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Chapter Six

What Are Intrinsically Evil Acts?

Sigrid Müller

James Bretzke, in his stimulating chapter on Intrinsic Evil in *Veritatis Splendor*, addresses the fact that the notion of “intrinsically evil acts” is being used metaphorically and politically, but without a clear concept of what intrinsic evil might be. If one were to ask the average person on the street what the expression means, a variety of meanings would be found, ranging from “no idea” to “really, really, really bad.”¹ If the notion of intrinsic evil is so unclear, it does not seem meaningful to keep using it.

It might be necessary to explain here that different languages have different connotations with regard to the notion of “intrinsically evil acts.” In my first language, which is German, “intrinsically evil acts” is a translation of *in sich schlechte Handlungen* which means “acts that are morally bad in themselves.” The German wording does not have the metaphysical connotation of evil as “associated with the forces of the devil”² or the already mentioned dimension of “extremely wicked and immoral.”³ Nor does it denote the “morally neutral (descriptive) sense” of damage caused.⁴ Rather, it signifies categories of acts that are already by their own name, judged to be morally wrong because it is known that they are destructive to personal life and basic human relationships.⁵

In Christian tradition, these categories of acts can be found in the negatively formulated commandments of the second table of the Decalogue (killing, stealing, committing adultery, etc.). This understanding of intrinsically evil acts as limited to a small number of commandments of the Decalogue was only recently given up, especially during the pontificate of Pope John Paul II. In *Veritatis Splendor*, 80, the notion entails a whole range of moral acts that had been used in *Gaudium et Spes* as examples of acts that prohibit the full flourishing of human beings, which are now categorized as intrinsically evil.⁶ The extended number of intrinsically evil acts creates the problem

that, if a large number of morally wrong acts can be said to be intrinsically evil, then the two notions become interchangeable, and the use of the category of intrinsically evil does not add substantial content to “morally wrong.” Therefore the development in Church teaching presses the question that was raised above, namely whether Catholic moral theory should stop using the term “intrinsically evil”—not only because it is no longer understood, but also because it has become interchangeable with the judgment of being morally wrong.⁷

However, I would like to make an attempt, before giving up the use of the term right away, to clarify more concretely the conditions under which one could possibly still use the term in an ethically significant way. Therefore, I will concentrate on the concept itself, neglecting the question whether it is currently being used fruitfully in moral communication. In order to do so, I will put forth some ethical considerations that have been developed during the past couple of years among the German-speaking theological ethicists.⁸ I will use these elements to approach the question of what the formal, epistemological, and moral characteristics of an intrinsically evil act need to be in order to make this concept valuable in light of contemporary theological-ethical theory.

On the way to reach such a description of intrinsically evil acts and their components, it will be necessary to engage in a few more specific issues. The first and shorter issue is how the objectivity of moral acts can be related to the statement made in James Bretzke’s chapter to the effect that one can speak of an “absolute moral truth” that is founded in God’s “objective moral order” which we fail to fully understand. This touches the epistemological question of how human beings recognize good and bad, theoretically and practically.

Secondly, I would like to reflect on the various relationships of the act and its object with circumstances and intention.⁹ The questions raised here are: When can circumstances and intentions change the act’s object and therefore its “species”—and when do they simply affect the accountability of the acting person, a dimension that refers to the difference between a mortal and venial sin? In the latter case, intentions and circumstances are only relevant for the evaluation of the “subjective” aspect of moral acts, while the act is taken to be already morally defined. It seems, however, possible to show that intentions and circumstances can also be relevant for defining the “objective” aspect of the act itself. I would like to show in this chapter that it is necessary to distinguish these two levels of looking at acts, because intentions and circumstances play different roles and have a different meaning at the two levels of reflection.

CAN WE DEFINE INTRINSICALLY EVIL ACTS?

As already mentioned, there are a variety of ways of understanding the expression ‘intrinsic evil’ in different discourses. It can be helpful to observe and distinguish the different ways in which this term is being applied and used for political purposes, that is, in order to stop further conversation on a topic. However, this effort does not excuse us from asking whether there is also a *moral* meaning of the expression. Does it make sense from an *ethical* point of view to speak about intrinsically evil acts; and if the expression makes sense, how would it be understood today?

Objective and Subjective Level: Intrinsically Evil Acts versus Personal Sin

In taking account of the objects, intentions, and circumstances which have classically been identified as the components of moral acts, it can be helpful to remember the difference between calling an act “intrinsically evil” and calling it a “mortal sin.” “For a *sin* to be *mortal*, three conditions must together be met: ‘Mortal sin is sin whose object is grave matter and which is also committed with full knowledge and deliberate consent.’”¹⁰ Circumstances, in this understanding of the *fontes moralitatis*, do not influence the nature of an act, rather they decide about the gravity of a sin which reflects the relationship between the person and God.¹¹

Sin, therefore, is a religious category that refers to an individual person, to the “subjective” level, with the exception of when the word “sin” is used in an analogous or metaphorical way, as in the expressions “structural sin” or “sins of our times.” The elements of the classical *fontes moralitatis* can help to define, in cases of conscience and in the situation of confession, to what degree a person can be held accountable for what they did (not) do. But what can be said about the category of intrinsically evil acts? By abstracting from the agent, intrinsically evil acts are localized at the “objective,” rather general level of defining and categorizing moral acts and not at the level of acting. It seems that the category of intrinsically evil acts is a moral category which does not address the personal accountability of an agent, but rather remains on a general and abstract “objective” level.¹² It is at this general level that *Veritatis Splendor* describes the characteristics of intrinsically evil acts: they are acts that are always forbidden, are categorically evil, and therefore are expressed in a negative form (“You shall not . . .”).¹³ In this description, the universality of the moral claim (always), its verbal expression (negative), and their content (evil) are linked together. In the reflections that follow I try to address these aspects separately.

