

REGULATING FERTILITY AND CLARIFYING MORAL LANGUAGE

JOSEPH A. SELLING
Katholieke Universiteit Leuven

When it comes to dealing with population growth, there are a number of misconceptions about the position of the Catholic Church. Official teaching during the twentieth century gradually moved toward the acceptance of limiting family size and endorsed the concept of responsible parenthood during the Second Vatican Council. One cannot, therefore, justifiably claim that the church is against birth control. It is an entirely different matter, however, when it comes to the practical question about how a couple might go about regulating fertility. Since the publication of Pope Paul VI's 1968 encyclical, an intense controversy has taken place within the church about the use of artificial contraception. Behind that controversy lies an important methodological issue. For, the traditional teaching to which Paul VI returned in his letter was based upon the presumption that it is possible to morally judge a physical, material act without any consideration of the persons who performed that act, the circumstances within which it took place, or the reasons why the act was chosen. This behavioural approach to morality stands in some contrast to the way that other moral questions are dealt with. Inflicting pain or even taking a person's life, for instance, can be justified for a good reason when one acts in a virtuous manner to instil discipline or safeguard justice. Until this methodological controversy is addressed, the problem of using artificial means to regulate fertility will not be resolved. A helpful key for solving the methodological ambiguities is to use moral language in a consistent and understandable manner.

THE EVOLUTION OF THE TEACHING ON THE REGULATION OF FERTILITY¹

During the course of the twentieth century, papal teaching on the regulation of fertility went through a significant evolution. The issue was ultimately resolved in the teaching of Pope Pius XII in his 'Address to the Midwives' in 1951.² Pius XII taught that exercising the rights of the married state simultaneously imposes upon the couple a duty to contribute to the preservation of the human race by having children. This being a positive duty, however, it may admit of exceptions that, in this case, would amount to having 'serious reasons' for avoiding the accomplishment of this duty. Those reasons, which the pope listed as 'medical, eugenic, economic and social,' exempt the couple from their obligation.

Pius XII effectively taught that it is morally licit for a couple who have serious reasons to avoid conception, intentionally to restrict their sexual encounters to infertile periods. This was the first time that any member of the hierarchy of the Catholic Church approved what came to be called 'periodic continence'. While many people think that it was Pius XI who introduced this innovation in traditional thinking with his encyclical *Casti Connubii* (1930)³ these are largely people who have not read that document carefully. The only concession made by Pius

XI was that it was morally licit for a married couple to engage in sexual intercourse known beforehand to be infertile, a position already held by many, but certainly not all, moral theologians at the time.

In taking the position he did, however, Pius XI was indeed introducing a new teaching. The Augustinian tradition had taught that the only act of marital sexual intercourse that did not involve sin was one which was performed explicitly with a view toward procreation (*concupitus propter solam procreationem*).⁴ When Pius XI declared infertile intercourse to be legitimate, he invoked the teaching of canon law that the institution of marriage had not only the primary end of procreation and education of children but also secondary ends. These were named in the second section of canon 1013 to be ‘mutual help and relief from concupiscence’, but the pope expanded upon these adding ‘the cultivation of mutual love’ (AAS 1930, 561). He then claimed that sexual intercourse known to be infertile could be at the service of realizing the secondary ends of marriage, so long as nothing is done to interfere with the nature of the act itself. This was the first time in Catholic tradition that a connection was made between sexual intercourse and an expression of love. Prior to this, no one entertained the notion that there were any ends or meanings that were connected to the procreative purpose of sexual intercourse. While Pius XI conceded that love could be a motivation for having sexual relations, neither he nor any theologian for the next thirty years insisted that this had to be the case.

Pius XI’s innovation might have caused a small revolution in Catholic thinking, but the three decades following this teaching can hardly be characterized as a period of speculative theology. Still, the idea occurred to some moral theologians that if a couple could legitimately engage in sexual relations known to be infertile, might it not be possible for a couple to intentionally restrict their sexual relations only to those periods and thus avoid conception for the duration of the marriage.

