

## THEOLOGICAL ROUNDTABLE

### DEBATING “INTRINSIC EVIL”

*Recent US election cycles, debates about the Affordable Care Act, and a variety of so-called culture war issues have placed the term “intrinsic evil” into public discourse. This issue’s roundtable affords readers the opportunity to probe deeply various dimensions of the concept, such as the pedagogical effectiveness of the term, its current use in virtue ethics, and the rhetorical effectiveness of competing moral discourses. The authors’ explorations range from consideration of classical questions about the substance and circumstances of acts to a taxonomy for “intrinsic evil” to how social processes affect the discourses available to ethicists.*

**Keywords:** intrinsic evil, virtue ethics, proportionalism, human rights, *Veritatis Splendor*, exceptionless moral norms, double effect

#### I. Intrinsic Evil: Navigation between Shibboleth and Gauntlet

A few years after both the first English translation of the *Catechism of the Catholic Church* and *Veritatis Splendor* (hereafter VS) had appeared, a day-long colloquium brought several bishops of the western region of the United States together with selected theologians, including myself. William Levada, then archbishop of San Francisco, who had played a key role in the drafting of the *Catechism*, urged us in the opening address to employ the *Catechism* as the principal text in both our catechetical and our classroom teaching. In the following discussion I raised an issue I had already discovered in trying to use the *Catechism* as a supplemental text, namely, the considerable amount of theological jargon that even graduate students had great difficulty decoding, much less employing. As an illustrative example of my point I named the concept of *intrinsic malum in se* rendered usually (but incompletely) as “intrinsic evil” in magisterial documents and church discourse,<sup>1</sup>

<sup>1</sup> The *in se* of the traditional axiom requires a hermeneutical process that will necessarily involve an interpretation of both the intention and circumstances, even though the

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and I suggested if we asked any ten people in San Francisco's Union Square to tell us what was meant by the proposition "Action 'X' is 'intrinsically evil'" eight of them would respond with something like "really, really bad," and the remaining two would exhibit complete and utter mystification! A few episcopal titters followed, and my local ordinary privately gave me a "thumbs-up" sign, but I am not sure my basic point had been completely grasped. I was hardly trying to deny the existence of moral actions evil by their object (cf. VS 80), but merely raising a point about the pedagogical effectiveness of the language employed in affirming this particular truth claim.<sup>2</sup>

The last fifteen-plus years of teaching have personally confirmed my basic point. Often the term "intrinsic evil" is used instrumentally as either a shibboleth or a gauntlet to confirm the identity of "friend" or "foe" in various culture conflicts. Rather than join one side or the other in the tug-of-war stalemate on the meaning and use of the term itself, I propose stepping back a few paces simply to observe that in fact the contenders might be pulling on quite different ropes that are not actually connected to one another, or at least not connected in the ways we might at first imagine. I should like to propose as a common-ground concept the notion of "intercultural communication" as outlined by Robert Schreiter, who observes that often "information is both lost and gained when crossing a cultural boundary. Aspects of a message

emphasis is still maintained on the gravity of the action itself. Proper attention to this process helps avoid the moral conundrum of positing morally evil actions that would be totally abstracted from the agent, who is always and only a social, contextualized being. For a fuller discussion of this key point, see Klaus Demmer, *Deuten und handeln: Grundlagen und Grundfragen der Fundamentalmoral* (Freiburg: Verlag Herder, 1985), chap. 5.

<sup>2</sup> For a fuller discussion of how intrinsic evil and the natural law intersect with the language employed in *Veritatis Splendor*, see especially James T. Bretzke SJ, "The Natural Law and Moral Norms: Moving along the Rational Claim Axis," in *A Morally Complex World: Engaging Contemporary Moral Theology* (Collegeville, MN: Liturgical Press, 2004), 43–77. Also helpful are Bernard Hoose, "Circumstances, Intentions and Intrinsically Evil Acts," in *The Splendor of Accuracy: An Examination of the Assertions Made by "Veritatis Splendor"*, ed. Joseph A. Selling and Jan Jans (Grand Rapids, MI: Eerdmans, 1994), 136–52; and Jean Porter, "The Moral Act in *Veritatis Splendor* and in Aquinas's *Summa Theologiae*: A Comparative Analysis," in "*Veritatis Splendor*": American Responses, ed. Michael E. Allsopp and John J. O'Keefe (Kansas City, MO: Sheed & Ward, 1995), 278–95. A somewhat contrary view is put forward by Martin Rhonheimer in "'Intrinsically Evil Acts' and the Moral Viewpoint: Clarifying a Central Teaching of *Veritatis Splendor*," *Thomist* 58 (1994): 1–39, though this article's central purpose is to give an exposition of the notion of intrinsically evil acts in such a way as to deny theories of proportionalism, and the actual references to *Veritatis Splendor* are used in a rather proof-texting fashion.

