Experience of Nature, Moral Experience: Interpreting *Veritatis Splendor*'s "Perspective of the Acting Person"

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"Is the perspective of the acting person really exhaustively intentional?"

In recent literature on moral action, the famous phrase cited in my subtitle[1] is typically interpreted as a decisive rejection of what are said to be "physicalistic" notions of the human act, that is to say, notions thought to confuse the act's moral species with its natural or physical structure. Failing "to place oneself in the perspective of the acting person," it is argued, leads to a merely third-person account of the material aspects of an act. Rather we need to look to its intentional structure.[2] At times, *Veritatis splendor*'s lapidary phrase

[1]The phrase comes in the following sentence: "In order to grasp the object of an act [it is] necessary to place oneself *in the perspective of the acting person*" (78).

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[2]Martin Rhonheimer, for example, speaks in this context of "intentional actions" (cf., for example, "Intentional Actions and the Meaning of Object: A Reply to Richard McCormick," in *Veritatis Splendor and the Renewal of Moral*

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seems almost to have become a slogan, as though its meaning were clear and obvious, capable of resolving a host of knotty ethical issues. But what in fact *does* the phrase mean? We can certainly agree that it refers to the basic experience of being a moral agent, the experience not only of causing situations and effects in the world but of *being caused* as a moral agent in one's own actions (cf. VS, 71). As such, we can agree that it implies a rejection of a merely material or purely third-person account of human action. Clearly, it seeks to reclaim a properly ethical perspective. This starting point, however, leaves a great deal of leeway for further elaboration. Is the perspective of the acting person really exhaustively intentional?

My argument here will be that the dominant interpretation of the "perspective of the acting person" is questionable, both as an interpretation of John Paul's encyclical and as an action theory. Of course, intention and choice are crucial ingredients of action. However, the dominant interpretation marginalizes the role of the physical structure of actions and, by implication, the status of moral agents as embodied, physical beings who neither stand over and against a world of "merely" material objects nor simply engage that world intentionally. Indeed, I will argue, the dominant interpretation reflects a modern and in the end reductive notion of nature. The main title, given to me by the conference organizers, links the ideas of nature, morality, and experience. The leitmotif of this paper will be that our "experience" of nature has been profoundly shaped by philosophically (and theologically) informed ideas about reality as a whole (but which we only very rarely consider thematically), and that both our experience and our ideas in turn set a context and a foundation for what we take moral action to be.

Needless to say, I have bitten off far more than I can chew in a project of this scope. Nevertheless, I hope at least to sketch the outlines of a position.

I.

1) We will find ourselves underway by briefly considering a few ideas about nature that characterize modern thought. It is often pointed out that, in seeking to understand the world, modernity

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Theology, ed. J. A. Di Noia and Romanus Cessario [Scepter Publishers, 1999], 241–68).

takes "parts" rather than "wholes" as the fundamental unit of intelligibility. Hence, natures are treated as collections of parts, and any given nature is best grasped in terms of the elements, dynamics, and pieces that make it up. What significance does this have? For one thing, it marks a turn away from final and formal causality and toward viewing reality as a set of brute facts. As Hans Jonas puts it, modernity replaces "the aristocracy of form" with "the democracy of matter. If, according to this 'democracy,' wholes are mere sums, then their seemingly genuine qualities are due to the quantitatively more or less involved combination of some simple substrata and their dynamics."[3] This also means that the lower is called upon to account for the higher. Even what is greatest in the cosmos is placed below the knower: "The falling apple is not so much elevated to the rank of cosmic motion as the latter is brought down to the level of the falling apple."[4] The world is reduced to an "object" on which a "subject" can work.

This reduction correlates, then, with a division between the subject and the object of knowledge, such that the knower is locked into himself over and against an object, in contrast to knowing as being-with. "The simultaneously cognitive and sexual significance of the Hebrew word 'jadah,' 'to know,'" Robert Spaemann tells us, "stands in absolute contrast to the windowless light of being-by-oneself, which represents Descartes' paradigm for knowledge. And it stands likewise in opposition to the instrumental power to control things, which is how Thomas Hobbes understands this paradigm: 'to know' something means for Hobbes 'to imagine what we can do with it when we have it.'"[5]

2) The foregoing is also closely related to the division between fact and value. The material object of human understanding, as brute fact, is also valueless until value is added by the human mind and will. When Leo Strauss tells us that the basic posture of the ancients is contemplative, while that of the moderns is active charity, we presumably have to understand that "charity" has also taken on

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[3]*The Phenomenon of Life: Toward a Philosophical Biology* (Evanston, Ill: Northwestern University Press, 1966), 201.