These ideas began to be voiced by some European theologians, but their American counterparts strongly objected to the possibility, claiming that such a practice would run counter to and even nullify the primary purpose of marriage. The academic literature of the time demonstrates contrasting opinions on the matter. It was therefore understood to be a highly significant event when Pius XII intervened in the discussion in 1951. In approving the practice of periodic continence, Pius added the seeking of ‘moderate pleasure’ to his understanding of the secondary ends of marriage. Like his predecessor, Pius XII tacitly allowed this new ‘end of marriage’ to be extended to defining one of the aspects of conjugal intercourse. As could be expected, he repeated the stipulation that nothing may be done to interfere with ‘the nature of the marital act’ itself, for such an interference could be characterized as an act of contraception.

Many moral theologians had to admit that Pius XII had effectively distinguished between and implicitly separated procreative and non-procreative marital intercourse. The teaching legitimated an express *intention* to avoid conception, either for a short time or even for the duration of the marriage. Using periodic continence, the couple exercised an explicit intention to avoid conception by keeping track of the menstrual cycle on a calendar in order to plot fertility. Other methods ‘improved’ on the calendar approach by keeping track of a woman’s basal body temperature on a daily basis or inspecting the viscosity of vaginal secretions. All of this was being done consciously, with a clear purpose in mind. The intention to engage in exclusively infertile sexual intercourse for the purpose of avoiding conception became established in the Catholic tradition.

The inevitable question to be asked was: if the intention to avoid conception while continuing to engage in sexual intercourse is valid in certain circumstances, then what is the moral difference between avoiding having children by practicing periodic continence and avoiding having children by using some form of contraception? The simple answer to that question was

that the difference consisted in maintaining the integrity of the act of sexual intercourse in which the ‘deposit of semen in the body of the woman’ came to be characterized as an act that was, first, according to the expression found in canon law, ‘apt’ for procreation (CIC, 1917/18, c. 1081 § 2), and then, invoking more symbolic but rather dubious language, insisting that the physiological structure of the act insured that it would be ‘open to procreation’ (HV, 11).⁵

Just as the debate about contraception was edging toward a much more public forum, the development and availability of the anovulant pill introduced a completely new perspective in the early 1960’s. By suppressing (postponing) ovulation, nothing needed to be done to the physiological structure of the act of intercourse, which to most people seemed to satisfy the church’s stipulations. To many, it appeared that there was finally a ‘Catholic solution’ to the issue of regulating fertility.⁶

MOVING THE ISSUES FORWARD

Pope John XXIII secretly drew up a commission to study this question and his successor, Paul VI expanded the body in 1964 and made its existence public.⁷ The existence of the commission simultaneously served the purpose of avoiding any debate about regulating fertility during the Second Vatican Council. Nevertheless, when the conciliar bishops turned their attention to ‘The Pastoral Constitution on the Church in the Modern World’, *Gaudium et Spes*, they chose to address five ‘problems of special urgency’, the first of which was ‘Fostering the Nobility of the Marriage and the Family’ (GS, Part II, Chapter 1, § 47–52).

Up until this time, the evolution in church teaching regarding the regulation of fertility was largely negative: first forbidding any form of fertility regulation, then allowing for exceptions for serious reasons, then restricting human intervention by insisting on maintaining the physical structure of the act, and eventually expanding the interpretation of the ‘serious reasons’ very broadly. While the bishops at the council had no warrant to address the question of how to regulate fertility, they made a significant contribution to the discussion by framing it in a much more positive manner.

After the text of *Gaudium et Spes* elaborated its renewed theology of conjugal love and marriage – describing it in the biblical terms of ‘covenant’ rather than a canonical contract – it turned to the issue of the fruitfulness of marriage and cast the entire discussion in the positive light of responsible parenthood.

Parents should regard as their proper mission the task of transmitting human life and educating those to whom it has been transmitted. They should realize that they are thereby cooperators with the love of God the Creator, and are, so to speak, the interpreters of that love. Thus they will fulfil their task with human and Christian responsibility, and, with docile reverence toward God, will make decisions by common counsel and effort. Let them thoughtfully take into account both their own welfare and that of their children, those already born and those which the future may bring. For this accounting they need to reckon with both the material and the spiritual conditions of the times as well as of their state in life. Finally, they should consult the interests of the family group, of temporal society, and of the Church herself. The parents themselves and no one else should ultimately make this judgment in the sight of God. (GS, 50)

The core of the issue here is not how a couple might regulate fertility but rather *why* they would choose to do such a thing. Motivation and intention are, or should be, the inspiration for setting goals for the couple and the family. This does not neglect the question about how those goals are to be achieved, but rather puts it in its proper place. When, in the next section of the text, the

bishops touch upon the question of how those goals might be achieved, in place of attempting to provide an answer to that question they suggest the fundamental ideas upon which that decision should be based.