that are obvious and transparent in the speaker's culture may become obscure and opaque in the hearer's culture. Hence, information is 'lost' to the hearer (lost in the sense of not immediately understood, though potentially retrievable at a later time)."<sup>3</sup> Schreiter further suggests that the philosophical and theological constructs employed ought to be checked (and pass muster) against competent criteria of effectiveness and appropriateness, but that is a discussion for another article.

*Intrinsic Evil as Shibboleth: Taxonomy of Views*

I suspect the vast majority of the Catholic population either understand or misunderstand "intrinsic evil" in one or more of the ways that I have tried to capture in my "Taxonomy of Views on the Concept *Intrinsece malum in se* (Intrinsic Evil)" (see the appendix at the end of this section). Scholars are familiar with most of the figures and features I have listed here, but for most of my students this is largely terra incognita. Furthermore, I suspect that most of them initially sincerely believe that the church holds as the only legitimate view of "intrinsic evil" the one I have labeled here as High "Automatic," that is, a separate and quite distinct species of moral act in which absolutely no consideration can be given to either circumstances or intention.

Disabusing students of the "automatic" notion of intrinsic evil is further complexified by their mistaken beliefs not only that this is *the* one and only view allowed by the true Catholic moral tradition as taught by the official church magisterium but furthermore that its defense against the evil proportionalists was a central tenet of *Veritatis Splendor*. Opposing "proportionalism" and supporting the concept "intrinsic evil" are thus joined in holy union at the altar of Catholic orthodoxy. This marriage, though, has often proven not only sterile, but downright hostile to the distinctions and nuances required by close moral analysis of issues of some complexity. In short, it has become a marker of legitimate Catholic identity as well as the shibboleth that separates the sheep of the Lord's true flock from the wolves that would prey on the innocents if they or their shepherds should ever drop their guard.

I have developed three step-by-step strategies to try to reprogram the thinking of those who hold this position, while at the same time trying to avoid picking one side or the other in the fatiguing and fruitless tug-of-war over "orthodoxy" and the like. I hope that these strategies might also open the door to a better consideration of more of the morally relevant features,

<sup>3</sup> Robert Schreiter, *The New Catholicity: Theology between the Global and the Local* (Maryknoll, NY: Orbis Books, 1997), 38.

along with their accompanying assumptions, in casuistic application.<sup>4</sup> *Strategy 1* tackles the notion of intrinsic evil as being somehow a totally separate species of moral act totally devoid of any consideration of intention or circumstances. First I make an analogy to two vats of clear liquid sitting side by side. One contains water, and the other hydrochloric acid. Regardless of my intention, whether the ignorance is vincible or invincible, and any other mitigating circumstances, if I mistakenly try to wash my hand off in the vat with the hydrochloric acid I will get severely burned. However, moral actions differ considerably from this analogy.

This is where I segue into *Strategy 2*, which employs the “constant teaching” of the church in the moral tradition. At this juncture some familiarity with the distinction between *actus hominis* and *actus humanus* is helpful.<sup>5</sup> While “circumstances” are common to both (and required by anything and everything humans do), it is the presence of “intention” that separates an *actus humanus* from an *actus hominis*. Building on this important distinction, I underscore that *every* moral act, intrinsically good, bad, or indifferent, requires a constitutive element—“freedom”—and furthermore this freedom is engaged primarily through forming a moral intention. An act devoid of both circumstances and intention simply could not be performed by any human being, since we must act in time and space, and that, without exception, provides at least a minimum of “circumstances”; an act performed without any prior, corresponding freedom instantiated in intention may be an act of a human being (*actus hominis*), but it cannot be by definition a moral act (*actus humanus*). An intrinsically evil act is by definition a moral act; this means logically that to some extent intention and circumstances