This general judgment has been related to the theory of absolute moral truth.¹⁴ The question, however, is raised as to how absolute moral truth and

universal, categorical moral norms and personal moral judgment are related to each other. The encyclical says that calling a specific act “intrinsically evil” expresses the judgment that the concrete act can be categorized as belonging to a species of acts, which means that these acts have the same object¹⁵ and that acts with this object can be universally recognized as being intrinsically evil. In this way, the claim is being made that universal, categorical moral norms exist.¹⁶ At the same time, it is very interesting to note that the encyclical does express the idea that the attribution of a specific act to the species of “intrinsically evil” does not come about naturally, but by an act of recognition.¹⁷ This leads us to reflect briefly about the epistemological presuppositions of the claim being made in the statement by James Bretzke that we can speak of an “absolute moral truth” that is founded in God’s “objective moral order” that we fail to fully understand. Are failures in personal moral judgment caused by a failure to understand God’s absolute moral truth?

HOW CAN WE UNDERSTAND ABSOLUTE MORAL TRUTH?

Klaus Demmer, in a remarkable article from 1987, analyzed the metaphysical presuppositions for understanding the relationship of acts and their moral species. In his essay, he judges the concept of intrinsically evil acts in Catholic moral teaching as sometimes helpful in determining certainty with respect to certain acts. But he also wants to make his readers aware of the fact that the concept is based on “essentialist and objectivist advance decisions.”¹⁸ By presupposing a moderate realism, he shows that the epistemological process, by which an object is recognized and classified, is embedded in history. Therefore, the clear distinction made a few years later by the encyclical *Veritatis Splendor* between a “moral judgment”—which claims to recognize that a certain reality is given—and an “arbitrary decision” taken with regard to a concrete situation, is misleading when it comes to understanding the way in which universal principles are perceived.¹⁹ Reason, Demmer argues, judges and decides in one and the same act.²⁰

As a consequence, it is clear that there are general moral principles that may not change in their wording and in the basic existential knowledge attached to them, but it is also clear that they can take on different practical meaning at a more concrete level when historical contexts change and bring about new contexts of interpretation and understanding that can broaden or narrow the “domain of definition” of a term.²¹ Demmer claims that one should be aware of a certain analogy embedded in truth that allows distinguishing between the following three analogous senses of the notion of truth: (1) truth with regard to exterior facts (e.g., this man causes harm to a woman I love by beating her), (2) the anthropological truth which is a truth linked to the project of a person’s life that brings about a pluralism of interpreting

concrete situations (e.g., this is a woman I definitely want to save from mistreatment), and (3) a moral truth which is established by practical reason (e.g., if I deliberately kill the man who is mistreating the woman I love, this is murder).²²

When Demmer develops his argument, he makes two statements relevant for our question. First, the recognition of moral principles that are linked to external reality, that is, facts and experiences (that some kind of things or acts cause harm) belongs rather to the field of “theoretical reason.” When these are considered, all limitations that accompany the acquisition of theoretical knowledge apply, especially the limitation that our knowledge is embedded in a certain historical, hermeneutical setting. This is why human beings can formulate moral principles, as “you shall not kill.” In their wording they refer to an experience that life is valuable and that purposeful putting an end to the life of someone causes harm so that the principle affirms this experience and general knowledge. Yet, their unfolding in moral norms and legal regulations makes it necessary to define the exact realm of the general principle. The more interpretation is needed, the greater is the influence of historical context. For instance, at the time when the Ten Commandments were formulated, the commandment did not include killing in war or killing persons belonging to other nations, nor did it refer to the death penalty, but it did include indirect killing (namely, willingly letting it happen).²³ By accepting the historical embeddedness of our epistemological acts, one also accepts that the concrete meaning of “unchangeable moral principles” can change even if their literal formulation, and the general existential knowledge of the values that these general principles protect, remain the same. There are a number of examples for such a historical development of interpretation in the teaching of the Catholic Church.²⁴

Our understanding the meaning of principles can change not only when facts are interpreted differently, but also when facts are related differently to our anthropological views, and vice versa. Furthermore, when our moral attitude changes because of experiences that make us rearrange our implicit hierarchy of values, or when the range of moral values expands due to experience, our understanding of principles also evolves. As Demmer argues in his article, the physical, the anthropological, and the moral need to be distinguished from each other, but they are connected in analogous ways in which they create the hermeneutical background against which human beings understand the meaning of, acknowledge, and reaffirm moral principles. The principles therefore are seen as assuming the character of absolute moral truth that does not change. Yet their concrete understanding is dependent upon the interaction of various layers of theoretical knowledge (of facts and general principles) and practical reason (moral insight in the concrete situation) embedded in history. Our understanding, therefore, can broaden, narrow, include, or exclude new aspects.

