

TELEOLOGY, UTILITARIANISM, AND CHRISTIAN ETHICS

LISA SOWLE CAHILL

Boston College

THE AIM of this essay is to clarify the models of moral thinking and doing called teleology and deontology, to gain understanding of utilitarianism as a subcategory of the former, and to explore the relation both to utilitarianism and to teleology in general of certain Christian "consequentialist" modes of moral argument. This purpose arises out of a general and considerable unclarity in recent ethical literature about the relation between the conceptual tools of moral philosophy and modes of argument in moral theology.¹ More specifically, it represents a response to a lively controversy in Christian ethics about the appropriate way to discuss the role of good results in moral judgment. Neither philosophers nor theologians have been able to account conceptually for alternative roles, much less to define a normative one, in a manner which satisfies their discussion partners. The question to be pressed is whether and at what point the consideration of consequences makes a theory "utilitarian," and whether there are any distinctive features of Christian teleology in virtue of which, even when it assigns an important role to consequences in moral judgment, it can be distinguished from utilitarianism.

Richard McCormick is pre-eminent among those American moral theologians who, proceeding with a reconsideration of the formal structure of moral norms which was begun on the Continent, have suggested that the Catholic tradition of ethics provides an Aristotelian-Thomistic teleological model of moral agency and moral law. McCormick's particular contribution is his refinement of the suggestion that exceptions to abstractly stated moral norms can be justified by reference to the special circumstances in which an act falling within the purview of a norm will be performed. The consequences of any concrete act are thus necessarily determinative of its moral character. As McCormick puts it, there must

¹ Anglo-American theologians, especially Catholic moral theologians, only recently have begun to frame their discussions in terms of the issues, concepts, and style current in parallel work in Anglo-American philosophy. Eric D'Arcy noted almost a decade ago that such an assimilation might be profitable insofar as it would bring theology more extensively into contact with the intellectual and cultural milieu in which it aims or should aim to participate and to be understood ("Worthy of Worship": A Catholic Contribution," *Religion and Morality*, ed. Gene Outka and John P. Reeder, Jr. [Garden City, N.Y.: Doubleday, 1973] 173-203). Thomas R. Ullshafer, S.S., begins an analysis of Maritain as a deontologist with a review of other recent attempts to realize in practice the ideal expressed by D'Arcy ("Jacques Maritain as a 'Mixed Deontological' Ethicist of Agency," *Modern Schoolman* 57 [1980] 199-211).

exist in the resolution of any moral conflict a due "proportion" between the value concretely sacrificed and the value realized by the choice. In the eyes of his critics, this amounts to a utilitarian account of moral responsibility, since it seems to suggest that any moral principle can be overridden by considerations of beneficence or even expediency. An objective of this essay is to examine the validity of such a critique and to further the development of a more systematic account of the elements of McCormick's own teleology.

DEFINING DEONTOLOGY AND TELEOLOGY

Some authors, including McCormick, have tried to account for non-utilitarian forms of teleology by calling them "mixed" teleology and deontology,² but this seems to entail the questionable assumption that "pure" teleology is utilitarianism and that nonutilitarian elements in moral obligation must be deontological, not teleological. It seems more fruitful to construe teleology and deontology as distinct models of moral thinking, but not as opposed necessarily. From such a point of view, the best way to understand the elements of moral reasoning is not to divide them between two mutually exclusive models, but rather to take each model as a general and comprehensive perspective on moral agency within which all the key factors in moral obligation may be included in interrelations peculiar to that model.

The terms "teleology" and "deontology" were first paired and contrasted in 1930 by C. D. Broad,³ though the models they represent long precede him. According to Broad, deontological theories (from the Greek *deon* or duty) hold that it is possible to say of an act that it "would always be right (or wrong) . . . no matter what its consequences might be." That is, some actions are intrinsically right or wrong and thus obligatory or forbidden, regardless of the motives for which they are performed or the

² In his "Notes on Moral Theology: 1976" (*Theological Studies* 38 [1977] 57-114), McCormick notes that he himself categorizes as "moderate teleologists" theologians who refer to consequences in moral judgments but do not do so exclusively. He adds that Charles Curran calls such authors "mixed consequentialists" and that William May calls them "mixed deontologists." Because of such confusion, McCormick is willing to forgo use of the terms altogether, or at least whenever possible. See also Charles Curran, "Utilitarianism and Contemporary Moral Theology: Situating the Debates," *Louvain Studies* 6 (1977) 115-56.

³ *Five Types of Ethical Theory* (3rd ed.; New York: Harcourt, Brace, 1944) esp. 206-16. See also Kurt Baier, "Ethics: Deontological Theories," and "Ethics: Teleological Theories," *Encyclopedia of Bioethics*, ed. W. T. Reich (New York: Free Press, 1978) 412-21. Baier notes that the word "deontology" was coined by the utilitarian Jeremy Bentham to denote "the science of morality" in general.

states of affairs in which they result.⁴ Teleological theories (from *telos* or goal), on the contrary, "hold that the rightness or wrongness of an action is always determined by its tendency to produce certain consequences which are intrinsically good or bad."

The question most controverted in attempts to define and contrast these models is whether teleology entails a determination of morality *purely* on the basis of an act's consequences; and whether, conversely, deontology requires that consequences *never* be permitted a fundamental role in normative evaluation. There appears to be a tendency among recent theorists (both philosophers and theologians) to define one model broadly and the other narrowly, making the preferred theory the more comprehensive and alone capable of contemplating both the consequences and the intrinsic character of an act. Instructively, Broad observes that both theories are "ideal limits," and that "pure" forms of either are rarely if ever realized. W. David Ross concurs, interpreting the models as "strands," one centering on "ideas of duty, of right and wrong, or moral law or laws, of imperatives"; the other, on "the idea of goods or ends to be aimed at," and "the progressive satisfaction of desire."⁵ Ross makes an irenic observation which is not without merit for the discussion forty years subsequent: "both the notion of the right and the notion of the good are implied in the study of moral questions, and any one who tries to work with one only will sooner or later find himself forced to introduce the other."⁶ Ross insists that the question is not whether one model can gain supremacy and eliminate the other, but whether either is "more fundamental," an inquiry to which he admits there may be no simple answer.

McCormick and other Catholic authors presuppose a basic teleological grasp of moral virtue as realizing "ends" or purposes in the created order, and then define "duty" in terms of the efficient relation of acts to those ends. Broad himself also may imply that teleology is the more inclusive theory, or at least the one which is more flexible in practice. Perhaps this is because Broad thinks of Kant and Sidgwick as prototypes. In any case, he proposes that deontology considers intrinsic right-making characteristics only, while teleology considers the "tendency" of acts toward utility. But the contemporary philosopher William Frankena makes teleology

⁴ Baier (n. 3 above) observes that not all deontological theories are "absolutist," even though they are "intrinsicist," and offers the Oxford intuitionists (H. A. Prichard, W. D. Ross, and E. F. Carrigg) as examples. An act is wrong in their view if its intrinsic wrong-making characteristics outweigh its intrinsic right-making characteristics. The balance of these characteristics will be ascertained with reference to the circumstances in which the act is performed, not abstractly and "absolutely."

⁵ *The Foundations of Ethics* (Oxford: Clarendon, 1939) 3-4.

⁶ *Ibid.* 5.

the narrower theory, defining it as the view that consequences alone are morally decisive, while deontology allows more moderately that "there are other considerations that may make an action or rule right or obligatory besides the goodness or badness of its consequences...."⁷ Thus it is evident that some disagreements about the adequacy of the models to account for moral experience may be the result of variance and perhaps misunderstanding at the level of foundational definitions. The teleologist will not accept a deontology which he or she believes absolves agents from accountability for the results of their choices; the deontologist is intolerant of a teleology which relativizes every moral principle and makes the dignity of persons subordinate to generally beneficial outcomes. However, if the two models can be construed fairly in terms of the priority (not exclusivity) they give respectively to the principle of beneficence and the principle of justice, then the inclusive or broad teleologist (following the counsel of Ross) will claim that doing good is the essence of moral obligation, but that good must be distributed fairly, and that the equality and rights of all persons must be respected. The broad deontologist will claim that duty, obligation, and equal respect for persons define moral agency, but that duty contemplates responsibility for the consequences of one's acts.

It is upon the Aristotelian-Thomistic interpretative tradition of a teleological ethics of nature that McCormick and other Catholic authors primarily and most explicitly draw. In teleology comprehensively understood, the moral agent acts in order to bring into being, or to conform action to, certain goals, purposes, or states of affairs. Aristotle is in this sense the teleologist par excellence. To act morally is to act for the end of realizing human excellence or virtue, the human *telos*. Aristotle's Christian heir and interpreter, Thomas Aquinas, defines moral acts in terms of their consistency with what is "natural" to humans as their end or purpose, i.e., to act reasonably and freely, to know the truth and do what is good. Both Aristotle and Aquinas construe human agency as essentially purposive and gauge it by the attainment of its appropriate goals.⁸

⁷ *Ethics* (2nd ed.; Englewood Cliffs, N.J.: Prentice-Hall, 1973) 15.