<sup>4</sup> By “morally relevant features” I mean aspects of a concrete situation that must (or should) be taken into consideration in the moral analysis of the act(s) that come out of the situation. A morally relevant feature is not necessarily “morally determinative” but could be. For example, the situation of a woman suffering from prolonged domestic abuse who kills her husband would include as “morally relevant” the aspects of the abuse. The homicide may well still be “murder” (or not), and while these features do not necessarily *change* the status of the act, they do present important considerations that should be taken into account in the total analysis of the act. Compare this above-mentioned scenario with, for example, the killing of someone like Matthew Shepard or the killing of a rival drug lord. All of these could constitute murder or homicide, but the morally relevant features in each case give us a thicker description of what is in play. I develop the notion of morally relevant features in my book *A Morally Complex World: Engaging Contemporary Moral Theology*.

<sup>5</sup> See the entries for *actus hominis* and *actus humanus* in James T. Bretzke, *Consecrated Phrases: A Latin Dictionary of Theological Terms*, 3rd ed. (Collegeville, MN: Liturgical Press, 2013), 5; and Bretzke, *Handbook of Moral Terms* (Washington, DC: Georgetown University Press, 2013), 5.

must already have been factored into an act described as *intrinsece malum in se*, and the *in se* is where these crucial components are acknowledged.<sup>6</sup>

While at this point some student minds may begin to waver on adherence to the “automatic” notion of intrinsic evil, *Strategy 3* seeks to seal the deal by turning to the texts of *Veritatis Splendor* and the *Catechism*. The latter states clearly in 1755 that moral acts are comprised of the composite of the three traditional *fontes moralitatis*—namely, the action *in se*, the circumstances, and the intention—and no mention is made of intrinsic evil as a species lacking one or more of these aspects.<sup>7</sup> The language of *Veritatis Splendor* is rather denser and requires a fair amount of careful textual exegesis. To aid in this analysis I use a color-coded study aid that provides excerpts from the relevant paragraphs of *Veritatis Splendor* (70–82) along with glosses and commentary.<sup>8</sup> I ask the students to read this handout carefully in class before our discussion, and then we go over the high points together,

<sup>6</sup> An abbreviated version of this paper was presented on May 31, 2013 at the College Theology Society 59th Annual Convention held at Creighton University, Omaha, NE; I am grateful to my respondent, Michael Jaycox, for reminding us that *intrinsece malum* is *not* a term employed by Thomas Aquinas either. Instead in the analysis of every moral act Aquinas highlights the indispensable roles played by intention and circumstances: “Now moral acts take their species according to what is intended, and not according to what is beside the intention, since this is accidental as explained above” (ST II-II, q. 43, a. 3; see ST I-II, q. 12, a. 1); “A circumstance makes a moral action to be specifically good or bad” (ST I-II, q. 18, a. 10); “And [a] circumstance gives the species of good or evil to a moral action, in so far as it regards a special order of reason” (ST I-II, q. 18, a. 11).

<sup>7</sup> *Catechism of the Catholic Church* 1755 states: “A morally good act requires the goodness of the object, of the end, and of the circumstances together. An evil end corrupts the action, even if the object is good in itself (such as praying and fasting ‘in order to be seen by men’). The object of the choice can by itself vitiate an act in its entirety. There are some concrete acts—such as fornication—that it is always wrong to choose, because choosing them entails a disorder of the will, that is, a moral evil.” *Catechism* 1756 highlights concern that we not mistakenly conclude that circumstances and intention *alone* could furnish the moral meaning of an act: “It is therefore an error to judge the morality of human acts by considering only the intention that inspires them or the circumstances (environment, social pressure, duress or emergency, etc.) which supply their context. There are acts which, in and of themselves, independently of circumstances and intentions, are always gravely illicit by reason of their object; such as blasphemy and perjury, murder and adultery. One may not do evil so that good may result from it.”

