In Modern language which I do not entirely like, one would be directly healing and only in an indirect way sterilizing. Here one can see that we are not speaking of “material descriptions” of actions, but of moral descriptions. The key difference is the acceptance of the existence of a real order to which moral action must conform instead of a “pre-moral world” which we shape through our designs and having as our

²¹This is the way in which José Arteaga, Tony Mifsud and Waldo Romo understand “nature.” And this understanding is the reason they give to reject it as a canon of morality. Anybody can see they just misunderstand the magisterium of Paul VI and John Paul II. See Pablo Concha, “Pensamiento moral en *Teología y vida*. Imperativo de renovación surgido del Concilio Vaticano II,” in *Teología y vida* (2000) 41, nn. 3-4, pp. 10-11.

²²*Humanae vitae* mentions this in its n. 17.

North a calculus of “consequences.” But from this radical difference rises a second one. The most important aspect of the “real order” (besides the divine good towards which it is directed) is the “order of the soul.” I can fail in a technical attempt to rescue an old person in danger, but if I do it for love of that person, and I do it prudently, the chiefest moral good is achieved, even if the old person dies.²³ As Augustine pointed out, morality is the “order of love.” The highest practical good is the rectitude of the will and of the whole person through the will.²⁴ It is higher than any “pre-moral” goods even if they pile to infinite height. As Plato and Aristotle saw, the good which *práxis* and prudence seek is not reducible to the addition of all the goods of the techniques. In other words, a rich person, with all the perks of technology and a perfect healthcare, even

²³After careful reflection one can understand that this is what most essentially is missing in Aldous Huxley’s *Brave New World*, the paradigm of a fully Utilitarian world.

²⁴Paul VI makes reference to this good in *Humanae vitae* # 16 & 21. In proportionalism there is a distinction between the moral good (which would be the “good intentions” of the agents) and the pre-moral goods. But the “moral goods” are such because they intend to produce the greatest amount of pre-moral goods. The difference with classical and Christian ethics lies exactly here: the latter ones accept the intelligible good, as we have seen, and therefore accept a hierarchy of goods which is crowned by persons and by God as the highest Good and Source of all goods. From here derives that the perfection of persons is perceived as (a) a good infinitely higher than any “pre-moral” good and (b) the main object of moral action, besides the union with God. (On the proportionalist distinction, see Christopher Kaczor, “Proportionalism and the Pill: How Consistent Application of Theory Leads to Contradiction to Practice”, pp. 473-474. En: *Proportionalism. For and Against*, (cit.).

with immortality, can be a wretched. A poor person can be happy. Happiness understood in the classical and Christian way is not an accumulation of “pre-moral” goods; it is not either a mountain of pleasure.²⁵ It is being united to God and to His images in loving contemplation.²⁶

It is true that, according to Aquinas, circumstances enter into the object, as McCormick holds. But only those that are essential to define the kind of action. Other circumstances are accidental. Also the intention informs the action and helps to constitute the moral object, but it does not replace the intrinsic and proximate end (VS 78) of what I really do. Because an apparently “good” intention can really reveal itself as bad if it uses actions which do not respect, for example, other people’s property, if it incurs in theft. (In this case, even the intention fails to conform itself to the real order.) Moreover, a real good intention can act imprudently and constitute a kind of action which is bad not for its consequences, but in its kind. It would be so if, for example, I as a judge really want justice but through my ignorance of the Law I pass sentence against what has been proven in the legal procedures. In such a case, instead of “administering justice,” I am prevaricating.

²⁵See *Nicomachean Ethics* 10, 3, 1174a4-8. “there are many things that we would be eager for even if they brought no pleasure for instance, seeing, remembering, knowing, having the virtues,” says Aristotle. (I follow Terence Irwin’s translation: Hackett Publishing Company, Indianapolis, 1999).

²⁶On this point, the difference between classical philosophy and Christianity is that [real] Christians know we are called to contemplate God face to face, which absolutely transcends what Aristotle could conceive as “contemplation of God.”

The examples given by Janssens and McCormick are difficult cases which they, however, fail to analyse properly. When a man takes a piece of food which is up to that point other person's food and he takes it because he is dying of starvation and just in order to save his life, he is not taking other person's property. Christian thinkers always said that since there is a "universal destination of material goods" in a state of starvation that piece of food is his. All the other titles yield to such extreme necessity. There is no question of a calculus of consequences, but of the nature of property over material goods and of the nature of persons. Similarly, when Aquinas explains why lying is a sin, he says with Cicero that it is so because social convivence is based on faith or trust.²⁷ But lying goes against the very core of trust. This is why some "saying something different of what I think to be the case" (like me telling a story or a myth to a small child) is not morally lying, because it does not strike at the core of social convivence, I am not destroying trust, unless the myth involves the "big lies" of which Plato wrote in his *Republic*. And this also is why in some extreme circumstances (not in everyday life as McCormick seems to claim),²⁸ seriously and in a statement of reality one could say something different of what one thinks is the case, without morally lying. For example, if an SS officer

²⁷Cfr. *In librum Boetii de Trinitate expositio* q. 3, a. 1, c.