⁸ In an interesting discussion, "Beatitude and Moral Law in St. Thomas" (*Journal of Religious Ethics* 5 [1977] 183-95), John Langan argues that the ethical theory of Aquinas is not thoroughly teleological, as might be supposed, since moral acts are not related to the *telos* (beatitude) as cause to effect. Langan claims that Aquinas' discussion of the precepts of the natural law represents a form of "deontological intuitionism." It might be countered by a teleologist that while human acts do not cause supernatural beatitude, they do cause natural, temporal happiness or fulfillment. Further, those acts of human persons which result from the infused (by grace) theological virtues of faith, hope, and charity do cause conformity to the supernatural end or beatitude.

The "good" in these prototypical teleologies is perhaps best defined as that in which consists human happiness; however, it is not pleasure in any hedonic sense, nor is it quantifiable, nor limited in its potential range of distribution to some, entailing the exclusion of others. In this it is distinct from "the good" as defined by utilitarianism, a form of teleological ethics which has absorbed much philosophical attention in the twentieth century.⁹ The confusion between Aristotelian-Thomistic teleology as interpreted by McCormick and others, and utilitarian models for the consideration of consequences, is a problem in need of attention if the conversation about the merits and shortcomings of a Christian form of "consequentialism" is to progress.

The modern fathers of utilitarianism, Jeremy Bentham (1748–1832) and James Stuart Mill (1806–73) define the good in terms of social welfare. Acts are obligatory if they meet the test of the principle of utility, that is, if they maximize the happiness of a larger number of people than would alternative courses of action. The good is happiness, and happiness is pleasure and absence of pain (both physical and intellectual or emotional). Despite disputes over whether the quantity only or the quality also of pleasure is to count, and whether the happiness in question is the sum total or average, utilitarian theories decidedly represent a shift in the meaning of *telos*, and, indeed, of happiness. For Bentham and Mill, the *telos* is most adequately defined as "net social good," and it is conceivable that the participation of a minority may be precluded by the welfare of the majority. As Mill remarks in *Utilitarianism* (1861), the principle of justice has no meaning if considered independently of the principle of utility. Justice means exactly expediency. "All persons are deemed to have a right to equality of treatment, except when some recognized social expediency requires the reverse."¹⁰ Now some utilitarians cope with criticisms of the system by allowing that respect for the minimal rights of each will in the long run be in the general interest, or

⁹ In the *Nicomachean Ethics* Aristotle sees certain material conditions as necessary for moral virtues, such as generosity, which must be expressed in virtuous action (X.8). However, happiness for Aristotle does not consist primarily in moral but in intellectual virtue, or contemplation. Thus he can say of the "happy man" that he "will have the attribute of permanence" and "will remain happy throughout his life," even in adversity (I.10.1100b), and even though some minimum external goods are necessary for "supreme" happiness (I.10.1100b, X.8.1178b). It is true that Aristotle is a moral elitist in that he understands certain classes of humans (including women and slaves) to be incapable of genuine virtue. However, the limitation on the extension of happiness is not imposed by any intrinsic limitation of its quantity, as it would be for a utilitarian, but by the limited capacities of its potential cultivators (tr. Martin Ostwald; Indianapolis: Liberal Arts Press, 1962).

¹⁰ *John Stuart Mill: Essays on Ethics, Religion, and Society*, ed. J. M. Robinson (Toronto: Univ. of Toronto, 1969) 258.

that, for the same reason, certain rules of social practice do not admit of exceptions on the basis of expediency. However, the bottom line in a utilitarian theory of morality is the sum total of welfare, conceived in a relatively immediate, empirical, and quantifiable sense. This is the case even in the more refined "ideal Utilitarianism" described, for instance, by W. D. Ross as a theory in which "the supreme end is to secure, both for oneself and for others, a life which includes in it both good activity and pleasure."¹¹

It is arguable that the watershed of all contemporary moral theory has been the clash between the views of Bentham and Mill, and those of their predecessor Immanuel Kant (1724–1804). As Aristotle is to teleology, so Kant is to deontology its paradigmatic philosophical representative.¹² Kant maintained that the essence of moral obligation is the conformity of will to duty for duty's sake, not for that of any anticipated good or bad results. The only legitimate moral principle is one which universally is binding on all rational beings, and it can in no circumstances be set aside prudentially. Kant's theory embodies equality, fairness, and respect for persons which are rationally articulated as the categorical imperative and elaborated via three interpretative maxims.¹³

In 1958 G. E. M. Anscombe introduced the now disputed term "consequentialism" in an essay in which she querulously yet incisively criticized Kant on the one hand, and Bentham and Mill on the other.¹⁴ While the former fails to stipulate how and at what level of specificity to formulate the moral rule to be universalized, the latter fail to stipulate the nature of pleasure. Thus all leave key notions undefined. Anscombe proceeds to argue that "modern moral philosophy" fails similarly to stipulate exactly what is meant by "ought" and "must" in the moral sense. Instead, the divine-law conception of ethics associated with Christianity is permitted to fill in. According to the Hebrew-Christian ethic, certain things are forbidden "whatever *consequences* threaten." However, since belief in God is no longer explicitly required as a premise for philosophical ethics, and is in fact repudiated by many, moral philosophy has lost its root, and with it any sensible justification for absolute, nonconsequentialist prohibitions. Anscombe thus concludes that the modern philosophical scene since Sidgwick has been overshadowed by

¹¹ *Foundations of Ethics* 4.

¹² See Alan Donagan, *The Theory of Morality* (Chicago: Univ. of Chicago, 1977), in which the intriguing suggestion is made that both Kant and Aquinas are teleologists and that all human action is teleological in that it is purposive. Some of the ends of action are brought into being by it, while others (persons as "ends in themselves") are respected by it. Cf. esp. 288.

¹³ In the *Groundwork of the Metaphysics of Morals* (1785), Kant offers three forms of the categorical imperative as unconditional; they are the formulas of the Law of Nature, of the End in Itself, and of the Kingdom of Ends.

¹⁴ "Modern Moral Philosophy," *Philosophy* 33 (1958) 1–19.

"consequentialism." This "shallow philosophy" judges moral acts by consequences alone, and evaluates consequences simply by "the standards current in his [the philosopher's] society or circle."

As a refutation, Anscombe claims that the act of "judicially punishing a man for what he is clearly understood not to have done" is an act which is "intrinsically unjust," despite the fact that some philosophers (consequentialists) are willing to discuss whether it might in some circumstances be "morally right." Anscombe concludes by noting pessimistically that there is a huge but unfillable "gap" in moral theory which calls for "an account of human nature" and of "human 'flourishing'" such as that which seems to be presupposed, if not made fully explicit, by Plato and Aristotle. Acts inconsistent with such a nature, or such flourishing, were they adequately defined, might be prohibited unconditionally and non-consequentially.

In subsequent literature, "utilitarianism" (in the classical sense of "the greatest good for the greatest number") and "consequentialism" have been taken as synonyms.¹⁵ Additionally, utilitarianism has been viewed by many as comprising most if not all teleology, or at least "pure" teleology. I shall argue that this is a misrepresentation of teleology. In addition, it may be possible to define consequentialism more broadly, though whether this is advisable given the genesis and generally accepted meaning of the term remains in question.

TELEOLOGICAL FOUNDINGS OF NORMS AND EXCEPTIONS

Interest in teleology and utilitarianism in the theological community has received impetus in the last two decades from discussion of the justification and function of moral norms. The project of re-examination was begun by several Continental theologians in the 60's and early 70's (Peter Knauer, Louis Janssens, Ernst Fuchs, Bruno Schüller, and others). The work of Richard McCormick has built upon that of his colleagues. His early exploratory synthesis, *Ambiguity in Moral Choice*, has provoked much of the subsequent discussion.¹⁶ Broadly speaking, these

¹⁵ Anscombe herself distinguishes consequentialism from utilitarianism by claiming that the latter at least allows a difference in the moral character of acts whose good or bad effects are unintended or merely foreseen, as opposed to directly intended, while consequentialism does not. Thus consequentialism seems to be a less subtle and more crude theory of maximizing good results.

