

**JALHF Conference
Rome – May 21, 2018**

Carlos A. Casanova

**“*Humanae Vitae* and *Veritatis Splendor* as Expositions of ‘Natural Law’.
Contrasted with Their Irrational Denial”**

The two encyclicals by Popes Paul VI and John Paul II were a powerful thundering of the Holy Spirit amidst a disoriented world. They embody God’s calling of humanity to respect the dignity of their intellect, to allow Him heal their will, to acknowledge His plan for human nature and human persons. They proclaim that moral theology is a science which can uncover to the extent possible to the human mind assisted by Revelation and grace, the real order, the divine order in which we as human beings, with our nature and our personalities are integrated.

The doctrine of *Humane vitae* is a confirmation of the perennial teachings of the Church on the matter of sexual morality, considering the new challenges posed by the development of techniques used for the temporal or permanent sterilization and/or for the killing of the new life in the womb of the mother. This teaching was declared by Paul VI to be a natural law teaching and not only a revealed teaching.

Veritatis splendor is an encyclical of wider scope. There, John Paul II endeavors to reach a clear and updated formulation of moral theology’s basic tenets and to place them within the organisms of Christian life and theological wisdom. The Pope confronts the subjects concerning which there has been dissent among theologians with the perennial magisterium of the Church. He, very especially, grasps that the main questions are: (a) whether there is a truth about the good; (b) if the intellect and the will have to conform to an order which, coming from God, they do not create, and this precisely to achieve the sought end (eternal life, happiness) and freedom; and (c) whether there are kinds of actions which, because of their species [“object”], are always evil and therefore forbidden and incompatible with the human good.

Humanae vitae was bitterly contested by Catholic theologians and clerics, not suprisingly. The issues dealt with were too dear to the powers of this world (which nowadays are clearly not Christian), and too many theologians and Catholic universities received substantial funding from such powers and wanted to fit in with the neo-Malthusian culture which those powers promote. But even *Veritatis splendor* received a strong opposition and was harshly contested, despite its dealing with more general issues not so directly applied to human action. The negative critical responses against the encyclicals by Catholic theologians can be classified according to the philosophical categories which theologians necessarily use. There are mainly four kinds of categories on which an author can fall, Kantianism, Utilitarianism, Weberianism and post-modernism. Most authors have traces of two or more of these categories. The classification is useful, however, because it helps to reduce the different views to their principles.

(a) Some responses use Kantian concepts such as “autonomy,” “conscience,” “option,” and the like.

(b) Some other responses use Utilitarian concepts such as “pre-moral goods,” “well being.” These are the most rational and articulate of all. For this reason we will examine here the general type to which they belong (Utilitarianism and its principles) but also the potentially most damaging and truth-like critique which they particularly formulate. John Paul II teaches that the proportionalist theologians have departed from truth because they hold that some morally wrong or evil actions according to the moral object can become good because of their consequences and a good intention. Richard McCormick and Louis Janssen deny this. They reply that no theologian holds such tenet.

(c) Some others vaguely follow Max Weber and his attempt to find a way which takes into account autonomy regarding the values and calculations regarding the consequences of an intra-worldly action.

(d) Some others are utterly irrational and can be inscribed in the tradition of the Marxian, the Nietzschean-Freudian-Heideggerian or Kabbalistic rejection of rationality. The prevalent positions in our time are these of the fourth kind. On this fourth group we will not criticize models from which their principles are taken, because the models which do exist are multiple and most of them lack a body of moral thought. We will present some of the concrete dissenting authors’ theses and reasonings. Since I am a Spanish American and the Church here has been massively infiltrated by Marxist and other irrational elements, I will focus especially in this oral presentation on this group of theologians. The written version elaborates more on proportionalist objections.

What these four kinds of positions have in common is the rejection of the real order of reality to which man has to adhere through his intellect and will, with his freedom. To discover the demands of such real order is what John Paul II calls “the truth about the good”. The light of this truth in the human mind constitutes the principles of moral knowledge which guide man amidst the darkness of this world and prevents him from incurring in the indubitable evil excluded by the negative precepts of God’s Law. This truth is also the only safeguard of the weak facing today’s powerful Leviathan which yearns to usurp the place of God.

(1) Kantianism

Kantianism is known as a defence of any human being *vis à vis* Utilitarianism. But, is it really? According to Kant, the legislative power cannot do injustice to any person, because any decision of the legislative power is a decision of us all and *volenti non fit injuria*.

Beside this, as John Stuart Mill pointed out, the categorical imperative does not exclude that all the rational agents agree in a maxim of action absolutely insane, except if one can judge about it in the light of the objects to which it is applied (which Kant forbids).

