

REVISITING THE PROPORTIONALIST DEBATE Proportionalism as an Integral and Holistic Ethical Methodology

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Over the past three decades, the debate on proportionalism had generated voluminous amounts of literature. The rhetoric of the debate had sometimes been inflammatory, yielding more heat than light, but nonetheless the issues and questions it engaged in were of significant importance.

The dust of the debate had settled, and new ethical approaches have emerged. This paper asks the question: "What insights and perspectives have evolved about ethical thought as a whole and about moral reasoning in general?" And more specifically, "What is the positive contribution of Proportionalism to moral reasoning?"

Without excluding its epistemological limits or constraints, the entire effort of the paper is to present Proportionalism in its truest light and its valuable and necessary place in the evolution of moral reasoning and its bearing on contemporary moral theory and praxis, given the

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complexity of being moral and the depths of being human and Christian.

With a second and fresh look on Proportionalism, my primary argument in this article is that contrary to the criticism that it is a narrow act-oriented approach, it is an integral and holistic method which relates the act to the agent and the circumstances which specify them¹ While proportionalism may not have a causal relationship with ethical approaches which emerged in the post-debate, like Virtue Ethics, its holistic and integral method precedes these approaches which have taken a greater turn to the subject in relation to the act.

I draw from specific elements of Proportionalism as evidence for my assertion that its primary positive contribution to moral reasoning is that it insisted and pursued a holistic and integral ethical method. Such elements which show this drive for integration and totality are the following: the use of premoral vs. the privileging of the *finis operis*; the new proportionate hermeneutics of direct and indirect; and the criteria of Proportionalism as a Christian Non-Utilitarian Teleology.²

1. The Use of Premoral Concept vs. the Privileging of “*Finis Operis*”

A more integral relation of act, agent, and circumstances is shown in the proportionalist use of premoral concept. It rejects the privileging of the “*finis operis*” over “*finis operantis*” and circumstances and consequences in determining what is moral. According to moral theology, human action has three aspects: the act-in-itself or the object of the act (*finis operis*), the intention or end of the person acting (*finis operantis*), and the circumstances (*circumstantiae*). Peter Knauer

¹Edward Vacek seems to suggest that placing Proportionalism within the traditional deontology versus teleology framework might be the reason why its interest in moral agency has been overlooked. He writes that Frankena’s deontology and teleology are both act-centered to such a degree that they omit what is the mainstay of traditional Christian ethics: a theory of the person. “Proportionalism: One View of the Debate,” *Theological Studies* 46 (1985) 287-314, at 289. Aline Kalbian in her article, “Where Have All the Proportionalists Gone?” argues that “proportionalism, at its core, provides a substantially different theory of action and agency—one that foreshadows recent development in Catholic moral theology.” *Journal of Religious Ethics* 30.1 (2002) 3-22, at 7.

²John Mahoney speaks of the drive for totality in contemporary moral theology. In his words, “a bid to recover or to reclaim the living unity which links and subsumes” all the parts into “an intelligible whole.” The emphasis on the whole rejects “the scholastic method” that led to the fragmentation of the whole into “atomic elements.” John Mahoney, *The Making of Moral Theology*, Oxford: Clarendon Press, 1987, 310-11. This drive for totality and integration is what he identifies as a central feature of the post-Vatican renewal in moral theology.

discusses this three-font principle in his influential article in 1967 which started the firestorm of the proportionalist debate.³ He holds that one can determine the true nature of the act by taking into account the intention of the person acting and the circumstances surrounding his or her action.⁴

This privileging of the *finis operis* is shown in the statement in the Catechism of the Catholic Church, 1994. Although the Catechism speaks of the three fonts of a moral act, it refers to the *finis operis* by itself as morally determinative: "A morally good act requires the goodness of the object, of the end, and of the circumstances together... the object of the choice can by itself vitiate an act in its entirety... (n. 1755). And it further states, "it is therefore an error to judge the morality of the human acts by considering only the intention that inspires them or the circumstances (environment, social pressure, duress, or emergency, etc.) which supply their context" (n. 1756). There is no doubt, then, that while intention and circumstances (including consequences) can alter or corrupt an action, it is the object by itself which is morally determinative.