¹⁶ *Ambiguity in Moral Choice* (Milwaukee: Marquette Univ., 1973). Helpful resources for following the scholarship on this issue are Charles E. Curran and Richard A. McCormick, eds., *Readings in Moral Theology No. 1: Moral Norms and Catholic Tradition* (New York: Paulist, 1979), which contains many of the seminal articles reviewed and assessed in *Ambiguity*; and Richard McCormick and Paul Ramsey, eds., *Doing Evil to Achieve Good* (Chicago: Loyola Univ., 1978), a collection of responses to McCormick and his own rejoinder. (The volume also contains *Ambiguity in Moral Choice*.) The evolution of McCormick's own position and his occasional responses to critics can also be found in his annual bibliographical essays in *Theological Studies*.

authors represent a shift from a stress on absolute norms forbidding specifically defined physical acts to a perspective more appreciative of the relevance of individual circumstances both to actual agency and to the formulation of moral norms. At the center of the discussion has been the principle of "double effect." This principle has roots in Thomas Aquinas,¹⁷ but it came to real prominence in Catholic moral thought in the nineteenth century.¹⁸ The principle has been a staple in the modern manuals, which approach moral dilemmas systematically and topically, on the basis of a few key principles proposed at the outset.

Double effect envisages moral dilemmas in which the best outcome concretely possible can be realized only by an action which will be accompanied by some undesirable results. The principle, first, allows that it may be morally justifiable to cause some bad effects in pursuing the good, and, second, sets limiting conditions on the evils which it is permissible to tolerate. The principle can be understood in terms of a commitment to take consequences seriously into account in moral judgment, while simultaneously drawing the line at utilitarianism. According to the standard account of its meaning, the principle justifies the double causation of good and evil only if the action having the two results is not one of a class of "intrinsically evil" acts, which are absolutely forbidden as moral evils or sins; if the good result outweighs or is equal to the evil one; if the evil effect is not wanted for its own sake but is only tolerated as the price of the good (is "indirectly intended"); and if the evil effect is not itself the means of producing the good. To cite a classic application, a hysterectomy on a pregnant woman would be justified if she had cancer of the uterus. First, hysterectomies are undesirable mutilating procedures, taken in themselves, but not forbidden; they may be justified by proportionately serious medical considerations. Second, saving maternal life is a good which can balance or override the evil effect of causing fetal death (and removing the reproductive organs). Clearly, the death of the fetus is not wanted in itself (as it would be in a "direct" abortion) but is a "necessary evil." Finally, the death of the fetus is not itself the means of curing the mother. In a case in which it were necessary to attack directly the life of the fetus in order to save its mother (say, in the case of renal failure or heart disease during pregnancy, or an obstructed labor), such a lifesaving procedure would not be justified by the principle of double effect. There are limits to the evil justifiably to be done in quest of the good.

¹⁷ *Summa theologiae* 2-2, q. 64, a. 7, on killing in self-defense.

¹⁸ E.g., in the widely used *Compendium theologiae moralis* of Jean Pierre Gury. For an historical discussion of the principle, see Joseph T. Mangan, "An Historical Analysis of the Principle of Double Effect," *TS* 10 (1949) 41-61.

Buy why precisely these limits? This is the question pressed by commentators and would-be revisors of the principle. The exchanges have been long, complicated, and sometimes defensive. The two primary targets of inquiry have been the initial category of "intrinsically evil acts," and the requirement that the evil effect not be the means of producing the good. It is no simple matter to summarize this discussion succinctly and clearly; I will risk oversimplification as the evil attending my attempts to do so.¹⁹

Bruno Schüller accounts for the form and sense of the principle of double effect by describing it as a way to limit the force of absolute, deontologically grounded norms in Catholic ethics. Schüller thinks that absolute prohibitions in traditional Catholic theology are strongly deontological in nature; that is, they specify "actions whose moral quality is completely independent of their consequences."²⁰ These deontological norms are of two kinds. An action is illicit either because it frustrates a God-given natural faculty (contraception interferes with procreation) or because the agent lacks the appropriate authority (killing the innocent or suicide violates God's dominion over life, while necessary capital punishment belongs to the God-given charge of the civil authority). According to Schüller, the principle of double effect "serves precisely the purpose of a restrictive interpretation of deontological norms."²¹ In other words, the evil effects allowed by the principle are exactly the outcomes prohibited by the norms "absolutely" understood. The principle mitigates the force of the norms in conflict situations where the consequences of obedience to them seem to fly in the face of moral common sense. The evil effects in question may not be directly intended and caused, but they need not be avoided absolutely; they may be foreseen, permitted, and tolerated. Thus, according to Schüller, the deontological norms are subject to teleological modification.

This analysis leads to the question whether Catholic natural-law moral thinking can be explained only by conceiving it as a hybrid of deontological and teleological modes of discourse. Another way to put the issue would be to ask whether absolute norms can be derived in a basically *teleological* system. Schüller himself remarks that the grounding of

¹⁹ More than one author has had occasion to adduce the observation of Schüller that while the principle of double effect is relatively easy to apply, it is notoriously difficult to explain ("The Double Effect in Catholic Thought: A Reevaluation," in *Doing Evil to Achieve Good* 169). Scholarly attempts to do so often mirror in style the convolution of the principle's conditions.

²⁰ "Double Effect in Catholic Thought" 167. See also "Various Types of Grounding for Ethical Norms," in *Readings No. 1* (n. 16 above), a translation of "Typen der Begründung sittlicher Normen," *Concilium* 120 (1976) 648-54.

²¹ "Double Effect" 169.

norms in natural finalities "is at bottom teleological." Further, to claim that an act (suicide) is wrong because it usurps God's authority is to beg the question to what extent and under what circumstances God's authority may be considered to have been delegated.²² In the end, even norms argued on the basis of divine authority may be susceptible to teleological justification, e.g., suicide interferes with one's duty to persevere oneself in purposive service to God and fellows.

In the end, then, it remains dubious that all absolute norms must be established deontologically. Speaking teleologically, one might construe moral absolutes as assertions that certain sorts of actions are unexceptionably inconsistent with the *telos* of human life, however that may be defined. Although some norms in Catholic moral theology appear to *function* deontologically, in that they do not admit exceptions for considerations of expediency, or even of long-range consequences, they are *grounded* in a teleological construction of moral agency.

McCormick grasps the principle from the same natural-law tradition as does Schüller, but interprets it in completely teleological terms. He observes instructively that the key to the principle is "proportionate reason,"²³ or what Knauer calls also "commensurate reason."²⁴ This has important consequences for the original limiting conditions of the principle. In a case in which the good outweighs evil, the intention obviously is directed at the former rather than the latter, so the requirement of indirect intention becomes superfluous.²⁵ As long as the reason is proportionate, it also is unnecessary to avoid using the evil result as a means to the good (as in direct abortion). Finally, the category of intrinsic evil is itself questionable; it implies that there are some physical acts which are precluded from the estimate of proportion, quite apart from any consideration of circumstances, motives, and purposes. But what exactly are these acts, and by what process are they to be named? Standard lists include, e.g., "blasphemy, perjury, masturbation, and murder."²⁶ But an

²² "Types of Grounding" 187-88.

²³ *Ambiguity* 69, 78-79, 82.

²⁴ "The Hermeneutic Function of the Principle of Double Effect," *Natural Law Forum* 12 (1967) 132-62; and "Fundamentelethik: Teleologische als deontologische Normenbe-gründung," *Theologie und Philosophie* 55 (1980) 321-60.

²⁵ Here McCormick has been persuaded by Bruno Schüller that a more grave reason is not needed to justify causing (rather than permitting) an evil effect; for, in the former case, one is not only more willing that the evil exist, but the good also. Both agree that an exception is the causation of moral evil, which may never be directly intended; another must never deliberately be caused to sin. There is never proportionate reason for sacrificing moral values, i.e., those predicated of and inhering in persons; for a person's moral integrity or virtue is never incompatible with the only value which is not lesser—the moral integrity of another person. See Schüller, "Double Effect," and McCormick, "A Commentary on the Commentaries," in *Doing Evil* 193-267.

²⁶ Gerald Kelly, *Medico-Moral Problems* (St. Louis: Catholic Hospital Association, 1958)

act such as masturbation would seem to be in a category other than the remaining terms; it denotes a physical act without indicating the situation in which it is performed. The other terms are so-called "value terms," that is, they indicate not only a physical act (speaking the name of God, lying, and killing) but also a pejorative value judgment, based on the assumption of accompanying situations of which a good (proportionate) cause for the act is not a part. Several authors recently have raised the question thus: How can a physical act like masturbation or contraception be prohibited absolutely, even granting that it is a disvalue, i.e., something to be avoided all other things being equal, that is, in the absence of proportionate reason? Would circumstances, e.g., masturbation for a semen test, contraception to safeguard a woman's health, make no difference? Is masturbation "intrinsically" more evil than other acts, such as killing a human being, which can be justified in extreme circumstances?

