

BENEDICT XVI AND THE STRUCTURE OF THE MORAL ACT: ON THE CONDOMS CONTROVERSY

• David S. Crawford •

“The body is . . . an anamnetic expression of good as form or, we could also say, of beauty, disclosing the vocation of human nature itself.”



Benedict XVI’s comments regarding the question of condoms to prevent the spread of HIV/AIDS in his 2010 book-length interview¹ with journalist Peter Seewald generated an initial firestorm of commentary. As a general matter, the immediate response from both the secular and much of the Catholic press read the statement as signaling a “change in Church teaching.” Within the ranks of Catholic theologians, philosophers, and ethicists, however, the comments—which occupy only a brief passage of the book—raised some important questions. A year later, now that emotions have perhaps quieted, it seems like a good time to offer some brief reflections. My purpose here is a limited one: merely to lay out the larger principles involved in and driving the controversy and to offer a brief and tentative interpretation of Benedict’s comments.

¹Benedict XVI, *Light of the World: The Pope, the Church, and the Signs of the Times: A Conversation with Peter Seewald* (San Francisco: Ignatius Press, 2010).

1.

Perhaps it is best to begin by recalling the text at issue. Responding to a question regarding the reaction following his earlier comments on condoms and HIV/AIDS en route to Africa, Benedict stated in pertinent part as follows:

[T]he sheer fixation on the condom implies a banalization of sexuality, which, after all, is precisely the dangerous source of the attitude of no longer seeing sexuality as the expression of love, but only a sort of drug that people administer to themselves. This is why the fight against the banalization of sexuality is also a part of the struggle to ensure that sexuality is treated as a positive value and to enable it to have a positive effect on the whole of man's being.

There may be a basis in the case of some individuals, as perhaps when a male prostitute uses a condom, where this can be a first step in the direction of a moralization, a first assumption of responsibility, on the way toward recovering an awareness that not everything is allowed and that one cannot do whatever one wants. But it is not really the way to deal with the evil of HIV infection. That can really lie only in a humanization of sexuality.

At this point, Seewald asks whether this means that "the Catholic Church is actually not opposed in principle to the use of condoms," to which the pope replies:

She of course does not regard it as a real or moral solution, but, in this or that case, there can be nonetheless, in the intention of reducing the risk of infection, a first step in a movement toward a different way, a more human way, of living sexuality.

Now, clearly, the pope's central point is that the main problem lying behind the HIV/AIDS pandemic is what he calls the "banalization of sexuality" and the failure to see sexuality as an "expression of love." Since condoms are both a cause and symptom of this banalization, they can never be considered a genuine solution to the problem of HIV/AIDS, as seems to be supposed by the news media, large numbers of activist and professional groups, and various governmental and nongovernmental organizations. So, Benedict's overall message is certainly a reaffirmation of what has been widely understood to be the Church's teaching.

Nevertheless, potential ambiguity remains. The Church has never taken an explicit position on whether it may be morally acceptable, under certain circumstances, to use a condom for the purpose of disease prevention, so long as the intention is not contraceptive. Might Benedict—in speaking of “a first step in the direction of a moralization, a first assumption of responsibility”—be properly construed as indicating a tentative acceptance of condom use solely for purposes of disease prevention? Certainly, Benedict tells us that the Church does not regard condom use “as a real or moral solution” But here too, someone might reasonably ask, to what is condom use not a “real or moral solution”? Is Benedict saying that condoms are not a “real or moral solution” to the overall problem of HIV/AIDS (i.e., because their rampant use is both a cause and a symptom of the banalization of sexuality)? Or is he saying that condoms are not a “real or moral solution” to the immoral character of acts of prostitution (i.e., because, whatever we might think of condom use to prevent disease, the condom cannot convert the act of prostitution into a morally good act)? Or is he saying that the use of the condom is not “a real or moral solution” to the problem of possible disease transmission in particular sexual acts (i.e., because even when “intended” for the prevention of disease, the choice to use a condom is itself always wrong)?² If this

²Roughly a month after the passage from Benedict’s interview became public, the Congregation for the Doctrine of the Faith released a document, “Note on the Banalization of Sexuality: Regarding Certain Interpretations of ‘Light of the World’” (21 December 2010), that sought to repudiate some of the obvious misunderstandings that had been spread in media discussion. However, this document, while explicitly rejecting certain interpretations, such as that Benedict means to signal a change in the Church’s teaching on contraception or that he is accepting a proportionalist theory of action, does not really clear up the ambiguities indicated above, when it says, for example, that “those involved in prostitution who are HIV positive and who seek to diminish the risk of contagion by the use of a condom may be taking the first step in respecting the life of another—even if the evil of prostitution remains in all its gravity” (http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20101221_luce-del-mondo_en.html). Again, it is unclear as to whether the choice to use a condom should be taken as a distinct choice from that of engaging in prostitution and whether it can be called objectively good or whether it simply may indicate a subjective state, a changing interior disposition. On the other hand, in 1988 Cardinal Joseph Ratzinger, as Prefect of the Congregation for the Doctrine of the Faith, and with the explicit knowledge and approval of John Paul II, had seemed to clarify that the use of condoms, even for

latter, one might reasonably ask how an act can be morally wrong and also a “first step” or “first movement” toward moralization or responsibility.

2.

1. Before taking up this precise set of questions, it will be helpful to address some of the larger principles at stake. In particular we are confronted with sorting out the respective roles of the rational and intentional aspects of human action, on the one hand, and the objective meaning of the body and its place in action, on the other. To put the issue in terms of a famous passage from *Veritatis splendor*, how can we understand the admonition that in order to “grasp the [moral] object” we must place ourselves “in the perspective of the acting person” (VS, 78)? What does it mean, in this context, to place oneself in that perspective? At stake is the constitution of practical reason.

Now in understanding Benedict’s interview it is important to consider the role he gives to the body as a source of ethical meaning, as well as the general background offered by his predecessor, John Paul II. In a 1989 address, for example, then-Cardinal Ratzinger spoke of the difficulties confronting the Church in Europe. He lamented modernity’s forgetfulness of creation and metaphysics as well as its characteristic tendency to think of conscience, not as a higher form of knowledge, but as only a power of self-determination. He went on to say that this shift implies also a change in the “relationship of man to his body.”

the prevention of HIV/AIDS infection, is in itself immoral when he declared in relation to “the precise moral issue in question here” that “To seek a solution to the problem of infection by promoting the use of prophylactics would be to embark on a way . . . unacceptable from the moral aspect. Such a proposal for ‘safe’ or at least ‘safer’ sex—as they say—ignores the real cause of the problem, namely, the permissiveness which, in the area of sex as in that related to other abuses, corrodes the moral fiber of the people” (On “The Many Faces of AIDS,” Letter to Archbishop Pio Laghi, 29 May 1988 [<http://www.zenit.org/article-31158?l=English>]). In retrospect, and in view of the recent interview, even this definitive-sounding statement might be understood as referring, not to individual acts of condom use themselves, but to the moral ambiguity entailed in policies seeking to promote condom use to prevent transmission, since these latter fail to attend to the “real cause of the problem.”

This change is described as a liberation, when compared to the relationship obtaining until now, like an opening up to a freedom long unknown. . . . *No longer does man expect to receive a message from his bodiliness as to who he is and what he should do* In consequence, . . . *the body no longer expresses being*

Important to note here is the notion that we might receive a “message” from our bodies, that bodiliness is capable of telling us who we are and what we should do. Moreover, it appears that this message is or can be linked to a “higher” moral knowledge, which is itself linked to the body’s possible expression of being. Ratzinger goes on to tell us that the forgetfulness or rejection of this source of knowledge, characteristic of much modern thought and culture, has profound consequences:

Nature . . . appears as an irrational form even while evincing mathematical structures which we can study technically. That nature has a mathematical intelligibility is to state the obvious, the assertion that it also contains in itself a *moral intelligibility*, however, is rejected as metaphysical fantasy. The demise of metaphysics goes hand in hand with the displacement of the teaching on Creation.

