

Vel and *ut*: A Puzzle in the Definition of Euthanasia

Nicholas Tonti-Filippini

There is a disjunct and conjunct difference between the Congregation for the Doctrine of the Faith's *Declaration on Euthanasia* (DE) and the encyclical *Evangelium Vitae* (EV) in relation to defining the evil of euthanasia. The difference between the two texts raises an interesting question about whether the two documents are using different meanings of the words. Alternatively, it raises a question as to whether it was a development in theology and Pope John Paul II intended to correct the Congregation's document in the change in the text that, in *EV*, is sourced to the CDF document but altered.

The two texts (with my **bolding** and underlining) are:

From the Declaration on Euthanasia (DE)

By euthanasia is understood an action or an omission which **of itself or by intention** causes death, in order that all suffering may in this way be eliminated. Euthanasia's terms of reference, therefore, are to be found in the intention of the will and in the methods used.

From *Evangelium Vitae* (EV)

Euthanasia in the strict sense is understood to be an action or omission which **of itself and by intention** causes death, with the purpose of eliminating all suffering. Euthanasia's terms of reference, therefore, are to be found in the intention of the will and the methods used.

Given that in the encyclical *Veritatis Splendor* (VS) there is a concentration on analysis of the moral act, it seems logical to go that source to try to resolve the problem.

The following table¹ contains a list of the distinctions in VS which would seem to approximate in usage to the "of itself" and "intention" distinction to be found in EV and the DE.

In each case (a-j) if either the first disjunct is evil or the second disjunct is evil then the act is evil. That is to say an act with an evil object or evil proximate end is evil, even if the intended consequence is good. Also an act with a good or morally neutral object or proximate end is evil if the intended consequence is evil. Note especially that in the above table of comparable *Veritatis Splendor*

¹ This table was suggested in email correspondence August 2003 by Ray Campbell, Provincial Bioethics Centre Queensland, Australia

Table of Comparable *Veritatis Splendor* Distinctions

Of itself	Intention	(EV and D on E)
a) Means	Goals	VS n.72
b) Object	Intention	VS n.72
c) Proximate end	Intention	VS n.72
d) Object	Intention, circumstances, consequences	VS n. 74
e) Deliberate choice of a specific kind of behaviour	Intention, orientation or fundamental option	VS n.67
f) Act in itself	Intention	VS n. 73
g) “according to its species”, or “in itself”,	Consequences and intentions	VS n.77
h) [Lacks] good will	Intention (Rom 3:8)	VS n. 78
i) Deliberate choice of certain kinds	Intention for which the choice is made or the totality of the of behaviour or specific acts, foreseeable consequences of that act	VS n. 79
j) Intend directly	Intention is to protect or promote the welfare	VS n. 80
k) An intention is good when it has as its aim the true good of the person in view of his ultimate end		VS n. 82

distinctions, in the left hand column the Pope in every case refers to that which is directly willed. When the Pope refers to “the act *itself*” in *Veritatis Splendor* he means the object of the act, a deliberate choice of a certain kind of behaviour. This is not separable from what is meant by intention in English. An act that is the object of a deliberate choice is intended. This might then be distinguished from an intended consequence. In this way we can understand what the Pope meant by a distinction between the act itself and the intention or between the object of the act and the intention.

An apparent problem is that if “of itself” in the EV and CDF texts is read, consistently with VS, as meaning “the object” or “proximate end” or “direct intention”, and the “intention” means the “intended overall consequence” or “goal”, then the EV conjunction seems to be false. That is to say, the Tradition only requires the act to be of itself not ordered to the ultimate end for the act to be wrong. It does not need the second conjunct also to be evil as EV would seem to imply. Similarly, if the goal or intended overall consequence is evil, then the act is also wrong even if the proximate end or object is good. If either of the

conjuncts is evil then the act is evil. But EV implies that the evil must lie in both conjuncts for the act to be evil.