As a result of this line of questioning, a distinction has developed between "physical," "ontic," "nonmoral," or "pre-moral" evil, and "moral" evil or sin.²⁷ Physical or pre-moral evils may be caused directly for a good reason, although moral evils may not. The only absolute norms are thus those regarding moral evil, but these necessarily are either abstract or stipulate a specific disproportion in act and circumstances. Essentially, they affirm that it is always wrong to cause a nonmoral evil for a frivolous or inadequate reason. A nonmoral evil (death, pain, error) perpetrated disproportionately is a sin. Examples of absolute norms forbidding moral evils abstractly would be "never act unjustly" or "dishonestly" or "unlovingly." But what constitutes the just, honest, or loving act in the *concrete* depends upon circumstances for its determination. The upshot of this particular revisionist move is that the category upon which the first condition of double effect is contingent disappears. Or at least it comprises only, first, prohibitions at a level of abstraction which makes them unhelpful for particular moral judgments, and, second, prohibitions of acts in certain stipulated circumstances in which lack of proportionate reason is a question already settled. There are no intrinsically evil acts if by "acts" is meant physical acts considered in the abstract (contraception, masturbation). In sum, the function of norms is to determine the relation of values in the objective scale of values (*ordo bonorum*). This order is presupposed by the natural-law commitment to an objective moral order, knowable at least in principle by reasonable reflection on the essence of the human. But norms regarding physical acts are meaningful only if they relate the value or disvalue of the act in question to another value on the scale.

In the Catholic Thomistic natural-law view, the purpose of all human

²⁷ See Louis Janssens, "Ontic Evil and Moral Evil," *Louvain Studies* 4 (1972) 115-56 (also in *Readings No. 1*), and *Ambiguity* 54.

activity is to realize values in an ascending scale, and in doing so, to fulfill human nature or what McCormick refers to with Anscombe as "human flourishing."²⁸ In the Christian theological perspective which informs this ethical theory, to actualize human nature through concrete conformity to the *ordo bonorum* is to follow the will of the Creator, and in so doing, to approach the *summum bonum*, God, the origin and final *telos* of all finite values. Thus the derivative natural-law ethics is thoroughly teleological. This description applies to the principle of double effect, which not only contemplates the immediate consequences of acts but also evaluates their relation to moral values and to the union of all persons in God as the universal common good. Good results, even for a majority, cannot be purchased by the sacrifice of moral values, that is, by acts inconsistent with this final *telos*. In this sort of teleological perspective, prohibitions which are both exceptionless and specific do not vanish but must include within themselves the naming of values in a disproportionate relation, e.g., "It is wrong to abort a fetus to avoid social embarrassment," or "It is wrong to judicially 'frame' an innocent person to avoid social disorder," or "It is wrong to kill noncombatants in order to end a war sooner." The hard task of ethics will be to show why certain values (civilian lives) outweigh others (a larger number of combatant lives), if the calculation is not done by raw numbers, by empirical quantification, or by any of the more crude forms of consequentialism.

McCORMICK'S "CONSEQUENTIALISM"

It is precisely because the method for determining a legitimate justification of premoral evil by proportionate reason remains unclear that some revisionist thinkers in Catholic ethics, Richard McCormick in particular, have been tagged consequentialists and utilitarians. If there are no longer intrinsically evil acts in any meaningful sense, or at least not in the traditional one, then how are the brakes to be put on "doing evil to achieve good"? McCormick himself contributed to the utilitarian cast of his notion of proportionate reason by arguing in *Ambiguity in Moral Choice* that killing noncombatants and judicial murder are wrong because of the likelihood that they would result in erosion of respect for life "in the long run."²⁹ This seems to several of his critics to be consequentialism thinly disguised. The accusation (it is such for most of those who apply the label) comes both from Christian ethicists who share

²⁸ "Proxy Consent in the Experimentation Situation," *Love and Society: Essays in the Ethics of Paul Ramsey*, ed. James Johnson and David Smith (Missoula, Mont.: Scholars, 1974) 217-18.

²⁹ *Ambiguity* 93.

McCormick's theological tradition and those who do not, and from moral philosophers.³⁰

John Connery's commentary on several authors (not including McCormick) is representative of some of the more careful criticism of this sort. He probes the bases of moral judgments, explaining revisionist Catholic ethics as manifesting "a certain dissatisfaction with the 'deontological' response of traditional Catholic morality and an interest in a more 'teleological' approach." In the latter view, morality is entirely dependent on consequences, an approach which Connery insists "is commonly referred to as utilitarianism." Connery allows that it would be difficult to prove that any particular rule is closed to future exceptions, but argues that the problem with consequentialism is that it seems to admit exceptions contrary to commonly held moral convictions (judicial murder). In other words, "a commensurate good will justify any evil connected with the act."³¹ Frederick Carney maintains that the utilitarian calculus is "at the heart of" McCormick's teleological method, as focused on the *ordo bonorum* or scale in which values are to be weighed; the theory is "unquestionably a form of utilitarianism."³² Germain Grisez, explicitly replying to *Ambiguity*, defines "consequentialism" as holding that duty is a function of human happiness, and as proposing that the key to the definition of right and wrong is "efficiency in promoting measurable good results."³³ Grisez categorizes McCormick as a consequentialist and brands the theory as "dangerous nonsense." Paul Quay certainly concurs when he says that proportionate reason in the school to which McCormick belongs "is less a calculus than a mercantilism of values. . . . [A]s values are balanced, exchanged, and traded off for one another, the moral judgment becomes a commerce and merchandizing in human conduct and Christian behavior."³⁴ Even William Frankena, a

³⁰ Frederick S. Carney, "On McCormick and Teleological Morality," *Journal of Religious Ethics* 6 (1978) 81-107; John Connery, S.J., "Morality of Consequences: A Critical Appraisal," *TIS* 34 (1973) 396-414 (included in *Readings No. 1*), and "Catholic Ethics: Has the Norm for Rule-Making Changed?" *TIS* 42 (1981) 232-50; William Frankena, "McCormick and the Traditional Distinction," *Doing Evil* 145-64; Germain Grisez, "Against Consequentialism," *American Journal of Jurisprudence* 23 (1978) 21-72; Alasdair MacIntyre, "Theology, Ethics, and the Ethics of Medicine and Health Care: Comments on Papers by Novak, Mouw, Roach, Cahill, and Hartt," *Journal of Medicine and Philosophy* 4 (1979) 435-43; William E. May, "Modern Catholic Ethics: The New Situationism," *Faith and Reason* 4 (1978) 21-38, and "The Moral Meaning of Human Acts," *Homiletic and Pastoral Review* 79, no. 1 (Oct. 1978) 10-21; Paul M. Quay, "Morality by Calculation of Values," *Theology Digest* 23 (1975) 347-64; Peter Singer, "Do Consequences Count? Rethinking the Doctrine of Double Effect," *Hastings Center Report* 10, no. 1 (Feb. 1980) 42-44.

³¹ "Morality of Consequences" 400.

³³ "Against Consequentialism" 24, 27.

³² "On McCormick" 93, 97.

³⁴ "Morality by Calculation" 352.

philosopher who has devoted considerable attention to methods and models of ethics, concludes that "I see no alternative but to interpret McCormick as a utilitarian of some sort. . . ."³⁵

Such criticisms raise problems for the perspective of McCormick (and others) as teleological and as Christian. First, I will indicate some of the reasons why the theory tends to take on a utilitarian appearance in the eyes of some beholders; then I will indicate some of McCormick's attempts at a rejoinder; finally, I will try to outline those defining characteristics of Christian consequentialist teleology which distance it from utilitarianism. The factors provoking the conclusion appear to include at least three, though they are not equally influential in the work of each commentator.

First, there is a confusion between premoral and moral evil. This confusion sometimes is due to the fact that McCormick is taken to be arguing that good consequences justify a morally evil or sinful act. This is rejected on the premise that "a good end does not justify an evil means." For example, William May asserts that the calculator of proportion is willing to be an "evildoer."³⁶ Paul Ramsey is resistant to McCormick's inclusion of killing among premoral evils, maintaining instead that it is something never to be done directly. He asks: "what argument can there be for classifying the killing of one person by another as a nonmoral evil? Doubtless it is sensible to call death a nonmoral evil. But at issue is the moral evil of killing a human being; he is the image of God and is holy ground."³⁷ Ramsey concludes that there is "really not much sense" in the "bifurcation of the moral universe" into moral and nonmoral or physical values and acts.³⁸

In such cases there is a lack of appreciation of McCormick's points that premoral evil is not morally "neutral" but is something to be avoided in general, and that moral evil consists in choosing a nonmoral evil without sufficient cause. An evil like killing is not a "moral" evil because its direct causation is not to be avoided at all costs and absolutely. (Examples of possibly justifiable killing include war, self-defense, capital punishment, and abortion to save a life.) Killing is a sin making its agent an evildoer in the moral sense when the value of life is sacrificed wantonly, that is, for a lesser value. Thus McCormick would never allow that consequences can justify moral evil; the presence of an overriding reason precludes the existence of moral evil.

An additional contributing factor in the confusion between premoral

³⁵ "McCormick and the Traditional Distinction" 159.

³⁶ "Moral Meaning" 17.

³⁷ "Incommensurability and Indeterminacy in Moral Choice," *Doing Evil* 82.