<sup>8</sup> This online study aid can be found at <https://www2.bc.edu/james-bretzke/VeritatisSplendorAndMoral%20ObjectsTextAndCommentaryByBretzke.pdf>. Bretzke’s web-page index, which contains much helpful material, including research bibliographies and PowerPoint presentations, can be found at <https://www2.bc.edu/james-bretzke/BretzkeWebIndex.htm>.

especially highlighting the crucial modifier “ulterior” in paragraph 80, which reads as follows:

Reason attests that there are objects of the human act which are by their nature “incapable of being ordered” to God, because they radically contradict the good of the person made in his image. 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* [emphasis added] intentions of the one acting and the circumstances.

In the colloquial English of our students, “ulterior” usually carries the nuance of a hidden evil agenda, as in “ulterior motive,” but the *Veritatis Splendor* usage (*extra adiuncta*) simply indicates *extra* in the sense of “further” or “additional.” To illustrate this point I use the time-tested example of the distinction between a “killing” of an individual (which may be the result of accident, self-defense, war, capital punishment, or murder) and the intrinsically evil act of homicide, which we term “murder.” What, I ask, is the difference between “murder” and the other types of “killing”? By this point all the students can easily respond with “intention and circumstances.” The point, I stress, is that “murder” already involves an abstract consideration of intention and circumstances, concluding that in this case these do not change the moral object. Even if the individual being murdered were a serial sexual abuser, if the killing is murder then the act is intrinsically evil, and no “ulterior” considerations (to use the vocabulary of VS) will change the fundamental moral meaning of the act, even if these “ulterior” intentions and circumstances may mitigate the moral culpability or responsibility for the act on the part of the agent.

While these three strategies are not universally effective, by and large over time (and with some repetition and reinforcement) they seem able to convince most of my students that the term “intrinsically evil” is at best an abstract concept open to a range of possible meanings and interpretations, functioning somewhat like what Schreiter terms a “theological flow”—that is, something that denotes “circulation of information that is patently visible yet hard to define,” moving across boundaries “and like a river, define[s] a route, change[s] the landscape, and leave[s] behind sediment and silt that [can, but does not necessarily in each case] enrich the local ecology.”<sup>9</sup>

Whether the continued use of the concept *intrinsece malum in se* actually meets the evaluative criteria in terms of “intercultural communication” or

<sup>9</sup> Schreiter, *New Catholicity*, 15; the qualifying phrase enclosed in brackets is my own interpretive gloss.

functions as a helpful “theological flow” as outlined by Schreiter remains at best an open question. However, regardless of its effectiveness as a communicative tool the term is here to stay—at least for the foreseeable future—and therefore, we ought to continue to help our students understand what this term can mean, as well as what it legitimately *cannot* mean.

***Intrinsic Evil as Gauntlet: Fr. Frank Pavone, Bishop Robert Morlino, et al.***

More difficult to overcome is the challenge raised when terms such as “intrinsic evil” are appropriated and manipulated for ends that are dubious at best and outright malicious at worst. The last several presidential election cycles provide considerable evidence of how “intrinsic evil” can function as this sort of blunt political tool.<sup>10</sup> This is what I term the “gauntlet” effect, in which a term is thrown down as a challenge to one’s adversaries to invite them to a battle in which they presumably would then be ill equipped to prevail. Numerous examples could be given, but I will just reference two to illustrate the dynamic: the “Voter’s Guide” materials disseminated by Fr. Frank Pavone and his Priests for Life,<sup>11</sup> and an August 2012 column written by Bishop Robert Morlino in his Madison, Wisconsin, diocesan newspaper.<sup>12</sup> Parenthetically I want to state clearly that I am *not* engaging the larger questions of the issues each man addresses, but merely focus on how the term “intrinsic evil” is employed in each text.<sup>13</sup>

<sup>10</sup> For a broader look at some of these issues, see Nathaniel Klemp, *The Morality of Spin: Virtue and Vice in Political Rhetoric and the Christian Right* (Lanham, MD: Rowman & Littlefield Publishers, 2012). Klemp identifies three different types of political rhetoric used in a “moral” mode, namely, deliberative persuasion, strategic persuasion, and manipulation. I would suggest that Pavone, Morlino, et al. might be exemplars of this third form of rhetoric.