The cautious formulation that moral principles are assuming the character of absolute moral truth refers firstly to the much discussed metaphysical question of whether absolute moral truth exists; and secondly to the epistemological question: if it exists, how can human beings conceive of it. The metaphysical question has been discussed since Aristotle's critique of Plato, and both theories have made their way into the Christian tradition. In the Platonic Christian tradition, moral goodness corresponds to acting according to a given theoretical order that is established by an ordination to the highest good which is God. The Aristotelian line of argument would locate moral goodness in relation to the practical aim of human life which is (practical) perfection and the happiness that results from reaching it, distinct from the theoretical order of goodness in which human beings participate through their intellect.²⁵

A third line of thought that influenced Christian tradition was Stoicism, which introduced the idea that human beings could observe the law of nature that was seen as divine so that the task of human beings was to bring their acting into harmony with this law. In spite of the differences in their accounts of theoretical and practical reasoning, it is clear that human practical acting is still understood to be dependent on human reasoning, while only general principles, as "good is profitable and worthy of choice and [. . .] all men assume righteousness to be beautiful," can be regarded as moral precepts given by nature to everybody.²⁶

Let us, then, pursue the question of what the consequences would be if we affirm Bretzke's statement that we can maintain an absolute moral truth. According to Bretzke, absolute moral truth contains the knowledge about intrinsically evil acts, as part of God's moral order that human beings need to acknowledge but cannot recognize with certainty.

HOW CAN WE UNDERSTAND GOD'S OBJECTIVE MORAL ORDER?

Absolute moral truth in the sense of being expressed by "general moral principles" that can be exemplified by the categorical, negatively formulated Commandments of the second table of the Decalogue can also be referred to in the practical order as "intermediate moral principles" or incomplete moral norms.²⁷ They are not as general as mere principles (e.g., do good, do justice, avoid evil, do what expresses love) but not as concrete as clear norms (pay taxes, do not beat your children, invite your parents to live with you when they are in need). Rather, they are general enough to appear unchangeable and yet open to a certain variation of meaning when the hermeneutic context changes. Does this justify the claim that general and intermediate principles are founded on God's "objective moral order" and explain the variability of

the application of intermediate principles by the fact that human beings fail to fully understand that order?²⁸

I would question whether it is very helpful to save the idea of an absolute moral order if it is understood as a metaphysical order established by God that is not approachable by human reasoning. It seems to me that this would confirm what *Veritatis Splendor* suggests in some of its formulations, namely that there is a kind of metaphysical moral order that human beings ought to recognize and obey. However, because people are not always willing or able to see that order, it is necessary that the Church bridges the gap to guarantee complete certainty for believers. While I understand the need for guidance and moral certainty, the claim that the gap between the divine order and a concrete situation can be filled by a general teaching of the Church can be questioned on various grounds. Following this line of thought, I will point to only one argument which is fundamental: claiming to bridge the gap in understanding with complete certainty would presuppose that the Church has a superhuman capacity of “seeing” God’s order. This would presuppose direct revelation or verbal inspiration with regard to all moral questions. In contrast to this, on the practical level, all the other ways of establishing bridges of understanding fall under the hermeneutical and epistemological conditions described by Demmer. This means that they include the same historical conditionality and can exhibit the possibility of further changes.

Thus, once it is accepted that theoretical insight about (general) moral principles is at least to some degree conditioned by history, referring to God’s objective moral order amounts to the same thing as referring to the moral order as described by human reason, to interpret the world and human beings in the light of the gospel. In other words, speaking of God’s absolute moral order does not add to what is called a moral order established by natural law (understood in a non-naturalistic sense, which means under the condition of human recognition by reason at a given period of time) or simply a moral order established by moral reasoning in the context of Christian belief. Therefore, by referring to God’s moral order, one does not receive further help to clarify doubts with respect to the moral order in the world. In other words, further judgments in the field of morality are needed that are made under the conditions of the limited human capacities to reflect, experience, and evaluate, in the light and context of faith.

As a result, we can conclude that even if we maintain a Platonic system of thought, and therefore claim that we can conceive of some order in the world, or if we talk about the law of nature in Stoic terms, we still need to draw on the interpretation of human reason to find out what the right order of acting might be. This means that there is no immediate influence of the concept of absolute truth on the outcome of concrete normative discussions in ethics that could avoid a series of interpretations and further practical judgments.

The requirement of interpretation had already been clearly identified in the medieval discussions on the relationship of theoretical and practical principles on the one hand, and ethical decision-making on the other. Duns Scotus, for instance, argued that the only principle deductible with scientific certainty from knowledge of God is that human beings should love Him. All further principles, according to Scotus, are not evident, but already refer to the level of human acquired knowledge.²⁹ This practical knowledge is regarded as *objective* (but not *absolute* because of its being dependent on human reasoning) when reason proposes it after a process of reflection. The human being is encouraged to approve of what reason tells him or her.

Having said this, it is clear that the only available practical knowledge is the knowledge provided by reason. The question whether this knowledge is objective knowledge (and not just subjective opinion or a result of moral construction) depends on the stand one takes in the discussion about moral realism in its different forms.³⁰ It also depends on presuppositions in philosophical anthropology as to whether human beings are driven by their instincts and passions alone or can use their reason objectively and therefore find themselves confronted with an objective moral truth, which is basic for every moral theory. These considerations allow us now to proceed and ask the question of how one can conceive of and define intrinsically evil acts with the help of moral reasoning.