Ratzinger proposes a Christian alternative to these tendencies, an alternative that would allow “conscience” to become once again a “‘knowing along with’ creation and, through creation, with God the Creator.” In this way,

the body is also given its due honor: it is no longer something “used,” but is the temple of authentic dignity because it is God’s handiwork in the world. . . . One will then begin to understand once again that . . . bodiliness reaches the metaphysical depths and is the basis of a *symbolic metaphysics* whose denial or neglect does not ennoble man but destroys him.³

A couple of years later, Ratzinger returned to these themes, deepening them considerably, in relation to the meaning of conscience. In this later address he outlines the “ontological” origins of conscience in *anamnesis*, a term he favors as philosophically more

³Joseph Cardinal Ratzinger, “Difficulties Confronting the Faith in Europe Today,” *L’Osservatore Romano* (24 July 1989) (emphases added). Reprinted in the present issue of *Communio*, pp. 728–37; here, 734.

precise, as well as “deeper and purer,” than *synderesis*.⁴ Of course, this *anamnesis* does not liberate conscience from its need for formation or external help. Indeed, Ratzinger elaborates the maieutic function of the Church’s teaching mission, which imposes nothing foreign on intellect and will, but simply draws out an anamnestic awareness, a connatural or “higher knowledge” of the good, the true and the beautiful along with their demands. Just as Socrates, as “midwife,” helps Meno’s servant to give birth to or remember what he already has within him, so too the Church in her teaching function serves a maieutic role by helping the moral subject give birth to or remember his forgotten knowledge of the good (Good).

Now we might reasonably ask what makes Ratzinger say that *anamnesis* is a philosophically richer and more precise term than *synderesis*. Perhaps the answer lies in his focus on the relationship between conscience (and practical reason) and nature. As he puts it in another text, “the language of being, the language of nature, is identical with the language of conscience.”⁵ Certainly, such a claim could also be made concerning *synderesis*, the natural *habitus* of knowing the first principles of practical reason. The point would seem to be, however, that inscribed in the structure of being itself is a *logos* of both the origin and end of creation, which is known by conscience as the ontological source of practical reason. In other words, *anamnesis* emphasizes that memory of created origins means memory of the creaturely *logos* inscribed in nature. Reference to *anamnesis* focuses on precisely what has been “forgotten” by modernity. If the modern mind sees nature as basically an “irrational form” that can be understood only according to “mathematical structures which we can study technically,” *anamnesis* evokes the idea that conscience and practical reason are a “‘knowing along with’ creation and, through creation, with God the Creator.” As the principle of practical reason, then, *anamnesis* is not only the habitual knowledge that “Bonum est quod omnia appetunt,” but is also the memory of an originary *logos*, or symbolic metaphysics, along with its “moral intelligibility.”

⁴Joseph Ratzinger, “Conscience and Truth,” in *On Conscience* (The National Catholic Bioethics Center/Ignatius Press, 2007), 30ff.

⁵Joseph Ratzinger, “Bishops, Theologians, and Morality,” in *On Conscience*, 67.

In effect, Benedict is pointing out the forgetfulness of the moral subject's origins and how these origins structure his being and action. The result is modernity's empiricist and positivist tendencies to view the world as "an aggregate of objective data linked together in terms of cause and effect."⁶ We see this in any number of his writings relating to ethics broadly speaking. In the context of jurisprudence, for example, Benedict recently told the German Bundestag that this positivist "mindset" generates an intellectual climate in which there is "an unbridgeable gulf . . . between 'is' and 'ought.'" Where this occurs, he continued, "then indeed no ethical indication of any kind can be derived from [nature]."

A positivist conception of nature as purely functional, as the natural sciences consider it to be, is incapable of producing any bridge to ethics and law, but once again only yields functional answers. The same also applies to reason, according to the positivist understanding that is widely held to be the only genuinely scientific one. Anything that is not verifiable or falsifiable, according to this understanding, does not belong to the realm of reason strictly understood. Hence ethics and religion must be assigned to the subjective field, and they remain extraneous to the realm of reason in the strict sense of the word. Where positivist reason dominates the field to the exclusion of all else . . . then classical sources of knowledge for ethics and law are excluded. . . .

. . . In its self-proclaimed exclusivity, the positivist reason which recognizes nothing beyond mere functionality resembles a concrete bunker with no windows, in which we ourselves provide lighting and atmospheric conditions, being no longer willing to obtain either from God's wide world. And yet we cannot hide from ourselves the fact that even in this artificial world, we are still covertly drawing upon God's raw materials, which we refashion into our own products. The windows must be flung open again, we must see the wide world, the sky and the earth once more and learn to make proper use of all this.⁷

⁶Benedict XVI, "The Listening Heart: Reflections on the Foundations of Law," Address to the German Bundestag, Reichstag Building, Berlin (Thursday, 22 September 2011), quoting Hans Kelsen [http://www.vatican.va/holy_father/benedict_xvi/speeches/2011/september/documents/hf_ben-xvi_spe_20110922_reichstag-berlin_en.html].

⁷Ibid.

Interestingly, these passages bring out another facet of Benedict's argument. We find in them not only a desire to situate ethics within a broader notion of being that includes, for example, classical conceptions such as formal and final causality, but more broadly within a richer experience of the world as a whole, even, that is to say, within a richer cosmological outlook. This richer outlook would shun the tendency to treat the world—including the body—as mere *res extensa*. The division of reality into the conscious subject and everything else implies a falsification in both directions.

The objective is not simply reality in itself, but reality only inasmuch as it is the object of our thought and is thus measurable and can be calculated. The subjective, for its part, eludes "objective" explanation. This means, however, that the reality we encounter speaks only the language of human calculation, but has within itself no moral expression.⁸

The result is a subject that presides over the raw materials of his self-invention, but who in reality no longer has a world. Such a subject "lives as departed spirits live and cannot understand the world anymore."⁹

The cosmological, ontological, anthropological, epistemological, and ethical aspects of this problem would seem to be inextricably bound together, for Benedict. This is true not only of the viewpoint Benedict proposes to recuperate, which turns on a vision of reality as a whole. It is also true—surreptitiously, "covertly"—of the seemingly fragmented worldview he is criticizing. Hence, it is not only that the modern technical, productive notion of intelligence relies on, even as it implicitly denies, a created order. More deeply, he also suggests that the ostensible separation of "ought" from "is," demanded by modern ethical theory, is in large part motivated by modern conceptions of both nature and action. The modern notion of a valid "ought," in other words, still presupposes a basic conception of nature and, therefore, of what we mean by "is." If this is true, then all of our post-Humean/Kantian "oughts," at the end of the day, continue in principle to be rooted in notions of "is," whether modern thinkers are aware of this or not.

⁸Ratzinger, "Bishops, Theologians, and Morality," in *On Conscience*, 66.

⁹Hans Jonas, *The Phenomenon of Life: Toward a Philosophical Biology* (Evanston, Ill.: Northwestern University Press, 2001), 22.

Moreover, insofar as this notion of nature or “is” tends toward empiricism, materialism, and mechanism, it is just the metaphysics implicit in these tendencies that conditions modern “oughts.” An important part of the argument here is that this conditioning inclines moderns to conceive of their “oughts” as imperatives to dominate nature aggressively, precisely because nature’s “is” is inevitably conceived of as not only indifferent, but even hostile, to man, who strives to remain above what is *ex hypothesi* a merely mathematically and mechanistically intelligible natural order that nevertheless constantly threatens to determine him. Insofar as the natural order is seen as such a threat, no part of it could threaten more than the body itself. The result is the ubiquitous attempt to make the body a product of freedom, that is to say, exclusively an expression of the actor’s choice and intentional construction of his world. Examples range from the problem of modern homosexuality and “gender-bending” to various issues that arise in emerging biotechnologies.

This would seem to be the point of focusing our attention on *anamnesis*. Consider in this context a passage from Ratzinger’s *Introduction to Christianity*, in which he discusses the meaning of reason and intelligibility, given an understanding of the world as creation:

To the creative original spirit, the Creator Spiritus, thinking and making are one and the same thing. His thinking is a creative process. Things are, because they are thought. . . . [T]his means that since all being is thought, all being is meaningful, “*logos*,” truth. It follows from this traditional view that human thinking is the re-thinking of being itself, re-thinking of the thought which is being itself. Man can re-think the *logos*, the meaning of being, because his own *logos*, his own reason, is *logos* in the one *logos*, thought of the original thought, of the creative spirit that permeates and governs his being.¹⁰

Ratzinger goes on to contrast this view of what it is to reason or to know something with modern notions of reason as essentially technological and productive, according to the adage *verum quia faciendum* (true because makeable). The point is that

¹⁰Joseph Ratzinger, *Introduction to Christianity*, trans. J. R. Foster (San Francisco: Ignatius Press, 1990, orig. German, 1968), 31–32.

creation implies that the physical world is not, strictly speaking a “subrational” reality—in the modern sense of its being simply meaningless matter, sheer facticity—but that all being, because it is created, is in fact an expression of reason and is structured by reason. The objectivity of the world in its very physicality is already an imprint of a Subject, and this means that it already expresses an affinity with subjects. Such a world is both an invitation and a gift. Of course, the immediate context of this last passage is not that of the specifically practical intellect. However, as we have seen, the larger message of Ratzinger’s and Benedict’s work as a whole shows us that the ideas expressed here are clearly important for the practical order. The point can be summed up in a statement from 2007:

[T]he method that permits us to know ever more deeply the rational structures of matter makes us ever less capable of perceiving the source of this rationality, creative Reason. The capacity to see the laws of material being makes us incapable of seeing the ethical message contained in being, a message that tradition calls *lex naturalis*, natural moral law.

