

## Natural Law & Moral Agency in Difficult Situations

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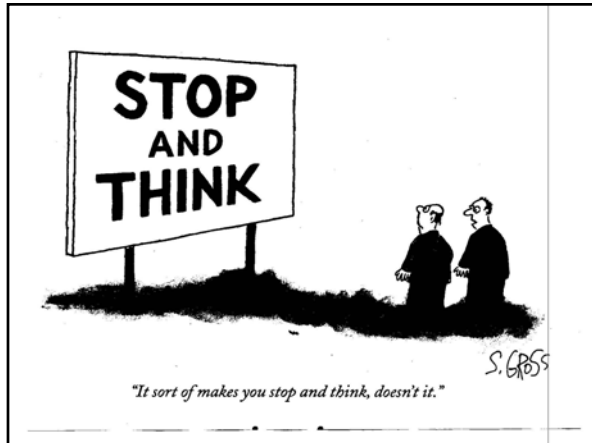
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### Some Negative Starting Premises

- Morality is **NOT** Simply Black & White, Good & Bad, Right & Wrong
- Morality is **NOT** Analogous to Arithmetic
- Morality is **NOT** Simply a Set of Laws
- Morality is **NOT** Simply about Judging Others
- It is **NOT** Simply a "Culture of Life" vs. a "Culture of Death"

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## Distinctions Between Natural Law And Law of Nature

- Natural law deals with morality and character, e.g. right/wrong
- Natural law depends for its existence on human beings AND God
- Natural law's "objectivity" needs careful understanding and can *only* be discovered *within* the realm of human moral being (conscience)
- Laws of nature deal with the physical universe, e.g. gravity
- Laws of nature are "objective" and bind irrespective of human beings (e.g. gravity binds even without humans)
- Law of nature can be discovered by scientific analysis of the world outside of us.

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## Location of the Law

- **Natural Law**
- Location is primarily *within* the human person(s) in their relation to God
- It is not "out there" in the sense of the chemical periodic table of elements
- **Thomas says it is "inscribed" on the human heart (*Lex indita non scripta*)**
- **Law of Nature**
- Location is primarily outside in the operations of the physical universe
- Thus, the law of nature is discovered through science and/or observation of the physical universe and its properties
- A morally bad person could be a gifted chemist, etc.

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## *Deus impossibilia non iubet*

- "God does not command of humans things which are impossible to do"
- Thus, God's grace was understood to always be present to enable people to do the morally correct thing.
- E.g., as used in 1930 in *Casti Connubii* by Pope Pius XI to condemn the practice of contraception.
- Yet, we must keep in mind that if something is *impossible* then it *cannot* be commanded by God.

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### Examples of {Im}Possibility

- Natural Law
- Going to confession = possible for many; difficult for some
- Confessing to one's son (a priest) = difficult for some; "morally impossible" for others
- One set of rules does *not* necessarily fit all (cf. ST 1-II, Q. 94, art. 4)
- Law of Nature
- NaCl + H2O = Possible
- Au + H2O = Very difficult
- Au + NaCl = Impossible?
- One set of rules fits all

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### {IM}POSSIBILITY

- **Natural Law**
- Impossibility refers primarily to *moral* impossibility, which is *necessarily* subjective (i.e., related to an individual subject)
- Thus what is morally "possible" for one individual may be morally *impossible* for another
- Moral possibility/impossibility is more difficult to determine, since it is *necessarily* subjective.
- **Law of Nature**
- Impossibility refers to the basic laws of physics, chemistry, biology, etc. which are "objective" and apply to all
- What is physically impossible is fairly easy to determine.
- Thus birds can fly under their own power, but humans cannot

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### The Ontological Claim of the Natural Law

- There is, in *some* sense, an objective moral order
- Grounded in a human nature
- Which indicates a certain way of being
- And activities consonant with that being
- As well as actions and ways of being not in accord with that nature

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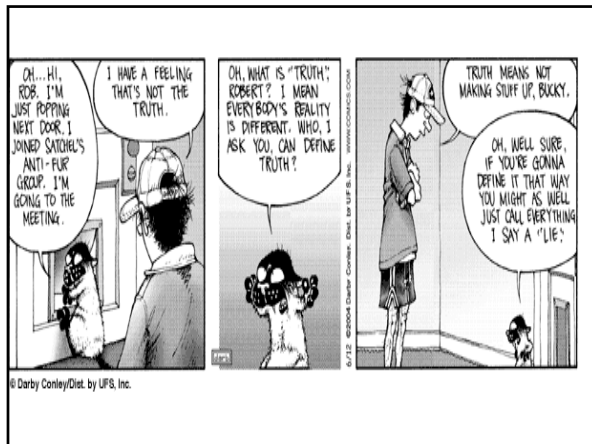
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**The Epistemological Claim of the Natural Law**

