Intrinsic Evil in *Veritatis splendor* [November 26, 2017]

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Twenty-odd years ago, while teaching moral theology at the Jesuit School of Theology-at-Berkeley I joined a few other theologians in a private colloquium with the bishops from the Western Region of the United States. The gathering was chaired by the then Archbishop of San Francisco, William Levada¹, who exhorted us all to rely heavily—if not exclusively—on the *Catechism of the Catholic Church* in both our academic courses and pastoral catechesis. In the discussion, I raised a question about the accessibility of some of the concepts employed in the *Catechism*. I questioned whether these would be adequately understood by our various target audiences. As an illustration I hypothesized that if we were to go to San Francisco’s downtown Union Square (a sort of small public park surrounded by toney stores) and asked ten people at random what “intrinsic evil” meant the answers would range from an honest *keine Ahnung* to “really, really, really bad.”

A quarter century after the publication of Pope John Paul II’s 1993 Encyclical on Fundamental Moral Theology, *Veritatis splendor* [hereafter *VS*] and the 1992 *Catechism of the Catholic Church* [hereafter *CCC*], the miasma surrounding *intrinsecco malum in se* has not cleared much—if at all.² Elsewhere I note that “intrinsic evil” functions metaphorically like a shibboleth, i.e., a term that was not common to all and often used to identify and separate one cultural tribe from another.³ Perhaps, though, a closer look at both the text and context of the

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¹ William Levada (b. 1936) completed his 1971 doctoral dissertation *Infallible Church Magisterium and the Natural Law* under Francis Sullivan, S.J. at the Gregorian on the question of the competency of the Magisterium to pronounce infallibly on concrete material norms contained in the natural law, and concluded that though no such pronouncement had heretofore occurred, it would be logically impossible to do so. Relevant extracts from Levada’s dissertation can be found in his entry in my online *Magisterium & Moral Theology Bibliography* at [https://www2.bc.edu/james-bretzke/MagisteriumBibliography.pdf](https://www2.bc.edu/james-bretzke/MagisteriumBibliography.pdf). Levada later went on to work as a *minutante* (staff member) at the Congregation for the Doctrine of the Faith under the prefecture of Joseph Ratzinger, who upon succeeding to the papacy appointed Levada as his successor to the CDF. Levada was a prominent member of the drafting commission for the 1992 *Catechism of the Catholic Church*.

² For a select bibliography on *Veritatis splendor* see [https://www2.bc.edu/james-bretzke/VeritatisSplendorBibliography.pdf](https://www2.bc.edu/james-bretzke/VeritatisSplendorBibliography.pdf).

³ “Debating Intrinsic Evil: Navigation between Shibboleth and Gauntlet,” *Horizons* 41/1 (June 2014): 116-129. I employ Robert Schreiter's notion of competence criteria of effectiveness and appropriateness in philosophical and/or theological "intercultural" communication. At best, the expression "intrinsically evil only partially succeeds in fulfilling those criteria demonstrating, while it often is used as a gauntlet thrown down to sharpen sides in political policy debates. See also the Response by Michael P. Jaycox "Debating 'Intrinsic Evil'" in the same issue at pp. 142–65.
term as it is actually used in VS may bridge the divide that certainly has proven to be quite polarizing in both the Church and larger society.

One way of approaching what VS actually says on intrinsic evil⁴ and the ways in which this teaching is understood would be to reference the widely publicized five Dubia regarding Amoris laetitia⁵ [hereafter AL] proposed to Pope Francis by four retired cardinals in 2016.⁶ Their Second Dubium asks whether VS (#79)’s teaching still holds “on the existence of absolute moral norms that prohibit intrinsically evil acts and that are binding without exceptions.” The Fourth Dubium inquires if it still true that “circumstances or intentions can never transform an act intrinsically evil by virtue of its object into an act ‘subjectively’ good or defensible as a choice”⁷?  