INTENTION AND CIRCUMSTANCES AS COMPONENTS OF INTRINSICALLY EVIL ACTS

Against this backdrop of epistemological and hermeneutical reflections, I would like to accommodate the question of intrinsically evil acts in the general theory of morality that has been proposed by Peter Knauer and been followed up by Stephan Ernst.³¹ Knauer developed the classical theory of the sources of morality and of the principle of double effect further, and Stephan Ernst adopted it for contemporary ethical questions. In his development of the theory, Ernst proposes that to declare an act to be morally right implies that the means applied are appropriate and not contraproductive with regard to the value that the act aims to realize. The means applied should help to pursue the value in a sustainable and impartial (therefore universal) way.³² The intention and the circumstances that need to be observed in this case do not refer to personal motivation and feelings³³ or to the capacity of a specific human being to understand, which would be important for the evaluation of personal accountability. On the contrary, they refer to the objective situation, outcome, and consequences and confirm the universality of the claim that is being made. All these aspects form part of the act and are a necessary precon-

dition for the determination of the “nature” or—in classical moral theological terms—the “object” of the act.

The term “intention” is usually used to refer to human persons who have specific aims in mind when they perform an act. An example for an act that can be carried out with different intentions taken from the discussion in the Middle Ages is giving money to a beggar. The same exterior act that in itself is a morally good act can turn to be bad when carried out because of a wrong intention, for example, to give a beggar money to gain glory.

At a general level however, “intentions” are not referring to the psychology of persons but to the aims of acts. They are an ingredient in the process of defining the object of an act. This difference between the aim pursued by a person and the aim of an act is reflected in Latin moral tradition in the distinction between *finis operis* (the aim of the act) and *finis operantis* (the aim of the agent). In the objective sense, the same physical act (giving money to someone) can, if respective intentions are included, become the core of acts of a different category and moral evaluation (help the poor, pay bribe money, pay salary). The two types of intentions can, but need not, fall together when a generally described act is put into concrete practice by a person.³⁴ Similarly, circumstances can be distinguished with respect to a personal and a general level. At a personal level, circumstances serve to understand whether a person can be fully held accountable for an act or not, for example, when someone did something wrong while he or she was under medication. On a general level, however, they refer to the cultural and historical situation in which the definition of a general act is formulated. For example, deforestation needed to be judged differently after its detrimental effects on the climate became known.

The complex and objective understanding of an act can also be applied when one tries to understand the nature of intrinsically evil acts. The species of intrinsically evil acts cannot be defined without reference to the general object of the act, and without regard to the general historical situation in which they are defined.³⁵ An example can illustrate the inherent complexity of what seems to be a simple, categorical, and universal moral command. The commandment not to kill, according to historical-critical exegesis, amounts to a commandment not to murder, which means to bring about the death of a member of the community with a mean intention, and leaving some other cases of “legitimate killing” out of consideration. Therefore, it is not surprising that the understanding of which acts fall under the commandment has changed over the centuries. It clearly allowed the killing of heretics and criminals during the Middle Ages and until very recently allowed the imposition of the death penalty under particular circumstances. When Pope Francis ordered to reject the death penalty in the *Catechism*, where it was previously portrayed as acceptable under certain conditions, he did so because today we presuppose that in the circumstances of our times, the death

penalty is no longer an appropriate means to pursue the intention of saving the stability of a society. In addition, it affirms that the dignity of a human person also refers to one who is a criminal.³⁶ With regard to the dignity of human persons and the protection of human life, Pope Francis argues that some societies apply capital punishment without necessity and therefore without a justifying reason. The historical situation colors the acceptance of the death penalty in the *Catechism* or in state law with the shadow of revenge or even despotism instead of the light of justice.

Pope Francis's order to change the *Catechism* shows that an act that had not fallen under the verdict of the fifth commandment will be subsumed under it in the future. The moral character of the death penalty can change due to a change in social conditions and a new judgment about the way in which the value of safety in society can be pursued in a sustainable way. It also includes a new, positive interpretation of the criminal's dignity and basic right to life. A recent message by the Catholic news agency stated that the Sri Lankan Cardinal Malcolm Ranjith justified the decision of President Maithripala Sirisena to enact the death penalty against drug dealers who are already condemned to death and still organizing their criminal activities.³⁷ This took place after the first intervention by Pope Francis and demonstrates that circumstances do play a role when it comes to determining the object of an act, even where intrinsically evil acts are concerned, and that there is a need of moral reasoning even in these cases.³⁸ It is clear that the core issue (to protect the life of a human person) remains the same, but the immediate understanding of its application with respect to persons convicted of a serious crime is changing. In Europe, moral arguments against the death penalty can be traced back a couple of centuries, so a process of gradual expansion of this criticism, together with the development of the idea of human dignity, has resulted in the extension of the field of application of the universal principle not to kill.

By applying these considerations and developments, I would like to summarize, in a first step, that intrinsically evil acts obviously are a small group of moral acts that describe universal moral principles, formulated negatively at an intermediate level of generality and interdicting categorically. They refer to an existential knowledge about the value of human life and human relationships. According to moral reasoning, they cannot be pursued in a morally good way because the intention that determines the "object" is counter-productive against the background of the general circumstances within a universal moral perspective. The obvious question is, of course, What is the distinctive property that makes some morally wrong acts intrinsically evil acts?

