

THE TELEOLOGY OF PROPORTIONATE REASON

In a recent installment of the "Notes on Moral Theology" (March 1982) Richard A. McCormick, S.J., dialogued at some length with an article I had previously written on the rules for rule-making (*TS* 42 [1981] 232-50). The following is a brief response to the criticisms made in this dialogue.

1) M.'s first charge is that I use the notion of proportionate reason as synonymous with end or motive. I am afraid that this is an overstatement of my position. I would certainly agree that the end or motive of an act can be considered a justifying reason in certain cases. As I pointed out, St. Thomas argued that the intention of self-defense would justify killing. Proportionalist themselves imply this in their discussions about means and ends. But when I said that the motive or intention was a proportionate reason, it was not my intention to deny that in the minds of proportionalist some other aspect of the act could be considered a proportionate reason. In my article I was really critical of proportionalist who use a kind of teleological approach as a short cut, since, according to their methodology, they should compare not simply means and end but all the good and evil contained in an act. The proportionate reason, then, should include all the good in the act, whether in the intention (motive, end) or elsewhere. In no way do I assume that it is synonymous with end or intention.

M.'s real complaint seems to be that in identifying proportionate reason with intention I am really saying that proportionate reason is something in addition to a clearly definable action. He wants to consider proportionate reason as part of the object of the act. Thus, to save a person's life is part of the object of the act of amputation; self-defense is part of the object of the act of killing. If the act is conceived in this way, one can certainly say that an act can be moral or immoral by reason of its object. And this is presumably what all the proportionalist he knows say. So they do not deny that an act can be moral or immoral *ex objecto*, as I had claimed.

The key to the solution of the problem here would seem to be in the meaning of the word "object" or *ex objecto*. There is, of course, a sense in which the word "object" can include object, end, and circumstance. In this sense these elements must all be objective and not simply in the mind or imagination of the subject. But we are dealing with object here as part of the act, and distinct from end and circumstance.

I am quite willing to admit that it is not always easy to decide where an object ends and an effect or end begins. For instance, one might conceivably speak of pulling the trigger as the object of an act, and the

killing as the motive. In this case, even if the motive or intention was considered part of the object, one would not have sufficient information to make a moral judgment or speak of a morally definable act. Or one can speak of killing as the object of the act, and self-defense the motivation (end, intention), as St. Thomas does. This is enough for a moral judgment. Finally, it may be possible, as M. says the proportionalists do, to include the intention in the object and call both "object."

If one does this, one may be able to say that the act is good *ex objecto*. But if proportionate reason should not be identified with the end or motivation, but extend to all the good in the act, it would seem that it should include all the other circumstances of the act. In this case, if one included the proportionate reason in the object, the whole act would be reduced to object. If one wishes to do this, I suppose one may; and it has been done in the past. But then the claim that an act can be moral or immoral *ex objecto* does not mean much. It certainly does not have the meaning it has in the tradition. Similarly, to say that an act is morally definable *ex objecto* is not saying much if it simply means that the whole act is morally definable. Later in his critique M. seems to admit that it may be impossible to try to fit a proportionalist approach into traditional language. This kind of admission certainly seems preferable to distorting traditional categories. We will have an opportunity later to criticize the terminology he wishes to substitute for this language.

I am sure that intrinsicists would admit that not all acts are moral or immoral *ex objecto*. Thus, as St. Thomas says, it is the intention of self-defense that justifies killing. Similarly, one who was not a proportionalist might say that the intention of healing justifies mutilation (amputation). Even in these cases one could question whether it is really the intention that justifies these acts, or the circumstance of disease or unjust aggression. Without these circumstances the intention would do no more than remove guilt. The action would still be objectively immoral.