A key point in interpreting VS is to recall it claims only to be re-stating the Catholic moral tradition, and therefore, we must use that moral tradition in understanding what VS affirms. The classic expression for “intrinsic evil” is intrinsice malum in se. The in se is crucial inasmuch as it explicitly connotes due consideration of the circumstances in which the agent finds him/herself, as well as the agent’s moral intention (finis operantis) for a particular moral object chosen (finis operis) in the context of these circumstances. As the late Klaus Demmer, noted, this in se requires a hermeneutical process of interpretation concerning the intention and circumstances even though the accent is still maintained on the gravity of the action itself. This hermeneutical process then keeps us from the moral conundrum of positing morally evil actions totally abstracted from the agent, who is always and only a social, contextualized being.⁷ While VS does not contradict Demmer’s insight, neither does it really acknowledge it, and I believe this lacuna leads in part to so many problematic uses of “intrinsic evil” by proponents and critics of

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⁴ For a concordance of the appearance of the terms related to “intrinsic evil” in Veritatis splendor see https://www2.bc.edu/james-bretzke/VeritatisSplendorIntrinsicEvilConcordance.pdf.
⁵ Promulgated on March 19, 2016 the text of Amoris laetitia can be found at http://w2.vatican.va/content/francesco/en/apost_exhortations/documents/papa-francesco_esortazione-ap_20160319_amoris-laetitia.html.
⁶ The Dubia Letter was signed by Their Eminences, Walter Brandmüller (German), Raymond L. Burke (American), Carlo Caffarra (Italian) and Joachim Meisner (German) and is widely available (cf. http://www.ncregister.com/blog/edward-pentin/full-text-and-explanatory-notes-of-cardinals-questions-on-amoris-laetitia). The four cardinals were either retired or semi-retired from ecclesiastical office, and Meissner and Caffarra died in June and September of 2017 at the ages of 83 and 79 respectively. I discuss these Dubia in greater length in my article “Responsum ad Dubia: Harmonizing Veritatis splendor and Amoris laetitia through a Conscience-Informed Casuistry.” Journal of Catholic Social Thought (forthcoming in the Winter 2017 issue).
⁷ Cf. especially ch. 5 of Klaus Demmer’s Deuten und handeln: Grundlagen und Grundfragen der Fundamentalmoral, Studien zur theologischen Ethik, no. 15, (Freiburg: Verlag Herder, 1985).
VS. Saying much the same thing in line in the moral tradition I tell my students that a so-called “intrinsically evil act” can never be a different species of moral act, such that absolutely no consideration, explicit or implicit, of circumstances and the accompanying moral intention (finis operantis) is required to come to a moral evaluation of the act as a whole (the finis operis). In this context then let us consider carefully VS#80, and its crucial modifier “ulterior” in the description of the core relationship among circumstances, intention, and moral object:

These are the acts, which, in the Church's moral tradition, have been termed "intrinsically evil" (intrinsece malum): they are such always and per se, in other words, on account of their very object, and quite apart from the ulterior intentions of the one acting and the circumstances [aliorum adiunctorum ratione habita, bolded emphasis added]. Consequently, without in the least denying the influence on morality exercised by circumstances and especially by intentions, the Church teaches that "there exist acts which per se and in themselves, independently of circumstances, are always seriously wrong by reason of their object" [VS#80].

Of course, what VS is seeking to emphasize is that it is never possible to transform a morally evil object (finis operis) somehow into a morally good act. Murder is always intrinsically evil, even if the person murdered might have been a serial pedophile. Moreover, pace Cardinals Burke et al., neither does AL advance a contrary position. Genuine adultery remains intrinsically evil, but just what constitutes “genuine” or continued “adultery” may in fact vary according to particular intentions and circumstances, as I believe Pope Francis has clearly suggested in this key passage:

For this reason, a pastor cannot feel that it is enough simply to apply moral laws to those living in “irregular” situations, as if they were stones to throw at people’s lives. This

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9 On intrinsece malum in se (intrinsic evil) and finis operis/finis operantis see both the entries in Bretzke’s Consecrated Phrases and his A Handbook of Roman Catholic Moral Terms (Washington, D.C.: Georgetown University Press, 2013).

10 Frankly, no credentialed moral theologian I know holds the supposed view that somehow “ulterior” in the sense of “additional” intentions and/or circumstances “transforms” the object of a morally bad deed into one that is either morally neutral or even good. However, the verbiage of VS would lead readers to believe that such heterodox opinions are widespread in the academic community and beyond.
would bespeak the closed heart of one used to hiding behind the Church’s teachings, “sitting on the chair of Moses and judging at times with superiority and superficiality difficult cases and wounded families” (AL #305).