This word for many today is almost incomprehensible due to a concept of nature that is no longer metaphysical, but only empirical. The fact that nature, being itself, is no longer a transparent moral message creates a sense of disorientation that renders the choice of daily life precarious and uncertain.¹¹

And the relation of this discussion of *anamnesis* to the body? It would seem the body, in its very visible and physical expression of creatureliness, serves to “remind” us of the reality of the person, the meaning of his being, longings, and destiny. This is suggested by Ratzinger’s argument that the body “expresses being,” that it gives man a moral “message,” telling him “who he is and what he should do.” We could say, then, that the body expresses what is “in us” and therefore expresses anamnestic knowledge. Or, expressed differently, perhaps we could say that it serves a “maieutic” role, insofar as it can help us (like Socrates or the Church’s Magisterium)

¹¹Benedict XVI, “The Only Valid Bulwark Against Arbitrary Power,” address to the participants of the International Congress on Natural Law, organized by the Pontifical Lateran University of Rome [22 February 2007] [<http://www.zenit.org/article-18989?|=english>].

come to a genuine self-knowledge. The obscuring of this “higher” or “anamnetic” knowledge is therefore linked to an obscuring of the meaning of the body and sexuality, to the forgetfulness of creatureliness. The body, then, is morally fundamental not only as a primitive source of inclination, but also as an expression of person and nature, of “who” and “what” man and woman are. We can “see” our creatureliness in the body, and for this reason we can also “see” our origin and destiny in the Creator.

These conclusions are supported by a recent reflection on the theological meaning of the body, in which Benedict spoke of Michelangelo’s famous frescos in the Sistine Chapel. The pope argued that the body is the dwelling place and visible expression of spirit:

We moderns have a hard time understanding [this], because the body appears to us as inert, heavy matter, opposed to the consciousness and freedom of the spirit. But the bodies of Michelangelo are inhabited by light, life, splendor. He wanted to show us in this way that our bodies hide a mystery.¹²

But if they hide a mystery, they also disclose it. Most fundamentally,

[t]he body speaks to us of an origin that we did not confer on ourselves. “You knit me together in my mother’s womb,” the Psalmist of the Lord says (Psalm 139:13). We can say that the body, in revealing the Origin to us, bears in itself a filial meaning, because it reminds us of our generation, that derives, through our parents who transmitted life to us, from God the Creator. Only when he recognizes the originary love that gave him life, can man accept himself, can he reconcile himself with nature and the world. Following that of Adam is the creation of Eve. The flesh, received from God, is called to render possible the union of love between man and woman and to transmit life. The bodies of Adam and Eve, before the Fall, appear in perfect harmony. There is a language in them that they do not create, an *eros* rooted in their nature, that invites them mutually to

¹²Benedict XVI, “In Love Man Is ‘Re-Created,’” audience to the Pontifical John Paul II Institute for Studies on Marriage and Family on its 30th anniversary (15 May 2011) [<http://www.zenit.org/article-18989?|=english>].

receive themselves from the Creator, to be able thus to give themselves.¹³

The body itself, as shown in Michelangelo's masterpiece, discloses the spirit and reveals man in his destiny. Of course, Benedict is careful to point out the perennial ambiguity of the body's language: "It is certain that the body also contains a negative language: it speaks to us of the oppression of the other, of the desire to possess and exploit."¹⁴ Nevertheless, there is a language that can be deciphered by reason, which always hungers for what is good and true in what is authentically beautiful.

In sum, when we put these statements together, the outlines of an argument emerge.¹⁵ Modern thought tends to reduce the physical world, and in particular the human body, to its merely material properties and laws, those that can be measured and verified by means of mathematics and the empirical sciences and which can be exploited by technical means. This tendency represents a forgetfulness of both an adequate metaphysics and of the creaturely and gifted structure of the world and the body written into their very physicality. Once this occurs, any attempt to find a "moral intelligibility" in the physical structures of the created world would appear to be "metaphysical fantasy." In reality, however, once we acknowledge the created character of the world, we must recognize that its creaturely origin is inscribed in its very physicality. It is only in view of this origin, its inner *logos*, that the world is also destined back to God.¹⁶ Hence, the physical world, and in particular the human body,¹⁷ manifests God's purpose. This is what he means in

¹³Ibid.

¹⁴Ibid.

¹⁵Examples of this line of argument could be multiplied. *Caritas in veritate*, for example, tells us that there is a "book of nature," which "takes in," *inter alia*, "sexuality, marriage, the family" (51); later Benedict criticizes a sense of "freedom that seeks to prescind from the limits inherent in things" (70). Or again, ". . . the Church believes that in the beginning was the Logos and that therefore being itself bears the language of the Logos—not just mathematical, but also aesthetical and moral reason. This is what is meant when the Church insists that 'nature' has a moral expression" (Ratzinger, "Bishops, Theologians, and Morality," in *On Conscience*, 67).

¹⁶Cf. *Dominum et Vivificantem*, 50 (18 May 1986).

¹⁷Ratzinger, "Difficulties Confronting the Faith in Europe Today."

speaking of a “symbolic metaphysics.” This symbolic metaphysics represents a meaning for the human actor, and in particular a moral meaning, which he knows in his conscience, but which needs maieutic help. Hence, the body—or bodiliness—contains a “message” as to who men and women truly are and what they should do, not only so as to be obedient to an abstracted will of God *but to be fully human*. In other words, it is the body itself—when understood from the standpoint of the order of creation—that gives the acting person an indication of the vocation of human nature itself. The body has in and of itself an anamnestic value—or serves a maieutic role—insofar as in his body and in his actions the acting subject comes to know himself in his origins and his destiny. The body, in effect, bears within in itself a “memory” or “knowledge” of origin and destiny. Action, then, can only mean the actor’s receptive taking up or despairing perversion of his rootedness in this knowledge. If we think about the body’s role in action and natural law, then, we will see that it is not only a source of appetite in which practical reason is embedded and given its dynamic movement towards goods, but also an anamnestic expression of good as form or, we could also say, of beauty, disclosing the vocation of human nature itself.

Does this teaching form a core element of Benedict’s overall moral doctrine? In fact it may be *the* core element. To see this, we need only look to his emphatic claim that “[t]he Church would betray, not only her own message, but the destiny of humanity if she were to renounce the guardianship of being and its moral message.”¹⁸

2. Clearly Benedict’s line of argument harmonizes well with the teaching of his predecessor. Recall John Paul’s emphasis on an “adequate anthropology” and the “truth about man” and how closely he linked these concepts to his moral teaching. Without this anthropological starting point, he tells us, “the relevant principles of morality would not be fully founded and, even worse, would in a certain way be suspended in the air.”¹⁹

¹⁸Ratzinger, “Bishops, Theologians, and Morality,” 67–68.

¹⁹Karol Wojtyła, “The Anthropological Vision of *Humanae Vitae*,” trans. and introd. William May, *Nova et Vetera* (English edition) 7, no. 3 (2009): 731–50, at 732.

Fundamental to the truth about man is John Paul's teaching on the body as "sacrament" or "sign" of the person who bears within himself the structure of being a gift to the world, himself, and others. Consider, for example, the following central text from his Wednesday Catechesis on the "nuptial meaning of the body":

. . . a primordial sacrament is constituted, understood as a sign that efficaciously transmits in the visible world the invisible mystery hidden in God from eternity. And this is the mystery of Truth and Love, the mystery of divine life, in which man really participates. . . . The sacrament, as a visible sign, is constituted with man, inasmuch as he is a "body," through his "visible" masculinity and femininity. The body, in fact, and only the body, is capable of making visible what is invisible: the spiritual and the divine. It has been created to transfer into the visible reality of the world the mystery hidden from eternity in God, and thus to be a sign of it. . . . In fact, through his bodiliness, his masculinity and femininity, man becomes a visible sign of the economy of Truth and Love, which has its source in God himself and was revealed already in the mystery of creation.²⁰

Notice the emphasis on visibility. The body, again not only as a source of appetite that gives direction and movement to practical reason, but also as a visible expression of form, manifests our origin and destiny in love, indicating the meaning of desire. Like Benedict, therefore, John Paul emphasizes that the body, in a real way, tells us who and what we are.