[4]Ibid.

[5]"Ende der Modernität?" in *Philosophische Essays* (Stuttgart: Reclam, 1994), 232–60; unpublished English translation by D. C. Schindler, "The End of Modernity," 4.

a new cast.[6] It is no longer a grace that structures knowledge and action from its beginning, an interior demand for knowledge and action to be authentic, but rather it becomes an externally imposed moral obligation for an otherwise neutral technical progress. As Jonas says, the moral is no longer part of the structure of knowledge, let alone written into nature, but is rather an external imposition or obligation placed on the way in which physical bits and pieces of the world are used.[7] The effect is to conceive of the world as a domain of things and events about which the specifically moral can only arise as an additional evaluation of some type.

Jonas points out that this basic understanding of nature and the experience it spawns issue in both materialist and idealist variants, which are finally in tacit collusion.

> [T]he idealism of the philosophy of consciousness is itself but a complementarity, and epiphenomenon as it were, of materialism . . . . Only a world objectified to pure extensive outwardness, as materialism conceived it, leaves opposite itself a pure consciousness . . . . And vice versa, it is this bodyless, merely beholding consciousness for which reality must turn into series of points juxtaposed in space and succeeding in time: points of extensity necessarily as external to one another as they all together are to consciousness, and therefore offering no other rules of order than those of extraneous collocation and sequence.[8]

In the end, however, the basic unit of intelligibility is not simply parts of wholes but parts treated as the raw materials for some sort of production, either through the experimental methodologies of the lab and its demand of reproducibility, or through technical production. Thus, Jonas argues that modern thought, in its empirical turn, is inherently technological.[9] That is to say, it is not simply a question of modern thought performing experimentation for the sake of a purely detached or neutral speculative knowledge, and then later finding uses for that knowledge. Rather, he argues that it is the interior dynamic of modern notions of reason to issue in technical production. Offering a similar narrative, Joseph Ratzinger briefly

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[6]Cf. *The City and Man* (Chicago: University of Chicago Press, 1978), 3.

[7]Cf. *Phenomenon of Life*, 195ff.

[8]Ibid., 20.

[9]Cf. ibid., 198.

discusses a fundamental shift from the notion of *verum est ens* ("truth is being") to *verum quia faciendum* ("true because makeable").[10] In a sense, all knowing becomes practical, but the practical itself necessarily is a making. To know something is not only to know how it works but also to be able to put it to work: *facere* dominates *agere*. On the idealist side, we find something analogous: intelligibility is the product of an intentional constitution of reality through consciousness. From here the world is a domain of inaccessible and meaningless stuff until it can be taken up according to the structure of man's consciousness.

Ironically, then, the seeming objectivity of the fact-value division is another way of subordinating the world to man. As Spaemann tells us: "What is modern is the notion, and the project, of a constantly progressing and advancing subjection of nature, the concept of sovereignty over nature as a despotic lordship, which progressively reduces the independent reality [*Selbstsein*] of that which is mastered. The fruit of this subjection is the equally progressive multiplication of options for action."[11]

Buried not too deeply within this account of nature, of course, is a fundamental angst. It is an angst that what is not produced and in principle controlled by human reason and will is *in*human and at least potentially an imposition on freedom and dignity: either by what is lower (the world as brute facts) on what is higher (man's rational organization of his world in freedom); or, alternatively, by what is higher (God's externally imposed will) on what is lower (man's autonomy). Rather than experiencing himself and the world within a philosophical and theological horizon of gratuity and gift, man finds himself in an isolated struggle between mastering his world or being mastered by it.

3) Do the foregoing ideas of nature have implications for "moral experience"? Needless to say, almost any issue in bio- or sexual ethics worth mentioning—that is to say, almost any issue that centers on the meaning of the body and personhood—will on some level revolve around this question. For example, one of the most striking criticisms of so-called "reproductive technologies" is that they follow precisely the logic of mechanism and the dominance of

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[10]*Introduction to Christianity*, trans. J. R. Foster (San Francisco: Ignatius Press, 1990), 31–35.