Kant himself realized that the merely formal imperative was not sufficient ground for any reasonable morality. Thus, in the Introduction (section 2) to his *Metaphysics of Morals* he holds that we are forced to “take as an object the particular *nature* of man, which we only know through experience, in order to *bring to light* in it the consequences which can be deduced from the universal principles [...]”. So much for the purity of the *formality* of the categorical imperative. As it turns out, the human will cannot be both right and “autonomous.” Moreover, as we have seen, it cannot be “free” from the demands of moral truth and at the same time free from being subject to

an exterior tyranny (or to the tyranny of passions). Here John Paul II and Paul VI were fully prophetic (VS 34; and HV 17).

We need to take into account the reality, nature of things to find moral [and political] judiciousness. But, are we to take it into account in the Utilitarian way? Let us see.

(2) Utilitarianism

According to Utilitarianism, “good” would be that which procures the greatest amount of pleasure not for me, the Utilitarian philosopher, but for the greatest number of people. Thus, Utilitarianism in all its forms, including proportionalism and consequentialism, entails an essential paradox which, according to Eric Voegelin, is the mark of the driving force of the Utilitarians, the will to power. Indeed, according to them, human beings are “pleasure machines” unable to build by themselves any moral or political order. They need the Utilitarian, who, out of his philanthropy (!) proposes a system in which the general interest is or can be realized: the greatest pleasure of the greatest number. So, the One who does not seek his own pleasure is the Utilitarian. Wow! He is a god among animals. The despotic tendencies of Utilitarianism are very apparent in Mill’s works. But the despotic potential of the principle was fully developed by a different author, Aldous Huxley, in his famous *Brave New World* towards which we are marching at full speed.

Some authors have pointed out the essential shortcomings of Utilitarianism with great acumen. H. L. A. Hart, for example, points out that there is nothing intrinsically valuable [or disvaluable], not even persons [much less actions], according to Utilitarianism.

After examining the general principle of Utilitarianism, let us examine now the most powerful of the concrete objections against *Veritatis splendor* raised by the dissident theologians who follow the Utilitarian pattern. As already pointed out, McCormick denies that any theologians hold as good actions that are bad according to their moral object. Both Janssens and McCormick give the example of stealing in extreme need, in order to try to show that the object “broadly understood” could include as “relevant circumstances” the calculus of the consequences. McCormick added another similar example: saying a falsehood to a person who asks for information he does not have the right to obtain. In the light of these cases, McCormick claims that in order to establish if the object of an action is good or not, one has to use the proportionalist principle: whether some pre-moral disvalues are caused, and whether they are caused “for a proportionate reason.” But this equates to applying precisely the Utilitarian calculus of all the consequences. He particularly applies this view of the moral object to masturbation and sterilization which, according to him, would be wrong or evil only when performed against the good of marriage.

The bottom of what is the matter concerning Utilitarianism in general and proportionalism in particular was pointed out by Immanuel Kant: any pleasurable object [or “pre-moral” good] is judged with the faculty of feeling [pleasure] and so understood is unworthy of becoming the source of a rule for the will. If this is the core of what is wrong about Utilitarianism, as it is, moral thinking, therefore, must transcend the tradition that denies that there are goods which can be grasped by the intellect (and not by the senses) and towards which the will may proportionately direct itself. Here is where John Paul II’s “truth about the good” or “about the moral good” comes in. Such truth encompasses the real intelligible good and its proportion to the agent. This is formulated in the first principle of morality: “the apprehended *convenient* [proportionate] good must be done and evil avoided.” The very notion of “truth about the good” places us in the

context of a real order which we have to investigate rather than technically devise by a calculus of consequences. The prudential reasoning in difficult situations does not intend to see if the harm inflicted to a *pre-moral* good is proportionate to the good consequences which will follow from it. It attempts rather to unveil whether the nature of things is such that the action respects it. For example, if I kill in legitimate self-defence, whether the killed aggressors are two, three or one is indifferent, because what is at stake here is not a Utilitarian calculus. And, when a terrorist asks me to kill an innocent with the promise that if I do it he will not kill, it is indifferent whether he threatens to kill two, three or a thousand more. What matters is the nature of things. In the same way, when I have to consider if I can get involved in sexual activity, I have to judge whether I will respect the nature of my body and that of my partner in such activity, because, as John Paul II states very accurately, "the natural moral law expresses and lays down the purposes, rights and duties which are based upon the bodily and spiritual nature of the human person. Therefore this law ... must be defined as the rational order whereby man is called by the Creator to direct and regulate his life and actions and in particular to make use of his own body" (VS, 50, quoting CDF).