HOW DO INTRINSICALLY EVIL ACTS DIFFER FROM MORALLY WRONG ACTS?

The aforementioned definition of intrinsically evil acts does not establish a clear distinction between such acts and morally wrong acts. This is correct as long as morally wrong acts are regarded on a general level,³⁹ without reference to the concrete act which would entail the concrete circumstances of the agent. If we want to distinguish the group of morally wrong acts that we would call “intrinsically evil” from other morally wrong acts, we need to go a step further. First, we can recall that intrinsically evil acts are supposed to be so general that they can be used as categorical commandments and stand out as lighthouses for directing moral behavior. This means that they cannot be concrete norms, but need to stay at an intermediate level.

In an attempt to evaluate a concrete act, we usually try to establish a relationship between this concrete act and general principles (do good, avoid evil) as well as with the intermediate principles that are more specific (do not kill). In the process of evaluating the act in relation to intermediate principles we confirm either that the concrete act falls under the intermediate principle and that the intermediate principle encompasses the concrete act, or we detect that the intermediate principle does not apply in these sets of circumstances. This can be illustrated with the following example. As an intermediate principle that is foundational for order in a society because it protects intimate relationships and families, there is the commandment “do not commit adultery.” While the Levirate marriage was an obligation in Old Testament times, we would interpret the act of taking my brother’s widow as second wife as an act opposing this intermediate principle.

Another practical example from current discussions raises the question whether sexual acts in a second marriage after divorce fall under the commandment against adultery. The contemporary context of this question serves as an interesting example of how a general principle (the commandment) may no longer apply. In relation to this, we can refer to a consideration made by different popes and theologians in the context of the discussion about the admission of divorced and remarried Catholics to the Holy Eucharist. In the documents of the Church, there is an acknowledgment of the situation of persons living in a second marriage who have moral obligations because of children born into that relationship. It has been argued that this situation diminishes the gravity of the sin, because they cannot leave behind their second marriage without committing an equally grave sin.

Theologians have raised the question whether this situation not only diminishes the gravity of that sin, but also leads to a new understanding of the entire moral situation. Is it possible that once a marriage has definitely been broken and divorced, sexual acts in a second marriage need not be seen as falling under the category of adultery because the object of the act differs?⁴⁰

While the Church documents' argument is based on the level of accountability for sin at a personal level, thus stating that the general norm applies to these situations, many theologians consider intention and circumstances at a general level that define the morality of the act itself. They therefore question whether the command "do not commit adultery" can be applied to the acts of a sexual relationship within a second marriage, as has Pope Francis.

ARE INTRINSICALLY EVIL ACTS FORMALLY OR REALLY BAD?

This brings us back to the question of the relationship between formality and content in intrinsically evil acts. As we have seen, the definition of "intrinsically evil acts" in *Veritatis Splendor* is associated with formal characteristics, negatively formulated and categorically wrong. It therefore already contains the negative moral judgment in its verbal expression (as in murder, adultery and theft), and such things are always forbidden. This is considered to be "moral knowledge" that persons are presumed to possess. But where does this presupposed moral knowledge come from?

I suggest that this moral knowledge comes from a judgment in the past that, at the time, was thought to be a means of protecting the worth and dignity of human beings, the necessary conditions for their flourishing, and the knowledge and experience of what damages that flourishing. However, if we consider intrinsically evil acts as a category that is only defined formally, we could provide other examples of acts that can be formulated containing a negative moral judgment which would imply that they are categorically forbidden. Suppose we suggest that it is intrinsically evil to kill an animal "just for fun." By adding the intention "just for fun," this definition would not exclude any justifying circumstances for killing animals, such as perceived threats from the animal or appropriately culling an overpopulated group of animals.

It could be suggested, and a significant number of responsible people agree, that killing "for fun" makes the act categorically evil and hence equivalent to unlawful killing, at least at the level of formality. But would we name it "intrinsically evil"? Perhaps ironically, in the current state of Western culture, which is supposedly dominated by Christian tradition and scientific approaches to nature, many would judge the killing of an animal for fun as marginal, at least as long as the life of human beings does not depend on the animal. Few people would speak about these kinds of acts as intrinsically evil even though they believe that they are categorically evil. From this example we can also conclude that acts referred to as intrinsically evil would not necessarily need to be of an extreme moral gravity if we regarded only

the formal characteristics of intermediate principles and negative moral judgment, without referring to their content.

Obviously, the formal characteristics are not enough to describe what the category of an intrinsically evil act stands for. Rather we first and foremost refer to acts as intrinsically evil if they seriously damage the dignity of a human person or destroy the very fundamentals of human life. For example, one can easily argue that sexual abuse is an example of an intrinsically evil act because it is obvious that it contradicts the dignity of a human person and the basics of human relationship.⁴¹

While this explanation stresses the dignity of the person that is acted upon, an alternative explanation has been proposed by Stephan Herzberg in this volume. When pointing to the interesting fact that Aristotle holds murder, adultery, and theft as categorical moral norms, Herzberg proposes a strong reading of this affirmation by saying that these are moral universals and the acts are bad in themselves because they damage the agent's soul through committing them. The consequence would be that they have to do with the nature of human beings and therefore are understandable by everybody. Thus, committing them would not only bring about damage to someone else but also to one's own understanding of oneself as a moral (and therefore human) person.