Now, Benedict's focus has been on conscience and natural law. So far as I know, he has not attempted to develop his argument concerning the ethical meaning of being, nature, and the body in direct relation to action theory as such. John Paul, on the other hand, did. Recall, in this light, a famous passage from *Veritatis splendor*:

it is in the unity of body and soul that the person is the subject of his own moral acts. The person, by the light of reason and the support of virtue, discovers in the body the anticipatory signs, the expression and promise of the gift of self, in conformity with the wise plan of the Creator.²¹

²⁰John Paul II, *Man and Woman He Created Them: A Theology of the Body*, trans. Michael Waldstein (Boston: Pauline Books and Media, 2006), 203.

²¹*Veritatis splendor*, 48 (emphasis original).

Again, we have the emphasis on “sign”—hence, visibility—and on the idea of manifestation or, as the passage puts it, “discovery.” The body, as part of the unity of the composite person (as *corpore et anima unus*), is also part of the moral subject as such. Hence, human action is necessarily bodily action. The body’s visibility is also the person’s visibility. The sign or sacramental character of the body is carried forward in and gives meaning to human action. It both “anticipates” as a “sign” and as an “expression and promise of the gift of self” and also recognizes in this anticipation and expression the wise plan or order given to it by the Creator from the beginning. Recall also *Veritatis splendor*’s rejection of the idea that the body is a kind of “raw datum,” “devoid of meaning and moral values,” that it is “merely ‘physical’” or “pre-moral.”²² Again, the sign character of the body is not something put there by the moral subject or by human intelligence; rather, it is something “discovered” in the body by the moral subject. It is something that is found or apprehended by human intelligence. Why? Because only the body can “make visible what is invisible”; only the body can make manifest the mystery of man, his origin and destiny in love.

What does it mean to speak of the body, in its unity with the soul, as the subject of human action? In a discussion on the eve of his election to the papacy, and on the occasion of the tenth anniversary of *Humanae vitae*, Karol Wojtyła addressed this question in a way that anticipated his later teaching. There he made an appeal to the importance of “objectivity” in moral action, an objectivity that manifests itself in “the nature” of sexual acts. He tells us that the “objective dimension” of the conjugal act corresponds to both the unitive and procreative meanings mentioned by that encyclical, and that “[o]bjectively, of its nature, the conjugal act ‘signifies’ the one and the other ‘according to laws inscribed into the very being of the man and of the woman.’”²³ In other words, not only the body, but also bodily actions—in this case, the conjugal act—possess an “objective” meaning or signification, making “visible” man’s origin and destiny in love. The “conjugal act,” in the almost infinite variations in its realization in time and space, possesses a certain form, rooted in the “laws inscribed into the being of man and woman.” In other words, the conjugal act in its very “visibility” and

²²Ibid. (emphasis original).

²³Wojtyła, “Anthropological Vision,” 743 (citing *Humanae vitae*, 12).

“symbolism” is rooted in the bodies of spouses in their “visibility” and “symbolism.” Both these visible levels of symbol are objective and unchangeable by the spouses. Spouses cannot say to themselves we are going to attribute some other symbolism to our conjugal acts, because that meaning is inherent in the visible order of the body and its acts, which is the order of love and fruitfulness, signifying and in its way realizing human destiny in love. The body in its physicality makes an order of love visible. But this can only mean that it is also an order for practical reason to apprehend. In other words, the body, in some sense, expresses a *moral order* which is apprehended and not only constituted by practical reason.

After securing the objective signification of the conjugal act, Wojtła then goes on to discuss the nature and importance of the subjective aspects of action:

[the conjugal act] is . . . an act realized subjectively by concrete persons—a man and a woman—as an act effected and experienced together. The author of *Humanae vitae* does not limit himself to ascertain, therefore, what that act, that singular act-cooperation of man and woman, objectively “signifies” (*significa*) but broadens his analysis to the “meaning” (*significato*) that the man and the woman can and must attribute to themselves as acting and cooperating subjects.²⁴

Since the objective symbolism of the body is given and inalterable, the acting subject (or the acting-cooperating *subjects*) not only must not, but in a real way cannot, eliminate it. To act in a way that violates this meaning would be to introduce a kind of contradiction or rejection of the objective order or signification, but it would not be to remove or alter it altogether. Hence, “[t]here must be actualized a harmony between what the conjugal act objectively ‘signifies’ (*significa*) and the ‘meaning’ (*significato*) that the spouses . . . confer on it in the subjective dimension of their action-cooperation.”²⁵ Why? Because, the conjugal act has a certain structure and meaning precisely in its natural or physical objectivity. Notice that this does not imply the simple imposition of an abstract law on human freedom, the positivistic imposition of God’s will, since the visible order and symbolism of the body are a visible sign

²⁴Ibid.

²⁵Ibid.

or manifestation of the authentic destiny and identity of the person himself. They therefore signify an authentic if somewhat paradoxical fulfillment in love. To call this an imposition on freedom would be like calling the interior determination of man toward his end alienating.

Here we see what would later become a signature element of John Paul's meta-ethical and ethical approach. The body possesses an inherent and objective significance or sign quality in its visibility, an objective significance which is crucial and unavoidable in the development of the moral actor in all his subjectivity. Action, then, takes up this sign quality and manifests a kind of further objective meaning or signification, a language or "word" which depends in part on the body's visible order. In relation to sexual acts, the body's objective symbolism or meaning possesses a priority over what an act *can* mean and what an actor *can* intend.

Thus, in a way that clearly complements Ratzinger's notion of human thought or knowing as a "rethinking" of creaturely *logos*, John Paul's Wednesday Catechesis emphasizes the idea of conscience and practical reason "rereading" the "truth" of the person, which is inscribed in the body in its sexual differentiation and sacramentality. This can be seen, for example, where he addresses *Humanae vitae*'s famous claim that men and women of our age ought to find its teaching on the inseparable "meanings" of the conjugal act especially "reasonable." He begins with the relationship between the moral subject and the objectivity of truth as inscribed in the body. "Meaning," he says, "is born in consciousness *with the rereading of the* (ontological) *truth of the object*. Through this rereading, the (ontological) truth enters, so to speak, into the cognitive, that is, subjective and psychological dimension." He then goes on to discuss the specifically normative implications:

This "reasonable character" [of the teaching of *Humanae vitae* for men and women of our age] concerns not only the truth in the ontological dimension, that is, what corresponds to the real structure of the conjugal act. It concerns also the same truth in the subjective and psychological dimension, that is to say, *the right understanding* of the innermost structure of the conjugal act, that is, the adequate rereading of the meanings that correspond to this structure and their inseparable connection in view of morally right behavior. In this consist the moral norm and the corresponding ordering of human acts in the sphere of sexuality.

In this sense, we say that the norm is identical with rereading the “language of the body” in the truth.²⁶

When the actor’s choices in fact relate to the objective meaning of the act in a contradictory or vitiating way, which occurs when some further act (such as the use of contraception) overlays the sexual act, or when a sexual act (which can only signify conjugality) is not in fact a realization of conjugality, we are confronted with inauthenticity, a kind of rejection of the objective meaning of the body and action, their truth and good. But again, this rejection is not that of an abstract law written in the body viewed as other or separate from the moral actor’s freedom. Rather, such a rejection of objectivity can only be the subject’s despairing rejection of himself in relation to the other. As John Paul puts it, this amounts to a “lie” in the “language of the body” (presumably a lie the man and woman tell to each other as well as to themselves). Sexual acts signify conjugality. Hence, if such acts express unitive-fruitful love in their objectivity, in their actual realization they may be accompanied with a different signification, a refusal of this unitive-fruitful meaning.