The examples given by Janssens and McCormick are difficult cases which they, however, fail to analyse properly. When a man takes a piece of food which is up to that point other person's food and he takes it because he is dying of starvation and just in order to save his life, he is not taking other person's property. Christian thinkers always said that since there is a "universal destination of material goods" in a state of starvation that piece of food is his. All the other titles yield to such extreme necessity. There is no question of a calculus of consequences, but of the nature of property over material goods and of the nature of persons. Other, more difficult cases I leave for the extended, written version of this paper.

It turns out that indeed proportionalist theologians consider some actions as good despite their moral object is bad according to the traditional conception of the moral object to which John Paul II, of course, was referring.

(3) Weberianism

Many dissenters talk about the "ethics of responsibility" and speak about moral goodness issuing from choosing the fundamental orientation of their life towards God or Christ, on the one hand; and about the rectitude of intra-worldly actions being measured according to the consequences, on the other. *Veritatis splendor* mentions them in n. 75. A careful analysis of Weber's lecture "Politics as a vocation," however, shows that Weber was able to transcend the positivistic view and recognize that there is an order of reality and, therefore, actions which may not be done even if they are required by the "value" one has chosen to follow. On this point, he is *toto coelo* superior to the dissident theologians as a [social] philosopher in search for truth.

(4) Lawlessness in moral theology

This kind of "theologian" is paradoxically the most harmful and difficult to cope with. The reason is that, since he has no concern for rationality, he is "free" to just play with words and authorities in order to make his wild tenets *appear* both as conformable to Christian revelation and tradition and as truly liberating and salvational. We will examine a few examples to illustrate and criticize their technique. It seems to me that this will be the most fruitful method.

(A) There is no universal norm for concrete situations.

A.1. The opinions and reasonings of the fourth group of dissenters.

Among the theologians of this kind that there cannot be a general law which solves all situations has become a common place. They usually quote Aquinas on this point and make their claim truth-like since, according to Aquinas, in practical matters truth is what conforms to the concrete reality rather than to abstract formulations. Tony Mifsud, for example, quotes *S. Th.* I-II q. 14 a. 1, c: in order to draw the conclusion that ethics must be “of discernment” and the human agent cannot decide just in accordance to the Law because this would be “heteronomous” and immature: the last criterium of action is one’s own conscience “verified in sincerity before God,” because, according to Aquinas (!), conscience may not be disregarded even in extreme cases: *fidelity to conscience is fidelity to God*.

Víctor Manuel Fernández’s concrete reasoning is different and so are the Thomistic loci on which he bases it. But the goal is very similar to Mifsud’s, to open the way for the plausibility of “righteous” (or at least not-guilty) violations of God’s law.

He first quotes a *S. Th.* I-II q. 19 a. 10 c., where saint Thomas states: “a judge has a good will, in willing a thief to be put to death, because this is just: while the will of another—e.g. the thief’s wife or son, who wishes him not to be put to death, inasmuch as killing is a natural evil, is also good.” From this quotation, Fernández wants to draw the wildest conclusions. He first states that the wife or the son wills something against justice. Then he adds that although the wife wills something *materially* unjust, she conforms to the divine Will because she wills what God wants her to will, since that natural inclination is also God’s work. “Thus, willing something against justice, she conforms to divine will ‘in the same formal and universal motive of God’s Will (*S. Th.* I-II, 19, 10).” This fact would demonstrate, according to Fernández, that the lady of his example does not will what is just, because that does not conform to her concrete situation. She conforms, however, to the formal motive of God’s will, which is the evangelic law, i. e., love. He later extends this principle to homosexuals and to spouses who “need” to use the condom. In their concrete situation, there are two laws applicable: the one of justice and the one of love. Love demands to yield to the “natural” inclination.

A.2. Response

Already Father Bonino has dealt with the general problem of using Aquinas as an authority and with the issues of the prevalence of the concrete in ethics and the existence or inexistence of actions which according to Aquinas can never be done rightly. In my longer paper I bring his analysis in and apply it to Fernández and Mifsud. Let us now answer to their concrete reasonings.

Mifsud’s interpretation of *S. Th.* I-II qq. 14; and 19, aa. 5-6 is just wild. He trumped the quotation from Aquinas’ text, which is a typical technique of the liberationist. If one sees the context of the phrase, one perceives that the text is very far indeed from grounding Mifsud’s claims. I-II q. 14 a. 1 c. says that the uncertainty of practical matters is what requires that the election be preceded by an inquiry by reason, which is called counsel. The passages are far from claiming the sovereignty of conscience.