What am I saying? I have no problem admitting that not all immoral acts are immoral *ex objecto*. So I can admit that in some cases one cannot even make a moral judgment if one looks at an object apart from circumstances or end. Thus in the example (which proportionalists like to use) of killing. One could say the same thing about sexual relations as such; without further knowledge one cannot make a moral judgment about such relations. So I am not saying that one can make a moral judgment about every abstraction. What I am saying is that one can have a morally definable action apart from the kind of calculus the proportionalists would demand. Certain key information is needed for moral judgment, but one can acquire it without such a calculus. Thus, one can make a moral judgment in some cases merely by a consideration of the

object of the act, e.g., in solitary sexual acts. Or one may make a judgment after a consideration of object and circumstance (or intention). Thus, one can make a moral judgment of sterilization when one knows that it is contraceptive. Or one can make a moral judgment about sexual intercourse when one knows that the two parties are not married to each other. Finally, one can make a moral judgment about killing when one knows that the victim is innocent. These are morally definable acts, and no further calculus is needed.

2) M.'s second criticism is that I fail to distinguish between value terms and descriptive terms. By a value term is meant one which already contains a moral judgment, that is, it identifies a morally definable act. Thus, such terms as unjust killing and immoral sexual relations are clearly value terms, and one can say that these acts are *always* morally wrong. Unfortunately, such value terms are not very helpful. Until one knows when killing is unjust or what kinds of sexual conduct can be considered immoral, one cannot make specific judgments about moral conduct in those areas.

Can proportionalists consider any other terms value terms in this sense? In his criticism of my article, M. lists three: adultery, killing an innocent person, and stealing. Initially, he seems to accept all three as value terms, but eventually he speaks only of stealing. He says nothing further about killing an innocent person, and I doubt that he would really want to consider it a value term. He also questions whether adultery should be so considered unless it is redefined to exclude sexual relations among the remarried. So the only value term he clearly accepts in that list is stealing.

Proportionalists have no problem with a condemnation of stealing. I would suggest that the reason for this will be found in the word "reasonable" in the definition. The use of this word gives the definition a flexibility that leaves it open to proportionate reason. If there is a proportionate reason for taking what belongs to another, it would not be "reasonable" for the owner to object. The traditional interpretation of "reasonable" does, of course, limit its meaning, but whether proportionalists accept those limitations is not clear. If they do not, even stealing could not be considered a value term. Ultimately, one has to conclude that to the proportionalist few terms may be considered value terms, and those that are tell you very little. We shall return to this point.

In continuing to make his point, M. then introduces a new terminology: *materia circa quam* and "morally relevant circumstances." Another use of *materia circa quam* may be found in treatises on the sacrament of penance. There it refers to the *remote* matter of the sacrament, i.e., the sins of the penitent. These can hardly be the matter of the sacrament

itself; they are rather the matter to which the acts of the penitent (the matter of the sacrament itself, *proximate* matter) and the absolution of the priest (the form) refer. Even there *materia circa quam* is used in an analogical sense; so I presume that the usage here is still analogical, although not in the same sense. The sins of the penitent are certainly morally definable, whereas in this usage the term is limited to what is premoral. M. does not speak of "proximate matter" or "form," but only of "morally relevant circumstances"; so we do not know how the rest of the analogy would be worked out.

The point M. focuses on here is that one cannot make a moral judgment about *materia circa quam* (or object in the restricted sense). He then identifies such things as masturbation, contraception, sterilization, and speaking falsehoods as nothing more than *materia circa quam*. If what I have said above is correct, it would also include taking the life of an innocent person, adultery as currently understood, etc. So *materia circa quam* becomes a very elastic bag for what are called premoral elements or terms, that is, elements or terms which are not morally definable. Although he identifies this *materia* with object in the restricted sense, it does not seem to exclude circumstance or end. For instance, the sterilization of which he speaks is contraceptive sterilization, which includes a motive or end. Nor is it clear why the *materia* may not be as morally relevant as circumstances. At any rate, to make a moral judgment about these acts, one must look for a proportionate reason, i.e., the good to be expected. What this means is that one must see whether there is a proportionate reason to allow the premoral evil. In other words, one must measure all the good in the act versus all the evil to see where the balance lies. Only after one does this may one make a moral judgment about these acts.