<sup>11</sup> Fr. Pavone’s Priests for Life website can be found at <http://www.priestsforlife.org/>. He has been involved in several controversies both within the church and outside ecclesial circles. For a relatively sanitized and irenic overview of these, see the Wikipedia entry at [http://en.wikipedia.org/wiki/Frank\\_Pavone](http://en.wikipedia.org/wiki/Frank_Pavone). A more detailed articulation of Fr. Pavone’s political approach can be found in his article “Elections and the Parish,” *Homiletic and Pastoral Review*, August/September 2008, 16–22.

<sup>12</sup> Bishop Morlino’s column entitled “Subsidiarity, Solidarity and the Lay Mission” is dated August 16, 2012, just five days after Republican presidential nominee Mitt Romney’s selection of Paul Ryan as his vice-presidential running mate. The column was published in the Madison *Catholic Herald* and can be found online at <http://www.madisoncatholicherald.org/bishopscolumns/3366-bishop-column.html>. All quotations from Bishop Morlino’s column are from this online version.

<sup>13</sup> As is well known from a number of my other writings and pastoral experience, I stand quite opposed to a position that holds elective abortion to be either morally indifferent or good. The other issues raised by Fr. Pavone and Bishop Morlino, I would contend, fall

Taken together, the claims made by Fr. Pavone, Bishop Morlino, and many others essentially seem to boil down to the following moral principle: while there are legitimate differences on a range of public policy issues, *if* one or more of these issues should involve an “intrinsic evil,” then a correctly informed Catholic conscience could *never* support or vote for a candidate, political party, piece of legislation, and so on that contained acceptance, de facto compromise with, or even toleration of this evil. Anyone versed in the Catholic moral tradition knows well that this would definitely be a “new” moral principle which would overthrow a good deal of the tradition embedded in the principles for cultivating the fields of the wheat and the tares. But so often this is the part of the Catholic tradition less well-known by the larger public.<sup>14</sup>

The Priests for Life 2004 “Voter’s Guide” articulates their above-mentioned new moral principle in this way:

On most issues that come before voters or legislators, the task is selecting the most effective strategy among several morally good options. A Catholic can take one side or the other and not act contrary to the faith. Most matters do not have a “Catholic position.”

But some issues concern “non-negotiable” moral principles that do not admit of exception or compromise. One’s position either accords with those principles or does not. No one endorsing the wrong side of these issues can be said to act in accord with the Church’s moral norms.<sup>15</sup>

Five “non-negotiable” issues are enumerated (“abortion, euthanasia, embryonic stem cell research, human cloning, and homosexual ‘marriage’”), with the added note that these five concern actions that are intrinsically evil and must never be promoted by the law. Intrinsically evil actions are those that fundamentally conflict with the moral law and can never be deliberately performed under any circumstances. It is a serious sin to deliberately endorse or promote any of these actions, and no candidate who really wants to advance the common good will support any action contrary to the nonnegotiable principles involved in these issues.

into the area of prudential judgment, in which legitimate disagreement can be voiced that does not telegraph a position of dissent with the magisterium of the Church.

<sup>14</sup> Several theologians have engaged this issue directly; see, e.g., M. Cathleen Kaveny, “Intrinsic Evil and Political Responsibility: Is the Concept of Intrinsic Evil Helpful to the Catholic Voter?” *America*, October 27, 2008, 15–19. This article and many other helpful pieces are found in *Voting and Holiness: Catholic Perspectives on Political Participation*, ed. Nicholas Cafardi (Mahwah, NJ: Paulist Press, 2012).

<sup>15</sup> “Voter’s Guide,” Priests for Life, <http://www.politicalresponsibility.com/voterguide.htm>.