Likewise, in *Familiaris consortio*, we are told that sexual acts bear the mark of the “self-giving” of spouses, an outward sign and manifestation of the gift-character inscribed in their very bodies as man and woman who receive themselves from the Triune God who is love. Consequently, sexual acts outside of marriage constitute a kind of a “lie,” a distortion of the meaning or significance of the body, its sexuality, and the sexual act itself (11). Similarly, in the case of contraception, John Paul argues, the objective meaning “nuptial-fruitful gift” is overlaid by another action of contrary significance, that of rejecting that very objective meaning of conjugality and fruitful love (32). The actors are in effect then at odds with themselves, as though they spoke the word “forever,” while all the time meaning “for a while,” or as though they spoke the words “fruitful,” while all the time meaning “sterile.”

It is important that we not miss the remarkable subtlety in John Paul’s thought here. His point is not simply that the body possesses a normative content to which the acting subject must then be obedient if he is to remain within moral limits. Such a view has

²⁶John Paul II, *Man and Woman He Created Them*, 620–21.

rightly been called a “dualistic fallacy,”²⁷ according to which the subject’s freedom confronts an effectively external legal standard. If the norm written in the body—“natural law”—is viewed only as a legal limit that an otherwise indifferent freedom must confront and then choose either to obey or disregard, then the body has implicitly been reduced to a kind of moral *res extensa* which is nevertheless impressed with God’s binding will and law. Violation of the norm would indicate legal guilt, but the conceptual framework would fail to capture the interior contradiction experienced at the deepest level of moral subjectivity. It would fail to capture the fragmentation of the moral subject himself.

With John Paul, on the other hand, it is important to see that the objective language or symbolic character of the body and its meaning is not outside of the moral subject. Rather, these are integrated through a radically deepened anthropology of the person. Indeed, the objective meaning and visibility of the body is the objective meaning and visible expression of the subject precisely as an embodied person. To emphasize this objectivity—to speak of the body as “visible” or as a “sacrament” or “text” or “*logos*”—does not translate into a meta-ethics in which we are viewed as subjects “looking” passively “outward,” “at” or “to” our bodies for normative content. We are not therefore pure moral subjectivities trying to discover a norm in our bodies. At the same time, the moral subject’s experience of the body cannot be reduced only to a bundle of desires that offer dynamisms for practical reason and action. Rather, our primitive experience of personhood is always already an experience of our own visibility before all others and to ourselves as persons. It is only as an expression of the truth of the moral subject, his desires and destiny, and in relation to all others and the world as a whole that the body tells me who I am and what I should do. It is in this sense, it seems to me, that the moral subject “discovers in the body the anticipatory signs, the expression and promise of the gift of self, in conformity with the wise plan of the Creator.” Hence the “objectivity” of the symbolic or linguistic character of the body is really not an external limit or law imposed on us by a sub-personal

²⁷Martin Rhonheimer, “The Cognitive Structure of the Natural Law and the Truth of Subjectivity,” in *The Perspective of the Acting Person: Essays in the Renewal of Thomistic Moral Philosophy* (Washington, D.C.: The Catholic University Press, 2008), 158–94, at 159.

and material reality that is nevertheless the expression of the Creator's will. Rather, the symbolic body discloses who and what I am, reflected in relations to others who are likewise embodied. Action, then, is in itself always—whether I am explicitly conscious of it or not—a taking up of the body's symbolic visibility, either bringing it to its fullness in love and care or fracturing it in an alienating contradiction.

3. Perhaps what has been said thus far will help us to understand better the nature of the “perspective of the acting person” in relation to the moral object. *Veritatis splendor*, following a long tradition, focuses on the importance of the moral object, which it calls a “freely chosen kind of behavior” (VS, 78). In view of what has been said thus far, the “perspective of the acting person” must certainly take into account not only a subject that experiences desires and inclinations, rooted in the body, but must also include the experience of the objectivity and visibility of the person as expressed in the body. In other words, it must take into account the anamnestic/maieutic knowledge expressed in the *logos* or language of the body in terms of form and finality. Clearly, while John Paul and Benedict seek, each in his own way, to recuperate a lost integrity, they just as clearly, again each in his own way, offer a genuine development of the tradition, as the times warrant.

But how does this view mesh with the classical loci of moral theology? While our scope here is limited, it is at least worth noting that, in trying to understand the meaning of the moral object, the encyclical refers us to *Summa theologiae* I-II, q. 18, a. 6. There, St. Thomas famously makes a distinction between two parts or aspects of any human act, the “interior act of the will” (*actus interior voluntatis*) and the “external act” (*actus exterior*). Now, Thomas speaks of the internal act of the will as formal and the exterior act as material causes of the act as a whole. He also, however, makes it clear later that both the internal and external acts offer specification and therefore form to the whole moral act. This is why Thomas speaks—two questions later—of the contributions of both the internal act of the will and the external act to the goodness or badness of an act.²⁸ The external action itself is not simply the material or physical movements of the other powers of the soul—it is not just, for example, the movement of a set of muscles—but a

²⁸*Summa theologiae*, I-II, q. 20, a. 1.

“kind of behavior,” which is proposed to the will as a “*bonum in ordinatione et apprehensione rationis*” (good in the ordination and apprehension of reason).²⁹ In fact, this entire discussion is part of Thomas’ larger discussion of the relationship between intellect and will in terms of the “determination” and “execution” of human acts. How do we know about the goodness or malice of the external act itself, and therefore its contribution to the goodness or badness of the human act as a whole? On the basis of its being about “*debitam materiam et debitas circumstantias*” (due material and due circumstances).³⁰

Here then is the crucial question: what role does the natural or physical structure of the act play in the meaning of due matter and reason’s ordination and apprehension? Our present interest is not primarily to offer an interpretation of Thomas, but to ask what the reference in *Veritatis splendor* signifies in the context of John Paul’s and, by extension, Benedict’s, teaching, as set out above. If we take seriously the body’s role in telling us who we are and what we should do or its being the place where we “discover” the “anticipatory signs” of human destiny in love, then it would seem that precisely the visible order and signification of the body plays a crucial role in knowing the due and undue of the matter of sexual acts. In other words, this due and undue is measured in relation to the body’s “moral message,” its anamnestic/maieutic signification of the vocation of human nature itself, in the experience of the moral subject of his embodied visibility. If Benedict’s and John Paul’s understandings are correct, practical reason, at least with regard to sexual acts, is in large part a “rethinking” or “rereading” of the underlying *logos* or language inscribed in the body.³¹

²⁹Ibid.

³⁰Ibid.

³¹Of course, to repeat, there is more to the whole human act for Thomas than whatever specification comes from the external act; there is also the internal act of will, which remains “formal” with respect to the external act. Moreover, many external acts—even most external acts—intelligibility is not already morally specifying. These can only be morally specified as good or evil based on further information. Hence, “pushing an elderly woman” is not yet enough information to make a moral judgment or even really to know *what* someone is doing in the fullest sense: pushing her playfully, pushing her out of the way of an oncoming bus, etc. It is true, therefore, that we need to know the “for the sake of” to

In sum, presupposed in John Paul's and Benedict's entire way of discussing sexual acts is that the "subjective" element in action *relies* on and is *in-formed* by the objective element for its intelligibility, understood in terms of a symbolic, anamnetic/maieutic order of the body. At the same time, we are talking about an objectivity that is, as it were, part of and even the visible presence of the subjectivity of the acting person. We are talking about a sense of objectivity that supports or offers the ground on which the creative, free, and infinitely varying actions of moral subjects can gain meaningful traction. Putting this in terms of *Veritatis splendor's* famous locution, the "perspective of the acting person" is necessarily informed by and contained within a larger and penetrating tissue of meanings that include the body as sign and what it makes visible about human destiny.

3.

With these broader principles in place, we can now return to Benedict's comments last year and the questions they raised. Of course, what has been said thus far does not immediately answer our question of interpretation. However, it does offer a framework.

1. Let's begin by considering a *possible* interpretation. We could limit the phrase about condoms not being a "real or moral solution" to meaning only that condoms are not a "real or moral solution" to the HIV/AIDS pandemic and/or that condoms are not the solution to the moral problem of prostitution. But this interpretation would not necessarily imply an answer to the third question mentioned above as to whether the phrase "not a real or moral solution" applies to particular acts of condom use as such where the intention is "disease prevention," as opposed to, say, "contraception." Of course, the question of contraception does not arise in the case of male prostitution, by which is presumably meant homosexual prostitution. Indeed, while Benedict later extended his remarks to

understand the moral content of such an action. The use of condoms, on the other hand, is already profoundly specified because of its integral relation to and profound alteration of a sexual act, which is so thoroughly saturated with anthropological content. In this sense, sexual acts with the use of condoms are "undue" for expressing the authentic meaning of sexual acts.

the case of female prostitution,³² Benedict's initial example of male prostitution may have been intended to set aside the issue of contraception. The later extension to female prostitution, then, may have been aimed at showing that here too the "intentional" and constituting structure of the act might be "disease prevention," rather than "contraception."