The privileging of *finis operis* is strongly established in the concept of intrinsic evil. Traditional moral theology classifies certain acts as intrinsically evil because they are morally evil by their very nature--acts that are so gravely evil that no actual set of circumstances can qualify it. Masturbation, contraception, sterilization, and homosexual acts are considered intrinsically evil acts. They are, thus, immoral, whatever the circumstances, motives, or consequences are. By introducing the concept of pre-moral good and evil, proportionalists revised the notion of intrinsic evil and pursued for a more integral moral reasoning where the agent and circumstances have a determinative function in defining the moral meaning of an act.

Proportionate reasoning is built on a clear and sharp distinction between moral good and evil on one hand, and pre-moral good and evil on the other hand. This distinction is pivotal to proportionate reasoning. The term pre-moral refers to realities that in themselves are not yet moral or immoral. Moral goodness or evilness of an act cannot in itself be defined in a definitive way apart from its uniquely human features and circumstantial qualifiers. This does not mean

³Peter Knauer, "The Hermeneutical Function of the Principle of Double Effect" in *Proportionalism For/Against*, ed. by Christopher Kaczor, Milwaukee, Wisconsin: Marquette University Press, 2000, 25-29.

⁴"Neither the pure external happening nor the psychological intention is morally understandable alone; only the objective relation in which both have a part, is understandable." *Ibid.*, 29.

that premoral judgment has no moral weight, but that on the first level judgment it is not yet morally decisive.

Premoral evil is not a neutral reality which is non consequential. On the contrary, it must be avoided if it is possible because it causes harm to people. It is, however, not morally decisive if taken by itself.⁵ Premoral realities, both good and evil, exist independent of choosing, but they attract choice and influence choice. In that sense they already belong to the moral realm, even in a minimal sense. Premoral realities must be distinguished from acts which are finally defined morally, such as lying (withholding the truth unjustly) or stealing (taking property unjustly). These actions are described in conditions which already contain their final moral condemnation or disproportion and therefore need no further moral evaluation.⁶ Needless to say the distinction between premoral and moral good/evil is rejected by some scholars. Paul Ramsey, for instance, concludes that there is really not much sense in the "bifurcation of the moral universe into moral and nonmoral values, or into physical values and human actions or values."⁷ He is resistant to the inclusion of killing among premoral evils, maintaining instead that it is something never to be done directly.

All in all, the use of premoral concept shows the proportionate drive towards totality. Proportionalism is a holistic and integral method which shows the object, the agent, and the circumstances as mutually determinative of the final moral judgment of an act. The premoral concept protects moral judgment from the privileging of the *finis operis* which abstracts moral realities from persons and human situations and leads to a narrow and constricted moral view and judgment.

2. The Proportionalist Hermeneutics of the Principle of Direct and Indirect

This same drive towards totality is demonstrated in the proportionalist hermeneutics of direct and indirect, a principle

⁵Lisa Sowle Cahill, "Contemporary Challenges to Exceptionless Moral Norms" in The Pope John Center, *Moral Theology Today: Certitudes and Doubts*, Saint Louis, Missouri: The Pope John XXIII Medical Moral Research and Education Center, 1984, 121-135, at 124.

⁶Philip Keane, *Sexual Morality: A Catholic Perspective*, New York: Paulist Press, 1997, 51.

⁷"Incommensurability and Indeterminacy in Moral Choices" in Richard A. McCormick and Paul Ramsey, eds., *Doing Evil to Achieve Evil*, Chicago: Loyola University Press, 1978, 69-144, at 92.

embedded in the traditional theory of double effect, as its hinge concept. Over the past decades, however, the absoluteness of this principle has been questioned, especially in complicated cases. The theory provided a useful tool of moral evaluation for a time, but the increasing objections to its use and application weakened its influence. Its most controversial application is in the case of ectopic pregnancy.