²⁸In everyday life I may not lie. I can (a) not answer, (b) answer a partial truth or (c) answer a truth which disorients the questioner. Of Saint Athanasius it is said that the henchmen of Julian went to arrest him and he met them in his barge. They asked: "Do you know where Athanasius is located?" And he answered: "Yes, very close, keep paddling".

asks me if I have some Jews hidden in my house, and I do have them, I can say that I do not. In this case, what I am really doing is restoring the trust from which the wretched victims of totalitarianism have been excluded. But the reason why I may do this is neither a calculus of consequences nor the lack of “right” of the SS to the information he is asking for, but the inner order of speech, faith and trust.²⁹

It turns out that indeed proportionalist theologians consider some actions as good despite their moral object is bad according to a Thomistic conception. Indeed, McCormick failed to point out that, when he denied this, he was understanding the moral object in a way different from that used by John Paul II. Actually, he was understanding “broadly” the moral object, that is to say, in a proportionalist way in which it becomes not the Thomistic concept of moral object to which John Paul II was referring.

2.3 Weberianism

Many dissenters talk about the “ethics of responsibility” and speak about moral goodness issuing from choosing the fundamental orientation of their life towards God or Christ, on the one hand; and about the rectitude of intra-worldly actions being measured according to the consequences, on the other. *Veritatis splendor* mentions them in n. 75.³⁰ If

²⁹I have dealt with this problem in my paper “El bien común como regla última de la verdad práctica,” pp. 13-14, in *Cuadernos Salmantinos de Filosofía* (2010) XXXVII, pp. 327-363.

³⁰According to James Keenan, McCormick, Janssens, Fuchs and others would conform to the description of *Veritatis splendor*. See “Proposing Cardinal Virtues,” p. 716, in *Theological Studies* (1995)

this set of mind escapes Rahnerianism and seeks a balance between “[Kantian] deontology” and “[Utilitarian] realism,” we are facing a Weberian kind of moral conception. But if Rahnerianism predominates, then we are really facing one species of the fourth kind of dissenters. Many theologians who are predominantly Utilitarian or liberationist invoke the “ethics of responsibility” just because the expression coined by Weber is prestigious.

A careful analysis of Weber’s lecture “Politics as a vocation,” however, shows that Weber acknowledged that “rationality” was at the service of a “value.” I cannot rationally evaluate the consequences of a politico-economical action, for example, if I do not have a measure to use when evaluating, and such measure comes from a “value” or “final end.” As a positivist, he holds that the end or value is the subject of a demonic choice, cannot be measured as “right” or “wrong.” However, he was able to transcend this positivistic view and recognize that there is an order of reality and, therefore, there are actions which may not be done even if they are required by the demonically chosen “value.” On this point, he is *toto coelo* superior to the dissident theologians as a [social] philosopher in search for truth.³¹

56, pp. 709-715. But their way to determine the rightness of concrete actions is proportionalist. Mifsud makes use of the expression “ethics of responsibility” or similar ones, but I doubt he has ever tried to assimilate Weber’s mind. See pp. 73-74 and 76. It is possible that in his pen “responsibility” means just the autonomy of individual conscience from restraints coming from the teachings of the *Magisterium*.

³¹I have dealt with this issue in my *Racionalidad y justicia*. Second edition. Globo, Santiago, 2013, pp. 254-269. The same point was made by Eric Voegelin in the introduction to his *New Science of Politics*, University of Chicago Press: 1952.

2.4 Lawlessness in moral theology

This kind of “theologian” is paradoxically the most harmful and difficult to cope with.³² The reason is that, since he has no concern for rationality, he is “free” to just play with words and authorities in order to make his wild tenets *appear*, besides tempting to the youth and to the immoderate, both (1) as conformable to Christian revelation and tradition and (2) as truly liberating and salvational. He normally uses received authorities and formulae, but then slowly deprives them of content until he has an empty structure which he fills with his supposedly salvational lawlessness. We will examine a few examples to illustrate and criticize their technique.³³ It seems to me that this will

³²I leave aside Cardinal Kasper, since he would require a separate study.

³³I would say that Josef Fuchs fits here. But he is a mixture of Rahnerianism and consequentialism. Briefly, according to him, natural law is given us by God in the creative light of reason (?) the use of which never gives us direct access to the Eternal Law. Therefore, we might never have access to God’s wisdom (and therefore to moral absolutes). See “El acto moral: lo intrínsecamente malo”, pp. 201 and 216, in several authors, *La teología moral en fuera de juego. Una respuesta a la encíclica “Veritatis Splendor”* (Barcelona, Editorial Herder:1995), pp. 199-217. The most elementary distinctions of traditional theology would suffice to answer to this objection: human reason is not creative; it is measured by reality and reason’s conformity to reality is truth. In the same way as the First Truth is the ultimate source of all truth although we do not know the First Truth directly, thus, all practical truth (and natural Law) issues from Eternal Law, although we do not directly know the Eternal Law. (I have dealt with the relationship between natural law and Eternal Law in my paper “La verdad práctica como piedra angular de la ética”, in *Cuadernos salmantinos de filosofía* (2007), vol. XXXIV, pp.

be the most fruitful method.