[11]Spaemann, "The End of Modernity?" 4.

the *faciendum* in their treatment of procreation, life, the child, and so forth. That the reconstitution of life's beginnings according to the logic of production and the market place seems unquestionably good to many and perhaps most in the world today has much to do with this "experience" of nature. More shocking—but perhaps less outlandish than we might hope—are the proposals of so-called "transhumanists," who argue that there is an ethical demand not only to remedy human suffering, but to produce an entirely new "transhuman" or "post-human" species. Here, the logic of instrumental reason has come full circle to entail the literal abolition of man, who is seen as the (lower) object of the scientist, doctor, and technician who seek to reduce him entirely to a product.[12]

As already suggested, however, my argument is that our experience of nature, for better or worse, shapes the way we understand the very foundations of ethics, including the way we understand the meaning and significance of human acts. The most obvious example of what I have in mind would surely be consequentialist ethics, as characterized by Anscombe.[13] According to consequentialists, action only gains its moral significance through further considerations, most especially through the intention to bring about the best (or the least bad) set of consequences. But, as Anscombe pointed out, this means that no type of behavior can in the end be ruled out absolutely. The disvalue of an action (killing, wounding, etc.) can only be judged from a moral point of view when it is put into the context of the whole human action, including most particularly its ulterior or further end (such as saving other lives, bringing about less injury, and so forth). Only when this further intention is considered can we characterize an act morally as, say, murder (e.g. killing to get money) or life-saving (e.g. killing one to save three), harming (e.g. wounding for revenge) or protecting (e.g. wounding to save a life).

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[12]Cf., for example, transhumanist philosopher Max More, "True Humanism" (*The Global Spiral*, at http://www.metanexus.net/magazine/tabid/68/id/10685/Default.aspx), who seeks to improve "nature's mindless 'design.'"

[13]Cf. "Modern Moral Philosophy," in *Human Life, Action and Ethics*: *Essays by G. E. M. Anscombe*, ed. Mary Geach and Luke Gormally (Imprint Academic, 2005), 169–94; 184.

Consequentialist ethics illustrates well our general theme regarding morality's dependence on an understanding and experience of nature. Only a mechanistic view of reality as a whole will correlate well with an action theory based on balancing goods and bads, that is to say, on additive and subtractive relations among physical actions and projected outcomes seen in their underlying status as brute facts (e.g. killing/death, wounding/injury, etc.). My point is that moral experience, the way we characterize what moral action is, implies an entire understanding of reality. Consequentialism sees the whole as a collection of parts, a set of premoral goods and bads, events and situations, which are treated as material and external, a kind of context or substrate for action. They are "objects" only in the reductive, Cartesian sense. Necessarily, then, it presupposes an understanding of practical reason as ordered toward the *faciendum* and action as essentially a production of states of affairs combined with a correct intentional cognition on the part of the moral subject. In fact, it effectively reduces human action entirely to this intentional structure, conceived as the intended achievement of a goal or greater premoral good. Hence, no act can be judged intrinsically evil because no one can know the entire set of premoral values at stake until we know the actor's complete intention. Perhaps most significantly, however, it drains action of the properly ethical.

II.

1. Particularly among Catholic moral theologians and philosophers, a great deal of criticism has been leveled at consequentialist ethics (or the Catholic variant, "proportionalism") along just these lines. Proportionalism had elided the distinction between proximate and further ends, treating the former only as situations or events and the latter as the act itself. In effect, the further end had become the object (hence, the problem of the expanding and contracting object, depending on how I describe my end). The basic message of proportionalism's critics was that we must recover the concept of the moral object as what I am doing here and now, as my "proximate end," in order to understand what an action is. This is also the fundamental message of *Veritatis splendor* when it tells us that the "morality of the human act depends

primarily and fundamentally on the 'object' rationally chosen by the deliberate will," citing St. Thomas for support. The encyclical goes on to say that this object cannot be considered "a process or an event of the merely physical order, to be assessed on the basis of its ability to bring about a given state of affairs in the outside world." Rather, "the object is the proximate end of a deliberate decision which determines the act of willing on the part of the acting person." "The reason why a good intention is not itself sufficient, but a correct choice of actions is also needed, is that the human act depends on its object, whether that object is *capable or not of being ordered* to God . . ." (italics original). And, of course, this is also the section in which we find our celebrated teaching concerning "the perspective of the acting person" (78).