In view of the traditional principle of direct and indirect, to remove the fallopian tube with the fetus inside is morally permissible; to remove the fetus directly in order to save the damaged uterus is abortion and murder. The reasonableness of this position was seriously questioned. Vincent MacNamara states the basis of the objection:

The position just did not make sense to reasonable people. The fact that it held that to do lesser rather than greater physical harm to the mother was what was morally right and the difference between the procedure of removal and that of repair – the foetus dies in both—was that between moral legitimacy and murder, shattered the confidence of many authors in the principle.⁸

Even moralists who defend the direct/indirect principle find it difficult to sustain their arguments. They found it necessary to explain the presence of direct/indirect with more ramifications. They contend that an evil is indirectly intended if it is the unintended by-product of an act. The agent here is aiming at the good effect though evil effects are foreseen. Relative to this view, a distinction is made between “morally intended” and “psychologically intended.” Something could be psychologically intended—in the sense of foreseen—but morally unintended. Clearly the theory got itself caught up in hairsplitting complications.⁹ The theory of proportionate reason maintains the usage of direct and indirect, but steers clear of its complications and proposes a more straightforward approach to moral evaluation.

McCormick affirms the moral relevance of the difference between intending and permitting will, but he says that it is not this difference which constitutes the decisive criterion of the moral judgment of an act. He holds that if there is truly a proportionate reason for acting, the person is properly disposed to what constituted the order of

⁸Vincent MacNamara, *Love, Law, and Christian Life: Basic Attitudes of Christian Morality*, Wilmington, Delaware: Michael Glazier, 1988, 142.

⁹Ibid.

good, whether the premoral evil occurs as an indivisible effect or as a means within the action.¹⁰

... Where a higher good is at stake and the only *means* to protect it is to choose to do a nonmoral evil, then the will remains properly disposed to the values constitutive of human good, that the person's attitude or intentionality is good because he is making the best of a destructive and tragic situation. This is to say that the intentionality is good even when the person, reluctantly and regretfully to be sure, intends the evil if a truly proportionate reason for such a choice is present.¹¹

McCormick takes a more nuanced position than Schüller relative to the function of the principle of direct and indirect.¹² He holds that an action involving an intending will is a different human moral action from that involving a permitting will. Therefore, it is not only the existence or nonexistence of evil effects that determines the meaning of an action, but also the relation of the will to the occurrence. If the premoral evil is directly intended rather than merely permitted, there would have to be a greater proportionate reason established for the act to be moral and there would be a greater likelihood of the premoral evil in the act becoming moral evil.

The nuanced position of McCormick is illustrated in his judgment of killing noncombatants as a means to bringing the enemies to their knees and weakening their will to fight. The difference, he holds, is not the number of deaths. They could be numerically the same, whether they are killed incidentally or killed directly. But how they occur has a good deal to say about the present meaning of the action, the effect on the agent and on others. What is illustrated here is how the distinction between evil as a means and evil as an effect changes the meaning of the action. McCormick states precisely his position:

In other words, the teleological character of all our norms does not eliminate the relevance of the distinction between direct/indirect where nonmoral values and disvalues are involved. Rather precisely because these norms are teleological is the indirect/direct distinction relevant. For the relation of the evil-as-it happens to the will may say a

¹⁰Richard McCormick, "Ambiguity in Moral Choice," *Doing Evil*, 7-53, at 40.

¹¹*Ibid.*, 39.

¹²Some contemporary moralists like Schüller take the position that direct and indirect have no moral significance where nonmoral evil is associated with human conduct. See Bruno Schüller, "The Double Effect in Catholic Thought: A Reevaluation," *Doing Evil*, 165-92. McCormick says that Schüller, by failing to take seriously enough the real contribution of intentionality to the significance of human actions, leaves himself vulnerable to the weaknesses of a merely numerical calculus of proportionality. McCormick, "Ambiguity in Moral Choice," *Doing Evil*, 34-35.

great deal about the meaning of my action, its repercussions and implications, and therefore what will happen to the good in question over the long haul. If one asks why, I believe the answer is to be found in the fact that an intending will represents a closer relation of the agent to the disvalue and therefore indicates a greater willingness that the disvalue occurs.¹³

McCormick agrees that the distinction between direct or indirect is morally relevant, but he does not consider it as the final and decisive criterion. He comments that it is too readily concluded that if evil in an action is directly intended as a means, the whole action is immoral. He uses the following example to illustrate the difference between evil as means (intending will) and evil as effect (permitting will) in the following:

If a woman has cancer of the ovaries, a bilateral oophorectomy is performed. The result: sterility. If a family has seven children, the wife is weak, the husband is out of job, the woman may have a tubal ligation on the occasion of the last delivery. The result: sterility. The immediate effect (nonmoral evil) is the same in both cases--sterility. Obviously these actions are different human actions in terms of their overall intentionality—the good sought. One is a lifesaving intervention, the other is a family –saving or family-stabilizing act, so to speak. But even within this larger difference, the bearing of the will toward the sterility is, I believe, distinguishable in two instances. For the moment no moral relevance will be assigned to this difference. But it seems that there is a difference and the difference originates in the relation of the nonmoral evil to the good sought. In the one instance the non-moral evil is chosen as a means, in the other it is not.¹⁴

The first case shows the equal immediacy of the good and evil effects which is grounded on the unity of human action. This unity or indivisibility accounts for the direct intent of the good and the indirect intent of evil. McCormick accepts Grisez's criterion for this case: "If the evil occurs within an indivisible process, then in the moral sense it is equally immediate with the good effect, and hence not a means. If, however, the process is divisible so that the good effect occurs as the result of a subsequent act, we are clearly dealing with a means, and an intending will."¹⁵

The first case shows the equal immediacy of the good and evil effects of an indivisible act. The very surgery which removes the diseased ovaries saves the woman. The evil (removal of a tissue) and the good (saving of the woman) are effects of one indivisible act (surgery). This

¹³McCormick, "Ambiguity in Moral Choice," *Doing Evil*, 33.

¹⁴*Ibid.*, 37.

¹⁵*Ibid.*

unity or indivisibility of the act accounts for the direct intent of the good and the indirect intent of evil. The process is divisible in the second case. The tubal ligation of the woman which caused sterility (evil) preceded the good (family-saving or family-stabilizing). When the evil precedes the good, it ceases to be an effect; it becomes a means directly intended in a divisible act.

McCormick holds that the traditional understanding of evil as an indivisible aspect of an action is only one form of evil which is morally allowed relative to a good end. But he maintains, however, that in the case of evil as a means in a divisible act, what is essential to establish a proportionate reason is a necessary causal relation between the means and the end. With the establishment of proportionate reason, the evil remains premoral evil and the whole action is morally justified. In instances when the only way to save the life of a pregnant woman is by surgery that kills the fetus, the evil is necessary and the surgery is permissible.¹⁶ When the use of force is judged as the only way to achieve self defence against an unjust aggressor, it is also necessary and permissible.¹⁷ In these cases, if the action of the agents were not taken, a far greater evil, would have been caused. And if this were so, the good of the act would have been contradicted—a moral disproportion would be caused.

But there is, he says, a difference between evil as aspect/effect and evil as a means. It comes down to the posture of the intending will in relation to evil. If evil is used as a means, there is more willing that the evil exists.¹⁸ The proportionate reason which is sufficient for

¹⁶McCormick writes: "Is it not because, *all things considered*, abortion is the lesser evil in this tragic instance? Is it not precisely for this reason, then, that abortion in this instance is proportionate? Is it not for this reason that we may say that the action is truly lifesaving? And is it not for this reason that abortion in these circumstances does not involve one in turning against a basic good?" "Ambiguity in Moral Choice," *Doing Evil*, 27-28.

¹⁷The principle justifying any force must, however, be connected to the principle of moderation of harm caused; "Harm done to another in order to prevent him from doing evil must be no more that is needed to dissuade, or if that fails, to disable him" John Langan, "Direct and Indirect—Some Recent Exchange Between Paul Ramsey and Richard McCormick," *Religious Studies Review* (April 1979) 95-101, at 100.

¹⁸McCormick, "Ambiguity in Moral Choice," *Doing Evil*, 38. Vacek speaks of a different consciousness and hence a different personal posture. He writes: "When we perform an act that has consequences which we otherwise do not want, we identify ourselves with those consequences differently than when we desire those consequences. We do not align our heart in favor of their negative value." "Proportionalism: One View of the Debate," 311. There is, thus, an aligning of the heart with the negative value when it is wanted. When it is not welcome or wanted,

allowing evil as an effect may not be sufficient for choosing it as a means. When pre-moral evil is used as a means, a much greater proportionate reason is required, and most likely might not be established. There must be a caution, thus, that since pre-moral evil as means and pre-moral evil as effect are different realities, they demand different proportionate reasons. What is sufficient for allowing a pre-moral evil as an effect may not in all cases be sufficient for choosing it as a pre-moral means. This view maintains the moral relevance of direct and indirect but it is the presence or absence of proportionate reason for the act that is morally decisive.