What the pope could be saying, then, is that the choice to use a condom, even where related to another thoroughly immoral choice, can be distinguished from that choice and considered objectively "responsible." But if it is "responsible," then presumably it also would have to be considered (just so far as it *is* "responsible") "good"—since an authentically responsible act must also be a good act—again, at least insofar as it can be seen as a distinct choice from the choice to engage in prostitution. It would be responsible, and therefore good, where the use is intended for disease prevention, rather than contraception, and because it at least manifests care for another's welfare. The later application of his remarks to female prostitution might then be taken to mean that, even if the condom has a contraceptive side effect from a merely physical or natural standpoint (according to the "natural species" of the act), we nevertheless have to understand the act as one of "disease prevention" from the perspective of the morally specifying intentional content of the choice (the "moral species").

If the foregoing interpretation is the correct one, then Benedict may be signaling that he has adopted what is called the "intentional action" theory.³³ Further support for this interpretation

³²Cf. Statement of Fr. Federico Lombardi, 23 November 2010 [<http://www.catholicnews.com/data/stories/cns/1004795.htm>].

³³The phrase "intentional action" is used as a category by Martin Rhonheimer to characterize his action theory throughout his writings (e.g. Rhonheimer, "Intentional Actions and the Meaning of the Object: A Reply to Richard McCormick," in *The Perspective of the Acting Person*, 68–94). Rhonheimer takes the phrase from G.E.M. Anscombe, *Intention*, 2nd ed. (1957, 1963; Cambridge, Mass.: Harvard University Press, 2000). However, any number of other philosophical ethicists and moral theologians employ essentially the same action theory, without necessarily using the name. In the remainder of this essay, my use of the phrase "intentionalist argument" is meant to refer to the "intentional action" theory as employed to support the possibility that condoms might be a morally acceptable means to prevent the passage of disease during sexual intercourse within marriage. *Nota Bene: I readily acknowledge that not all moralists who employ an action theory that is essentially identical with that of Rhonheimer agree with him that condoms may be so used*

could be inferred from Benedict's phrase, "*intention* of reducing the risk of infection." From this point of view, the actual choice to use a condom could be considered good (presumably rendering the overall cluster of acts less bad), although, again, it could never render an act of prostitution good. This interpretation would clearly explain the meaning of saying that condom use could ("in the case of some individuals") be a first step toward moral responsibility. It is also easy to see why this explanation would be attractive to many. How could the choice to do something to prevent harm to oneself or another be bad, whatever the overall context of that choice?

2. A practical consequence of this interpretation immediately comes to mind, however. If we conclude that condom use for the sake of disease prevention can be considered in itself a distinct and objectively "responsible" choice, then it is hard to understand why the Church and her related relief organizations should not themselves at least *tacitly* encourage the use of condoms for these purposes where the explicit and clear discouragement of illicit sexual practices, such as prostitution, fails or is impracticable. But if tacit encouragement, then why not explicit encouragement? Of course, we can see where this line of reasoning leads in relation to the Church's relief organizations in their pastoral work. More fundamentally, however, this interpretation would seem to undercut the pope's broader argument that condoms—as part of the modern tendency to offer technical solutions to what are really ethical/anthropological problems—are not only a symptom but a partial cause of the banalization of sexuality, which he claims is at the source of the HIV/AIDS crisis in the first place. Ratzinger's/Benedict's argument would therefore lose much of its bite. Such a de-ethicizing of the human condition—common in much modern thought, as both Benedict and John Paul emphasized—would have to be at the heart of "banalization."

Of more interest to us is another possible implication, one that commentators repeatedly insisted was not part of the pope's statement but which nevertheless supplied the subtext for much of the subsequent debate.³⁴ If the correct understanding of Benedict's

(e.g. Germain Grisez, William May). Nevertheless, it is part of my argument that the "intentional action" theory remains dangerously ambiguous in its treatment of the body's role in constituting moral action.

³⁴For example, see the statement of Sandro Magister, where he tells us that,

statement signals a shift to an intentional theory of action, then it will be difficult to see why condom use for the sake of disease prevention might not at least be acceptable within the context of marriage, where one of the spouses is infected. Here, the evil contexts of prostitution and promiscuity are removed, and therefore the action as a whole—the use of the condom coupled with the sexual act itself—might be viewed as in fact good. As we saw, the intentionalist argument considers condom use as contraception and condom use as disease prevention to be two entirely different kinds of moral behavior (with two entirely different moral objects and specifications), although their natural or physical structure would be identical.³⁵ According to this view, then, while there might be all kinds of prudential reasons why spouses should not use a condom, we might not be able to preclude such use from the standpoint of the moral object.³⁶

while Benedict's comments were not addressed to the question of conjugal acts, nevertheless "the article by Professor Martin Rhonheimer . . . demonstrates that the legitimacy of the use of condoms [in this case] has been taught uneventfully for years even in the Roman theological faculties most faithful to the magisterium of the Church, like the Pontifical University of the Holy Cross. The inviolable condition for the use of condoms to be permitted in such cases is that it have purposes other than that of contraception" ("Friendly Fire on Benedict XVI, and a Condom's to Blame," www.chiesa.espressonline.it [13 December 2010]). It is unclear what Magister's definition of "uneventfully" might be. In any case, Magister's comments show just how closely associated the debate over condom use within marriage can be with the very different context given in Benedict's remarks.

³⁵Cf. M. Rhonheimer, "The Truth about Condoms," *op. cit.*; Benedict Guevin and M. Rhonheimer, "On the Use of Condoms to Prevent Acquired Immune Deficiency Syndrome," *National Catholic Bioethics Quarterly* (Spring 2005); Rhonheimer, "The Contraceptive Choice, Condom Use, and Moral Arguments Based on Nature: A Reply to Christopher Oleson," *National Catholic Bioethics Quarterly* (Summer 2007). For my own critique, see D. Crawford, "Conjugal Love, Condoms, and HIV/AIDS," *Communio: International Catholic Review* 33, no. 3 (Fall 2006): 505–12.

³⁶Rhonheimer, who has used the intentional theory of action to support at least the possibility of using condoms in marriage for disease prevention, shies away from saying that the choice to use a condom under these circumstances is actually "good." He says it would be better for such a couple to abstain, which would be more in keeping with chastity, although it is hard to understand why that should be so if the object of the act is merely disease prevention. He also argues that, because of their unreliability, using condoms under these circumstances might not

3. Now, in view of the broader principles set out above, this “intentionalist” interpretation of Benedict’s comments seems doubtful. Why? The broader principles, as we saw, indicate that the subjective aspect of sexual acts in large measure takes its meaning from the acts’ objective significance, which is itself rooted in the body’s own objective/visible structure or order, which in turn holds its symbolic or anamnestic/maieutic meaning. But this approach tends to be turned upside down in the intentionalist argument. For this latter, the *subjective* aspects of action—the actor’s rational-intentional proposal for action—take the decisive role in constituting and specifying the action. Indeed, the intentionalist argument tends to reduce the physical-bodily aspects of the act to a kind of material substrate of “functions” and “natural patterns,” which is taken up and given moral form according to the rational-intentional choice of the moral agent. It is this rational-intentional constitution of the moral object, then, that is thought to tell us more or less exhaustively what someone is doing when he acts. The limits to this power of the reason and intention to constitute its moral world tend to be what a given set of such patterns can plausibly support as an intention. An important example of this tendency may be found in Fr. Martin Rhonheimer’s publications on the question of condoms and HIV/AIDS within marriage. Because of the controversy surrounding these publications over the last decade, Rhonheimer’s name was invoked repeatedly in discussions following release of the pope’s interview. Indeed, Rhonheimer not only commented on the pope’s text but also found himself at times reengaged with some of his earlier critics. Like the possible interpretation recited above, Rhonheimer’s main proposal was that condom use as disease prevention, with certain important reservations, might be acceptable within marriage, since it does not have the intentional structure of contraception. Rather, any contraceptive effect would only be part of the physical structure of the act and not part of the act’s moral specification.

be a good choice prudentially, which he also insists might mean morally. Nevertheless, he certainly wants to argue that use of the condom is not necessarily an evil choice. However, if it is not necessarily an evil choice (since it clearly cannot be an indifferent choice), then logically we must conclude that—looked at exclusively in terms of the moral object—it might be a “good” choice.