Hence when there is question of harmonizing conjugal love with the responsible transmission of life, the moral aspects of any procedure do not depend solely on sincere intentions or on an evaluation of motives, but must be determined by objective standards. These, based on the nature of the human person and his acts, preserve the full sense of mutual self-giving and human procreation in the context of true love. (GS, 51)

The key word here is 'solely'. Intentions and motives are not dismissed but continue to play the primary role outlined in the previous section. When it comes to making a decision about how one might reach the goals that the couple themselves have chosen, the 'objective standards' that they advised to use do not point to natural law or some pre-existing prohibitions. Rather they are based upon the human person and the scope of human possibilities. The official commentary on this text,⁸ which explicitly rejected the suggestion of making reference to natural law or human nature, makes it perfectly clear that moral activity is voluntary activity and hence must proceed from the person, a concept that the Pastoral Constitution had extensively developed in its first part.

One could rightly characterize the teaching of the council as the climax of a thirty year evolution in thought that began with *Casti Connubii*. The pastors of the church had come to realize that decisions about regulating fertility could only be made by the couple after taking account of all the relevant information available to them. The starting point of that reflection was the concept of responsible parenthood, not the rightness or wrongness of particular, material acts. The entire issue had become a question of values and priorities.

That said, there remained the technical issue of preventing conception when the decision had been reached that starting or increasing the size of a family would not be a responsible thing to do in a given set of circumstances. In the minds of many, this was the question of 'contraception'. But the introduction of the anovulant pill had complicated matters because it had nothing to do with the performance of the sexual act.

The conciliar bishops were aware of the fact that the papal commission had the task of responding to that technical issue. They therefore did not address that question themselves but advised that '... in their manner of acting, spouses should be aware that they cannot proceed arbitrarily, but must always be governed according to a conscience dutifully conformed to the divine law itself, and should be submissive toward the Church's teaching office, which authentically interprets that law in the light of the Gospel' (GS, 50). It merits being pointed out that theologically speaking, 'divine law' refers to revelation. The drafters of the document were careful to avoid any reference to 'natural law'.

When the commission submitted its report to Paul VI in 1966,⁹ it advised that the teaching on contraception should be allowed to evolve and that simply condemning individual acts as 'intrinsically evil' did not properly respond to the vision of marriage and sexuality promulgated by the council. For it was not the individual act that should be considered to be fruitful but the entirety of married life.

THE INTRODUCTION OF A NEW TEACHING

Pope Paul VI took two more years before he published his encyclical *Humanae Vitae* on the regulation of fertility. He surprised many when he concluded that 'any action which either before,

at the moment of, or after sexual intercourse, is specifically intended to prevent procreation – whether as an end or as a means ... is intrinsically immoral (*intrinsece inhonestum*)’ (HV, 14). What surprised people – ordinary laypersons, theologians, and even a number of bishops – was not simply the conclusion he came to but the entire manner of reaching that conclusion.

At the very beginning of the encyclical, Paul VI had rejected the recommendations of his commission ‘because certain approaches and criteria for a solution to this question had emerged which were at variance with the moral doctrine on marriage constantly taught by the magisterium of the Church’ (HV, 6). This, of course, begs the question precisely what ‘moral doctrine’ he may have had in mind.¹⁰ Some have suggested that this was the traditional understanding of ‘natural law’ (HV, 11), but the Pastoral Constitution had consciously avoided such an approach, recognizing that it was no longer applicable. Others believed that it was the teaching that ‘an act of mutual love which impairs the capacity to transmit life’ is contrary to ‘God’s Design’ (HV, 13). But no evidence is given to substantiate such a claim.

By far the most popular argument for rejecting the intentional prevention of conception in an act of marital intercourse was the so-called ‘inseparable connection, established by God, which man on his own initiative may not break, between the unitive significance and the procreative significance which are both inherent to the marriage act’ (HV, 12). Again, there is no precedence for this teaching and it is nowhere to be found in the moral tradition of the church. It is certainly the case that prior to the teaching of Pius XI, who introduced the notion that ‘love’ was a secondary end of marriage, there had never been a suggestion of anything resembling a ‘unitive significance’ being attached to an act of marital intercourse.