A DEFINITION OF INTRINSICALLY EVIL ACTS AS A WORKING TOOL FOR TODAY'S USE

In summary, we can formulate the following definition as a working tool for further reflection on this topic: Intrinsically evil acts are a group of moral acts that are formulated in a categorical way at the level of intermediate principles. According to their description, they cannot be pursued in a morally good way because the intention that determines the "object" is already judged as counterproductive against the background of the circumstances and the outcome perceived from a universal moral perspective. The group is defined, in addition to other morally wrong acts, by its content that is related to the destruction of the fundamentals of human life and human relationship.

In this way, we would see intrinsically evil acts as a very small group of morally wrong acts that are to be avoided scrupulously because they concern the very fundamentals of human life and social living. They would protect fundamental values such as human life itself which is a precondition for all other moral values. Their categorical use can be advocated because the defended basic values (life, human relationship) are universal in the sense that they are existentially known to human beings and are also philosophically defensible by reason. They can therefore be supposed to be acknowledgeable by everyone. Their strength—being sufficiently general, limited to the

essentials, and referring to something already known—is also their weakness, since other, individual concrete acts and their circumstances cannot always be directly subsumed under the general principle.

The question remains: What would theological ethics lose if it did not use the term anymore? I believe it can be argued—as has been done in a couple of contributions to this book—that for educating human beings morally, at least at a certain age and personal maturity, teaching in the language of the Ten Commandments is not always adequate. What is needed is more positive moral authorship (and not simply the avoidance of error and guilt). Yet, there are other fields, often related to legal discussions in modern society, in which the language of defending the basic fundamentals of all ethical discussions may benefit from such categorizations as “intrinsically evil.” This can be very useful when established human rights are endangered and the fundamentals of human life and flourishing find themselves subordinate to other interests. Of course, the countereffect can be provoked when the term is being used without acknowledging its “weak sides” and when the claims are made too quickly in cases when doubts are legitimate as to whether concrete acts fall under the general rule.⁴²

NOTES

1. See the contribution of James Bretzke, “Intrinsic Evil in *Veritatis Splendor* and Two Contemporary Debates,” in this volume.

2. See entry “Evil,” in *Concise Oxford English Dictionary*, 12th ed., eds. Angus Stevenson and Maurice Waite (Oxford: Oxford University Press, 2011), 494–95.

3. *Ibid.*

4. Joseph Selling’s appreciated intent to distinguish the moral words evil, bad, and wrong more clearly for the purpose of a more exact use of these, in which he proposes to use evil for the “morally neutral (descriptive)” meaning, would not be directly transferable into German (*Reframing Catholic Theological Ethics* [Oxford: Oxford University Press 2016], 173).

5. Mathew R. McWhorter, “Intrinsic Moral Evils in the Middle Ages: Augustine as a Source of the Theological Doctrine,” *Studies in Christian Ethics* 29 (2016): 413, refers to the difference made by William of Auxerre between acts that are intrinsically evil morally (*malum in se*) and those acts that are in addition carried out with libidinous desire, which means with an intention to divert from God—these acts are called *malum secundum se* and cannot be dispensed of by God.

6. John Paul II, “*Veritatis Splendor*,” accessed June 10, 2018, http://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_06081993_veritatis-splendor.html, 80 (with reference to *Gaudium et Spes*, 27): “Whatever is hostile to life itself, such as any kind of homicide, genocide, abortion, euthanasia and voluntary suicide; whatever violates the integrity of the human person, such as mutilation, physical and mental torture and attempts to coerce the spirit; whatever is offensive to human dignity, such as subhuman living conditions, arbitrary imprisonment, deportation, slavery, prostitution and trafficking in women and children; degrading conditions of work which treat laborers as mere instruments of profit, and not as free responsible persons: all these and the like are a disgrace, and so long as they infect human civilization they contaminate those who inflict them more than those who suffer injustice, and they are a negation of the honor due to the Creator.”

7. I would like to express my gratitude to Nenad Polgar and Joseph A. Selling for their critical and very stimulating comments.

8. For the reception of the respective ideas developed by German moral theorists like Knauer and Fuchs in the American context of the discussion on moral absolutes see Mathew R. McWhorter, "Intrinsic Moral Evils," 409–23.

9. Peter Knauer, "Zur Lehre von den 'Fontes moralitatis' im Katechismus der Katholischen Kirche," *Theologie und Glaube* 95 (2005): 451–62, points at the difficulties related to determining the different sources and their relationship.

10. The Holy See, "Catechism of the Catholic Church," accessed June 11, 2018, http://www.vatican.va/archive/ENG0015/_INDEX.HTM#fonte, 1857. Cf. Paolo Carlotti, "L'intrinsece malum e la *Veritatis Splendor*," in *Divinarum rerum notitia. La teologia tra filosofia e storia. Studi in onore del Cardinale Walter Kasper*, eds. Antonio Russo and Gianfranco Cofele (Rome: Edizioni Studium, 2001), 141.

11. Stephan Ernst, "'Irreguläre Situationen' und persönliche Schuld in *Amoris laetitia*. Ein Bruch mit der Tradition?" in *Amoris laetitia—Wendepunkt für die Moraltheologie?*, eds. Stephan Goertz and Caroline Witting (Freiburg/Basel/Wien: Herder, 2016), 145. On page 149, Ernst refers to *VS*, 70 in order to show that the encyclical confirms this difference between the act and personal accountability.