Certainly active debate within the Church over the merits and demerits of proportionalism has faded in the years following the encyclical, and I reference it only by way of example and background. Those with the highest profile in the fight against it have now assumed prominent and influential roles in current discussions within the Church. It is these thinkers who have tended to claim ownership of our lapidary phrase, as well as the closely related teaching concerning the object not being "a process or an event of the merely physical order." As already mentioned, this dominant construction has in more recent times brought these phrases to bear in its arguments with action theories that accord a morally specifying role in the physical structure of acts. If proportionalism tends to take intention of the *further* end as the act itself, the dominant response has been to highlight the intentional structure of the object or *proximate* end. Those who look in part to the physical structure of the act fail to adopt the "perspective of the acting person" because they fail to give sufficient weight to the intentional constitution of this object or proximate end. This, they claim, is the fundamental teaching of *Veritatis splendor*.

Of course, advocates of the dominant interpretation would not want to be understood as saying that the physical aspects of an action have absolutely no bearing on its moral species. But the precise role played by the physical structure remains a bit sketchy. In fact, the ordering role of the physical structure of the act appears at times to consist mainly in providing a context of plausibility for a given intention. The point is especially evident in the treatment of any number of difficult issues in bio- and sexual ethics; that is to say,

issues where the role and meaning of the body become central concerns. To describe an act in its natural species (killing, injuring, saving, etc.) is to describe the object as "a process or an event of the merely physical order." It is only by looking at intention that we can distinguish the moral species of actions that may be identical in their natural species. How else can we know the difference between surgery and mayhem, self-defense and murder, pushing to save a life and pushing to end it? But the dominant interpretation has also been used to support the moral goodness of more controversial kinds of behavior: the use of condoms to prevent the passing of disease,[14] the practice of so-called "embryo adoption" or "rescue,"[15] the use of the pill not for contraceptive purposes but to suppress menstruation prior to a sports competition,[16] the practice of craniotomy under dire

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[14]Martin Rhonheimer, "The Truth about Condoms," *The Tablet* (10 July 2004); Benedict Guevin and Rhonheimer, "On the Use of Condoms to Prevent Acquired Immune Deficiency Syndrome," *The National Catholic Bioethics Quarterly* (Spring 2005); Rhonheimer, "The Contraceptive Choice, Condom Use, and Moral Arguments Based on Nature," *The National Catholic Bioethics Quarterly* (Summer 2007).

[15]E.g. William E. May, "The Object of the Acting Woman in Embryo Rescue," in *Human Embryo Adoption: Biotechnology, Marriage, and the Right to Life*, ed. Thomas V. Berg and Edward J. Furton (The National Catholic Bioethics Center, 2009), 135–63.

[16]Taking the pill for the sake of suppressing menstruation (rather than for contraception) is sometimes used as an example of an obviously good or at least acceptable kind of behavior illustrating the centrality of intention in making sense of human actions. It is then added that even if a woman taking the pill with this intention has relations with her husband, the contraceptive effect would be *praeter intentionem*. But is taking the pill for these purposes so obviously good or acceptable? Or, instead, does this presumption simply disclose an underlying reductive idea of nature? My concern has to do with the implications for womanhood, and therefore it is first anthropological (and only then moral). Consider that normal menstruation is not a disease, but a natural function of a healthy woman's body (although, of course, in some cases it occurs abnormally). Taking the pill, not for the sake of contraception, but for the sake of suppressing menstruation is nevertheless a growing trend. The reason for this trend is a desire on the part of women to compete more successfully in their careers and life goals by eliminating the difficulties posed to these activities by the menstrual cycle. What sort of response should be given to this trend? Obviously at the root of this kind of behavior is a set of anthropological assumptions. These assumptions correlate with a mechanistic view of the organism, in which the human body is not fully personal or human. An important distinction needs to be drawn between a condition in which medicine attempts to restore health and normal bodily

circumstances,[17] and so forth. But with regard to issues like these, isn't it precisely the body and its significance that allows us to make sense of the action?