³⁸ *Ibid.* 91.

and moral evil goes beyond mere misunderstanding of definitions to real difficulty in drawing the line between the two. In order to indicate precisely when a pre-moral act becomes a moral one, it is necessary to differentiate from its accompanying circumstances the purely "ontic" or "material" act, often but not always identified as a "physical" act. If an ostensible definition of an "act in itself" really includes certain contingent conditions under which the act is performed, then a value relation and therefore a moral judgment are implicit in the description. It is no longer a simple naming of an act, but a value term. One of the more obvious examples is the term "murder," which not only means the physical act of causing a human being's death but also posits circumstances which do not justify that act. But it is sometimes more difficult to draw a line between the sheerly "physical" act and extenuating circumstances. For instance, "killing an innocent person," on the face of it less loaded than "murder," is not a physical description in the pure sense because it extends beyond "killing a human" to define the circumstance of "innocence." Thus it too may be a value term (or phrase).

This difficulty in sufficiently narrowing definitions of acts so that they can be considered "in themselves" is evident in the criticisms which William E. May makes of McCormick's theory of proportion. May focuses on the reinstatement of the intrinsically evil act, as examples of which he cites bestiality, torture, and misuse of public funds. It is readily apparent that the last two examples are not bare descriptions of physical acts (infliction of pain, transferral of money) but also suggest circumstances in which the act in question has insufficient justification. The act of bestiality, though certainly worthy of a prohibitive norm, is more difficult to analyze. It is arguable that this term, like the others, indicates act-plus-circumstances. The act is sexual intercourse; the morally relevant circumstance is "with an animal." If the circumstance denoted by the term is never an appropriate one for the performance of the act, then the term "bestiality" contains within itself an implicit value judgment and a negative moral norm. (A similar analysis could be made of "intercourse with a child.") If the term "adultery" were analyzed, it would also be found to imply circumstances of the act of sexual intercourse, as an act "of a married person with one not his or her spouse." Ethical discussion of the norm implicit would necessarily revolve around whether this circumstance could or could not ever be appropriate (recalling Joseph Fletcher's example in *Situation Ethics* of the woman who initiated pregnancy with the co-operation of a guard in a concentration camp in order to be rejoined with her family). However, insofar as sexual intercourse as a physical act by definition always entails an object (or, normatively, a responding subject), it is necessary to entertain the pos-

sibility that a term like "bestiality" does indeed define a physical act, in its entirety. This would also be true of "intercourse with a child," in a way not true of "adultery." The latter goes beyond the more clearly material description "with an adult human" to imply the situation of personal relations in which the adult humans in question have placed themselves, while "bestiality" indicates a certain object simply as such. In summary, there may remain some terms like bestiality, which are not susceptible of easy translation into the vocabulary of premoral goods and evils. Clearly, a remaining task of the ethicists of proportion is to clarify the understanding of what counts as a "purely physical" or "premoral" description of a value or act.

Second, McCormick's requisite "overriding reason" is itself frequently misinterpreted by his critics to mean a narrow and utilitarian advantage. This is evident in Grisez's general repudiation of consequentialism, in Quay's heated assault on proportionate reason as moral "mercantilism," and even in the moderate and genuinely dialogical critiques of Connery and Carney. Carney tries to demonstrate that proportionate reason is an inadequate explanation for moral obligation by offering the example of his son, who resigns from a swimming team on principle, even though the decision will have harmful consequences for his own athletic pursuits. McCormick replies quite justifiably that a broader notion of proportion should be at work here.³⁹ The "reason" behind the moral judgment is not mere immediate self-interest but a larger notion of the value of honesty and integrity, as evidently embodied in the act in view of other, undisclosed circumstances. Connery poses the issue more generally, asking "whether consequential considerations are always decisive in moral judgments,"⁴⁰ whether the consequences in question are immediate or long-term. The difficulty here is that the values in the *ordo bonorum* which exert a claim on agency are not clearly reducible to consequences in the relatively narrow (utilitarian) sense apparently had in mind by Carney and Connery.

The importance in provoking his critics of McCormick's own utilitarian-sounding exposition via specific examples in *Ambiguity* cannot be overlooked. In subsequent work, however, he has indicated that long-term consequences which are of great magnitude in a quantitative sense do not justify a temporally or numerically more limited violation of a higher or even equal value (e.g., "judicial murder" or bombing noncombatants).⁴¹

³⁹ "Notes on Moral Theology: 1978," *TS* 40 (1979) 73.

⁴⁰ "The Morality of Consequences" 413.

⁴¹ A relevant premise in calculations of proportion having to do with human rights or human life is that human dignity does not increase or decrease in quantity by the addition or subtraction of the individuals in whom it inheres.

A third perceived flaw is the severance of moral evaluation from the firm foundation of moral absolutes. Connery, for one, is convinced that the theory of proportion calls for a continual weighing of goods too complicated for a "healthy" moral life.⁴² Absolute norms simplify matters morally and improve the clarity and even the accessibility of the path to virtue.

It is important to reiterate that while the revisionist theory rejects as incoherent the notion of the intrinsically evil act upon which traditional absolutes were based, it does preserve absolute norms which are *specific* in their denotation of value relations. In the proportionalist interpretation of moral norms, the unconditional force of a moral rule depends on specification of circumstances adequate to constitute a disproportion between the end sought and the value sacrificed, not on the abstract naming of a material act. Norms are exception-excluding in proportion to their specificity regarding values in conflict. The intrinsically evil acts which are, it is objected, occasionally justified (masturbation) are those not described with enough specificity to constitute a truly exceptionless norm. Those which are described with specificity are those reclassified as "value terms," and their binding force is not denied. Since *moral* values (honesty, justice, etc.) may never be overridden (in that they can never genuinely conflict with one another), the norms which refer to them can be absolute, even while necessarily abstract. Instead of stipulating a conflict, these absolute norms are premised simply upon the fact that there can be no conflict.

One pertinent and undeniable shortcoming in McCormick's sort of innovative teleology is that, in the absence of a classical or medieval metaphysics and anthropology, it is no mean task to discern and agree upon the precise relations of values in the hierarchy upon which the theory depends. Herein lies the force of Connery's critique. It is possible to enjoin or to prohibit absolutely certain resolutions of value conflicts only in the light of knowledge of the ways in which such resolutions impinge on human nature. This is why the achievement of some consensus on the hierarchical relations of potentially conflicting values (e.g., premoral values), while so elusive, is so vital. Probing these relations is where lies the substantive task of the moral philosopher and theologian.

In regard to the ability of the average agent to make decisions faithful to the order constituted by complex relations of goods, it is essential also to note that the theory of proportion does not require that each person approach all decisions via an intricate conceptual schematization of relative values and disvalues. This is the job of the theoretician, but not necessarily of the decision-maker. McCormick refers repeatedly to the

⁴² "Catholic Ethics" 250.

“prediscursive” elements of moral judgment, implying that good moral common sense never has been and is not now to be replaced in *practice* by conceptual analysis, whether the latter be expressed in the form of absolute prohibitions or proportionate value relations. Borrowing a phrase from Karl Rahner, McCormick speaks of a “moral instinct of faith,” which not only “cannot be adequately subject to analytic reflection” but is also “chiefly responsible for one’s ultimate judgments in concrete moral questions.”⁴³ The truth of this observation, however, does not dispense the ethicist from the responsibility to probe unceasingly toward conceptual clarification of the warrants for normative moral judgments. Until this is accomplished or at least approximated, the gap so deplored by Anscombe remains unbridged.

McCORMICK’S MODIFIED THEORY

In the collection of commentaries on *Ambiguity, Doing Evil to Achieve Good*, McCormick intends both to retract the quasi-utilitarian arguments of *Ambiguity* and to develop a framework for the evaluation of acts which are meant to resolve conflicts among the highest human goods.⁴⁴ There he allows that while certain “disproportionate” actions may have deleterious social effects, these effects do not constitute their immorality. Rather, there is a lack of proportion in the act itself which makes it wrong. The proportion in the act is perceptible on the basis of a theory of associated basic goods.

Wrongfulness must be attributed to a lack of proportion. By that I mean that the value I am pursuing is being pursued in a way calculated in human judgment (not without prediscursive elements) to undermine it. I would further explain (tentatively) the disproportion in terms of an association of basic goods whereby the manner of protecting or pursuing a good brings other values or goods into play and can be responsible for disproportion as a result. In other words, I would abandon the *long-term effects* explanation of teleology; but I see no reason for abandoning the teleology itself.⁴⁵

This proposal has not reached full maturity, but it contains two key elements by which McCormick intends to separate himself from consequentialism in Anscombe’s sense. First, there are certain acts which are wrong absolutely, even though these acts can be specified only if some accompanying circumstances are known. McCormick follows traditional moral theology in saying that a disproportion exists whenever the end or good pursued in an act is really undermined or contradicted in a larger

⁴³ “Reproductive Technologies: Ethical Issues,” *Encyclopedia of Bioethics* 1459.