The Magisterium traditionally holds to a hermeneutics of continuity. Therefore, to interpret accurately VS we need to look at its past context (such as Vatican II) as well as refinements given in subsequent papal teaching, such as Pope Francis’ AL. In this passage above from AL I believe the Pope is implicitly connecting the abstract “objective moral order” articulated in VS with Vatican II’s treatment of conscience in documents such as Gaudium et spes (cf. GS #16) and Dignitatis humanae (cf. DH #3). The doubting cardinals’ Miramur asks whether we still are to hold, in accord with VS, that moral truth is absolute, or whether we give in to a moral relativism that permits every individual conscience to make up its own truth. We can reply with an honest reassurance that moral truth remains absolute, but conscience is the privileged place where the individual meets God to discern best how to obey that truth.¹¹

So where do we stand? Clearly divided. Some defend VS as prophetic, much along the same lines of Humanae vitae.¹² Others, myself included, are decidedly less enthusiastic about the Encyclical, while still others ground their resistance more broadly in terms of seriously questioning the notion of “intrinsic evil” and even any theory of the natural law. Borrowing a well-known line from the 1967 movie Cool Hand Luke, I believe “what we’ve got here is a


failure to communicate.”13 Or, using a genre I became familiar with during my seven years in the Eternal City, what we have here is a *dibattito*. The cognate of course is “debate” and sometimes the term is translated as “discussion,” but in reality it is neither. In the classic *dibattito* speakers are lined up and take turns attacking from various angles the opponent. However, the opponent itself is not present, nor given an opportunity to speak on its own behalf. Instead, we witness a sort of shadow boxing: given the jabs and punches, we in some sense can intuit the general shape and position of the opponent, but never see the beast clearly in sharp relief.

I believe both sides on the intrinsic evil debate have been engaging in this sort of *dibattito* since at least the time of the more genuine debate over the morality of artificial birth control that occurred in the 1960’s.14 For *VS* the main shadow-boxing opponent is some sort of moral relativism, and the hoped for knockout punch is wound around the metaphorical brass knuckles of a forced acknowledgement of “intrinsic evil.” The “corner man” is the “objective moral order” that coaches us with an array of moral norms, which are inflexibly absolute, from abortion to same sex relations. The coach tells us that the only proper role of conscience is simply to identify the proper norm and apply it in a straightforward one-size-fits all casuistry, often employing the so-called “physicalist” paradigm.15

Paradigm theory then may be the most helpful concept in understanding the current impasse regarding intrinsic evil as outlined in *VS*. It should be axiomatic that we acknowledge

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13 If the phrase and its context is unfamiliar, see https://en.wikipedia.org/wiki/What_we%27ve_got_here_is_failure_to_communicate.
that only God can fully, completely grasp the objective moral order, just as it exists in both the abstract and the concrete. For the rest of us limited, finite creatures we must rely on models and paradigms both to explain and explore complex realities. Some, if not all, of our models will likely be incomplete at best, and misshapen at worst. A serious problem arises if we overlook this natural human limitation and conflate our particular, necessarily limited understanding of a complex concept such as intrinsic evil with the absolute fullness of that reality itself.

I believe this is what has happened with many of those who use VS to paint in too broad paintbrush strokes of largely black and white concrete situations that would be more accurately rendered in a greater color palate and with finer, more detailed---and perhaps even more tentative brush strokes. Any number of examples could be called upon to illustrate this point, but in closing let me recall just one. Here I am referencing the infamous 2009-10 Phoenix St. Joseph’s Catholic Hospital controversy over the termination of a non-viable pregnancy in order to save the life of the mother. It was physically impossible to save the fetus, and if the placenta was not removed, the mother would die in very short order. The choice was stark: one death or two, and the certain death would be the fetus. The Hospital performed the surgery, and the Phoenix Bishop Thomas Olmsted judged the procedure intrinsically evil and ultimately withdrew the “Catholic” designation of the only such hospital in his diocese. I would therefore propose this case for our further discussion on intrinsic evil.16

16For a bibliography see https://www2.bc.edu/james-bretzke/PhoenixAbortionBibliography.pdf, as well the section, “Phoenix 2009-2010 “Abortion” Case to Save Life of the Mother,” in my online Bioethics Bibliography https://www2.bc.edu/james-bretzke/BioethicsBibliography.pdf. See also my presentation entitled The Phoenix Case Not Heard Moral Triangle made to the 2012 Convention of the Catholic Theological Society of America (CTSA) https://www2.bc.edu/james-bretzke/PhoenixCaseNotHeardMoralTriangle.ppsx. A handout giving synopsis of this presentation is at https://www2.bc.edu/james-bretzke/CaseNotHeardMoralTriangleHandout.pdf.