2. A fair amount of casuistry has developed around the defense and development of this action theory. Craniotomy in particular has generated substantial discussion. At the center of the controversy is the famous 2001 article of John Finnis, Germain Grisez, and Joseph Boyle, which defends the procedure more perhaps as a way to illustrate the workings of their action theory than as the resolution of a currently pressing issue in the context of modern medicine.[18] The topic nevertheless refuses to go away, perhaps indicating its iconic power.[19] Finnis and his colleagues argue

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functioning and one in which medicine is used to modify the body and augment or suppress normal functioning. The use of the pill to facilitate the achievement of such life goals is to treat menstruation as a merely biological (pre-moral) condition that can be manipulated and suppressed by the use of drugs. It is effectively, then, to project about oneself and the rest of humanity a reductive anthropology. What is the moral object entailed in this kind of behavior? It is to suppress menstruation. But the meaning of "to suppress menstruation" *is equally and objectively the meaning* of treating the body as a mechanism and the person as disembodied (and indeed androgynous). It is in short a suppression of womanhood and therefore the truth of the feminine person in her complete integrity as a human being. It is therefore to suppress the body's role as "anticipatory sign of the gift of self" (*VS*, 48 [1993]). Is doing so morally wrong? Notice that the question is not whether it is morally wrong to act contrary to nature, but more precisely whether it is wrong to do something that embraces and conveys a falsehood about human nature. Is it true that the human body constitutes a sign of the human vocation to love (cf. ibid; John Paul II, *Man and Woman He Created Them: A Theology of the Body*, trans. Michael Waldstein [Boston: Pauline Books and Media, 2006], 203)? If so, is it true that to act contrary to that sign-meaning of the body—the truth of the human person—amounts to a kind of lie (cf., e.g., John Paul II, *Familiaris consortio*, 11 [1981])? The context of the question is also perhaps important: a cultural climate (a "structure of sin") that increasingly is rooted in a mechanistic and androgynous anthropology. The mechanistic assumptions about nature outlined above (including the fact-value division) have brought us to the point where human nature is itself very much in the balance in the way we address ethical issues.

[17]See nn. 18–19, below.

[18]"'Direct' and 'Indirect': A Reply to Critics of Our Action Theory," *The Thomist* 65 (2001): 1–44.

[19]See the very recent extended treatments in Martin Rhonheimer, *Vital Conflicts in Medical Ethics: A Virtue Approach to Craniotomy and Tubal Pregnancies* (Washington, D.C.: The Catholic University of America Press, 2009), and Steven Jensen, *Good*

that if we examine the intentional structure of the act, we find that the doctor's choice is not to kill the fetus (for the further end of saving the mother), which they agree would amount to killing one innocent (whose life perhaps cannot be saved) for the sake of another (whose life perhaps can). Rather, it is only to narrow the fetus' skull (for the further end of saving the mother). In other words, what the doctor wills—what he wants—is not a dead baby, but a narrower skull. Basic here is the belief that, from "the perspective of the acting person," "skull-narrowing" is an entirely different moral species than killing. The fetus' inevitable death is therefore a foreseen, but unintended and regretted, side-effect (*praeter intentionem*).

My concern here is that, although they represent their work as a recuperation of the authentic tradition,[20] in fact it shares the reductive sense of nature outlined above with the consequentialist ethics it sought to criticize and replace. As in the general description just offered (and in opposition to proportionalists), our authors argue that the moral agent commits himself in his moral identity through the intentional structure of his object. Indeed, the burden of Finnis' and his colleagues' article is to criticize the traditional language of "direct" and "indirect," which they view as implying a physicalistic approach, since it suggests that whether an actor is acting "directly" on a physical object can be morally decisive. Hence, the fact that the doctor is performing his action directly (i.e., physically) on the baby, they say, is a false path for arriving at decisive criteria in determining the moral species of the act.

3. Again, our authors would not want to be understood as teaching that intentionality is entirely independent of the physical. They would point out, I assume, that the doctor's choice is to

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and Evil Actions: A Journey through Saint Thomas Aquinas (Washington, D.C.: The Catholic University of America Press, 2010).

[20]Hence, they rely not only on *Veritatis splendor*, but also on a large number of passages from St. Thomas. The validity of this reliance has been undermined by any number of authors (e.g., Stephen Brock, *Action and Conduct* [Edinburgh: T&T Clark, 1998]; Kevin Flannery, *Acts Amid Precepts* [Washington, D.C.: The Catholic University of America Press, 2001]; Steven Long, "A Brief Disquisition Regarding the Nature of the Object of the Moral Act According to St. Thomas Aquinas," *The Thomist* 67 [2003]; id., *The Teleological Grammar of the Moral Act* [Naples, Fla.: Sapientia Press, 2007]; Steven Jensen, "A Defense of Physicalism," *The Thomist* 61, no. 3 [1997]).

narrow a skull, not to perform just any sort of act. Hence, the physical aspect of the act (that it is skull-narrowing) does offer intelligibility to what the agent chooses and intends. My concern, however, is not that the physical order plays no role in their action theory, but rather with how they treat that order.