Proportionalists stress that the distinction of pre-moral evil and moral evil is pivotal in reference to the use of evil as means. Pre-moral evil and not moral evil is allowed to be used as means and not moral evil. The traditional moral principle holds that the end does not justify a morally evil means. Proportionalism holds that if a proportionate reason is established, the means used, although involving some form of pre-moral evil, is allowable, and the whole action is morally justified. Thus, contrary to what its critics hold, Proportionalism does not deny the traditional moral principle, for in the absence of proportionate reason, pre-moral evil becomes moral evil, and in no circumstance can moral evil be used as a means.

As a whole, the proportionalist hermeneutics of direct and indirect is based on a more holistic grasp of the human situation compared to the traditional understanding of direct and indirect which is trapped in its physical categories. This is sharply illustrated in the case of ectopic pregnancy. Touching the foetus to extricate it from the diseased uterus is considered a lethal touch, an act of murder, while removing the uterus with the foetus is allowed. What is traditionally decisive is whether the foetus is physically or not physically touched, which determines whether it is direct or indirect, the basis of its moral goodness or evilness. McCormick does not limit the meaning of direct and indirect to its physical categories; he relates the physical act to the aligning of the agent's intending will to evil, which on one critical level, determines the strength and depth of proportionate reason required for the act to be morally justified.

whether merely permitted or intended as a means, the heart remains ordered. Knauer maintains that when there is a commensurate reason, the evil caused or permitted is indirect; it is morally outside of what is intended. "The Hermeneutic Function of the Principle of Double Effect," *Proportionalism For/Against*, 42. McCormick prefers to say that the evil is direct or indirect depending on the basic posture of the will. But what is morally decisive is the presence or absence of a genuinely proportionate reason. "Ambiguity in Moral Choice," *Doing Evil*, 45.

From the proportionalist view, the final decisive criterion of removal or repair of the uterus, in both the fetus dies, is what is truly right, human, and compassionate for the mother who loses not only her child but also her capacity for child bearing. One can see, thus, that the traditional understanding of direct and indirect is trapped in a physical moment, while the proportionalist understanding is contextualized in a much broader and a more holistic human context.

3. The Criteria of Proportionate Reason as a Christian Non-Utilitarian Teleology

McCormick refers repeatedly to the “prediscursive” elements of moral judgment, primarily coming from good moral common sense. He speaks of a moral instinct of faith, which “cannot be adequately subjected to analytic reflection but is also chiefly responsible for one’s ultimate judgment, in concrete moral questions.”¹⁹ This demands a qualitative sensitivity to the depth and breadth of value. “...it is the well-ordered heart that is both the origin and result of ethical decision.”²⁰ Even as this may be true, the ethicist is not dispensed of the task to probe unceasingly the conceptual and normative warrants for moral judgment.

And such warrants are necessary to establish the presence or absence of proportionate reason. The three criteria which are required for proportionate reason to be established, which McCormick has systematically formulated and which I related to reality questions are the following:

1. *What? and Why?*: The value sought is greater or at least equal to the value sacrificed;
2. *How? and what else?*: There is no less harmful way of protecting this value here and now;
3. *What if?*: The manner of its protection here and now will not undermine it in the long run.

Only by meeting these three criteria is a proportionate reason established.

¹⁹“Reproductive Technologies: Ethical Issues,” *Encyclopedia of Bioethics*, ed., W. T. Reich, New York: Free Press, 1978, 1454-1464, at 1459.

²⁰“Proportionalism: One View of the Debate,” 303. Vacek writes: “One of the most challenging criticisms of Proportionalism come from an Episcopalian student of mine. She notes Proportionalism is filled with what might be called “sober Greek moderation.” It is all prudence with little emphasis on the joy and enthusiasm of being in love with God—or anyone else, for that matter. It resolves the tensions of competing loyalties rather than exulting in such tensions. It downplays symbolism, art, wonder, music, and poetry.” *Ibid.*, 314. Also cf. Garth Hallett, *Christian Moral Christian: An Analytic Guide*, Notre Dame: University of Notre Dame Press, 1983, 116-17.