What Could Pope John Paul Have Meant?

One possible explanation is that the Pope intended, in *EV*, to correct a common misapprehension after the *DE* that some acts (such as giving high doses of morphine or removing ventilation) are “of themselves” euthanasia, whatever the agent intended. Some may have read the distinction as between “of itself”, meaning ‘objectively’ or ‘externally understood’, and “by intention” meaning ‘subjectively’ or ‘an agent centred perspective’. This leads to a vitalist conclusion if the disjunction of the *DE* is applied. By changing it to a conjunction, *EV* corrected the mistaken view that one can characterise some acts as euthanasia without reference to the agent’s intentions – it is euthanasia ‘of itself’.²

But it is doubtful that *EV* was a return to a Suarezian view that acts are specified morally in their nature *prescinding from any act of will*³. It is unlikely that the Pope intended to differ from St Thomas Aquinas when he taught: “...moral acts take their species according to what is intended, while the other is beside the intention. . . .”⁴ The Suarezian view is mistaken, as Pope John Paul II explains in *EV*:

“The object of the act of willing is in fact a freely chosen kind of behaviour. To the extent that it is in conformity with the order of reason, it is the cause of the goodness of the will; it perfects us morally, and disposes us to recognize our ultimate end in the perfect good, primordial love. By the object of a given moral act, then, one cannot mean a process or an event of the merely physical order, to be assessed on the basis of its ability to bring about a given state of affairs in the outside world. Rather, that object is the proximate end of a deliberate decision which determines the act of willing on the part of the acting person.”⁵

Might “of itself” in *EV* have had some other, perhaps physicalist, meaning relating to the (not intended) nature of the action and in that case does “intention” in the *EV* text refer to both the proximate end or object and the overall intended consequence or goal. In that case why mention the “of itself” at all? Might it have been to express the idea that an intended but somehow thwarted evil is not an evil act? The man who intends to murder but whose victim dies naturally before the plan is executed, for instance. His intention is evil but there

² This explanation was offered to us by Bishop Anthony Fisher OP in correspondence 2/1/04

³ cf. William May in email correspondence August 29 2003

⁴ *Summa Theologica* 2–2, *Q.* 64 *Art* 7

⁵ *Veritatis Splendor* n. 78

is no evil act. But what does this make of Christ's admonition of adultery in the heart? A mental act of will is still an act and by it one may sin even though one does not act physically or even if one then one fails to carry out a project that one has decided to undertake.

Second, if the EV meaning does use "of itself" in anything other than the VS meaning which is inclusive of intentionality, then it would appear that EV would affect the traditional rendering of the principle of double effect as it was explained in DE (quoting Pius XII) and by St. Thomas⁶.

The Congregation explains the Principle of Double Effect (PDE) in the *Declaration on Euthanasia (section III)*:

"At this point it is fitting to recall a declaration by Pius XII, which retains its full force; in answer to a group of doctors who had put the question: "Is the suppression of pain and consciousness by the use of narcotics . . . permitted by religion and morality to the doctor and the patient (even at the approach of death and if one foresees that the use of narcotics will shorten life)?" the Pope said: "If no other means exist, and if, in the given circumstances, this does not prevent the carrying out of other religious and moral duties: Yes." In this case, of course, death is in no way intended or sought, even if the risk of it is reasonably taken; the intention is simply to relieve pain effectively, using for this purpose painkillers available to medicine. However, painkillers that cause unconsciousness need special consideration. For a person not only has to be able to satisfy his or her moral duties and family obligations; he or she also has to prepare himself or herself with full consciousness for meeting Christ. Thus Pius XII warns: "It is not right to deprive the dying person of consciousness without a serious reason."

If the act or omission *of itself*, (meaning its nature without regard to what is intended), *is part of what defines the evil*, then would not that affect this traditional understanding of the PDE which has turned on intention? Yes, it would because this would make it always wrong to perform an act that had an evil unintended consequence (eg the pain relief case) or wrong to withhold a life-saving treatment even though the means were disproportionately burdensome. The act or omission "of itself" meaning 'without regard to what is intended' does not have moral significance.