- Not only does this order exist, but we can in *some* real and significant sense “know” it
- I.e., we can know both the nature of human being
- And those actions which are consistent with human flourishing
- As well as those which are incompatible with human flourishing

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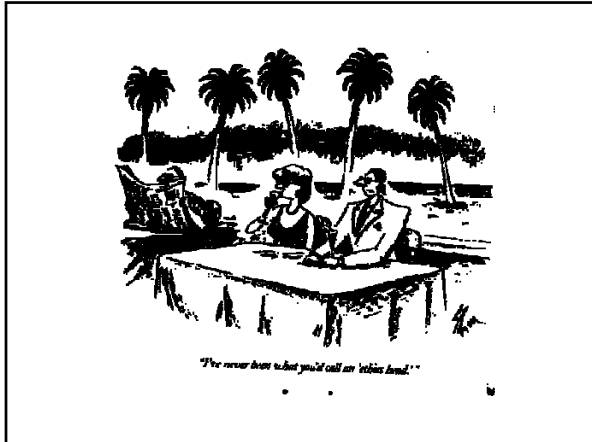
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**Basic Points of the Natural Law**

- “The good is to be done and fostered, and evil is to be avoided” [ST I-II, q. 94, a. 2]
- However, this does NOT translate as a simple imperative: “Do good and avoid evil”
- Rather, it is the work of reason to *discover* & *promote* the good, while *minimizing* & *avoiding* (if possible) the evil

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**Right Reason (*Recta Ratio*) in Thomas Aquinas**

<ul style="list-style-type: none"> <li>• <b>Speculative Reason</b></li> <li>• Abstract, “logical” truth</li> <li>• “Necessarily” true</li> <li>• Universally true for all</li> <li>• Exercise of logical wisdom and reasoning</li> <li>• Some examples...</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Practical Reason</b></li> <li>• Reason put into concrete practice</li> <li>• Affected by “contingency”</li> <li>• Affected by “fallibility”</li> <li>• <i>Not</i> universally true for all in the <i>same</i> way</li> <li>• Exercise of <i>prudential</i> wisdom</li> <li>• Some examples...</li> </ul>
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## Levels of Moral Norms Summary

- Universal Precepts
  - *Always* binding, expressed as abstract truths, such as “drive safely”
- Middle Axioms
  - *Generally* true, in most cases (*ut in pluribus*) but exceptions exist
- Concrete Material Norms
  - Apply to a specific situation but are more open to both *change* and *fallibility*

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## Ontological Difference between Abstract & Material Norms

- Abstract norms arise out of *speculative* reason
- These will tend to be universally true
- Less open to change
- Though with time there can be refinement
- E.g. certain human rights
- Material norms apply *practical* reason to a concrete situation
- The concrete situation will always be to some extent *unique*
- Therefore, there will *necessarily* be differences and exceptions with these concrete material norms

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## Epistemological Difference: Abstract & Material Norms

- Abstract norms since they are based in *speculative* reason can be universally true and knowable by all with sufficient reflection
- Material norms since they are exercises of *practical* reason will be more *fallible*, less accepted, and more *changible* (contingent)

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## Summary of the Natural Law

- Human participation God's eternal law as a *lex indita non scripta* (inscribed, not written)
- *Both* abstract & concrete reason have crucial roles to play in moral living
- Be careful *not* to confuse abstract norms for concrete material norms, or vice versa. If abstract it should be universally true; If concrete it's open to *fallibility* [*incompleteness*] and *contingency* [*change*]
- Many of the contemporary debates come down to a disagreement over whether a given norm is truly abstract or concrete

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## Moving from Natural Law to Personal Application

- The natural law is only a "law" by analogy, *not* by direct apprehension
- Thus, it functions *like* a law does, *not* as a law does
- The Catholic moral tradition has *always* recognized that application in the concrete is evaluated *primarily* in terms of the individual as subjective moral agent

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## Overview of Human Moral Agency

- Keep in mind that for genuine, human moral action we must *never* separate the human agent from the actions s/he performs
- Recall that as humans we are embodied spirit which means we must live in the concrete world
- Therefore our moral lives must be grounded and evaluated in reference to our real-life situation
- As Christians we believe that our lived response to our situation is best seen in terms of discipleship

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## “Fonts of Morality”

Action *in se* (“objective” aspect of the act)

Intention of the moral agent

Circumstances in which the agent’s intention was made and in which the action was performed

While in the tradition these aspects were treated “separately,” in reality they exist *only* together, and “simultaneously”

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## Catechism of the Catholic Church

- 1755 A morally good act requires the goodness of the object, of the end, and of the circumstances together. An evil end corrupts the action, even if the object is good in itself (such as praying and fasting “in order to be seen by men”).