12. In this sense, the encyclical *Veritatis Splendor* describes intrinsically evil acts as being categorized because of their object that is obviously seriously wrong: John Paul II, "Veritatis Splendor," 80: "[. . .] 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." (Italics by author)

13. *Ibid.*, 67: "But the negative moral precepts, those prohibiting certain concrete actions or kinds of behavior as intrinsically evil, do not allow for any legitimate exception. They do not leave room, in any morally acceptable way, for the 'creativity' of any contrary determination whatsoever."

14. See the contribution of James Bretzke in this volume.

15. John Paul II, "Veritatis Splendor," 79: "[. . .] to qualify as morally evil according to its species—its 'object'—the deliberate choice of certain kinds of behavior or specific acts [. . .]."

16. The encyclical uses the term absolute in many different contexts. It speaks of absolute truth with regard to God, and uses the phrase "absolute moral norms" especially when it contrasts deontological ethics with teleological ethics. *Ibid.*, 75. For a detailed discussion see Werner Wolbert, "Die 'in sich schlechten' Handlungen und der Konsequentialismus," in *Moraltheologie im Abseits? Antwort auf die Enzyklika 'Veritatis Splendor.'* ed. Dietmar Mieth (Freiburg/Basel/Wien: Herder, 1994), 88–109.

17. John Paul II, "Veritatis Splendor," 67: "Once the moral species of an action prohibited by a universal rule is *concretely recognized*, the only morally good act is that of obeying the moral law and of refraining from the action which it forbids." (Italics by author)

18. Klaus Demmer, "Erwägungen zum 'intrinsece malum,'" *Gregorianum* 68, nos. 3–4 (1987): 614. See also p. 618 where he criticizes "hidden 'metaphysization' of moral truth and the use of juridical categories that distort the precision of moral standards."

19. The notion of principle is equivocal, since we can speak of moral values and virtues also as of moral principles, for example, justice, impartiality. For the present discussion, referring to moral principles means referring to the incomplete norms that are formulated in the Decalogue, which we can locate between pure principles or the formal principle of practical reason (do good, avoid evil) and concrete moral norms.

20. Here I interpret Demmer's phrase along the words used in *VS*. Demmer says literally: "The transition from Noumenon to Phainomenon does not pose the problem, but the immanent historicity of this process. The essence is created historically. Reason discovers and constitutes in one act." (English translation of the German text). Demmer, "Erwägungen," 615.

21. *Ibid.*

22. *Ibid.*, 616.

23. Matthias Köckert, "Dekalog / Zehn Gebote (AT)," in *Das wissenschaftliche Bibellexikon im Internet (WiBiLex)*, accessed June 15, 2018, <https://www.bibelwissenschaft.de/stichwort/10637/>.

24. See, for example, Carlotti, "L'intrinsece malum," 155–58 with reference to the change in the Church's teaching about the deportation of Jews, torture of heretics, and slavery.

25. For an account of Aristotle's ethics with respect to intrinsically evil acts see the contribution of Stephan Herzberg in this volume. He points to the interesting fact that Aristotle holds murder, adultery and theft for universal moral norms, in spite of his teleological line of ethical thought.

26. Maryanne C. Horowitz, "The Stoic Synthesis of the Idea of Natural Law in Man: Four Themes," *Journal of the History of Ideas* 35, no. 1 (1974): 9, referring to Epictetus who was the only Stoic who saw these moral preconceptions as innate.

27. As an example, Aquinas, in his *Summa Theologiae*, I–II, q. 100 codifies moral commands contained in the Decalogue, such as to honor one's parents, not to kill or to steal, as deducible from human natural reason and therefore as part of the natural law. Other more detailed norms, such as how to honor the elderly, he argues, need some further instruction and cannot be directly deduced. Thomas Aquinas, "Summa Theologiae," accessed June 10, 2018, <https://dhspriority.org/thomas/summa/index.html>. For a detailed analysis of the tradition on intrinsically evil acts see Nenad Polgar, *The Origins, Meaning, and Relevance of the Concept of Intrinsic Evil* (forthcoming). See also Kevin G. Long, "The Nine Commandments: The Decalogue and the Natural Law," *The Aquinas Review* 3 (1996): 145.

28. In his contribution to this volume Bretzke argues "that only God can fully and completely grasp the objective moral order, just as it exists in both the abstract and the concrete." James T. Bretzke, "Intrinsic Evil in *Veritatis Splendor* and Two Contemporary Debates," this volume, 60.

29. Allan B. Wolter and Frank A. William, *Duns Scotus on the Will and Morality* (Washington, DC: The Catholic University of America Press, 1997), 276; Duns Scotus, *Ordinatio*, III, d. 37, q un.

30. For an account of realism see Kevin M. DeLapp, *Moral Realism* (London/New York: Bloomsbury, 2013).

31. Peter Knauer, *Handlungsnetze. Über das Grundprinzip der Ethik* (Frankfurt a.M.: Books on Demand GmbH., 2002) pursues a new interpretation of the classical theory of double effect. A summary of his theory on three pages is "Nichtreligiöse Ethikbegründung und christlicher Glaube," *Orientierung* 67 (2003): 124–26. His initial idea was published in English in 1967: Id., "The Hermeneutical Function of the Principle of Double Effect," *Natural Law Forum* 12 (1967): 132–62. Ernst has applied Knauer's line of argument in several journal articles, some of which will be quoted in later footnotes.