In fact, however, whether such an act is or is not contraceptive from the moral point of view is not, in my view, exactly the right question. The right question is nevertheless a closely related one, viz. what happens to the conjugal act itself when a condom is used to intervene in the actual (natural/physical) bodily communion of the spouses? Certainly, the conjugal act involves certain things: it must involve a certain kind of communion of the spouses' bodies—a certain kind of touching—that is proper to it. Moreover, it must be a “generative type of act,” an act that would involve insemination, for example.³⁷ Rhonheimer has in fact addressed this question as well. He argues (albeit with less conviction) that to focus on the obstruction of the complete bodily communion proper to the conjugal act would be to look at the action from a physicalist point of view, rather than from a properly moral one.³⁸ For this latter, one must look to the “intentional structure” of the act. While he tells us that the intentional meaning of the conjugal act is a “loving bodily union” that by its nature has a procreative meaning,³⁹ he nevertheless argues that the condom is only a “modification” rather than a destruction of this bodily communion. Hence, the act could remain “intentionally” ordered to loving union and therefore be a properly conjugal act. The very logic of his argument, in other words, suggests that such acts could be “intentionally” “open to new life” or “intentionally” “apt for generation,”⁴⁰ could “intentionally”

³⁷The *Code of Canon Law* (canon 1061) tells us that for consummation to occur, a conjugal act must be “per se apt for the generation of children” (“per se aptum ad proles generationem”) (see also, *Catechism of the Catholic Church*, 2366). The Code goes on to say that this per se aptness for generation makes the spouses “one flesh” (“quo conjuges fiunt una caro”). Even though the question of condoms and HIV/AIDS does not turn on its being characterized as contraception, whether or not the sexual act is a “kind of behavior” that is “apt for generation” is nevertheless crucial in determining whether it is a conjugal act. Certain acts having little to do with contraception, such as sodomy or mutual masturbation, are also immoral (unchaste) on the basis of a similar inaptness. The point is that what makes condom use for disease prevention evil is not most fundamentally that it is contraceptive but that it is corruptive of the sexual act as such.

³⁸Cf. “On the Use of Condoms,” 44; “The Contraceptive Choice,” 277–81.

³⁹Martin Rhonheimer, “Contraception, Sexual Behavior, and Natural Law: Philosophical Foundations of the Norm of ‘*Humanae Vitae*,’” *Linacre Quarterly* 56, no. 2 (1989): 20–57, at 36–37.

⁴⁰Cf. “On the Use of Condoms,” 46–47.

constitute the sort of bodily communion capable of consummating a marriage,⁴¹ and could “intentionally” maintain the inseparable relation between the “unitive and procreative meanings” of the conjugal act.⁴²

Obviously, the issues at play here are far wider than the precise one of condom use for disease prevention.⁴³ Most importantly, the constitution of the moral act itself and an entire Catholic anthropological worldview are at stake. As Wojtyła was able to say in 1978 of the seemingly narrow and minor issue of contraception, what is really at stake is the possible fragmentation of the human person and his acts.⁴⁴

4. What difference in our understanding of the moral object issues from the differing starting points of Benedict and John Paul, on the one hand, and the intentionalist argument, on the other? The example of condom use as disease prevention suggests that the intentionalist argument tends to treat the bodily components of action precisely in terms of the mathematical-empirical reduction lamented by Benedict as a forgetfulness of metaphysics and creatureliness.

Needless to say, intention is indeed an important aspect of action and its moral specification. The decisiveness of its role is obviously going to vary depending on the kind of action we are talking about. Moreover, the intentionalist argument does not propose that any intention can go with any bodily action. And while its inherent ambiguity is deep enough that it is often understood in precisely that way,⁴⁵ in fact the intentionalist argument does at times

⁴¹Cf. “The Contraceptive Choice,” 279–80.

⁴²Cf. “On the Use of Condoms,” 47.

⁴³In terms of moral conclusions, for example, the intentionalist theory has led its various advocates to support so-called “embryo adoption” or “rescue,” the practice of craniotomy and other types of abortion under certain circumstances, “stimulation of the genital organs” for sperm collection, the use of “the pill” to suppress menstruation for professional reasons, and so forth. For citations and for an anthropological-ethical discussion of a few of these positions, see my “Experience of Nature, Moral Experience: Interpreting *Veritatis splendor*’s Perspective of the Acting Person,” *Communio: International Catholic Review* 37, no. 2 (Summer 2010): 266–82.

⁴⁴“Anthropological Vision,” 736.

⁴⁵Cf. Rhonheimer, “The Moral Significance of Pre-Rational Nature in Aquinas:

allow that “natural patterns” or “functions” or “meanings” can be determinative of intention. For example, in his many debates with those who accuse him of being a pure intentionalist (guilty of Abelardism), Rhonheimer often points to his work on contraception, perhaps best represented in a celebrated and admirable article from 1988.⁴⁶ There he gives a lengthy and valuable account of the anthropological meaning of the conjugal act as a foundation for his properly ethical argument that the wrongfulness of contraception lies in its inherent avoidance of the necessity for chastity. Likewise, when the Protestant theologian Stanley Hauerwas mistakenly found support for ecclesial recognition of homosexual friendships in Rhonheimer’s intentionalist argument, the latter was forced to respond that there are indeed certain limits to the intentional constitution of acts.⁴⁷ By way of example, he contrasted raising one’s arm with sexual intercourse. While raising one’s arm is not really intelligible as a human action until we know more about its intentional content (is it hailing a friend, threatening an attacker, posing a question?), sexual acts entail “natural sexual patterns” that are inextricably related to procreation. Hence, “it is perfectly possible to argue that sexual intercourse is *materia indebita* for incarnating personal friendship and love of persons of the same sex. . . . [I]t frustrates the goal naturally inscribed in the sexual faculty which is grasped, by natural reason, as a fundamental human good and therefore as an integral part of the order of reason and virtue.”⁴⁸ So far so good.

But the question of condoms and disease prevention is not seen in this way. Rather, Rhonheimer treats the use of condoms in sexual relations as though it were like the example of raising one’s arm. It is only when we know the intentional content—contraception versus disease prevention—that we can know the act’s moral species. This raises an ambiguity. It is hard to know exactly how or why Rhonheimer can find moral specification in “natural patterns” in sexual intercourse itself and then in the case of condom use

A Reply to Jean Porter (and Stanley Hauerwas),” in *Perspective of the Acting Person*, 129–57, at 152ff.

⁴⁶Ibid. See also Rhonheimer, “Contraception.”

⁴⁷Rhonheimer, “The Moral Significance of Pre-Rational Nature,” 151ff.

⁴⁸Ibid., 156.

reduce the bodily aspect of the act to merely physical or sub-personal material ready to receive the formality of an exhaustively intentional specification.

Is condom use more like raising one's arm or engaging in sexual intercourse? In fact, condom use cannot be like raising one's arm. As Rhonheimer points out, it is impossible to raise one's arm simply as such. Insofar as it is part of a human action, raising one's arm is always the bodily enactment of "signaling" or "greeting" or "threatening" or "trying to prove that I can raise my arm without intentional content." But this is precisely where condom use and raising one's arm differ. It is impossible simply to raise one's arm as such because of the personal-bodily integration of the moral subject. It is impossible because the moral subject and the body are not externally linked, but constitute the person. Hence "raising one's arm" is only to describe the bodily aspect of an action of the person. Rhonheimer is obviously correct in saying that "raising one's arm" as such is not yet a human action, in the proper sense of that term. Rather, insofar as it is part of a properly human action it simply *is* "greeting" or "signaling" or "threatening."

However, using a condom is not merely the purposeful movement of some part of the body but already and as such is the act of doing something in relation to a sexual act and therefore intervening in an act which of its nature carries with it the entire fabric of embodied meaning discussed above. Clearly it intervenes by preventing the sort of touching inherent in the conjugal act, whether this is also to prevent disease or to prevent pregnancy. Indeed, this "natural pattern" necessarily gives shape to the actor's choice. Yet to prevent this sort of touching is precisely to destroy the intelligibility of a sexual act as an anamnestic/maieutic enactment of the spouses' origin and destiny in the love proper to marriage. In this sense it is like contraception or the sexual act itself. Here the purpose or intention is necessarily given form by the act's relation to and contradiction of the already intelligible and personally significant enactment of conjugality. To suppose otherwise is to reductively materialize the bodily aspect of the action to subpersonal facticity so that intention can give *exhaustive* form.