Perhaps this formulation, if painstakingly deconstructed and nuanced, could be “saved” as still being in accord with the long-standing Catholic moral tradition, but such a hermeneutics of generosity is thwarted by the interpretative commentary of the “Voter’s Guide”: “Citizens support these evils indirectly if they vote in favor of candidates who propose to advance them. Thus, to the greatest extent possible, Catholics must avoid voting for any candidate who intends to support programs or laws that are intrinsically evil. When all of the candidates endorse morally harmful policies, citizens must vote in a way that will limit the harm likely to be done.”<sup>16</sup>

If Father Pavone and Priests for Life have constructed a new moral principle to govern prudential judgments made in the political arena, Bishop Morlino goes one step further in expanding the list of what could be considered “intrinsically evil.”<sup>17</sup> Both context and background to Bishop Morlino’s text are quite important. When Tea Party congressman Paul Ryan (R-WI) first proposed his budget plan for America, he stated that it was influenced by Catholic Social Teaching (hereafter CST)—as well as by anti-altruist philosopher Ayn Rand—and was fully in accord with Catholic morality.<sup>18</sup> Ryan’s proposal was carefully analyzed by two USCCB standing committees, Domestic Justice and Human Development, chaired by Stockton Bishop Stephen E. Blaire, and the Committee on International Justice and Peace, chaired by Des Moines Bishop Richard E. Pates. The two chairs released letters on April 17, 2012 that declared the Ryan budget plan “a moral failure.” In their analysis the USCCB committees proposed the following evaluative criteria:

- “Every budget decision should be assessed by whether it protects or threatens human life and dignity.”

<sup>16</sup> Ibid.

<sup>17</sup> Bishop Morlino (b. 1946) entered the Society of Jesus after graduating from Scranton Prep, the Jesuit high school in his hometown, went through the normal course of Jesuit formation, and was ordained a Jesuit priest in 1974. He left the Jesuits in 1981 and completed a doctorate in moral theology under Ivan Fucek, SJ, at the Pontifical Gregorian University in Rome in the late 1980s. Appointed bishop of Helena, Montana, in 1999, he was transferred to Madison, Wisconsin, in 2003, where he has served ever since. Most of the biographical information comes from Bishop Morlino’s website found at <http://www.madisondiocese.org/DiocesefofMadison/OfficeoftheBishop.aspx>. Being myself a doctoral student in the late 1980s in Rome, I attended Morlino’s public dissertation defense.

<sup>18</sup> While the congressional district that Paul Ryan represents falls both in the diocese of Madison and in the Archdiocese of Milwaukee, his canonical domicile is within the Madison diocese headed by Morlino.

- “A central moral measure of any budget proposal is how it affects ‘the least of these’ (Matthew 25). The needs of those who are hungry and homeless, without work or in poverty should come first.”
- “Government and other institutions have a shared responsibility to promote the common good of all, especially ordinary workers and families who struggle to live in dignity in difficult economic times.”<sup>19</sup>

Catholic Democrats rejoiced while their coreligionist Republicans found themselves in the unaccustomed and uncomfortable position of having some of their key policy plans being pronounced “suspect” by at least these two organs of the US bishops. Fast-forward four months to when Republican presidential nominee Mitt Romney nominates Congressman Ryan as his running mate, and the USCCB committees’ critique now resurfaces in greater prominence. At this juncture, Wisconsin was viewed as a key swing state by most pundits, and just four days later Ryan’s own bishop, Robert Morlino, released a glowing commendation of Ryan’s Catholic credentials. Bishop Morlino’s “Subsidiarity, Solidarity, and the Lay Mission” leads off by indicating his personal pride in Congressman Ryan’s accomplishments “as a native son and a brother in faith,” and while acknowledging that “it is not for the bishop or priests to endorse particular candidates or political parties,” he underscores that both bishops and priests must teach “principles of our faith” so that Catholics can “form their consciences according to these principles about particular policy issues.” The bulk of the remainder of Morlino’s column purports to do just that—putatively in a nonpartisan manner—though my own students concluded after careful study that the bishop’s own political preferences did seem fairly clear.<sup>20</sup>

Like Pavone’s “Voter’s Guide,” Morlino lists five “fundamental issues,” including “sacredness of human life from conception to natural death, [and] marriage,” but also three new concerns: “religious freedom and freedom of conscience, and a right to private property.” “Religious freedom and freedom of conscience” are clearly the watchwords of the US bishops’ campaign against the HHS mandate under the Affordable Care Act, but the elevation of “private property” to the status of one “of the most fundamental

<sup>19</sup> The bishops’ letters to Congress and their statements were widely reported in the press. I cite the highlighted bullet points from the *National Catholic Reporter* article, <http://ncronline.org/news/politics/congress-needs-eucharistic-consistency-its-new-budget>.