Víctor Manuel Fernández's interpretation of Aquinas is as subversive as Mifsud's, but much more elaborate. According to him, the wife, "willing something against justice, conforms to the divine will 'in the same formal and universal motive of God's Will' (*S. Th.* I-II, 19, 10)." This statement goes directly, and one is tempted to say *maliciously*, against the *letter* of the text. Aquinas says that the will has to conform to the good under the apprehension of the intellect. This is why there can be different perspectives if different persons have different positions. Thus, a judge who has to take care of the common good considers the good in the situation under a light different from that under which the wife, who has to consider the private good of the family, considers it. Now, God considers all goods under the light of the good of the universe. This is why different persons can have good will while willing opposite outcomes. But for the particular wills to be right they must conform formally to the will of God even if materially they will particular goods. It is not true that the material will is the same as the formal motive of God's Will. On the contrary, because they could be in disconformity, the particular will could be unjust. This means precisely two things: that the agent may not will something unjust; and that the agent must accept God's will even if it contradicts her own will. That is to say, the wife cannot bribe the judge or a witness in order for her husband to be acquitted. Moreover, when her husband is executed, she must bear it with patience. It is clear that the different situations do not authorize any agent to violate the negative precepts of God's law. It is also clear that Fernández is in too much of a rush to draw lawless conclusions from Aquinas' text.

(B) Mercy vs. justice

B.1. The opinions of this fourth group of dissenters

The second example I want to delineate is taken also from Fernández' already quoted paper. There he makes use of texts in which Saint Thomas deals with mercy in order to radically revolutionize Christian morality. Since Cardinal Kasper has done the same (and I am not going to analyse here Kasper's work), it could prove extremely helpful to examine this acute man's ways of proceeding. But time is pressing so that I must present here a very short sketch of Fernández's doctrine.

He borrows texts from the tradition in order to use fragments in a very artificial construction. Such construction, through the authority of the sources, attempts to turn plausible the following theses: (a) that justice and mercy are irreconcilable; (b) that mercy is the highest virtue without qualification; (c) that there is a radical difference between the "ethics of the Law" and the "ethics of love" and that the first one is identical with justice while the second one is identical with mercy; (d) that the ethics of Law allows for differing formulations according to the agent's circumstances, so that the same acts could be legitimate in some situations even if they are illegitimate in other situations; (e) that, in any case, although some acts might be contrary to justice, such acts could be acts of mercy and love; (f) that the agent of some of those unjust acts could be without guilt according to various church documents interpreted in an arbitrary way; and (g) that mercy *is* precisely the external acts through which one does good to others in the sense that one procures pleasure and well-being to them. After laying these foundations, Fernández holds: (a) that love and mercy might demand from a wife to have contraceptive sexual relations; (b) that homosexual or premarital sexual relations could be guiltless and, in any case, those relations could be what God demands from a person in his or her concrete situation.

B.2. Response

It is hard to imagine a greater subversion of all authorities and, in general, of Catholic doctrine. It is clear that the author does not intend to learn from the sources. He rather uses them to present his lawlessness in a plausible way, probably because he does not want to lose his hold on the Christian people. As with other liberationists, one clear problem is that the author is so used to mask his views that they do not really appear here. One does not know the full picture of Fernández's mind. One can see that it rejects rationality and morality properly speaking. But one cannot see more. Is he just a nihilist? A hedonist? Or, perhaps he follows particular anti-intellectualist world-views like the Kabbalah or Marxism? One cannot tell. The only thing one can do is to show the sharp contrast between his presentation of his sources, and the real meaning of such sources.

We have to limit ourselves in this oral presentation to just give a clear sample. Fernández's hermeneutic of Bonaventure is particularly transparent and for this reason we take our sample from it. In page 137, Fernández copies the text by Bonaventure and endeavors to have the reader think that the holy doctor taught the following opinion: If a person has piety and mercy, and such person falls in a sin of the flesh, "without a doubt that person will be shaken but will not perish, according to the Gloss, even if the fall involves mortal sin." In note he quotes: "IV *Sent.* 15, 1, 2, opp. 1 (cf. ad 1)." The text copied by Fernández comes from an objection opposed to Bonaventure's thesis as it was usual among the scholastics. Fernández adds the parentheses to make plausible his lawless interpretation, because it leads the reader to think that the answer to the objection confirms the copied text. But Bonaventure's response to the objection says the opposite of what Fernández puts in Bonaventure's mouth.

Any person who has a minimum rational knowledge of the subjects dealt with by Fernández can judge, in the light of the analysis I offer in my longer text, that the theologians of his kind are radically irrational and lawless, but very skilfull in presenting their tenets as in agreement with "the best tradition" (those fragments of tradition which they take out of context and so taken become wild in the hands of these "theologians") and as salvational, if convenient to the unruled passions. There is no doubt, however, that none of them can resist a comparison with *Veritatis splendor* or *Humanae vitae* regarding their conformity to natural reason or to Revelation.