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## The Goal of the Moral Act

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| <ul style="list-style-type: none"><li>• <i>Finis Operis</i></li><li>• The “end” (goal) of the act in itself</li><li>• E.g., surgery to remove a tumor</li><li>• Has as its “end” the health of the patient</li></ul> | <ul style="list-style-type: none"><li>• <i>Finis Operantis</i></li><li>• The “end” of the agent performing the act</li><li>• E.g., doctor who performs the surgery</li><li>• Wishes to remove the tumor</li><li>• And restore the patient to health</li></ul> |
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## “Good” and “Right”

- If both the *Finis operis* and the *Finis operantis* are morally correct we have a morally right act which strengthens the moral goodness of the agent
- However, what happens when one *Finis* is correct and the other incorrect?
- E.g., “doing the right thing for the wrong reasons” (or vice versa)?
- Some illustrative examples...

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## A Historical Moral Debate

- **Peter Lombard:** The *Finis operis* provides the evaluation of the moral act, *without* reference to the *Finis operantis* of the agent
- Counter-position of **Thomas Aquinas:** *Finis operis semper reducitur in finem operantis* (The act’s moral end is always found ultimately in the agent’s intention in performing the act)

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## A Note on Thomas’ Position

- This position focuses moral meaning primarily and essentially in the moral agent
- We can still evaluate the “effects” of a moral action and call them “right” or beneficial
- But the judgment about moral goodness can be made *only* in reference to a human person as moral agent,
- Therefore, the *Finis operantis* is absolutely key

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### Or In Other Words...

- Consideration of the agent's intention is indispensable to the evaluation of any moral act
- There are no "free-floating" *moral acts* whose moral evaluation can be made without reference to the agent, and therefore the agent's intention and circumstances
- Cf. Thomas Aquinas: *ST I-II q. 18 (On Human Acts)*

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### A World without Evil?

- Yes, in *Utopia* (Greek for "no place")
- Everywhere else, this side of God's Kingdom, we must live with evil
- In moral theology the recognition of this facticity is enshrined in four basic principles
- Each of which, when applied by reason, were seen as "good" and "right" and "moral"

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### Principle of Totality

- *Pars Propter Totum: The Part may be "sacrificed" for the good of the whole*
- *Originally viewed only in terms of the individual, physical body (e.g., amputation to save one's life)*
- *Later expanded to include a personalist dimension (e.g., "Steel Magnolias")*

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## The Virtue of Epikeia

- From the Greek word for “fitting”
- Source of some debate among medieval theologians, some of which saw it as a grudging “dispensation”
- But according to Thomas it is “virtue” which ought to become habitual
- Since it seeks to “perfect” the law

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## 3 Applications of Epikeia

- To correct an *impossible* law
- To correct an *inhuman* law
- To correct a law which did not foresee this particular set of *circumstances* (the so-called “reading the mind of the legislator”)
- Some examples of each...

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## 4 Guides to Navigating a World Which Contains Evil

- Principle of Compromise
- Principle of Tolerance
- Principle of the *minus malum* (lesser of two evils)
- Principle of the Double Effect (one action with two foreseen effects, one “good” [and intended]; one “evil” [and tolerated])

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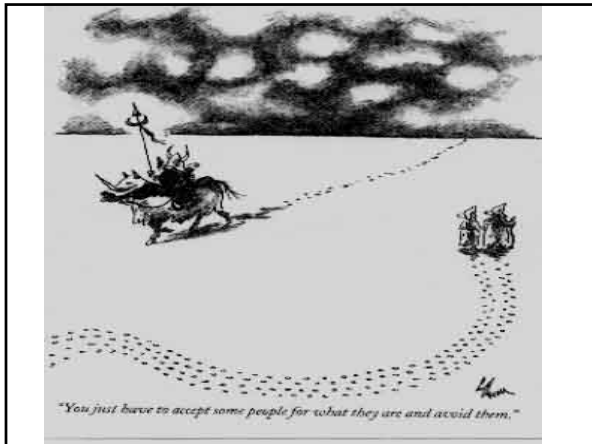
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### Principle of Compromise