<sup>20</sup> I use Bishop Morlino’s column as one of many magisterial documents we analyze in my course on contemporary issues in Christian ethics. The temptation to use an ecclesial, liturgical, or professorial role to encourage support for one’s political views is obviously a challenge for us all!

issues for the formation of a Catholic conscience” is a real magisterial novelty in giving moral guidance to the faithful.

In concert with Pavone, Morlino affirms that any violations of his list of five fundamental issues “involve intrinsic evil—that is, an evil which cannot be justified by any circumstances whatsoever”; but to hammer the point home, Morlino gives a slightly amended list of intrinsic evil violations, which include “abortion, euthanasia and physician-assisted suicide, same-sex marriage, *government-coerced secularism*, and *socialism* [emphasis added].” So *pace* Thomas Aquinas and most of the CST tradition we now seem to find private property as not only an absolute right, but of such importance that commitment to its protection should guide every rightly formed Catholic conscience in voting and legislation, especially in light of the dangers of the newly discovered intrinsic evils of secularism and socialism, which Morlino reminds us “cannot be justified by any circumstances whatsoever.” Regrettably (or by design) the bishop never details what the intrinsic evils of secularism and socialism look like in the concrete, and so some of the consciences seeking formation may remain understandably confused on this point.<sup>21</sup> This is unfortunate from a pedagogical perspective: for example, would the religious vow of poverty and the practice of common life constitute the “intrinsic evil” of socialism, or perhaps be part of the reason Bishop Morlino left the Jesuits? While this question is rhetorically tongue-in-cheek, the indiscriminate use of the terminology of “intrinsic evil” continues to pose a very real problem for those who hold the High “Automatic” view of intrinsic evil in my taxonomy.

Indeed, Morlino’s employment of the term would seem to rank as “Medium Low” in my taxonomy—that is, it seems to reflect the notion that “intrinsic evil” serves as a pedagogical guide to moral discernment, but does not represent *absolute* prohibitions—even though Morlino’s formulation of the term as “an evil which cannot be justified by any circumstances whatsoever” otherwise stands in clear tension with the “Medium Low” understanding of *intrinsece malum in se*.

Bishop Morlino readily concedes that not every aspect of political decisions amounts to a consideration of intrinsic evil, such as “how best to care for the poor” and “how best to create jobs at a time when so many are suffering from the ravages of unemployment.” These seem to be similar concerns voiced by Bishops Blaire and Pates, though it seems likely that

<sup>21</sup> See David Cloutier’s analysis of Bishop Morlino’s column in “‘Intrinsic Evil’ & Public Policy: A Partisan Abuse of the Church’s Moral Teachings,” posted October 31, 2012, on the *Commonweal* website, <http://commonwealmagazine.org/%E2%80%98intrinsic-evil%E2%80%99-public-policy>.

Bishop Morlino supports the budget plan of his diocese's "native son," since he echoed Ryan's vocabulary of pronouncing the proposed budget to be in accord with the CST "time-tested best way for assisting our neighbors throughout the world ... the principle of subsidiarity." Morlino concludes by admitting that where intrinsic evil is not involved, there can be legitimate differences of opinion on how best to proceed in making a prudential judgment. However, *pace* Bishops Blaire, Pates, et al., Morlino clearly affirms that "Vice Presidential Candidate Ryan is aware of Catholic Social Teaching and is very careful to fashion and form his conclusions in accord with the principles mentioned above," noting, "Of that I have no doubt." He adds that "obedience to Church Law regarding one's right to a good reputation" requires him to state this judgment—presumably since some Catholics may be "confused" by the two USCCB committees' pronouncement of the Ryan budget as a "moral failure."

### *Conclusion*

Weighing documents such as the Priests for Life "Voter's Guide" and Bishop Morlino's exercise of his *munus docendi* against exit polls taken of Catholic voters in the last several election cycles suggests that at a minimum what we have here is "a failure to communicate"—at least interculturally as in Schreiter's analysis. The term "intrinsic evil" remains pedagogically quite challenging to teach, and that is not to mention the ongoing debates, often quite acrimonious, among moral theologians who argue about the legitimacy of the concept at all. Using something like my taxonomy of views of intrinsic evil highlights the reality that abstract terms can often be understood better in terms of heuristic models, as we learned from Cardinal Avery Dulles's 1974 seminal classic *Models of the Church*. Using a taxonomy of models might open up a way forward to resolving the "shibboleth" dimension the concept clearly still occasions.