2.4.1 There is no universal norm for concrete situations

2.4.1.1 The opinions and reasonings of the fourth group of dissenters

Among the theologians of this kind that there cannot be a general law which solves all situations has become a common place. They usually quote Aquinas on this point and make their claim truth-like since, according to Aquinas, in practical matters truth is what conforms to the concrete reality rather than to abstract formulations.

Tony Mifsud, for example, quotes *S. Th.* I-II q. 14 a. 1, c: “there is much uncertainty in things that have to be done; because actions are concerned with contingent singulars, which by reason of their vicissitude, are uncertain.” From this point he wants to draw the conclusion that ethics must be “of discernment” and the human agent cannot decide just in accordance to the Law because this would be “heteronomous” and immature: the last criterium of action is one’s own conscience “verified in sincerity before God,” because, according to Aquinas (!), conscience may not be disregarded even in extreme cases: *fidelity to conscience is fidelity to God* (see *S. Th.* I-II q. 19, aa. 5-6; II-II q. 67, a. 2, 4 [sic]; *Catechism of the Catholic Church*, n. 1782).³⁴

402-434.)

³⁴“El sello conciliar de la reflexión moral en América Latina”, pp. 75-77. in *Roczniki Teologii Moralnej* (2012) Tom 4 (59), pp. 59-78.

Mifsud does not dare to explicitly draw the consequence he seems to have in mind (*Humanae vitae* and *Veritatis splendor* can be rejected). However, he holds a doctrine concerning conscience contrary to the explicit teachings of *Veritatis splendor*,³⁵ and he quotes praisingly other authors who have rejected these encyclicals. In note 44 he quotes James Keenan and precisely a passage of his paper where he claims that in Aquinas the concept of intrinsically evil actions does not appear, but is coined much later by a prominent anti-Thomist, Durandus.³⁶ In p. 73 he quotes Bernard Häring holding that a fruit of the II Vatican Council was the spirit of dissent among theologians towards the “dictates of the official Church.” And, in that context, Häring himself and Charles Curran appear as heroes of the new “paradigm” of “adult Christians.”

Víctor Manuel Fernández's concrete reasoning is different and so are the Thomistic loci on which he bases it.³⁷ But the goal is very similar to Mifsud's, to open the way for the plausibility of “righteous” (or at least not-guilty) violations of God's law.

He first quotes a *S. Th.* I-II q. 19 a. 10 c., where saint Thomas states: “a judge has a good will, in willing a thief to be put to death, because this is just: while the will of another—e.g. the thief's wife or son, who wishes him not to be put to death, inasmuch as killing is a natural evil, is also

³⁵See VS nn. 54-64. John Paul II's teaching on this point, by the way, is entirely Thomistic.

³⁶See James Keenan, “Proposing Cardinal Virtues” (cit.), p. 720.

³⁷“La dimensión trinitaria de la moral. II. Profundización del aspecto ético a la luz de ‘Deus caritas est’”, in *Revista de teología*, XLIII/89, pp. 133-163.

good.” From this quotation, Fernández wants to draw the wildest conclusions. He first states that the wife or the son wills something against justice. Then he adds that although the wife wills something *materially* unjust, she conforms to the divine Will because she wills what God wants her to will, since that natural inclination is also God’s work.³⁸ “Thus, willing something against justice, she conforms to divine will ‘in the same formal and universal motive of God’s Will’” (*S. Th.* I-II, 19, 10). This fact would demonstrate, according to Fernández, that in concrete situations there can be diverse formulations of God’s Law, Law which has two branches, one natural and the other *evangelic*. “In a concrete situation there is no conflict of duties, but simply a conflict of ‘formulae’, formulating in limited words the demands of nature. Because in a concrete situation the nature created by the good God cannot ask from the beloved creature two contradictory things, but only one” (pp. 154-155).

What Fernández means is that the lady of his example does not will what is just, because that does not conform to her concrete situation. She conforms, however, to the formal motive of God’s will, which is the evangelic law, i. e., love. As one can see in pp. 158 and 160 of his paper, he applies this principle to homosexuals and to spouses who

³⁸Some Jesuits in Chile use this statement as an argument to claim that God wills the homosexuals to act based on their inclination, which for them would be “natural.” See, for example, Jorge Costadoat, “Hacia un concepto teológico de la homosexualidad,” in *El Mostrador* 03.02.2016, available here: <http://www.elmostrador.cl/noticias/opinion/2016/02/03/hacia-un-concepto-teologico-de-la-homosexualidad/#print-normal>

“need” to use the condom. In their concrete situation, there are two laws applicable: the one of justice and the one of love. Love demands to yield to the “natural” inclination. “This is neither a double morality nor a ‘situation’ morality, because one does not deny the permanence in all circumstances of an objective morality [...] which must be always proposed as the ideal of an integral fullness of the moral good” (p. 160).

2.4.1.2 Response

Already Father Bonino has dealt with the general problem of using Aquinas as an authority and with the issues of the prevalence of the concrete in ethics and the existence or inexistence of actions which according to Aquinas can never be done rightly. Let us see briefly his conclusions, and add further relevant observations concerning the general problem and the reasonings of Mifsud and Fernández.