In a very real sense, Paul VI had introduced a new teaching in order to substantiate a position that he was resolute to uphold, namely that nothing outside of sexual abstinence may be used to regulate fertility. More symbolically, he may have believed that this was the way to ensure that procreation would always be linked with sexual activity. The sex-procreation link was the foundation for the whole of sexual morality and traditionally the ‘sexual faculty’ was said to have a necessary ‘finality’ in the achievement of procreation.

This became explicitly evident in the ‘Declaration on Certain Questions Concerning Sexual Ethics’ (*Persona Humana*, 1975)¹¹ issued by the Congregation for the Doctrine of the Faith to condemn masturbation, premarital sexual relations, and homosexual acts. Each and every sexual activity must be oriented to achieve its ‘finality’, namely that it be ‘open to procreation’, not in the sense of conception actually taking place but in the more symbolic sense of depositing semen in the vagina.

If this link is not protected, it was feared that the whole of sexual morality would collapse. Paul VI virtually said as much in recounting the ‘evil consequences’ that would result if the use of contraception is not forbidden (HV, 17). Although such an argument does make an emotional impact and is still being put forward today by the defenders of the teaching, it is a very weak form of ethical reasoning that has always been avoided in Catholic moral theology. That ‘the abuse of a thing does not justify its prohibition’ (*abusus non tollit usum*) is a standard textbook principle. Simply because some people abuse alcohol, for instance, it is not prohibited to use it in a responsible way.

What, then, was the ‘constant teaching’ to which Paul VI was appealing when he rejected the advice of his commission? I suggest that the statement in HV, 14 cited above points to a fundamental presupposition that one can morally judge a physical, material action purely on its own and without any consideration of the persons who perform that act or the circumstances within which a person might choose to perform it. The moral handbook tradition was constructed on that presupposition in the sense that their authors thought that it was possible to list ‘sins’ in a purely physical way.

THE BEHAVIOURAL APPROACH TO MORALITY

Thomas Aquinas (1225–1274) was the first theologian to develop a theory of ethical living and decision-making,¹² but his primary ‘interpreter’ Cardinal Thomas di Vio (1439–1534), also known as Cajetan, described Thomas’ work in such a way that it mimicked the penitentials, making the description of sinful behaviour central to the determination of morality. In the period of the counter-reformation, when the moral textbooks were created, it was Cajetan’s theory that prevailed and Catholic moral theology was locked into a behaviour oriented approach.¹³

Textbooks of moral theology certainly went beyond the penitentials because they did take circumstances and the intention of the acting person into account. However, these elements were only considered after it had been established that a sin had taken place. The penitent would begin a confession with a report of what he or she had done or failed to do. If one had violated a prohibition, then it was certain that an ‘objective’ or ‘material’ sin had taken place. If one had failed to fulfil a duty, such as attending mass on Sunday, the priest-confessor would usually inquire whether there were any mitigating circumstances, for one could be said to be released from a positive obligation if there is sufficient reason.

This was usually not the case when there were even severe circumstances attending the violation of a negative precept. ‘Stealing’ some food from a person with abundance, for instance, when one or one’s family were at the point of starvation, may mitigate the guilt of the perpetrator, but the ‘material sin’ was still present, at least according to the theory of the moral handbooks. Stealing was stealing and considered to be evil-in-itself.

There are a number of positive things that one could say about the behavioural approach to morality. To begin with, when it comes to morality, we learn by doing. We perform behaviours that others, parents, teachers, religious leaders, tell us are right or wrong. We learn that certain behaviours are acceptable and others are not, long before we can work out why that might be the case. Unfortunately, the environment within which many children grow up does not always make an effort to explain the process of arriving at judgments about right and wrong behaviour. Those who are less prone to change may even turn such judgments into absolutes.

Another positive aspect of the behavioural approach to morality is that it is easy to teach. It is much easier simply to state that some things are obligatory and other things are prohibited. As long as the public being taught is unequipped to pose challenging questions to authority figures, this form of moral catechesis can be effective. But as the educational level of a population begins to increase, it becomes harder to maintain the notion that authority figures need to be obeyed whether or not they can explain the cogency of their teaching.