⁴⁴ “A Commentary” 193–265. McCormick’s theory is also substantially set forth in “Notes on Moral Theology 1977: The Church in Dispute,” *TS* 39 (1978) 76–138, esp. 108–16.

⁴⁵ *Ibid.* 265.

sense by the means chosen to seek it here and now. He refers to the perception of the intrinsically disproportionate character of a certain act as a "judgment of counterproductivity."⁴⁶ Second, there are certain values in the scale which always prevail in conflict cases, so that to choose against one unless it is "necessary" (in a "deterministic," even physical sense)⁴⁷ is by definition "disproportionate." These values are included in the "association of basic goods." Since the values in the association are all equal and interdependent, to choose against one is to violate all the others. Thus, to conclude that an act which aims at one value is disproportionate in itself, it is necessary simply to show that the act damages another value in the group.

The points of unclarity in this clarification are at least two. First, what is added to the theory by the stipulation that "disproportion" means undermining the specific objective of the act (rather than some different but higher value)? In a recent article with which McCormick concurs and on which he comments at length,⁴⁸ Peter Knauer elaborates the notion of "counterproductivity."⁴⁹ Essentially, Knauer wants to base moral evaluation on a method of assessing nonmoral values which is not utilitarian and which in fact overcomes the split between deontology and teleology. He claims his theory has in common with teleology its foundation of moral imperatives in the goodness of being and with deontology its location of morality in the inner character of the act itself.⁵⁰ Knauer observes that what one wills in acting at all is the realization of some good. However, the total moral character of a decision or act consists not merely in the fact that it realizes some specific nonmoral good, but that good is promoted in a universal sense or absolutely ("universal formulierten"), apart from any reference to specific persons or communities of persons for whom it is concretely enhanced ("abgesehen von der Person"). Knauer insists repeatedly that the value sought concretely must be promoted "in the long run and on the whole" ("auf die Dauer und im ganzen"). The rather utilitarian ring of this phrase diminishes when it is understood that the effect of an act on a certain value must be evaluated in relation to all present and future members of the human race, that is to say, to the whole of reality ("Gesamtwirklichkeit").⁵¹ An act which fails in this regard is counterproductive and hence intrinsically immoral.

For example, taking property (bank robbery) is done with a commensurate reason if necessary to save one's life. However, if it is done merely to accumulate wealth, then it is wrong because the good pursued in the

⁴⁶ "Notes on Moral Theology: 1980," *TS* 42 (1981) 89.

⁴⁷ "A Commentary" 261-62.

⁴⁸ "Notes on Moral Theology: 1980" 85-90.

⁴⁹ "Fundamentelethik" 321-22.

⁵⁰ *Ibid.* 331-32.

⁵¹ *Ibid.* 329-30.

act (wealth) is sought in a way which undermines the nature of wealth or property itself, and hence also the general conditions of human living.⁵² Thus the requirement of counterproductivity dissociates the revisionist theory from utilitarian ones by making it unnecessary to calculate the relative worth of discrete goods.⁵³ The counterproductive action undermines the very value by which the action is motivated.

Knauer likens his theory to Kant's categorical imperative, which entails that moral norms must be universalizable, so that no human person is degraded to a mere means.⁵⁴ Knauer offers noncounterproductivity as the criterion of universalizability. Kant himself provides two complementary perspectives on immorality as the doing of that which one is unable to will be done universally. In his analysis of lying in the *Groundwork of the Metaphysic of Morals*, Kant argues that to tell a lie undermines the presupposition that speech will be taken as true. For this reason the agent who acts in a way that he or she could not will to be a universal law acts inconsistently. In the same way, a counterproductive act such as robbery undermines the very condition of acting and is thus inconsistent in the sense of irrational or internally incoherent.

However, in the *Critique of Pure Reason*, Kant defines immorality more generally, as any act in which a person is treated as a means rather than as an end. To define immorality as regarding oneself or another as a means coincides with the proportionalist definition of moral evil originally suggested by McCormick, since to act evilly is to subordinate personal dignity or moral integrity to a lesser value (in an act which is dishonest, unloving, unjust, etc.). This account does not exclude counterproductivity as one criterion of immorality, but goes beyond it. It may be neither necessary nor possible to account for all disproportionate realizations of value, nor for all violations of duty in Kant's sense, by claiming, as do Knauer and McCormick in his recent work, that they destroy the condition of realizing the value sought. Perhaps the connection between Knauer's insistence that ethics do justice to the essential dignity of the person ("Personwürde")⁵⁵ and Kant's categorical imperative can be made most readily on the basis of the imperative to regard persons as ends. If so, it may be unnecessary to limit disrespect for persons to the undermining of one and the same value at which the act aims. The counterproductive act is intrinsically immoral, but some may remain unconvinced that counterproductivity is exhaustive of the meaning of immorality.

If the broader notion of immorality is granted, the requirement of counterproductivity might function at a secondary level simply as a way

⁵² Ibid. 335.

⁵³ Ibid. 335-36.

⁵⁴ Ibid. 355. Knauer cites the *Groundwork* as the source of his comparison.

⁵⁵ Ibid. 354.

of diagnosing disproportion through a familiar symptom. If the place of the sought-for value is falsely represented on the scale, then respect for it ultimately will be damaged. If the value ostensibly actualized is supported via the sacrifice of a higher value, or even by the unnecessary sacrifice of an equal or lower value, then our steady and realistic sensitivity to the worth of the first value itself is liable to be eroded. Knauer himself seems to contemplate this possibility in his remark that when one in realizing one value opts unnecessarily against another, then the harm done falls immediately within the scope of the intention and defines the action as counterproductive, since it is, so to speak, a diminution of the value itself.⁵⁶

The second question to be pressed toward further precision in McCormick's recent modification is, which values constitute the basic "association" and why? The notion of affiliated coequal basic goods is one which McCormick arrives at primarily through the work of the Oxford philosopher of natural law and natural right, John Finnis,⁵⁷ both endeavor to fill out the notion of "human flourishing" suggested by Anscombe. Finnis claims that seven basic forms of human good and well-being are life, knowledge, play, aesthetic experience, friendship, practical reasonableness, and religion, although these also can be stated derivatively in

⁵⁶ Ibid. 337. McCormick elaborates on Knauer's discussion by explaining that robbery is counterproductive because private property is essential for "the over-all well-being of persons," and "well-being" is after all that at which robbery aims ("Notes on Moral Theology: 1980" 89). Yet, as a gloss on the meaning of counterproductivity, this translates "the value sought in the act" into a notion so global that it can comprehend not only any value sought disproportionately but also any value sacrificed. It amounts simply to a formal definition of immorality ("that which is destructive voluntarily of the well-being of persons"). This is equally evident in McCormick's explanation of the wrong of adultery as counterproductive because it damages "human fulfillment." It would seem more specific and more sensible to say, e.g., that the preservation of life justifies violating private property simply because it is a higher value, which the accumulation of personal wealth is not. Our estimation of life as a good is enhanced rather than endangered by a necessary and thus proper setting aside of a lower value. The question remains, therefore, whether it cannot be said of an act that it is intrinsically disproportionate simply because it sacrifices a good or value without good reason, granting that by implication this redounds negatively upon the value sought.

⁵⁷ McCormick quotes Finnis ("Natural Law and Unnatural Acts," *Heythrop Journal* 11 [1970] 365-87) in the former's own discussion of natural-law principles ("Proxy Consent" 217). Finnis develops further his theory of equally fundamental basic values in *Natural Law and Natural Rights* (Oxford: Clarendon, 1980). In a personal communication (8/18/81), McCormick has indicated that the basic goods are to be spoken of properly as "equally *underivative*" rather than "equally basic." He notes that this shift in language might imply conclusions about the goods other than those drawn by Finnis. A systematic exposition by McCormick of the quality of being "underivative" would no doubt have significant impact upon the critique that follows in the present essay, inasmuch as the latter is premised precisely on the hypothesis that Finnis' conclusions do not find adequate warrants in McCormick's general perspective.

other ways.⁵⁸ The basic inclinations mentioned by McCormick are roughly equivalent to these (though not so definitively enumerated),⁵⁹ with the addition of "the tendency to mate and raise children."⁶⁰ Procreation is called a basic value by Finnis in an article on sexual morality⁶¹ but is not included in the list in his later volume on natural rights.

The basic goods or values are not in themselves "moral values," but nonmoral goods which appeal to intelligence and will. The moral choice is that which realizes or suppresses the goods on particular occasions of action. The morally right act is the one which maximizes these nonmoral goods to the extent concretely possible.⁶² In Finnis' view, these goods are equally fundamental, for each, when focused upon, can be regarded "reasonably" as most important. Since there is no objective priority among them, it is never right to sacrifice one for another or, what amounts to the same thing, to act directly against them. Every act must retain "openness" to each of these values and so "remain open to the ground of all values."⁶³ The essential truth of Finnis' proposal lies in his perception that at the heart of natural-law theory is a commitment to certain basic goods which in themselves are attractive to human freedom and intelligence and to which human nature inclines. McCormick certainly concurs in this insight.