The criteria of Proportionalism constitute an integral and holistic approach which not only asks *what?* and *why?* to determine the values that the moral agent seeks; it also asks *how?* *what else?* to inquire into all possible courses of action to establish that the means taken is the last resort in protecting this value in the least harmful way; and finally it asks, *what if?*, to inquire into all possible consequences of the means used which might undermine the value sought in the long run. The three criteria are so integrated that if one criterion is not realized, there is moral disproportion. When stated simply and to show how the three criteria constitute one integral ethical movement, we say: the very means used to protect the greater value must not bring about consequences which will undermine it in the long run.

All three criteria, as a whole, show if there is a moral proportion between the act and its end (reason). The structure of reasoning established by Proportionalism protects it from mere subjective arbitrariness. If in the final analysis, there is a contradiction between the act and its end, the act undermines its very rationale. Or in other words, the act becomes counterproductive because it is morally disproportionate to its end. Quoting Knauer: "An act becomes immoral when it is contradictory to the fullest achievement of its own end in relation to the whole of reality."²¹

Proportionalism in the school of McCormick and other Catholic authors primarily draws upon the Aristotelian-Thomistic interpretative tradition of a teleological ethics. The primary difference between the Utilitarianism of Bentham and Mill and the Teleology of Aristotle and Aquinas lies in the good (telos) sought. Utilitarianism pursues the greatest good for the greatest number and the greatest sum total of social welfare, understood temporarily and empirically or at least empirically. In contrast, Aristotle and Aquinas envision the telos of human life as the realization of virtue, a life oriented to the *summum bonum*, God. The Utilitarian telos is material, limited, and finite; The Aristotelian-Thomistic telos is all encompassing and transcendent—God as the ultimate of all that is.²² Christians read their proportion not just by looking at numbers, but by looking at many other features of the situation within which the numerical must be interpreted.²³

²¹Knauer, "Hermeneutic Function of Double Effect," *Proportionalism For and Against*, 37.

²²See Lisa Sowle Cahill, "Teleology, Utilitarianism, and Christian Ethics," *Theological Studies* 42.4 (December 1981) 601-629, esp. 627-29.

²³Richard McCormick, "A Commentary on Commentaries," *Doing Evil*, 193-267, at 237.

The moral theory of Richard McCormick exemplifies Christian teleology. The full Christian experience, he writes, provides the refinement of sensitivity to human values. The Christian perspective provides the broader and deeper horizon of meaning to moral reasoning. A value judgment distanced from this horizon of meaning might otherwise be determined solely by empiricism. He writes:

The Christian story tells us the ultimate meaning of ourselves and the world. In doing so, it tells us the kind of people we ought to be, the goods we ought to pursue, the dangers we ought to avoid, the kind of world we ought to seek. It provides the backdrop or framework that ought to shape our individual decisions. When decision making is separated from this framework, it loses its perspective. It becomes a merely rationalistic and sterile ethics subject to distortions of self-interested perspectives and cultural fads. A kind of contracted etiquette with no relation to the ultimate meaning of person.²⁴

The conditions of proportionate reason are realized within this Christian vision—the choice of higher over lower values (*ordo bonorum*) oriented to the *summum bonum*, God. As a holistic and integral method, Proportionalism does not only refer to results. “It also pertains to the agent, to expressive and evolving natural tendencies, to intentions, manners of acting, to the circumstances as well as social situations and to the religious context...”²⁵

Conclusion

There is no one ethical theory that can fully and perfectly grasp the dynamics of thinking and knowing in the realm of morality. Such is the nature of theories. The debate on theories will go on endlessly, and transcending some impasses might never happen. The attempt that I did, however, was to present Proportionalism in its truest light, as it overcomes the defects of certain approaches which tend to be one-dimensional and corrects the extremes of other approaches which focus exclusively on either the object, or the intention, or consequences of moral actions. Whatever limitations it may have, it offers a rich possibility in responding to moral dilemmas in our lives, in a holistic and integral way, taking moral persons in relation to their acts, at every level of interaction, in view of an adequate account of moral objectivity or truth, in pursuit of what is genuinely human and Christian.

²⁴Richard McCormick, *Health and Medicine on the Catholic Tradition*, New York: Crossroad, 1984, 50.

²⁵Vacek, “Proportionalism: One View of the Debate,” 290.