There is also a great deal of precedent for this type of approach, especially in the Judeo-Christian tradition. Most of the moral teaching of the Hebrew scriptures could be characterized as ‘divine command’ morality. The idea that life could be run according to rules seemed to have infected the ruling classes in first century Palestine. However, I believe that it would not be an exaggeration to suggest that at least part of Jesus’ ministry carried the message that merely following behavioural rules was inadequate for serving the Kingdom of God.

This should lead all Christians to think about the kind of ethical paradigm that they may be taking for granted. Have we uncritically mistaken the catechetical prototype for a more comprehensive understanding of moral analysis? Rather than concentrating on behaviour, would it not be more inclusive to consider one’s attitude toward whatever form of behaviour is chosen? When asked what one must do to ‘inherit eternal life’, Luke tells us that Jesus had two answers to that question. The first one was, ‘You shall love the Lord your God with all your heart, and with all your soul, and with all your strength, and with all your mind: and your neighbor as yourself’ (Lk 10:27 | Mt 22:37–38, Mk 12:29–30). The second was, ‘You know the command-

ments. Do not commit adultery, Do not kill, Do not steal, Do not bear false witness, Honor your father and mother' (Lk 18:20 | Mt 19:17–19, Mk 10:19).

When we look at these two responses together, it seems clear that the second is in service to the first. Responding to the commandments is *the way* that we demonstrate love for God and neighbor. In fact, most everything we do is done for a reason. Behaviours are chosen in order to accomplish goals. For instance, one does not monitor a menstrual cycle for no reason whatsoever. One has a goal in mind for doing this. That reason may be the goal of managing a couple's fertility in a responsible manner or it may be to insure that children will never interfere with a couple's somewhat selfish lifestyle.

Without the goal, which usually consists in bringing about or maintaining a given state of affairs, there would be no reason to consider various behavioural options, let alone actually engage in specific activity. Thus, the behavioural approach to making moral evaluations actually functions in the reverse order of how moral decisions are usually made. One's end or goal needs to be considered independently and prior to any search for behavioural options. It is unfortunate how few people ever ask themselves what it is that they are trying to accomplish. They may desire and even believe that they are 'doing the right thing'. But how would they know what they are doing actually *is* the right thing if they have no clear idea what they are trying to achieve?

THE PROBLEM OF UNCLEAR LANGUAGE

We have observed that the behavioural approach to moral evaluation has a tendency to label certain acts as evil or even evil-in-themselves. But what, precisely, does this mean? One could say that killing a person or amputating a limb is evil or even evil-in-itself, but most of us can think of circumstances and good intentions that would justify performing these activities, namely serving justice by executing a criminal¹⁴ or protecting health by stopping the spread of gangrene.

The actions being performed here are engaged for the purpose of reaching an intended end or goal. It is the *goal* that is *intended* within a given set of circumstances. The actions that are performed (or omitted) are not intended but only *chosen* for the purpose of achieving a goal. There are two, distinct ethical questions at work here.¹⁵

The first addresses the intended end and asks whether this is *good* or *bad*. One who seeks to contribute to the safeguarding of justice by carrying out their task of executing a convicted and sentenced criminal has a good intention. One who seeks to achieve revenge upon a criminal who may have inflicted harm on oneself or one's loved one would be said to have a bad intention, even if the person performing the activity is an official executioner assigned to carry out the task for which they are employed.

The second ethical question addresses the appropriateness of the behaviour that is chosen to accomplish the intended end. Living in a society – in a given historical and cultural context – that condones and practises capital punishment, an executioner who performs the task at a time and in a way that is prescribed by the system of justice, is said to engage in appropriate behaviour. When the intention is good and the behaviour appropriate, this is considered to be *right*, even though there is a material or physical evil incorporated into the event through the death of the convicted person.

Intentions may be good or bad; behaviours may be right or wrong. We determine the goodness or badness of intentions on the basis of whether they embody a virtuous attitude. We determine the rightness or wrongness of behaviours not on the basis of whether there may be

some material or physical evil involved in what takes place, but rather with respect to the *appropriateness* for achieving the intended goal. Causing physical pain, inducing psychological distress, and depriving persons of a portion of their rightly earned income may all be considered a form of evil. But these evils can still be considered appropriate as a means for administering punishment, correcting detrimental behaviour, and collecting taxes to serve the common good.