What can we make of all this from the Thomistic perspective mentioned above? Where Thomas says that the external act is a "*bonum in ordinatione et apprehensione rationis*," the intentionalist argument focuses on what the actor is trying to accomplish and on

the actor's rational constitution of his action. This tends to shift intelligibility mainly to the *ordinatio* part of the formula, which is in turn shifted decisively in the direction of its constitution through intentionality. Rhonheimer of course acknowledges that Thomas speaks of the external act as *materia debita*, rather than as, say, *materia prima*. If the external act including its natural or physical structure is considered *materia*, it is certainly not formless or pure potency. Clearly the form-matter relation is an analogous one. By "due" Thomas clearly means "due" for a good moral act, and not only "due" in the sense of its constituting a plausible "natural pattern" for some ordination by the moral actor. But if due for a good moral act, then we have a fundamental affirmation of Benedict's and John Paul's insight into the moral meaning of nature. *Apprehensio* implies that something precedes the act of reason itself. What would this something be? The "dueness" of the matter must be taken to include precisely the intelligible structure of the act. But this intelligible structure is always an enactment (or fracturing) of the meaning of the body, which is a meaning of the person, in action. It is this structure in its givenness that is "apprehended" and evaluated for "dueness." Just as surely, *ordinatio* refers to an inherent ordination of what is apprehended and not only to the constituting work of the moral subject. Each of these, the inherent intelligibility (or form) and the inherent ordination (or teleology), inwardly structures practical reason itself; they are not just practical reason's raw material.

The intentionalist argument therefore leads to a different understanding of "per se aptness for generation" than is implied by the positions of Benedict and John Paul. Since it proposes that this "aptness" could be provided intentionally, that "aptness" is in fact a more or less exhaustively intentional category, it proposes that it could be provided by the ordination of reason and will. To show this, the argument offers counter examples entailing natural infertility.⁴⁹ This manner of arguing therefore supposes that the penalty for *not* seeing aptness as an exhaustively intentional reality would be that marital relations during times of infertility also could not be seen as "per se apt for generation." In other words, or so the argument goes, the aptness of such naturally infertile acts must be "inten-

⁴⁹E.g. Rhonheimer, "Reply to the Open Letter of Luke Gormally" [<http://chiesa.espresso.repubblica>].

tional,” since (*ex hypothesi*) they cannot be considered “physically” apt for generation. But the only conception of physicality that could possibly support this argument would be an empirical/efficient one. Hence, the argument presupposes that the only alternative to its conception of intentionally constituted moral objects would be a reversion to the mathematical/empirical order of mechanism and facticity. In other words, the argument has already tacitly divided the world into subjects with their rational/intentional construction of their moral world set over against an objective world of matter and force. Or, in other words, the intentionalist argument presupposes precisely the fundamental worldview so heavily criticized by Benedict and John Paul, as we saw above. This also explains the argument’s frequent appeal to the Humean/Kantian division between fact and value as an explanation for why it must follow its line of reasoning.⁵⁰ Once nature is reduced to the empirical/factual, its creatureliness can no longer be seen as an interior order. It also cannot possibly have a “moral message,” as Benedict thinks.⁵¹

According to Benedict’s and John Paul’s argument, on the other hand, *per se* aptness must logically be seen as a metaphysical/creational category. Hence, even a naturally infertile act remains substantially and teleologically “apt,” even if it is contingently or efficiently disabled. On the other hand, a condomistic sex act is inapt because it has been partially deprived of its meaning as conjugal, since it is not (physically) the type of touching proper to a conjugal act. This would be true no matter what “intentional structure” the act may have. The difference between the two popes’ arguments and

⁵⁰See, for example, Rhonheimer, *Natural Law and Practical Reason: A Thomist View of Moral Autonomy*, trans. Gerald Malsbary (New York: Fordham University Press, 2000), 43, n. 4.

⁵¹This is why, when the intentionalist argument reintroduces the body, it often does so in a bifurcated way. On the one hand, it tends to treat it as the source of empirical patterns and functions, which are morally relevant as part of that external world with which practical reason must deal in a plausible manner, and on the other hand, the body disappears into the moral subject as only a source of appetite. Hence, whatever there is of the body beyond this role as standing behind the rational subject, as a primitive source of inclination, as it were, tends to be reduced to part of the empirical/factual context with which practical reason must deal. The argument’s very attempt to avoid Cartesian dualism has, in effect, replicated the problem. In reality, notwithstanding the attempt to account for the body entirely in personal terms as part of the subject, the intentionalist anthropology remains partially disincarnate.

the intentionalist argument, in other words, lies at the deepest possible level in their starting points, viz. in their divergent understandings of natural and physical reality itself.

What John Paul and Benedict offer, then, is a development, in response to some of the problematic features of modernity, in how we understand the body and its acts in terms of “dueness.” To say that we “discover in the body the anticipatory signs of the gift of self” or that the body tells the moral actor “who he is and what he should do” suggests that the body recalls to us our origin and destiny. The body and the very physicality of the sort of touching proper to conjugality (its ability to render spouses *una caro*) make visible the bodily/fruitful destiny of man and woman in love. The intentionalist argument on the other hand suggests an angelic notion of human love spurred on by tacitly materialistic/mechanistic presuppositions about nature and physicality. In Thomas’ terms, then, the external act—using a condom during sexual intercourse, whether for the sake of contraception or disease prevention—lacks the *materia debita* to constitute a genuine conjugal act. In terms of the “language of the body,” such an act would be like saying “I want our bodies to be united” while in fact meaning “do not touch me.”

4.

By examining these possible implications, we have seemingly strayed very far from the precise context of Benedict’s actual comments last year. My purpose here in rehashing the debate over condom use in marriage is only to give a prime and important example of the implications of the possible interpretation described above. Again, this possible interpretation was suggested in much of the commentary and debate following the early release of portions of Benedict’s book. We are still faced, however, with the task of offering a better interpretation of Benedict’s suggestion that condom use could be “a first step in the direction of a moralization” or “a first assumption of responsibility.”

Of course, in the context of prostitution, and most especially homosexual prostitution, we are very far indeed from conjugality and its normative and anthropological meaning. Condom use to prevent disease is in effect an attempt to deal with some of the

implications and bad effects of this extreme deviance from conjugality by merely technical means, rather than by bringing one's actions in line with the truth disclosed in the body as an anamnestic/maieutic disclosure of origin and destiny in love. In this way, it certainly implies the reductive anthropological viewpoint criticized by both Ratzinger/Benedict and Wojtyła/John Paul, the reduction of man from *homo ethicus* to *homo technicus*.

What, then, can we say about the question of moralization? Of course, without losing the crucial objective aspects of the meaning of moral acts emphasized by Benedict and John Paul, Catholic moral thought has always recognized the ways in which the subjective disposition of a moral actor ameliorates moral guilt in concrete situations. Here, according to Benedict's example, it cannot be denied that there is an intention to limit harm to oneself or another. Indeed, viewed abstractly, such an intention is obviously good. But more importantly, sometimes even objectively disordered acts can become a "first step" toward "moralization" from the point of view of a concrete moral subject (or, as Benedict puts it, "in the case of some individuals"). Even the man who visits a prostitute is in fact at the deepest level looking for love, and we can imagine cases where such a man begins to have the faintest dawning of an awareness of this longing and even begins to act upon it (however inadequately and perversely) in the very midst of the brothel. Likewise the habitual womanizer who decides one day to live with only one mistress might be taking a first step toward moralization, from a subjective point of view. The thief who one day decides only to steal from the very rich in order to give to the very poor is likely to be judged differently from the thief who steals only for his own pleasure and profit. Such "first steps" do not mean that these actions are objectively good, but they do raise them to a certain level of subjective ambiguity. They may very well indeed be a sign of a changing interior disposition. In none of these examples, however, does pointing to a possible changing interior disposition imply a reconstitution of the action itself along the lines provided for by the intentionalist argument.

Of course, I cannot claim to know with certainty that this or some other explanation is Benedict's own thought. His statement was given in the context of an interview and in an informal way, and it is quite natural that it would be open to any number of interpretations. However, whatever interpretation most fits the Holy

Father's own thoughts, the likeliest would be one that harmonizes well with his very rich teaching over many decades. The purpose here has been to show that the intentionalist argument is unlikely to be such an interpretation. □

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