I doubt that the new terminology really clarifies anything. It may take the place of the traditional object-end-and-circumstances division of the act, but it does not seem to be any better adapted to the so-called teleological process.

3) M. then takes issue with my statement that to the proportionalist the means have no independent morality of their own. His general claim is that the statement misses the point of what proportionalists are saying. The point is missed because of a limited understanding of "means." If means are understood in the sense proportionalists give them, they include not only object in the strict sense, but circumstances and even end. Certainly, if means include all the other aspects of the act, they have a morality of their own, but since end is included in this understanding of means, one can hardly call the morality of means an independent

morality. So the claim seems to hold even with the broader understanding of means. It would be meaningless only in terms of a second and more remote end.

4) M. seems to admit here that proportionalists cannot make a moral judgment until they assess all the good and evil in acts. But he says that I miss the point when I say that proportionalists question the condemnations of adultery, stealing, etc. The most they would question is what counts as adultery. He would argue that these are value terms and therefore unquestionable. As already pointed out, however, M. himself questions whether adultery, as it is currently defined, can be considered a value term. I do not see how he can have it both ways. Also, if the circumstance of a second marriage can make adultery legitimate, can one rule out some other possibility as well? This would seem to reduce adultery to what M. calls *materia circa quam*, and nothing more than premoral evil, at least until one redefines it much more precisely.

Are there any other value terms the proportionalists admit? We have already discussed stealing. What about murder? If this means unjust killing, the proportionalists accept it. But, again, this tells you nothing. What about deliberate killing of the innocent? I do not think they accept this as a value term, in spite of the fact that it includes not only *materia circa quam* (killing) but what seems to be a morally relevant circumstance (an innocent person). My impression is that they collapse "killing an innocent person" into *materia circa quam*, and therefore do not consider it morally definable.

Ultimately, M. must reduce to *materia circa quam* whatever he does not wish to consider a value term, e.g., masturbation, contraception, contraceptive sterilization, killing an innocent person, and even adultery. Whether they are simple objects, or objects plus morally relevant circumstances, as in contraceptive sterilization, etc., does not seem to make much difference.

5) M. is critical of my assessment of the role of intention in traditional morality. I had said that it was primary in this tradition. He concludes that this is a "keep the hands clean" morality, in which one is completely unconcerned about evil effects (since they are not intended). M. says that if one followed this position, it would be permissible to kill a man who was spanking your child. This goes a little beyond the position I was trying to describe. I did not say that evil effects were of no concern in the traditional position; I said that they were of secondary importance. And I think there is a critical difference here. In the latter case they are a key to discerning the intention, and without some assessment of these effects, this discernment would be impossible. In M.'s example it would

be pretty hard to maintain that the intention of the father was only to defend the child and that he was not venting his rage against the assailant.

Ultimately, this kind of assessment is all that can be expected. If one must weigh all the good and evil in the act, including all the consequences, and the morality of the act depends on this rather than on one's intention (and/or the circumstance of unjust aggression), it will often be impossible for one to make a moral judgment.

6) M. denies that proportionalism is a new system. He shows this by pointing to the use of *ratio proportionata* in the tradition. It is unquestionably true that proportionate reason was used in the past for exception-making. But this had to do with affirmative obligations or positive legislation. It was not used of negative obligations, e.g., killing an innocent person, extramarital sex, etc. Also, it was broken down into *causa iusta*, *causa mediocriter gravis*, *causa gravis*, *causa gravissima*, etc., according to the seriousness of the obligation. And it was relatively easy to apply. One could, for instance, consider oneself excused from Sunday Mass if one was sick. The duty was clear and so was the excusing cause. The judgment gets much more complicated when *ratio proportionata* involves all the good in an act and must be weighed against all the evil in it. So there are two significant differences between the traditional use of *ratio proportionata* and proportionalism. And it is these differences that make the latter problematic.