The language of the behavioural approach to moral discourse tends to be very unclear, or at least inconsistent. In *Humanae Vitae*, Paul VI writes that ‘any action which either before, at the moment of, or after sexual intercourse, is specifically intended to prevent procreation – whether as an end or as a means ... is intrinsically immoral (*intrinsece inhonestum*)’. First, it is not actions that intend things but persons. Secondly, the end or goal of ‘preventing procreation’ can be served by plotting the course of a menstrual cycle or even the ‘act’ (omission) of avoiding potentially fertile sexual intercourse. The very same intention of preventing procreation may serve as the motive for couples using periodic continence, the anovulant pill, or other forms of contraception.

Much more problematic is the use of the term ‘intrinsically immoral’, or in its more common form, ‘intrinsically evil’. The first phrase is clearly misplaced, for it is impossible to assign morality to anything without accounting for the knowledge and freedom of the acting person. The second phrase is confusing for it appears to imply the first expression, claiming that a material activity can be immoral all by itself.

MATERIAL EVIL OR INTRINSIC EVIL?

There is an evident problem with the designation ‘physical’ evil because it leads one to think about physical, material things; whereas evil can also be intellectual (ignorance), emotional (anxiety), psychological (paranoia), or even spiritual (disbelief). The expression ‘material evil’ is a more neutral term than ‘natural evil’ because the latter may lead one to think that all things that conform to nature are good; while whatever changes, frustrates or destroys nature is evil. A moment’s reflection, however, reveals that some natural things are indeed harmful to human beings, such as earthquakes, lightning strikes, and aging. By the same token, changing or destroying some natural things can be beneficial to human beings such as redirecting rivers for irrigation or eliminating certain kinds of bacteria or viruses.

The word ‘evil’ is, or at least can be, used in a morally neutral sense. Theodicy deals with ‘the problem of evil’ which is clearly not moral, and one of the textbook axioms is that one should always choose the lesser evil. Obviously, the lesser evil chosen in this instance is not moral, and its very choice is considered to be morally responsible. The fact that the English language has three designations for negative terms, bad, wrong, and evil, provides an opportunity for making helpful distinctions that may not be possible in another language. Right and wrong do not necessarily have to connote a moral judgment. The choice of a behaviour may be wrong ‘by accident’ and thus not necessarily imply a moral judgment upon the acting person. By the same token, a person with a bad intention such as pride could be said to be doing the right thing in donating a great sum of money, even when this is done to get attention.

In a sense, assigning the words bad or evil to an intention or alternatively to any of the discrete elements that go into making up a behaviour is debatable. In my opinion, the traditional uses of the word evil cited above provide an argument for it to be used in a way that is not-yet-moral. Other moral theologians have suggested the use of terms like non-moral evil, pre-moral evil, and ‘ontic evil’¹⁶ in order to emphasize that the term evil does not, in itself, connote a moral judgment or conclusion. What is labelled evil is anything that harms or threatens the human person.

Anticipating the reaction that there certainly must be some things that may never be done, such as torture, extortion, or brainwashing, I propose that these things are not ‘acts’ at all, nor are they even behaviours (activities with very specific circumstances). These are emotionally charged words like murder and stealing that clearly imply all sorts of presuppositions about bad motives and inappropriate choices. Each one of these words demands a complex definition, and the failure to provide this leads to rather sophomoric questions, like the one about ‘stealing’ food from the rich to keep one’s family alive.

I would venture a guess that the area in which we most encounter the expression ‘intrinsic evil’ in Catholic teaching is in sexual ethics.¹⁷ From Pius XI’s *Casti Connubii*, through Paul VI’s *Humanae Vitae*, and right up into *Persona Humana* we find the term used to pass moral judgment upon a material act without taking into account either the persons who might perform such an act or the circumstances within which they find themselves. Although one might identify all sorts of sexual acts that the Church teaches are intrinsically evil, one could summarize these under the rubric that any thought or deed that involves human sexuality that is not oriented toward, and in the case of ejaculation does not culminate in, the deposit of a man’s semen in the body of his validly married spouse, is intrinsically evil and somehow a serious sin.