2.4.1.3 Bonino’s observations and conclusions

What I am going to bring here from Father Bonino’s text does not conform to his intention. He did not want to write what he wrote in order to criticize anybody, but just to see the conformity to the Thomistic texts of some interpretations found in *Amoris laetitia*. I wish to leave that clear from the start. I am using his observations and conclusions with an end different from the original one, and I assume the responsibility for doing so.

First of all, Father Bonino makes an observation which

is in his paper a side-comment, but which, I think, throws abundant light presently. Here it is:

Related to this temptation is one found among other persons –interested very little in Thomism but aware of his authority in the Church– a temptation, also entirely “political,” of paradoxically using this authority in order to fool others about their discontinuous reading of pontifical teachings. In placing apparent “novelties” under the patronage of that paragon of orthodoxy, St. Thomas, they think that they can protect themselves against the reproach of promoting a hermeneutic of rupture.³⁹

As we will verify in a moment, the divergence between Mifsud’s and Fernández’s theses, on the one hand, and the real meaning of Aquinas’ text, on the other, is so big that Father Bonino’s observation, which I and only I apply to the present cases, is perhaps the only plausible explanation.

Concerning the bottom of the matter, Father Bonino also demonstrates that Aquinas indeed holds that “the application of general moral norms to action, which is always contextualized, admits a certain flexibility. The prudent man does not govern his actions by contenting himself with mechanically applying general, common rules” (p. 515). But, Bonino adds: “St. Thomas teaches several times that the positive precepts (for example, ‘Honor your father and your mother’) can be realized in multiple ways as long as the

³⁹“Saint Thomas Aquinas in the Apostolic Exhortation *Amoris Laetitia*,” p. 501, in *The Thomist* 80 (2016), pp. 499-519.

subject keeps in mind the intention of the end. They do not oblige always and in every circumstance (*semper et ad semper*). In contrast, the negative precepts (for example, 'You shall not kill [the innocent],' or 'You shall not commit adultery') oblige always and in all circumstances, without any exception, because the prohibited act is directly opposed to the end" (p. 516). And he quotes the relevant passages: *Summa Theologiae* II-II q. 33 a. 2; *De Malo* q. 7 a. 1 ad 8m; *Super Rom.*, c. 13, lect. 2; *Super Gal.*, c. 6, lect. 1.

Finally, Bonino presents a sound interpretation of *Sententia libri Ethicorum* VI 6: "if only one of the two [kinds of knowledge, general and particular] is present, it is preferable that it be the knowledge of the particular reality, which is closer to the act." Bonino shows that what is meant here is not that there is a concrete knowledge which clashes with the general law and that in such clash it is better to follow the concrete. What Aquinas contrasts is rather two ways of possessing the same knowledge, an abstract way and a concrete one. The second way is preferable. And Bonino brings the relevant text from the commentary, which actually just unfolds a bit an Aristotelian teaching: "[...] if a doctor knows that light meats are easily digestible and healthful but does not know which meats are light, he cannot help people to get well. But the man who knows that the flesh of fowls is light and healthful is better able to effect a cure."

One could take another step to close this point. Ethics or morality is a discipline which uses a dialectical, topical method. This is so because the ethical reasoning moves between two limits: the universal principle and the concrete

te situation. Of these two limits there is *intellection* [*noûs*]. In principle, what one does is to apply the first premiss, the general principle, to the second, the factual premiss. But it turns out that, since the universals come from experience, it could happen that the situation demanded a further general formulation. This happens sometimes because actions are concrete and the relevant formality in ethics is the good, which is realized in concrete things.⁴⁰ The intellectual ability to find the right answer to the concrete situation is *gnome* and is dealt with in the 11th chapter of book 6 of the *Nicomachean Ethics* and in Aquinas' *Expositio*. But the virtue which applies the new general formulation to the situation is equity, *epieíkeia*, as Father Bonino pointed out in note 17 of his paper. This virtue is needed because, since human beings are mutable, the *natural right* of human beings is mutable, as said in chapter 7 of book 5 of the *Nicomachean Ethics*. But this variability does not affect the essence or nature of justice as it does not affect the essence or nature of man. This is the reason why there are some actions that are always bad, as Aristotle teaches in chapter 6 of book 2 of the *Nicomachean Ethics* (1107a8-13): murder, theft and adultery. This is also why the principles of morality cannot change and among such principles, one finds the negative precepts: many times it is hard to know what to do, but it is clear what the limits which may not be trespassed are. (Except because concupiscence sees as good what is pleasurable or

⁴⁰This happens neither in mathematics, which are abstract nor in the demonstrative way of physics.

as bad what is painful.)⁴¹ As even a gentile philosopher like Aristotle said, there are actions which we should never commit, even if a tyrant threatens us with a terrible death after a painful torture (see *Nicomachean Ethics* III 1, 1110a26-27; and Bonino, “Saint Thomas Aquinas in the Apostolic Exhortation *Amoris Laetitia*,” note 17). In the infinity of the concrete sometimes one does not know what one should do, but in those situations one can know what one *may not do*, the limits beyond which one may not go. Even Max Weber, coming from a positivistic mindset and environment, came to acknowledge this much.⁴²