Veritatis splendor says that the object is a "freely chosen kind of behavior." According to our authors, the freely chosen kind of behavior is "skull-narrowing for the sake of removing." Such an object presupposes that a skull exists. But is it true that a skull *does* exist in this sense? Of course we can speak of acting on a skull, but this is only a specification of a certain way of acting on a human being. In other words, in reality, skulls only exist as parts of wholes, which means that they are only intelligible in terms of those wholes. In fact, this means that the wholes—the fetuses themselves—are already tacitly present in their skulls. In a real way, every part of the human person, including the skull, contains the whole of the person because the formal cause of the whole is present in every part. This would be the gist of the idea that the soul is present throughout the body. A skull can therefore only be a skull as organically related to the formal cause of the whole and indeed can only be explained in terms of it.

So, is the doctor really acting on a part (i.e., a skull) or is he acting on a whole (i.e., a person)? Perhaps we can imagine a dialogue. Were the fetus able to talk, he might naturally ask the doctor what the latter is doing *to him*. But, according to the action theory in question, the doctor would have to reply: "I am doing nothing to *you*; I am only doing something to your skull. That something is *happening to you* is entirely outside the constituting structure of my action, and is only true from the standpoint of the physical structure of the act. And therefore it is only a side-effect and cannot specify the object of my act. Hence, my responsibility is limited by prudential questions of the fairness or proportionality of the foreseen but unintended side-effect of your death."

Our question is, then, can the doctor really say this about his choice in good faith. If skull-narrowing is really person-narrowing, it can only be person-destroying in the pertinent sense of "narrowing" meant here (which is in fact "evacuating" and "collapsing" or "crushing"). So it only makes sense for the doctor to say that he is doing nothing to the fetus as such if a skull is thought of as not in fact already containing in a real way the whole. But this would only

be possible in a mechanistic world. In other words, it would be possible only if the part is the fundamental unit of intelligibility and the whole is really just a complex collection of parts. Were this mechanistic view the true one, the loss of the whole (i.e., the death of the fetus) could be seen as accidental to what is done to the part, since all of the parts would only be externally and accidentally related to each other and the whole would only be this complex of accidental relations.

Given the real world, however, it really does not help us to understand what the doctor is doing, but only muddles the situation to treat his action as directed only to a part rather than to the whole. However, if the doctor has to say that he is actually doing something to the whole, then he also has to say to the fetus, "I propose to do something to *you*." But this would require that the proximate end of his choice be to kill the fetus. Why? If the foregoing is true, then skull-narrowing *is* also necessarily person-narrowing. What the doctor wants is not merely to narrow a skull, but to "change" or "reshape" a baby in a way that will make it more compatible with delivery. Can he then say, I am only "changing" or "reshaping," and not "killing," a baby according to the moral species of the act, even as determined by intentionality? In truth, this "change" or "reshaping" ("person-narrowing") entails the choice to change the baby into something other than a baby, for it is only a new substantial form—that of a corpse—that would be compatible with delivery. But this is just another way of saying that the doctor is in fact choosing to kill the baby. The fact of the matter is that the doctor needs to turn the baby into something other than a baby in order to accomplish the delivery, and indeed this is also and necessarily the content of his choice. Hence, if we probe more deeply into our imaginary dialogue between doctor and fetus, the doctor's description of what he is doing would implicitly have to be something like: "As the baby that you are, your delivery is non-viable. I cannot make you a different kind of baby. Thus, I need to make you something *other* than a baby in order to bring about this delivery."[21]

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[21]If the idea of a talking fetus seems overly fantastic, consider the following well-known hypothetical. With water rising, a fat member of a party of three spelunkers becomes lodged in the only means of escape from a cavern. His two skinny companions (who would be able to fit through the passage) are trapped behind him. Exhausted from trying to dislodge their friend, and almost on the point of

But if the doctor understands himself as making the baby to be something other than a baby, he can only see himself as killing it. And he can only see himself as entitled to kill the fetus if doing so is for the sake of what he considers to be a proportionately greater end. This, of course, would land his moral reasoning squarely in consequentialist territory.