- NOT Compromise with one's view of what is morally required
- But trying to maximize and concretize the good, and/or minimize or avoid evil (which might be greater if no compromise is reached)
- At times compromise may have to involve action on our part, which at times may involve "cooperation" with evil

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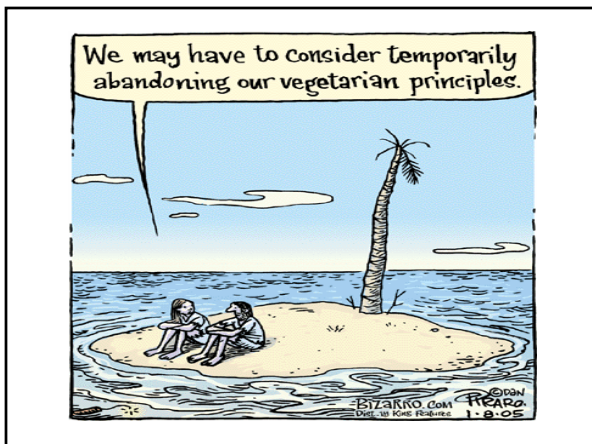
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## Principle of Tolerance

- Recognizes our “limitedness” in many real-life situations
- Does *not* mean “giving up” on our moral values and ideals
- Nor does it mean “aiding” or “promoting” evil
- Principle founded in practical reason

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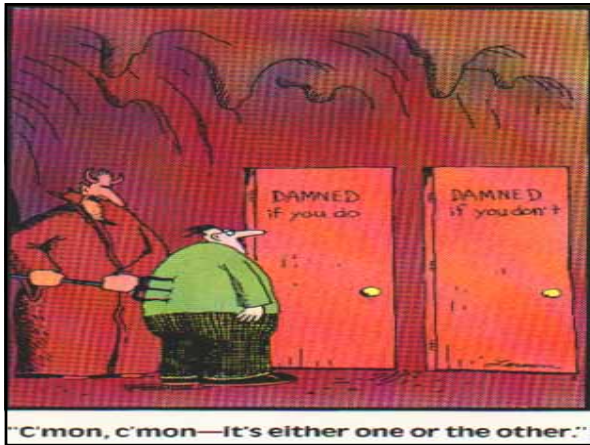
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## Principle of the *Minus Malum*

- Lesser of two evils
- Founded on the basic principle of the natural law to “avoid” evil, which at times means *minimizing* evil
- An exercise of reason
- And which may be counseled
- Some examples: traditional and recent

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### “Cooperatio in Malum”

- Traditional recognition that in our concrete, real lives will require at times a reasoned response involving one or more of the 4 principles of Compromise, Tolerance, *Minus Malum*, and/or Double Effect
- This leads to some sort of “Cooperation with evil”

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### Aspects of Cooperation with Evil

- **“Formal” cooperation**
- “Formal” refers to the *subjective* element which “forms” or gives the real meaning to an act
- Thus, means sharing the sinful intent of the primary agent who is committing the sin
- Therefore, formal cooperation is *ipso facto* sinful
- **“Material” Cooperation**
- Means providing in some fashion something used in the execution of the sinful act
- This involves varying degrees of responsibility
- Which must be evaluated *before* assessing possible moral culpability

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### Degrees of Material Cooperation

- These degrees exist along a spectrum, and are helpful in assessing *responsibility*, which must be borne in mind before deciding to act (cooperate) or not.
- The major points of this spectrum are usually termed *remote*, *mediate*, or *proximate/immediate*
- **NONE can be labeled *ipso facto* as “always” sinful**
- But as a **general rule** the greater the immediacy, the greater the responsibility & possibility for sin

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## Remote Cooperation

- Virtually everything we do (or don't do) in the material world has some potential aspect of remote cooperation with evil.
- But since our "remoteness" means we have very little ability either to intend or act in the commission of this sort of sinful act we are not morally responsible
- E.g., a steel-worker who produces steel, some of which is used to make a gun, which is used in a robbery