Most importantly, there is no comprehensible explanation provided why something like killing a person is classified as ‘evil’ while preventing semen from fertilizing an ovum is classified as ‘intrinsic evil’. What exactly is the difference? As long as language like this continues to be used people will continue to be confused. The longer that confusion persists, the less credible any teaching using the language of intrinsic evil becomes. This is precisely what has happened regarding the teaching about contraception. There is good evidence that this lack of credibility has spread to the whole of sexual morality.

There is in fact a twofold lack of clarity here. The first is that the basic position of Catholic teaching is that regulating fertility is not only acceptable but in fact considered to be the responsibility of the couple. This leads to an experience of conflict for couples who recognize the responsibility but who are also confronted with a prohibition against the simplest means for accomplishing that end. The use of the expression ‘intrinsically evil’ only exacerbates the sense of conflict.

The second lack of clarity is the inconsistent and confusing use of language in catechetical teaching about many ethical issues, especially in sexual ethics. Failure to distinguish intention-to-ends and choice-of-means to achieve those ends is one aspect of this. Another is the notion that actions themselves demonstrate or somehow necessarily imply intentionality. Then there is the absence of care to distinguish between the moral status of intentions and the contingent evaluation of the appropriateness of behaviours. The English language provides a vehicle for making those clarifications through the use of distinct pairs of words: good-bad, right-wrong, good-evil.

One could not, of course, expect ordinary people to define their words so strictly and to use those words consistently in everything they say or think. One does indeed have to be an ethicist to do this, i.e., to go about things in a disciplined way. When one encounters official teachings about sexual ethics and the regulation of fertility, it is not unreasonable to expect that a careful use of terms would reflect a more disciplined way of thought. Presuming that in the ‘pastoral sphere’ one need not exercise care in the language used does not demonstrate a level of professionalism that, especially educated, laypersons have a right to expect.

CONCLUSION

The official teaching of the church with regard to the regulation of fertility suffers from a lack of clarity that leads to confusion and impedes comprehension. Words like ‘intrinsic evil’

frighten people and create the impression that simply performing a physical, material action is automatically equivalent to the commission of a serious sin. The later defence of the teaching by John Paul II, using rhetorical expressions like a ‘culture of death’ to condemn the use of contraception, alienates many more people than it convinces.

The more specific, ethical language of the teaching is undisciplined and subsequently confusing. Words like intention and choice are used indiscriminately and no distinctions are made between the terms bad, evil, and wrong. The introduction of new terminology in regard to ‘an inseparable connection between the unitive and procreative meanings of sexual intercourse’ is not given any substantiation, and the claim that this phrase represents the constant teaching of the church is unfounded.

Finally, *Humanae Vitae* creates the impression that there was one, single, unchanging teaching regarding the regulation of fertility throughout history. A close examination of that teaching, however, reveals that there had been an evolution taking place for many decades. At the beginning of the twentieth century, something like Natural Family Planning would have been unanimously rejected by Catholic moral theologians. When Pius XII taught that the intention to limit or avoid having children was morally licit, he opened the door to the kind of change that most people expected in the aftermath of Vatican II. Unfortunately, Paul VI failed to see the evolution that had already taken place. It is time that we re-examine the entire issue.

Notes

1 The material presented in this first section is worked out in greater detail in Joseph A. Selling, ‘Magisterial Teaching on Marriage 1880–1968, Historical Constancy or Radical Development?’ *Studia Moralia* 28 (1990) 439–490.

2 ‘Allocutio: Iis quae interfuerunt Conventui Unionis Catholicae Italicae inter Ostettrices,’ AAS, 43 (1951) 835–854. The address was delivered on 29 October 1929.

3 AAS 22 (1930) 539–592.

4 *De Bono Conjugali*, 16, 18, PL 40, 385; cf. *Contra Faustum* 22, 30, PL 42, 438.

5 Paul VI, *Humanae Vitae*, AAS 60 (1968) 481–503, dated 29 July 1968. Available on the Vatican website: http://www.vatican.va/holy_father/paul_vi/encyclicals/documents/hf_p-vi_enc_25071968_humanae-vitae_en.html

6 See, John Rock, *The Time has Come: A Catholic Doctor’s Proposals to End the Battle over Birth Control* (London: Longmans, 1963).