2.4.1.4 Response to Mifsud’s and Fernández’s concrete reasonings

Mifsud’s interpretation of *S. Th.* I-II qq. 14; and 19, aa. 5-6 is just wild. The trumped quotation from Aquinas’ text is a typical technique of the liberationist. If one sees the context of the phrase, one perceives that the text is very far indeed from grounding Mifsud’s claims. I-II q. 14 a. 1 c. says that the uncertainty of practical matters is what requires that the election be preceded by an inquiry by reason, which is called counsel. The passages are far from claiming the sovereignty of conscience. And I-II q. 19 a. 6 precisely says that “conscience” is reason and therefore, an erring conscience may excuse the agent only when the

⁴¹See *Metaphysics* Lambda 7, 1072a27-30.

⁴²See “Politics as a Vocation” H.H. Gerth and C. Wright Mills (Translated and edited), *From Max Weber: Essays in Sociology*, pp. 77-128, New York: Oxford University Press, 1946.

cause of ignorance is not voluntary. So that the ignorance about the law of God does not excuse, because the agent ought to know it; while sometimes the ignorance of the circumstances may excuse the agent. In this, Aquinas follows Aristotle in books 3 (chapter 1, 1110b18-1111a21; & 5, 1113b21-1114a22) and 5 (chapter 8, 1135a23-1135b3) of the *Nicomachean Ethics*.

Víctor Manuel Fernández's interpretation of Aquinas is as subversive as Mifsud's, but much more elaborate. The background which Fernández does not consider is that practical truth is the conformity of a judgment or practical proposition with the proportion between a real intelligible good in a concrete situation and a concrete agent. This is why for an attorney it could be wrong to lift a person who has been ran over by a car and bring the person to the hospital, while the same action could be a duty for a medical doctor. This is the reason why a judge must condemn to death a defendant if the allegations and proofs point at his been guilty of a capital crime, while the wife may wish that her husband does not die. This is not willing an unjust thing, because her role is neither to condemn her husband nor to execute him. The different kinds of agents in different situations must act differently and God expects them to act differently. This is as well the reason why a defendant's close relative or friend must decline the office of judge.

But this aspect of classical ethics could have been ignored by Fernández alright. However, there are graver misrepresentations of Aquinas' text. According to him, the wife, "willing something against justice, conforms to the divine will 'in the same formal and universal motive of God's

Will' (*S. Th.* I-II, 19, 10).” This statement goes directly, and one is tempted to say *maliciously*, against the *letter* of the text. Aquinas says that the will has to conform to the good under the apprehension of the intellect. This is why there can be different perspectives if different persons have different positions. Thus, a judge who has to take care of the common good considers the good in the situation under a light different from that under which the wife, who has to consider the private good of the family, considers it. Now, God considers all goods under the light of the good of the universe. This is why different persons can have good will while willing opposite outcomes. But for the particular wills to be right they must conform formally to the will of God even if materially they will particular goods. It is not true that the material will is the same as the formal motive of God’s Will. On the contrary, because they could be in disconformity, the particular will could be unjust. This means precisely two things: that the agent may not will something unjust; and that the agent must accept God’s will even if it contradicts her own will. That is to say, if the wife were forced to be judge of her own husband, she would have to decide in accordance to what has been alleged and proved, even if the right decision was the death penalty and if at the same time she regrets such decision because of the good of her family and her own love towards her husband. Also, the wife cannot bribe the judge or a witness in order for her husband to be acquitted. Moreover, when her husband is executed, she must bear it with patience. It is clear that the different situations do not authorize any agent to violate the negative precepts of God’s law. It is also clear that Fernández is in too much of a rush to draw

lawless conclusions from Aquinas' text.

2.5 Mercy vs. justice

2.5.1 The opinions of this fourth group of dissenters

The second example I want to delineate is taken also from Fernández' already quoted paper. There he makes use of texts in which Saint Thomas deals with mercy in order to radically revolutionize Christian morality. Since Cardinal Kasper has done the same (and I am not going to analyse here Kasper's work), it could prove extremely helpful to examine this acute man's ways of proceeding.

Fernández quotes Saint Thomas holding that mercy is the highest of all virtues, "*qua* regarding external works" (*S. Th.* II-II q. 30 a. 4 ad 2m); and that mercy seeks to succor our neighbors' deficiencies (p. 135). From these isolated phrases, Fernández draws the surprising conclusion: "an efficient activity which endeavors to solve the social needs and increase people's happiness, in the construction of a bridge [notice well!!], in the sanitizing of the environment, in the scientific research directed to solve the people's problems, in a communal fight for [the relief of] the poorest ones' needs, in an adequate economical proposal to solve the drama of unemployment, and so on. Any of these actions which cooperate with the construction of the Kingdom, performed for one's neighbour's love and seeking his or her wellbeing [wellbeing!], qualifies as an action of the highest of virtues" (p. 136). Then Fernández quotes a couple of passages from Scripture, out of context, trying

to show that pleasing oneself or others is an act of mercy: “[God] who gives us richly all things to enjoy” (1 Tim. 6:17)⁴³; and “Son, My child, treat yourself well according to what you have [...]. Enjoy a good day, and don’t let your share of a good desire pass you by [unfulfilled]” (Syr. 14:11.14).⁴⁴