So, it turns out that what makes craniotomy different from other "hard cases" (such as, for example, the removal of a cancerous, gravid uterus[22]) is precisely that the action is performed directly on the fetus and that this physical directness brings into play the very pressing question of what *precisely the agent is doing to that on which he*

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despair as the water rises to their chins, it suddenly dawns on the skinny companions that they do have some dynamite in their rucksacks. Can they use it to clear the passageway by blowing their friend to smithereens? Again, one can imagine the dialogue: "We are not blowing *you* up, but only reshaping and removing your *body* which happens to be blocking our exit. That *you will* be blown to bits is outside of the intentional structure of our action," etc. Notice that here too we have an abstraction from the whole, since the body is treated not as a body, since to do so would require treating it as an expression of and bearing the form of the whole, and this would require the skinny spelunkers to say "we are going to blow *you* to smithereens" (and presumably the inevitable consequentialist implications would follow: "We are entitled to do so because our two lives are a greater premoral good than your one life"). Like the craniotomy doctor, the two skinny ones would finally have to say in all honesty, "In order to clear *your body* from the passageway, we need *you* to be something other than the man that you are" (i.e., we need you to possess a different substantial form [=we need you to be a corpse], because only this new substantial form [being a corpse] is compatible with your removal).

[22]Significantly, in order to distinguish the moral object in craniotomy from that of partial-birth abortion, but perhaps also to make this situation appear analogous to other sorts of actions, such as removal of a cancerous, gravid uterus, Finnis and his colleagues tell us that even if the baby were dead, the same procedure would be used to deliver it ("'Direct' and 'Indirect,'" 24–25). The argument would seem to be that either in the case of the dead baby or in the case of the living baby, the intentional structure is the same: reduce the skull size for the sake of delivery. However, notice that the implication is that the baby's being alive is accidental to the kind of act we are talking about, since it is argued that the doctor would be performing the same action either way. But insofar as this is the implication of their argument, it amounts to a *petitio principii*. While we do speak of "dead babies," in point of fact a "dead baby" is not a baby. In order for craniotomy on a "dead baby" to be the same thing as craniotomy on a baby, we would have to have already accepted the action theory in contention and its notion of the meaning and role of intention.

is acting. Of course, it is true that the doctor is not likely to say to himself in anticipating his action that he is trying to kill the baby in order to save the mother; but he does effectively say to himself that he is trying to alter the baby in such a way that it will in fact possess a new substantial form.

We find similar patterns in the treatment of other important issues. For example and very briefly, we cannot simply look to the woman's intention to save an embryo (through so-called "adoption" or "rescue") and pretend that the underlying physical structure of the act—which undeniably entails becoming pregnant outside of conjugal relations—offers no formal element. To do so implies precisely the kind of reductive notion of the physical order outlined at the outset.[23] Likewise, with regard to "using a condom," the very physical structure of the act informs what is at stake in the choice. Whatever else a couple is intending, they are certainly choosing here and now a physical reality, viz. they are choosing to prevent the physical communion of their bodies. And it is precisely such a bodily—"one flesh"—communion that cannot be thought, willed, or "intended" into existence. What they are rejecting is a genuine "knowing" in the ancient sense. They are each the living enactment of Spaemann's "windowless light of being-by-oneself." So what is wanted and chosen is very much a "sexual experience" through its simulacrum.[24] In both of these cases, the physical and natural world in which action is occurring is filled with meaning, which cannot be set aside as a material substrate on which intention imposes its own meaning.

4. If what I have just argued is true, does the fault also lie with *Veritatis splendor*'s teaching regarding the adoption of "the perspective of the acting person" and not taking the object to be "a process or an event of the merely physical order"? It is crucial to

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[23]Cf. Mary Geach, "The Female Act of Allowing an Intromission of Impregnating Kind," and Christopher Oleson, "The Nuptial Womb: On the Moral Significance of Being 'With Child,'" both in *Human Embryo Adoption*.