7 See, Paul VI, *Humanae Vitae*, 5. The primary group to which the pope referred was known as the ‘*Commissio pro studio populationis, familiae et natalitatis*,’ which had been named in note 14 of GS, 51. See *Gaudium et Spes*, AAS 58 (1966) 1025–1115, pp. 1072–1073.

8 See the *Acta Synodalia Sacrosancti Concilii Oecumenici Vaticani II*, 4 v. (Vatican: Polyglot, 1970–1978). The *Expensio Modorum* for *Gaudium et spes*, 47–52, is to be found in v. 4, part 7, 470–509, here p. 502.

9 The report(s) of this commission were subsequently published, having been ‘leaked’ to the press shortly after the encyclical appeared. The appearance in the press of multiple ‘reports’ created the misleading impression that the commission had issued more than one set of conclusions. There was, in fact, only one final report of the commission, ‘*Schema documenti de responsibili paternitate* (2e ed.)’, which was completed on 26 June 1966. See, Jan Grootaers, ‘Histoire de deux commissions: éléments d’information, points de repère,’ in H. & L. Beulens-Gijsen and J. Grootaers, *Mariage catholique et contraception* (Paris: Epi, 1968) 139–373, pp. 248–259.

10 It has become increasingly evident that the real mind behind the encyclical was, in fact, Karol Wojtyła, later to become Pope John Paul II. The principle ideas upon which HV is built can now be traced to this source. See, Michael J. Barberi and Joseph A. Selling, ‘The Origin of *Humanae Vitae* and the Impasse in Fundamental Theological Ethics’, *Louvain Studies* 37 (2013) nr. 4.

11 The document can be found on the Vatican website: http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19751229_persona-humana_en.html

12 See, Leonard E. Boyle, ‘The Setting of the *Summa Theologiae* of St. Thomas – Revisited,’ in Stephen J. Pope (ed.), *The Ethics of Aquinas* (Washington: Georgetown, 2002) 1–16.

13 See, Denis Janz, *Luther and Late Medieval Thomism: A Study in Theological Anthropology* (Waterloo, Ontario: Wilfrid Laurier, 1983) 125: 'Between the years 1507 and 1520 Cajetan wrote his famous commentary on the *Summa Theologiae*, completing his commentary on the *prima secundae* in 1511.' Because the original commentary of Cajetan is extremely scarce, the Leonine edition of Thomas's *Opera Omnia* seems to be the easiest place to find a copy of his work: *Sancti Thomae Aquinatis (doctoris Angelici) Opera Omnia (issu impensa) Leonis XIII P.M. (edita)* (Rome, 1891), 6 vols.

14 There is no doubt that many Catholics, including some of those in leadership positions in the Church no longer consider capital punishment to be justifiable. In his encyclical, *Evangelium Vitae* (1995), John Paul II voiced this position which even had an impact upon the revision of the text of the Catechism of the Catholic Church (2nd. ed.). That said, one could not deny the fact that capital punishment has been considered legitimate for the vast majority of the history of the church. No less an authority than Thomas Aquinas defended the practice as an exercise of the virtue of vengeance (II-II, a. 108).

15 What follows is largely based upon extensive research that I have been doing on Aquinas' theory of moral method, 'Object, End and Moral Species in S.T., I-II, 1-21', *Ephemerides Theologicae Lovanienses* 84 (2008) 363-407. A perhaps more accessible version of that study can be found in my 'Looking Toward the End: Revisiting Aquinas' Teleological Ethics', *The Heythrop Journal* 51 (2010) 388-400.

16 See, Joseph A. Selling, 'Proportionate Reasoning and the Concept of Ontic Evil: The Moral Theological Legacy of Louis Janssens', *Louvain Studies* 27 (2002) 3-28; See, Louis Janssens, 'Ontic Evil and Moral Evil', *Louvain Studies* 4 (1972-73) 115-156.

17 The encyclical *Veritatis Splendor* (1993) defends a primarily behavioral approach to morality in sections 71-78 and gives specific attention to the concept of intrinsic evil in sections 79-83. In section 82, the encyclical quotes *Gaudium et Spes*, 27, that listed a number of phenomena that demonstrate a lack of respect for the life of the human person. However, nowhere does the conciliar document refer to the concept of intrinsic evil, nor does it propose a behavioral approach to morality. *Veritatis Splendor* can be found on the Vatican website: http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_06081993_veritatis-splendor_en.html