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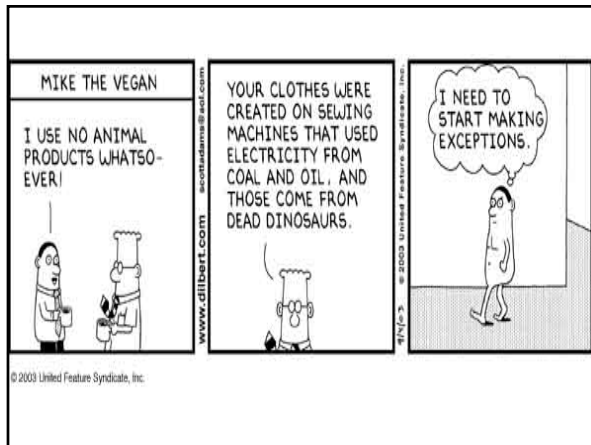
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## Mediate Cooperation

- However, the closer we come to the possibility that our action (or non-action) will aid in the commission of a sin, the greater our responsibility to act so that the good may be done and fostered, and evil avoided
- E.g., a gun dealer has a greater responsibility to make sure a gun is not sold to a known criminal
- Should s/he not exercise proper vigilance this "failure" could be morally culpable

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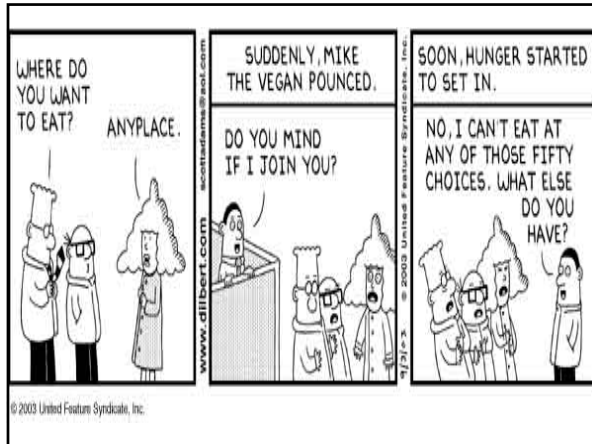
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### Immediate Cooperation

- This is described as aid that is very “close” to the commission of the sin, and/or whose presence or absence is vital to the actual commission of the act
- Therefore, immediate cooperation *generally* involves very great responsibility, and such a person has a much greater chance of being at least partially culpable for sharing in the sinfulness of the act
- Nevertheless, even “immediate” cooperation is NOT “always” sinful (as we shall soon see)

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### A Bank Robbery

- “Joe the Rat” and “Carlo the Creep” are pulling off a bank heist
- They need a get-away car and driver, and therefore enlist the aid of “Dick the Docile” to drive his car
- Dick never enters the bank, but stays behind the wheel
- Is Dick’s cooperation “immediate”?
- Is Dick sinning?

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### The Heist Is Underway...

- We are agreed that Dick's driving of the get-away car would constitute "immediate" cooperation
- Is he therefore sinning?
- Do we need to know anything else before answering?
- Well, what about this "fact"?→

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### The Saga Continues...

- Sitting next to "Dick the Docile" in the front seat is "Bill the Snake"
- And Bill is holding a gun to Dick's head...
- Dick could still refuse to drive
- But would this refusal be "proportionate reason"?
- Morale of the story: Discern the principles AND their applications well!

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**Conclusion: We Need to Know ALL the Facts before Judging!**



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## Summary of Norms for Cooperation

- Formal cooperation is always (by definition) sinful,
  - but this refers only to subjective intention,
  - and says nothing about the actual material cooperation involved
- Material cooperation is NOT *ipso facto* sinful,
  - but must be evaluated according to responsibility involved in the “aid” given
  - One way of looking at the level of responsibility is to see where on the spectrum of “immediacy” does the cooperation fall

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## A Helpful Note on Material Cooperation

- How “close” or “essential” is the “aid” given to the commission of the act (e.g., remote, mediate, immediate)?
- How “essential” the individual herself/himself is to that aid (e.g., can they be “replaced” with relative ease or difficulty)?
- These considerations help in assessing NOT sinfulness, but **responsibility** the individual has
- Response to this assessment aids in discovering the intention & circumstances of the moral act

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## Principle of the Double Effect

- Used in moral quandary situations
- Long tradition in moral theology
- Founded in Thomas Aquinas’ teaching on legitimate self-defense (*ST II-II, q. 64, n. 7*)
- Source of much “casuistry” over the centuries
- Which has led to debate and revision

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### Definition of the Double Effect

- One action with two *foreseen* consequences,
- Of which one is “good” and intended (desired effect of the action)
- And the other is “bad” and *tolerated*
- The moral question was under what circumstances could one cause, tolerate, and/or allow the bad effect

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### Double Effect 4 Criteria

- The act in itself must be morally good
- No *morally evil* means may be used; *ontic* evil though is allowed
- The intention of the agent must be good
- There must be proportionate reason for allowing/causing the *ontic* evil involved.