From this starting point, Fernández proceeds to turn upside down the Christian life and for that he quotes Aquinas again: “We worship God by external sacrifices and gifts, not for His own profit, but for that of ourselves and our neighbor. For He needs not our sacrifices, but wishes them to be offered to Him, in order to arouse our devotion and to profit our neighbor. Hence mercy, whereby we supply others’ defects is a sacrifice more acceptable to Him, as conducting more directly to our neighbor’s well-being, according to Heb. 13:16: ‘Do not forget to do good and to impart, for by such sacrifices God’s favor is obtained.’”⁴⁵ In the light of

⁴³I follow the King James’ version, with an updated spelling. The text is taken out of context. With its context, it precisely tells the rich not to place their hope in riches, which are so uncertain, but in God. That is to say, the text is a calling for the frugal and sober life which does not unduly worry about the things of this world, but places its trust in God.

⁴⁴This quotation comes from the Old Testament: see note 46 below. But here the context changes the meaning too: it speaks of giving offerings to the Lord, thinking of death and being generous with one’s friends, all of which Víctor Manuel Fernández overlooks in his use of the text.

⁴⁵*S. Th.* II-II q. 30, a. 4, ad 1m. Notice well that Fernández, as usual, suppresses any reference to the relationship with God entailed in the acts of mercy. Here he suppresses the quotation from Hebrews, which I left in the text.

this Thomistic text, Fernández explains: worship is not necessary except as helpful in order to do our “merciful” acts, because God does not need our sacrifices, while the poor need our external works. For this reason, in mercy what mostly matters is the external act, not “that gorgeous inner movement of compassion which goes with it.” The inner movement is not as relevant as the external acts, according to Aquinas, says Fernández. Such inner movement belongs to the moral virtues, while the external acts belong to charity, which is higher than the moral virtues. Moreover, the good which one wants for other persons is not the object of moral virtues (including moderation) but those goods which can be achieved through the external actions, because otherwise it is not clear that there is charity, it is not clear that we treat our neighbor as a “final end” or an “end in him or herself” (p. 144).

The next step in Fernández’ itinerary (pp. 138-141) is to underline that love is what matters and that it can exist in a person who does not acknowledge the existence of God, if the person “respects” the image of God, that is to say, man. This is confirmed with several scriptural quotations taken out of context (Mt 25:40; Mt 25:31-46⁴⁶; I Jn 2:10⁴⁷ and

⁴⁶Since this passage speaks about the acts of mercy, I will not bring here a special discussion of the same. The subject will be discussed when we submit to criticism Víctor Manuel Fernández’s conception of mercy.

⁴⁷Fernández fails to mention, for example, that I John a few verses earlier has said: “we know we have known Him if we keep His commandments” (verse 3), so that the perfect charity inhabits in the person who abides by His word (verse 5). The love of neighbor is a sign of living in the light. Fernández deals similarly with all scriptural quotations.

3:14). His conclusion is that “under this hermeneutical light of the primacy of mercy we must interpret all other moral demands” (p. 141). He invokes Paul’s freedom from the law and adds that Paul foresaw the danger of taking occasion of this freedom to abandon charity. His texts, says Fernández, show that “moderation must be accepted not as an absence of sexual performances, but as a subordination of sexuality to the ‘gift of self’ to the other” (pp. 141-142). He then goes forward to say that love wills good for the beloved, quotes Aquinas on this regard, and claims that such good which the lover wills might be just the wellbeing of the beloved, reached through the external merciful works (p. 144). To understand this well, one has to avoid diluting the love of neighbor with the love of God and the search for moral virtue. What really matters in a “Trinitarian” morality is discernment of what the neighbor needs from us (pp.144-147). We must keep in mind the golden rule which is our “project” of life as Christians, so that our decisions in different contexts never contradict the central Christian option, mercy (p. 148). In the context of social morality, remembering the primacy of charity and mercy over the virtues is extremely important, because otherwise one would love in the context of an “objective rationality,” and then one would yield to the logic of the market as if this were a “scientific rationality” (pp. 149-150). In the context of sexual morality we come to the core of the matter from the perspective of this paper.

Indeed, Víctor Manuel Fernández, in the context of sexual morality has the opinions most contrary to both encyclicals and to the II Vatican Council, by the way. He states that “it is the case some times that there is a sexu-

al abstinence which contradicts the Christian hierarchy of good works crowned by charity. We cannot close our eyes, for example, to the difficulty which a woman faces when she perceives that the stability of her family is at risk if she unpractically subjects her husband to periods of continence. In this case, an inflexible rejection of every use of the condom would equate to giving the primacy to an external norm over and above the grave obligation of taking care of the loving community and spousal stability which are more direct demands of charity,” of fraternal love (p. 150).⁴⁸ And a bit later Fernández adds: “One should not forget that the objectively correct decision could imply a true egocentric, backward movement in the path of personal growth and within the framework of a particular stage in personal history” (p. 151). That is to say, the good decision in some contexts could be contrary to God’s Law, because the goodness of the decision is based on mercy and

⁴⁸The II Vatican Council, in the Constitution *Gaudium et Spes*, n. 51, acknowledges this difficulty, but teaches exactly the opposite of what Fernández states here: “this council realizes that certain modern conditions often keep couples from arranging their married lives harmoniously, and that they find themselves in circumstances where at least temporarily the size of their families should not be increased. As a result, the faithful exercise of love and the full intimacy of their lives is hard to maintain. But where the intimacy of married life is broken off, its faithfulness can sometimes be imperiled and its quality of fruitfulness ruined, for then the upbringing of the children and the courage to accept new ones are both endangered.