Nonetheless, some further questions may be put to Finnis, and to McCormick regarding his interpretation of Finnis. It will become apparent that it is far from clear that Finnis and McCormick intend to answer these questions similarly. Some discrepancies may contribute to the uncomfortable position which the "association of basic goods" occupies in McCormick's larger perspective.

In the first place, why is it these particular goods which are associated? McCormick seems to take over his list from Finnis on account of its fundamental compatibility with his own Aristotelian-Thomistic view of natural inclinations. Finnis appeals for the endorsement of his theory to a hypothetical consensus grounded in our common human experience of the "importance" of these values (and not others), rather than through the logical force of any precise criteria for inclusion or exclusion. It is at least arguable that the equal status of these values is not as self-evident as their general fundamentality.

At this point the difficulty noted above in distinguishing a truly nonmoral good from a moral one resurfaces. If it were the case that the

⁵⁸ *Natural Law* 90.

⁵⁹ "Proxy Consent" 217; "Notes on Moral Theology 1977" 110-16; "A Commentary" 257-62.

⁶⁰ "Proxy Consent" 217.

⁶² *Ibid.* 368.

⁶¹ "Natural Law," esp. 385.

⁶³ *Ibid.* 375.

basic association comprised both types, then it would be difficult to argue that all values or goods in it were equal in their appeal to moral choice. The resulting hierarchy in the association itself would reopen the possibility of a direct sacrifice of a lower to a higher "basic" good. The good of friendship is the most obvious candidate for reclassification as "moral." Friendship, as distinct from mere social interaction, connotes moral virtues such as love, justice, honesty, and fidelity. On the other side, the goods of procreation and even life would certainly be regarded as non-moral by McCormick. Finnis argues for the fundamentality of life by saying that it "reasonably" appears to a drowning man or a bereaved parent that it is unconditionally good just to be alive, no matter which other basic values are or are not realized in one's existence.⁶⁴ But is the fact that this seems the case to a person *in extremis* a sufficient demonstration of the objectivity of the perception? McCormick himself has argued explicitly that life itself in the Christian tradition is indeed not an absolute but a good which is conditional for the realization of other more important values.⁶⁵ So in McCormick's view taken in its entirety, the "basic values" of Finnis, while all fundamental in some sense, are not all so equally and absolutely. Thus it may be possible to differentiate among them as moral and premoral, or at least higher and lower, and occasionally to sacrifice one in the latter category to one in the first. If there is an objective *priority* of values here, then the choice or act does not deny the intrinsic and real goodness of the value provisionally set aside, and so is not "closed" to it nor to God.

The need of clarification and the difficulty of clearly defining and relating moral and premoral values is posed even more acutely if we return to the notion of "human flourishing" as it was originally suggested by Anscombe. Her examples of the goods which constitute flourishing are both moral and premoral (to classify them in the later terms), including freedom from pain, hunger, poverty, and friendlessness, as well as the virtue of justice and virtuous action.⁶⁶ McCormick seems to identify the goods which define human flourishing with Finnis' basic values. The fact of and relationship between moral and premoral members of Finnis' set, and the degree to which it corresponds to "human flourishing" as envisioned by Anscombe, remain undeveloped by McCormick.

In his final move McCormick goes beyond both Finnis and Anscombe by proposing that direct sacrifice of these associated values is justified in certain narrow cases, for which unambiguous criteria are not defined. Finnis' position is that none of the basic values can be sacrificed directly; direct and indirect intention is still important in regard to the causation

⁶⁴ *Natural Law* 92.

⁶⁶ "Modern Moral Philosophy" 18.

⁶⁵ "To Save or Let Die," *America* 30 (1974) 6-10.

of at least some nonmoral evils. McCormick, on the other hand, argues that a nonmoral or premoral good can be directly negated in favor of one which is higher or at least equal. Proportion, not indirectness of intention, is the key to morally right choice between competing values. But he allows Finnis' theory of basic goods to modify his view insofar as he places special goods in a protected category, so that they may not be suppressed directly, *except in cases where "necessity" requires it.* (This requirement prevents the "wedge" effect, i.e., a multiplication of exceptions.) An example given is killing a fetus as an absolute prerequisite of saving its mother. Killing civilians is not necessary in the same "deterministic" way to the winning of a war, nor is the sentencing of an innocent citizen essential to the preservation of the civil order, and so both are immoral.

In sum, Finnis uses the notion of basic and equal values to affirm what McCormick wants to deny, namely, that direct and deliberate action against certain of those values which McCormick calls "pre-moral" is intrinsically wrong. Finnis' theory approximates in meaning the traditional principle of double effect and its category of intrinsically evil acts, which in effect denies morally relevant distinctions between certain fundamental goods to which nature inclines. McCormick has said that certain of these, while not denied to be basic, are legitimately acted against in some concrete situations (contraception, telling literal untruths, taking the innocent life of a life-threatening fetus).

Both the association of basic goods and the requirement of necessity seem to have been formulated primarily with an eye to precluding the killing of innocents for utilitarian reasons, but whether they are the logical results of McCormick's theory as a whole remains in question. Suffice it to say that McCormick's teleological theory is probably susceptible of further revision by its author. His admittedly tentative latest refinements avoid utilitarianism, but they may be unnecessarily complicated ways to account for commonly held prohibitions. Such prohibitions should be intelligible simply on the basis of an understanding of moral absolutes, as prohibiting neither physical acts nor the sacrifice of non-moral values, but as defining relations of values in an ordered and approximately knowable scale (some of which values can be represented or negated by physical acts).

NONUTILITARIAN CHRISTIAN TELEOLOGY

The point worth noting is that McCormick's recent work as a whole represents a serious move in Catholic moral thought to define a teleological ethical position which evaluates consequences but is not utilitarian. But what essentially and in principle does differentiate McCormick's teleology from utilitarianism? A prior question already raised is that of

the definition of teleology itself, as distinct from deontology (but not necessarily opposed to it) and from utilitarianism (and including it). A major difficulty is that definitions of teleology and deontology rarely are agreed upon and often are promoted tendentiously. That this problem continues can be illustrated quite clearly by the spate of literature prompted by McCormick and others.⁶⁷

Granting that it is possible to speak of a broad teleological ethics which does not exclude all elements generally considered deontological, it will be useful to demonstrate more exactly how modern Catholic natural-law ethics, and the approach of McCormick in particular, can be said to fall within that category. In doing so, the contrast between this sort of teleology and utilitarianism will be clarified. While utilitarian theories give precedence to beneficence over justice, and thus to net social good over individual rights, there are other forms of teleology in which an inviolable dignity of the individual is not seen as incompatible with maximization of the good, but as in fact demanded by it as a condition of its possibility.

One category in Thomistic natural-law ethics which is teleological regards communal welfare, and yet protects the inviolability of the individual is that of the "common good." This concept has roots in the *Summa theologiae*⁶⁸ but has been developed in modern social thought by the nineteenth- and twentieth-century popes in the social encyclicals. Put

⁶⁷ Bruno Schüller organizes his reply to McCormick by dividing normative theories into two classes: "(1) teleological (utilitarian, consequentialist) and (2) deontological (formalist) theories" ("The Double Effect in Catholic Thought" 167). Obviously, this way of putting it encourages the misapprehension of utilitarianism and consequentialism as synonyms for teleology. He goes on to adopt what is essentially Frankena's division, by maintaining that in teleological theories the rightness of an action "is *exclusively* determined by its consequences." Deontological theories take results into account, but "not exclusively." He then divides theories of the latter sort into two subcategories: (2a) an act is to be judged "always also but not always solely by its consequences;" and (2b) some actions have a moral character "completely independent of their consequences." It is instructive to note that 2a is the definition of deontology given by Frankena (a deontologist), while 2b is that given by Broad (a teleologist). It is of even greater interest to notice that 2a is the definition of *teleology* espoused by McCormick ("A Commentary" 200). "Moderate teleologists," who consider consequences among other factors, are distinguished from "absolute consequentialists" ("Notes on Moral Theology: 1976," *TS* 38 [1977] 57-114). McCormick characterizes his several opponents as "teleologists" too, even though some are "crypto-teleologists." There is evidently a need for clarification of terms, since McCormick himself has been suspected as a "crypto-deontologist" (John Langan, S.J., "Direct and Indirect—Some Recent Exchanges between Paul Ramsey and Richard McCormick," *Religious Studies Review* 5 [1979] 101). Although Peter Knauer tries to overcome what he calls the narrowness of the two theories, he begins from Frankena's definitions of them, which may not provide the account of teleology which is most compatible with Knauer's own fundamentally natural-law approach ("Fundamentelethik" 321).