An act or omission is evil if the intention alone is evil but the use of the conjunction in EV may be read to imply that an act with an evil intention would only be evil if the act "itself" without regard to intention were also evil. I hold that this reading is not consistent with the Tradition. It is my view that the Congregation's DE definition of euthanasia is consistent with the Pope's analysis of the moral act in VS in which "the act itself" has an intentional meaning (the object of the act or the deliberate choice of a certain kind of behaviour).

⁶ Ibid.

In his encyclical *Evangelium Vitae*, Pope John Paul affirmed with some clarification the earlier teaching of Congregation for the Doctrine of the Faith. He writes:

Euthanasia must be distinguished from the decision to forego so-called “aggressive medical treatment”, in other words, medical procedures which no longer correspond to the real situation of the patient, either because they are by now disproportionate to any expected results or because they impose an excessive burden on the patient and his family. In such situations, when death is clearly imminent and inevitable, one can in conscience “refuse forms of treatment that would only secure a precarious and burdensome prolongation of life, so long as the normal care due to the sick person in similar cases is not interrupted”. Certainly there is a moral obligation to care for oneself and to allow oneself to be cared for, but this duty must take account of concrete circumstances. It needs to be determined whether the means of treatment available are objectively proportionate to the prospects for improvement. To forego extraordinary or disproportionate means is not the equivalent of suicide or euthanasia; it rather expresses acceptance of the human condition in the face of death.⁷

In the Catholic debate there has been a question over whether the statement, “It needs to be determined whether the means of treatment available are objectively proportionate to the prospects for improvement”, applies only in the circumstance where death is clearly imminent and inevitable. This passage in the encyclical and a similar passage in the DE seem ambiguous in this respect.

The tradition seems clear that treatment may be withdrawn if it is itself disproportionately burdensome or simply futile. Pope Pius XII referred to the legitimacy of withdrawing ventilator support on these grounds without restricting the permission to the circumstances of imminent and inevitable death⁸. The earlier tradition also referred to it not being obligatory to use extraordinary means of care and this had some meaning when professional health care was outside of what could be afforded by people in ordinary circumstances. Health insurance and public schemes removed some of the meaning from that distinction. Medical care is now within the reach of most if not all people in developed economies. The Congregation (in DE) in 1980 opted instead for “the application of a medical procedure disproportionate to the results that can be expected”. But the focus is on the means, not on a judgment about the worth of the patient.

Careful thinking has also been needed in relation to the use of the word “futile”. In this case “futile” means that it would not be effective

⁷ Pope John Paul II *Evangelium vitae* Encyclical addressed to the Bishops, Priests and Deacons, Men and Women religious, lay faithful and all People of Good Will on the Value and Inviolability of Human Life 25th May 1995, n. 65.

⁸ Pope Pius XII, *Address to an International Congress of Anaesthesiologists*, November 24, 1957.

in prolonging life. Moralists have been careful to explain that this ought not be a decision based upon a judgement that *the quality of life of the patient* is futile or overly burdensome. The decision is to be a decision about the treatment itself, and not a decision about whether the patient should live or die. Disturbingly, the term “medical futility” has come to be used to describe not the effectiveness of treatment, but the level of disability of the patient. Thus W. Daniel Doty et al write about “medically futile conditions” in their article in the journal *Clinical Cardiology*⁹. This is different from referring to medically futile treatments.

*Nicholas Tonti-Filippini
Lecturer in Bioethics
John Paul II
Institute for
Marriage and
Family
PO Box 146
East Melbourne
Victoria 3002
Australia
Email: ntf-dsl@keypoint.com.au*

⁹ W.Daniel Doty and Robert M Walker “Medical Futility” *Clinical Cardiology*, Vol 23 (Suppl, II) 2000.