7) M. also criticizes what I said about the inherent dangers of proportionalism. I would admit that many or most Christians live their spiritual lives not on the level of rules but on a higher level. They are not facing decisions about killing, stealing, adultery, etc., every day. So one can exaggerate the importance of rules. But one can also be too elitist in this regard. If we are going to be realistic, we have to admit that people do have to make decisions about abortion, contraception, withholding or withdrawing treatment, etc., more and more in our society. These decisions are often very difficult to make even when the norms are clear. I do not think we should make them more difficult by our methodology.

M. says that for Christians the experience of the Church can be of assistance in these decisions, and I would agree with this, but again, the methodology one uses may reduce the capability of the Church to provide assistance. I would also agree that correct moral judgments and decisions may be connatural to a life of virtue, and therefore less dependent on rules. But virtue itself is not connatural. One acquires virtue by particular acts, and these acts are the products of judgments and decisions that depend on norms. I hope that, as one acquires these virtues, one will be less and less dependent on rules, but initially one cannot get along

without them. Certainly, one must respect and encourage personal-conscience decisions, but conscience does not and cannot operate in a vacuum. It is dependent on virtue and/or norms, and to admit this is not paternalism but reality.

M. concludes by asserting that there is no evidence that proportionalism or teleological morality has led to the permissiveness of our times. It was not my intention to blame all the relaxation of moral conduct and thinking over the past ten or fifteen years on proportionalism. But if one looks at the literature, one has to admit that many departures from traditional morality have resulted from applications of proportionalism. Some authors have shown surprising facility in uncovering proportionate reasons, particularly in the area of sex. These authors have used proportionalism more as an exception-making tool than as a metaethical explanation of moral norms and principles. One may object that this is really an abuse of proportionalism and cannot be blamed on proportionalism itself. There may be some truth in this, but at least part of the problem is that proportionalism is really vulnerable to this kind of abuse, and to this extent must bear part of the blame.

The reason for this vulnerability is the reduction to *materia circa quam* or premoral evil of acts that had previously been considered immoral. Such a reduction opens these actions to exceptions. It also demands an additional step before a moral assessment can be made of such acts. We have already called attention to the extreme difficulty of this process, and hence the danger of short-cutting it. We can illustrate this by analyzing M.'s demand that the clause "against the good of marriage" be added to such terms as contraceptive sterilization before they can be considered value terms or designate immoral acts. He would logically make the same demand of terms like masturbation or extramarital sex. Since the good of marriage is not a *summum bonum*, I am not sure that in a teleological or proportionalist system even this addition would make these acts absolutely wrong. But even apart from this, the demand creates a problem. It was always assumed that these acts are wrong *because* they are against the good of marriage. The implication contained in this demand seems to be that these acts are wrong *when* they are against the good of marriage; in other words, they may not always be against the good of marriage. And the question may be even more basic. It may not be so much *when* the act is against the good of marriage as *how one understands* the good of marriage and its demands. In this kind of ambiguity, the norms governing these acts become exposed to exception-making in a way that can be very subjective and arbitrary. In any event, evidence that proportionalism has given rise to relaxations in attitudes toward moral norms or rules is available.

In any "dialogue with tradition" one must be sensitive to the role metaethical theory plays. Its basic function is to explain and to provide a rational foundation for norms and rules. It is not meant to replace them or weaken them. Since norms are antecedent to metaethical theories, they are not basically dependent on them. And the same is true of Church teaching. The final test for any metaethical theory may be the impact it has on rules or norms, and Church teaching in their regard. I pointed out in my previous article that proportionalism does not necessarily put one in conflict with traditional norms or Church teaching. But if the practical application of a theory weakens norms or rules, or even more so, Church teachings, there may be reason for questioning the theory itself. So when a metaethical theory becomes an exception-making instrument, one has to ask whether it is being abused or whether there is some inherent weakness in it. One cannot ignore such questions with immunity or impunity.

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