32. Stephan Ernst, "Pluralität und Verbindlichkeit sittlicher Werte," *Stimmen der Zeit* 8 (2017): 528.

33. *Ibid.*, 527.

34. Demmer therefore concludes that the object normally decides about the morality of an act, but that there must be exceptions, especially when additional final causes are added. In this case, the intention of the agent is relevant for the moral judgment of the act. See Klaus Demmer, *Fundamentale Theologie des Ethischen* (Fribourg/Freiburg i.Br./Wien: Herder, 1999), 276.

35. The reference to the "general circumstances," which is nothing but the hermeneutical principle that we need to take historical contexts into account when we interpret reasoning, is not part of Knauer's and Ernst's ethical theory, but presents a prerequisite that I want to point out in order to explain the changes that can be observed. See p. 76 of this chapter.

36. Pope Francis's order to change the Catechism was announced by the *National Catholic Reporter* on August 2, 2018 in an article by Cindy Wooden, "Breaking: Pope revises catechism to say death penalty is 'inadmissible,'" accessed August 4, 2018, <https://www.archbalt.org/pope-revises-catechism-to-say-death-penalty-is-inadmissible/>. This decision was a consequence of what the Pope said in his "Address of His Holiness Pope Francis to Participants in the Meeting Promoted by the Pontifical Council for Promoting the New Evangelization," accessed July 20, 2018, http://w2.vatican.va/content/francesco/en/speeches/2017/october/documents/papa-francesco_20171011_convegno-nuova-evangelizzazione.html: "[. . .] In past centuries, when means of defense were scarce and society had yet to develop and mature as it has, recourse to the death penalty appeared to be the logical consequence of the correct application of justice. Sadly, even in the Papal States recourse was had to this extreme and inhumane remedy that ignored the primacy of mercy over justice. Let us take responsibility for the past

and recognize that the imposition of the death penalty was dictated by a mentality more legalistic than Christian. Concern for preserving power and material wealth led to an overestimation of the value of the law and prevented a deeper understanding of the Gospel. Nowadays, however, were we to remain neutral before the new demands of upholding personal dignity, we would be even more guilty. Here we are not in any way contradicting past teaching, for the defense of the dignity of human life from the first moment of conception to natural death has been taught by the Church consistently and authoritatively. Yet the harmonious development of doctrine demands that we cease to defend arguments that now appear clearly contrary to the new understanding of Christian truth. Indeed, as Saint Vincent of Lérins pointed out, “Some may say: Shall there be no progress of religion in Christ’s Church? Certainly; all possible progress. For who is there, so envious of men, so full of hatred to God, who would seek to forbid it?” (Commonitorium, 23.1; PL 50). It is necessary, therefore, to reaffirm that no matter how serious the crime that has been committed, the death penalty is inadmissible because it is an attack on the inviolability and the dignity of the person.” The address was held remembering the twenty-fifth anniversary of the publication of the *Catechism of the Catholic Church*, as the title of the German and Spanish versions of this text state.

37. “Sri Lanka: Kardinal Ranjith begrüßt Todesstrafe für Drogendealer,” *Kathnet*, July 13, 2018, <https://redaktion.kathpress.at/action/kpprod/download?&p=5981&c=2f92>.

38. How difficult such a change is, becomes apparent when one reads Steven A. Long’s account of Aquinas’s argument for the death penalty and its application to today. Steven A. Long, *The Teleological Grammar of the Moral Act* (Naples, FL: Sapientia Press, 2007), esp. 61–62.

39. See Bretzke, “Intrinsic Evil,” 57–58.

40. This argument obviously presupposes a change in the understanding of the sacramental bond that is no longer understood as a metaphysical bond that remains even when the concrete mutual relationship and love as *materia* of the sacramental bond have vanished. For the argument and further bibliography see Ernst, “‘Irreguläre Situationen,’” 157–59. For the difficulty of cutting the Gordian knot of ethical, canonical, and dogmatic approaches with regard to this matter see Sigrid Müller, “Die Entflechtung des Gordischen Knotens. Zur Stärkung der Rolle der Moraltheologie durch Amoris laetitia,” *Studia Teologiczno-Historyczne Śląska Opolskiego* 37, no. 1 (2017): 79–103, doi: 10.25167/RTSO/37(2017)1/79-103.

41. Sigrid Müller, “Der Schutz von Minderjährigen vor sexuellem Missbrauch,” *Münchener Theologische Zeitschrift* 62, no. 1 (2011): 22–32.

42. Peter Knauer, “Was bedeutet in sich schlecht?,” in *Ethik der Lebensfelder, Festschrift für Philipp Schmitz SJ*, ed. by Paul Churruarín Chittilappilli, CMI (Freiburg/Basel/Wien: Herder, 2010), 29–43. On p. 43 he warns that a deontological argument that does not pose the question whether a reason for approving of causing or tolerating damage is adequate would be problematic. This would come down to claiming that every killing is murder. Such an unqualified use of the term would cause immense confusion. Nicholas Lash has shown that this danger is present in some passages of *Veritatis Splendor* (Nicholas Lash, “Teaching in Crisis,” in *Considering Veritatis Splendor*, ed. John Wilkins [Cleveland, OH: The Pilgrim Press, 1994], 27–34).

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