[24]For the full version of my argument, see my "Conjugal Love, Condoms, and HIV/AIDS," *Communio: International Catholic Review* 33 (Fall, 2006). Interestingly, Grisez adopts a similar position in relation to this issue (*The Way of the Lord Jesus*, vol. 2, *Living a Christian Life* [Quincy, Ill.: Franciscan Press, 1993], 636, 640, n. 175). But see Rhonheimer, "The Contraceptive Choice," where the incongruity between Grisez's holding on this issue and his general theory of action (and argument against contraception) is pointed out.

recognize that these two phrases are part of the encyclical's criticism of proportionalism, as is clear from their context as well as from the completion of the second phrase by the dependent clause, "to be assessed on the basis of its ability to bring about a given state of affairs in the outside world." Finnis and colleagues, however, use these phrases to counter the arguments of their current critics—mainly neo-Thomists. Such use of these phrases implies that these critics share a fundamental mistake with the proportionalist thinkers of previous debates. This common mistake would have to be either that both treat what is in fact a moral object as a mere physical happening or event or that both attempt to draw at least some moral specification from the physical structure of the act. But these two possibilities are precisely where proportionalism and neo-Thomist theories differ.

Proportionalism's mistake, as understood by the encyclical, is not that it treats the "merely physical order" as morally determinative; rather its mistake is that it treats the physical order as "*merely* physical," that is to say, as a "premoral" order of values and disvalues that *cannot*—by definition—be considered partly constitutive of a moral act. It is proportionalism, not the current critics of Finnis and his colleagues, that treats what "happens" in the world in a moral action as though it were a *mere* happening, unconnected to the moral actor qua actor and devoid of moral significance until some further intention is brought into the picture. Thus, the fundamental mistake of proportionalism is not first its weighing of "premoral" values and disvalues[25]; it is rather its reduction of the action itself, including its physical structure, to a merely "premoral" event or happening. It is only this latter mistake that renders the weighing of values and disvalues pernicious, because it is only this reduction that allows the weighing to claim precedence over negative absolutes. In other words, the more fundamental mistake is not the weighing of "premoral" acts and events, but the reduction of those acts and events to the merely "premoral" in the first place. Hence, the encyclical is, in fact, criticizing proportionalism *for not treating the physical aspects of the act as at least more organically related to the moral species of an act*.

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[25]After all, in itself, weighing expected advantages and disadvantages (e.g., whether to purchase one item or another) of a moral action is not only a universal part of moral experience but a perfectly legitimate exercise.

In the end, another celebrated section of the encyclical would seem to be at least as important in understanding John Paul's thought on the role of the physical and natural dimensions of action. I have in mind sections 46 through 50, which reject moral theories that consider nature to be "raw material for human activity," that would treat the physical order as simply premoral and the body as a "raw datum." Such tendencies, the encyclical goes on, must themselves be seen as a form of "physicalism." Rather, "it is in the unity of body and soul that the person is the subject of his own bodily acts" (48).

Nevertheless, the "perspective of the acting person" is invoked by Finnis and his colleagues to support an almost exhaustively intentional view of action. But this is simply to reduce the physical structure to what the encyclical calls "premoral" or "raw datum." Again, in order to draw the intended support from these passages of the encyclical, we would be required to understand the teaching as meaning that taking the physical structure of action as partly constitutive of its moral meaning is what proportionalism mistakenly attempts to do. However, it is clear that the encyclical understands the problem with proportionalism to be precisely the opposite: viz. reductively declaring that the physical act is *only* material and therefore "premoral" (i.e. that it does not shape the actor's will). It is on this basis that the encyclical criticizes such moral theories as "physicalist."

In fact, then, it is the action theory represented in Finnis and his colleagues that shares a fundamental mistake with proportionalism in relegating the physical aspects of action to a nondeterminative premoral domain. For Finnis and his colleagues, craniotomy entails no killing at all so far as the constitution of the moral object goes; rather, that there is killing is only a feature of the natural order, which is outside the constitution of the act itself and is only of moral significance in the way that side-effects are morally significant. In short, then, this action theory, like proportionalism, treats the killing as only "a process or an event of the merely physical order." Ironically, as has already been suggested, the second part of this sentence intended to refer to proportionalism ("to be assessed on the basis of its ability to bring about a given state of affairs in the outside world") now also comes into play: once the death of the fetus is seen as a side-effect, it is also to be treated like all side-effects. That is to say, it is to be assessed on proportional grounds: whether it is fair or

just to accept this foreseen but unintended death as part of what is entailed in arriving at the further end: viz. saving the mother. □

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