To these problems there are those who presume to offer dishonorable [inhonestas] solutions indeed; they do not recoil even from the taking of life. But the Church issues the reminder that a true contradiction cannot exist between the divine laws pertaining to the transmission of life and those pertaining to authentic conjugal love.”

charity, while the Law is not.

Later on, Fernández adds another aspect to his view of sexual morality. After manipulating several quotations from Ratzinger’s Congregation for the Doctrine of Faith, the Catechism, and the Pontifical Council for Legislative Texts (one of which refers to same-sex intercourse), he concludes: “There is no doubt that the Catholic Magisterium has assumed clearly that an objectively wrong act, as is the case of pre-marital sexual intercourse, or the use of condoms in sexual intercourse, not necessarily leads to the loss of sanctifying grace, from which originates charity’s dynamism. This is why amidst such sexual intercourse, if it does not imply a subjective guilt, a subjective value could be realized – with theological and Trinitarian density – as long as such intercourse is the expression of the extatic dynamism of love impressed by sanctifying grace. Beyond the objective evil or imperfection, which must be clearly stated, the subject might live that sexual performance as a sincere and genuine search for the other person’s happiness above his or her own interests. But, of course, this does not imply that the person must exclude entirely his or her own bodily pleasure, because this would imply a contradiction between *eros* and *agape*, which Benedict XVI has rejected forcefully” (p. 158; cfr. p. 163).⁴⁹ And he ends: “there

⁴⁹The three or four texts which he quotes cannot be interpreted as he does. One contained in the *Catechism* is a general observation of the causes which exclude or reduce imputability; another is referred to masturbation in young persons; the Congregation’s one says that that issue is not the subject of the document, so that it is not solved at all; and the Council says that the minister of Communion can refuse Communion because of an objective state of sin, since he cannot

is neither one only way nor a necessary way to live and express [...] the loving community which the Spirit brings forth”, “a couple, in some circumstances, could find expressions of donation and communion which do not necessarily entail genital performances” (p. 163).⁵⁰

I have not spared the audience the main tenets, and steps of this remarkable and influential 2006 paper. It is necessary to go through its folds in order to grasp the method.

2.5.2 Response

It is hard to imagine a greater misreading of Aquinas, of the New Testament Scriptural texts and of all authorities in general.⁵¹ It is clear that the author does not intend to learn from the sources. He rather uses them to present his lawlessness in a plausible way. Not because he fears punishment, which is almost inexistent in the Church since John XXIII, but probably because he does not want to lose his hold on the Christian people. As with other liberationists, one clear problem is that the author is so used to

know the subjective dimension. The reason is obvious: this minister cannot know the circumstances unlike the minister of Penance. Considering the extension of the *Catechism* second text (masturbation in young persons) to sexual intercourse, and against nature at that, one wonders if Fernández is not deviating himself from the formal declaration by the Council of Trent according to which a person with sanctifying grace has the strength not to sin, so that if the person sins it is out of his or her free will.

⁵⁰In the context of lawlessness, one wonders to what other “favors” Fernández is alluding here.

⁵¹As Aquinas says repeatedly, in the Old Testament God promises goods of this world but in the New Testament eternal goods –plus goods of this world but only insofar as they are needed for salvation.

mask his views that they do not really appear here. One does not know the full picture of Fernández's mind. One can see that it rejects rationality and morality properly speaking, that it promotes Utilitarianism and a materialist conception of the goods which can be achieved by our external actions of "mercy." But one cannot see more. Is he just a nihilist? A hedonist? Or, perhaps he follows particular anti-intellectualist world-views like the Kabbalah or Marxism? One cannot tell. The only thing one can do is to show the sharp contrast between his presentation of his sources, especially Aquinas, and the real meaning of such sources.