As for the other aspect of the term's use, namely, as "gauntlet" employed to enjoin battle and mark friend from foe, I would suggest that what I believe is objectively an unacceptable misappropriation of the traditional concept of *intrinsece malum* in documents such as the Priests for Life "Voter's Guide" and/or Bishop Morlino's "Subsidiarity, Solidarity, and Lay Mission" does not function as a positive example of Schreiter's theological flow, but rather deposits silt and sediment that compromise cultivation of our local theological ecology and renders more hazardous navigation of the path to seeking the political common good in a morally complex world. These channels then stand in need of dredging, which careful attention to the whole of the Catholic moral tradition may facilitate.

**Appendix: Taxonomy of Views on the Concept *Intrinsece malum in se* (Intrinsic Evil)**

1. HIGH (Intrinsic evil as a separate “species” of moral act)
  - a. *Automatic*: mere physical commission of an action violates the intrinsic evil prohibition
    - i. Absolutely *no* circumstances or intention whatsoever can factor into the moral evaluation
    - ii. Common misunderstanding held by many people, and by a very few moral theologians (e.g., John Haas of the National Catholic Bioethics Council; Benedict Guevin, OSB; Stephen A. Long; and Janet Smith)
    - iii. Virtually no magisterial documents, with the possible exception of Bishop Olmsted’s analysis of the Phoenix “abortion” case
  - b. *Symbolic*: knowing and free commission of an intrinsic evil symbolically implies will to perform the intrinsic evil act
    - i. E.g., either a defective moral intention and/or lack of circumstances that could change the moral object from evil to good
    - ii. Exemplars: basic goods/new natural law theorists (e.g., Germain Grisez; John Finnis; Joseph Boyle; William E. May)
    - iii. “Inseparability Principle” applied to the unitive and procreative dimensions of the marital act
2. MEDIUM HIGH (Intrinsic evil as tutelary prohibitions)
  - a. Virtually exceptionless norms that protect key values and close discussion on the “possibility” of prohibited actions
  - b. E.g., no “genocide” by any other name (such as “ethnic cleansing”) nor “direct abortion” (even if there are mitigating circumstances such as poverty or psychological stress)
  - c. Position held by many moral theologians and most magisterial documents
3. MEDIUM LOW (Intrinsic evil as pedagogical guide to moral discernment)
  - a. *Lex valet ut in pluribus* (ST I-II, q. 94, a. 4): Moral laws that bind in *most* (but not all) cases and therefore serve as a guide for looking carefully at the moral fonts of the act in terms of the act *in se*, circumstances, and intentions
    - i. Position held by several moral theologians (e.g., Josef Fuchs, SJ; Richard McCormick, SJ; and one branch of proportionalism)
    - ii. Many of the church’s social ethics documents would seem to fall into this category
4. LOW (Intrinsic evil as an artificial construction with less positive value and/or application)

- a. *Medium low*: The concept is outmoded and fails to take into sufficient account circumstances and intentions, which will always be quite numerous, varied, and hard to gauge with sufficient precision in advance for a judgment that would apply to *all* such “acts” in *every* time and place
  - i. Many “revisionist” moral theologians probably would place themselves in this category
  - ii. Perhaps some of the church’s magisterial documents of an intentionally more provisional or “disciplinary” nature would fall into this category (e.g., certain Social Teaching documents, liturgical law, some canon law provisions)
- b. *Lower low*: There is no objective moral order that can be postulated outside of a careful consideration of circumstances and intention; these largely determine the moral rightness or wrongness of an action
  - i. A few moral theologians seem to hold this position (e.g., Daniel Maguire)
  - ii. No magisterial document seems to espouse this position
- c. *Very low*: The notion of an “objective moral order” is false
  - i. Theories such as consequentialism, utilitarianism, emotivism, intuitionism, radical postmodernism, etc., would fall into this category
  - ii. Very few Christian ethicians would seem to fall in this category, though there are many philosophical ethicians who hold one or the other of these various theories

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