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### Example of the Ectopic Pregnancy

- Definition/Description of the pathology
- Illustration of the earlier medical therapy
- Discussion of the earlier debate
- Revision of the Principle's Application
- New medical therapies available
- New moral debate

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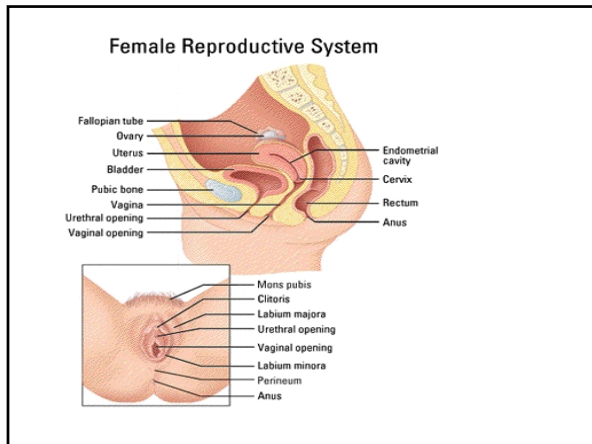
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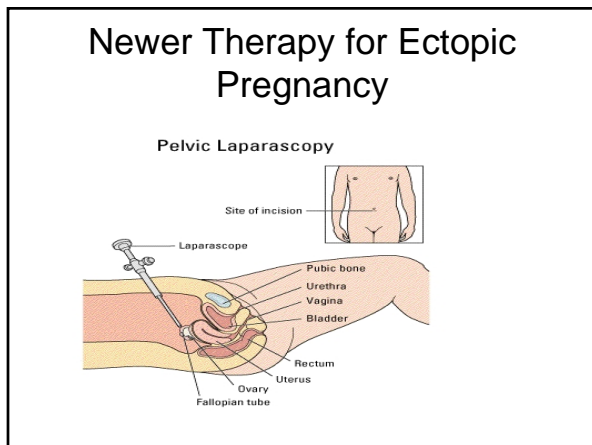
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### Moral and Ontic Evil

- Moral evil is *always* wrong,
- *but* this depends on a *composite* analysis of
  - The act itself,
  - The intention of the agent
  - The circumstances
- Ontic evil refers to evil in the world, which is not moral
- Other terms are pre-moral or physical
- Ontic evil can be caused or allowed,
- But only for proportionate reason

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## Proportionate Reason Is Key

- Recall that the natural law in its *application* is a work of the *practical reason*
- In quandary cases such as the double effect the presence of "proportionate reason" keeps the evil caused on the "ontic" level
- However, lack of proportionate reason would make the evil caused disproportionate, and therefore immoral

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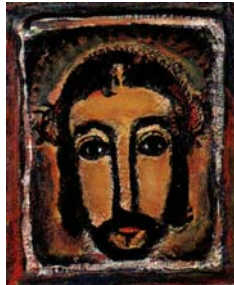
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## Neither the Answers Nor the Processes Are Simple....

- Need for genuine search for the truth
- Need for openness to the Spirit *wherever* it moves
- Need for prayer
- Need for dialogue



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## Remember St. Augustine...

- *In fide, unitas; in dubiis, libertas; in omnibus, caritas*
  - "In faith, unity; in doubt, liberty; in all things, charity."
  - Unity in faith is important, but in cases of doubt a plurality of opinions and practices should be allowed, and the over-riding principle must always be charity towards each other.

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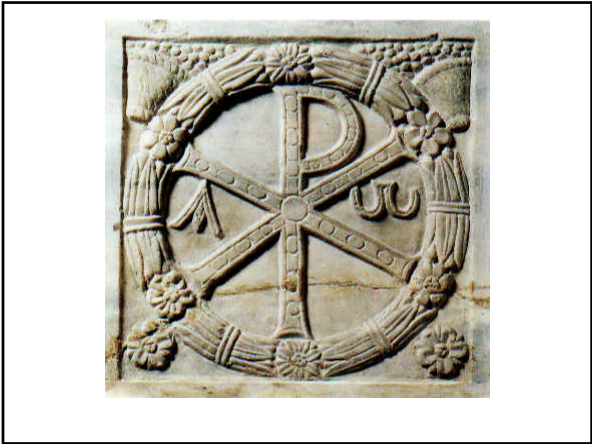
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