We can start by observing that Fernández has used not only Aquinas, but also Bonaventure, in his initial presentation of charity and mercy. Since his hermeneutic of Bonaventure is particularly transparent, let us turn to it first. In page 137, Fernández copies the text by Bonaventure and endeavors to have the reader think that the holy doctor taught the following opinion: If a person has piety and mercy, and such person falls in a sin of the flesh, "without a doubt that person will be shaken but will not perish, according to the Gloss, even if the fall involves mortal sin." In note he quotes: "IV *Sent.* 15, 1, 2, opp. 1 (cf. ad 1)." The text copied by Fernández comes from an objection opposed to Bonaventure's thesis as it was usual among the scholastics. Fernández adds the parentheses to make plausible his lawless interpretation, because it leads the reader to think that the answer to the objection confirms the copied text. But Bonaventure's response to the objection says the opposite of what Fernández puts in Bonaventure's mouth: God cannot forgive a sin if another mortal sin persists. What

is true is that because of piety and mercy God can prepare that sinner for receiving grace: “Concerning that Gloss, ‘that he will not perish etc.’, it must be replied that it is understood in the following way: by the works of piety the person is prepared to receive the grace through which he can satisfy for everything.” He cannot be saved if he persists in that sin, but God, considering his mercy or piety, will give him the grace to quit that sin and satisfy for it.⁵²

Regarding Aquinas, question 30 of II-II has a deeply different meaning from that assigned to it by Fernández. “Mercy” can originate out of a passion or out of the perfect love of friendship, charity, *agape*. In the first sense, it is “compassion”. “Compassion” is a feeling which equal persons experience when seeing another person, his or her equal, suffering: the compassionate person feels with the suffering one because he or she fears the same suffering. This kind of feeling needs to be regulated by reason in order to be a virtue. To this end, it must serve reason and in this case one gives mercy but without harming justice, be it in giving to the poor or in forgiving the penitent. Aquinas quotes Augustine on this latter point. So, *according to Augustine and Aquinas, there cannot be mercy if there is no justice*.

In the second sense (mercy originated in the perfect love

⁵²I have a cousin with this profile. She lived with a married and divorced man; she kept praying and attending Mass and doing works of mercy. But she was not prepared to commit to live in abstinence. Years later, she and the man felt prepared and made the commitment. They lived for years after this and had the joy to receive the Sacraments according to *Familiaris consortio* 84, and to experience the true mercy, which does not offend justice.

of friendship), mercy can be the highest virtue, but only as the virtue of a superior. God, towards us, can only have mercy because He is above us all. We can have this virtue of mercy if we are perfected by grace and from that perfection love others not because we need them, but because they need us.⁵³ However, in us and towards God mercy is not the highest virtue. We need God and therefore, in us the highest virtue is charity which unites us to God. Mercy as the virtue of the superior, is the highest virtue regarding the neighbor, but not in general, and not mercy as the virtue which regulates a passion.

In this light must be read the passage which says that God does not need our sacrifices. He does not, but *we* do. Without the redemption achieved by Christ there is nothing we can do worthy of salvation and eternal life. We need to be united to His sacrifice and that is why we need the sacraments and, above all (in a sense), the Mass, which is the very Sacrifice of Christ. We all need them to achieve the highest goods, which certainly are not those enumerated by Fernández, and least of all a pleasure from fornication or from an unnatural sexual intercourse with the spouse.

Friendship, it is true, wills the good for the friend or the loved one. But, as Aquinas explains in *Summa contra gentiles* (III, c. 153), love of self gives us the canon, rule of the good which we want for our beloved. Now, as Aquinas says in the very text desfigured by Fernández (*S. th.* II-

⁵³The real saint does not reflect on this and with God's light sees him or herself as a sinner. However, because of his or her charity and his or her infused virtues, he or she is able to care about others selflessly, like Teresa of Calcuta.

II q. 30 a. 4), our own good is union with God above all, through charity. This is why what we want for our neighbor is that he or she unites to God and becomes God's friend through charity. We also want for ourselves, if we desire orderly, first and above all the good of the soul (virtue and virtuous actions), then the goods of the body and then external goods. In the same way we want the good for our friends. This is the reason why in the book of Maccabees that mother is praised who encouraged her seven children to die rather than violate God's Law, because the love and worship of God is above everything else (see 2 Mac. 7). This point is absolutely missed by Fernández, who says that in the conflicts of duty one have to prioritize persons, so that the law (which is always imperfectly formulated) can be broken in every case in which doing so will, for example, prevent a massacre (page 156). This is finally the reason why the spiritual works of mercy are absolutely speaking superior to the physical ones, although in some cases the physical ones possibly would have to be preferred (see *S. Th.* II-II q. 32, aa. 2-3).

Lastly, Fernández shows a very strange lack of understanding concerning the matters of spousal and romantic love. He seems to give excessive importance to physical eroticism and to conceive as true love a desire which leads to intercourse without any commitment to take care of the possible fruit of such intercourse. He also overlooks that the ignorance of this kind of moral truth is never or very rarely without guilt (see Aquinas, *S. Th.* I-II q. 19 a. 6). Love is not attraction or the desire to give to the other an extatic pleasure (as if this was an act of mercy because it gives "wellbeing" to the other). Real love is *dilectio*

and must be directed by moral truth in the sense explained by John Paul II in *Veritatis splendor*. It is something much deeper than the fancy flirts of disoriented youth or immature adults.

Any person who has a minimum rational knowledge of these subjects can judge, in the light of the previous analysis, that the liberationist theologians are radically irrational and lawless, but very skilfull in presenting their tenets as in agreement with "the best tradition" (those fragments of tradition which they take out of context and so taken become wild in the hands of these "theologians") and as salvational, if convenient to the unruléd passions. None of them can resist a comparison with *Veritatis splendor* or *Humanae vitae* regarding their conformity to natural reason or to Revelation.