⁶⁸ See, e.g., 2-2, q. 64, "Of Murder."

succinctly, this concept envisions the person as dependent upon and contributing to the social whole, in terms of which are defined his or her roles and duties (and in modern thought, rights). Yet the person's whole reason for existence does not inhere in the "body politic," for the person has a more fundamental responsibility to God.⁶⁹

This is a category of which McCormick makes indirect use in developing his theory of proportion toward a social ethics. Perhaps the clearest and, to some of his critics, the most notorious⁷⁰ example is his analysis of the morality of experimentation on incompetent human subjects. He has defended at length the position that nontherapeutic research may be conducted on children and others incapable of consent, if the social need and potential benefit of the research is considerable, if there is little or no risk to the subjects, and if consent is given by proxy.⁷¹ The rationale behind this conclusion is not utilitarian in character; it does not consist in making a case that some "rights" of incompetents may be set aside if the greater welfare of others demands it. Instead, McCormick argues that individuals have social duties, the fulfilment of which is in their "best interests" even if not to their immediate personal gain.⁷² Our "flourishing" consists in pursuing the well-being of others as well as our own. In a comment on the general character of morality, McCormick remarks:

It is axiomatic that we are social beings, that we move and literally have our being not as atomized individuals, but as interrelated beings. We exist in relationships and are dead without them. This is not surprising to those who believe that man is created in the image and likeness of God, for the more we know of God, the more we know that he is relation, that his very being is "being in and for another."⁷³

At the same time, the risk that the individual "ought to run" for the welfare of others is "minimal." Acceptable nontherapeutic experimentation on children is that which involves "no discernible risk or undue discomfort." McCormick insists that if acceptable risk is interpreted otherwise, "it opens the door wide to a utilitarian subordination of the

⁶⁹ 1-2, q. 2, a. 8, ad 3; q. 21, a. 4, ad 3.

⁷⁰ Paul Ramsey has objected to McCormick's thesis as a violation of informed consent and of the "covenant fidelity" owed to children. See "The Enforcement of Morals: Nontherapeutic Research on Children," *Hastings Center Report* 6/4 (Aug. 1976) 21-30; "Some Rejoinders," *Journal of Religious Ethics* 4 (1976) 185-237; "Children as Research Subjects: A Reply," *Hastings Center Report* 7/2 (Apr. 1977) 40-41.

⁷¹ See "Proxy Consent" and "Experimentation in Children: Sharing in Sociality," *Hastings Center Report* 6/6 (Dec. 1976) 41-46.

⁷² "Freedman on the Rights of the Voiceless," *Journal of Medicine and Philosophy* 13 (1978) 212.

⁷³ "Some Neglected Aspects of the Moral Responsibility for Health," *Perspectives in Biology and Medicine* 22 (1978) 39.

individual to the collectivity.”⁷⁴ Thus social justice demands some contribution of the individual to the good of others and of the community as a whole, but legitimate demands on him or her are limited by the integrity and value of any individual as a creature of God. McCormick’s teleological, consequence-oriented theory does not grant the person absolute autonomy and untouchability, but it does protect him or her in a way foreign to utilitarian theories.

OVERVIEW

In summary, then, deontology is nothing more and nothing less than a comprehensive view of the moral life, in which moral experience is perceived as obligation or obedience to duty, whether that is defined in terms of the command of God or the imperative of reason. Teleology is a view which models human agency on the pursuit of an appropriate ultimate goal—whether it be happiness or union with all persons in God—and of intermediate goals subsidiary to it. Utilitarianism and consequentialism, as defined by Anscombe, are teleological theories in which the goal of human acts is the pursuit of “the greatest good for the greatest number” or the greatest sum total of social welfare, understood temporally and empirically or at least quantifiably.

The moral theory of Richard McCormick and like-minded colleagues is teleological. Further, the thesis is defensible that it is a nonutilitarian form of teleology, if fully understood. This is despite McCormick’s abortive attempts to re-establish exceptionless rules after his discussion of proportion in *Ambiguity*. The primary difference between the utilitarianism of Bentham and Mill and the broad teleology of Aristotle, Aquinas, and McCormick is that the “good” (*telos*) to be sought is perceived differently. Now, not all utilitarians give precisely the same definition of “happiness,” nor do Aristotle, Aquinas, and McCormick give precisely the same meaning to the virtuous or humanly fulfilling life. Yet it is the case that the latter three have common elements in their understanding of the morally good life not shared by the former two and their interpreters.

Put briefly, the utilitarian authors envision a shared social good which is material or so dependent on material conditions that it must be finite in its range of distribution. Thus it is to be anticipated that not all would-be participants in the net social welfare will be able to partake to the fullest of “happiness.” Consequently the utilitarian notion of justice entails no requirement that all have an equal right to essential material, social, and moral goods included in the *telos*; nor, far less, does it presuppose that the *telos* is only constituted fully by the participation of

⁷⁴ “Proxy Consent” 220–21.

all who are oriented to it by nature. It is this presupposition about the character of the good that results in the debate in utilitarian theory over whether the good should be maximized simply, to produce the largest possible sum total, or whether it is better to distribute the limited resource, happiness, among as many participants as possible. This is evident even in John Stuart Mill's claim that there is an affinity between utilitarianism and Christian morality. "To do as one would be done by, and to love one's neighbor as oneself, constitute the ideal perfection of utilitarian morality." The "highest virtue" is to *sacrifice* one's own happiness for that of others, since happiness cannot in principle be had equally by all.⁷⁵

In contrast, Aristotle and Aquinas have in common a vision of the *telos* which is limited in its potential range of distribution only by the receptivity or voluntary congruence to the good of those who seek it. For Aristotle, happiness consists in a certain way of being and doing available to all those who have cultivated the appropriate virtues. Aquinas follows Aristotle in this in discussing the moral life natural to humans. At the level of supernatural formation of character, the theological virtues, gifts of divine grace, so form reason and will that the agent is capable of beatitude, friendship with God, or union with God in His essence. Even more clearly is this union a *telos* whose substance is not circumscribed. If one were to describe Aristotle, Aquinas, and even McCormick as judging acts by their consequences, that term would be meaningful and appropriate only if taken to connote the consistency of an action or pattern of actions with the life of virtue, understood by Christian authors as a life consistent with the will of God. To put the point in the natural-law language used by McCormick, the choice of higher over lower values in the hierarchy (*ordo bonorum*) is properly ordered, and constitutes human "flourishing," precisely because the finite order of values originates in and is oriented to the *summum bonum*, God. "Each of these values has its self-evident appeal as a participation in the unconditioned Good we call God. The realization of these values in intersubjective life is the only adequate way to love and attain God."⁷⁶ In this order of values, no *person*, in whom and whom only inhere moral values (honesty, justice, freedom, love—the "absolutes" on the scale in whose realization consists virtue), can be treated as a *bonum utile*, a means or object to be subordinated to the purposes of others. Every individual is a *bonum honestum*, an "end in itself" in Kant's sense. This precludes at the very outset minimizing the dignity of some to maximize the welfare of others. Thus, it is absolutely forbidden to lead another into sin, or to act oneself unjustly or unlovingly in any concrete act. The remaining task of ethics

⁷⁵ John Stuart Mill (n. 10 above) 217–18.

⁷⁶ "Proxy Consent" 217.

is to determine further which concrete acts in which circumstances do indeed respect and actualize moral values and, concomitantly, respect the dignity of persons.

To conclude, a utilitarian ethics does consider equality, all other things being equal, and in the sense that the happiness of each counts equally; but it permits equality to be set aside for considerations of utility. It also presupposes that happiness is both quantifiable and limited, so that participation in the good is by definition not universal. The happiness sought is temporal, historical, and finite, even if the candidates for a share are numbered in a pool which is "cosmic" and "inclusive of all sentient creatures past and present" (Mill and Sidgwick).

In Aristotelian or Christian teleology of a broad sort, each person has inviolable dignity and thus equality. Some deontologists like Frankena would argue that equality must be premised on a principle of justice distinct from that of beneficence. However, if "doing good" is taken in the comprehensive teleological sense and not in the narrow utilitarian one, then considerations of fairness and respect for persons may also be included. Further, the *telos* to be pursued (not necessarily produced) is not to be understood most basically as material or finite, but rather as unlimited. In religious teleologies this *telos* is not only ultimately non-quantifiable but also transcendent, since it is identified with God, or union of persons in God as the "universal common good."⁷⁷

⁷⁷ Grisez's statement that, to be consistent, consequentialism should rule out religious faith would seem to be unjustified. There is no evidence to suggest that McCormick et al. would disagree with Grisez's assertion that "A sound ethics at least will hold open the possibility that if human persons are called to share as adopted members of God's family in His very life, they shall be free to answer the call, no matter what the consequences" ("Against Consequentialism" 72).