

## *Veritatis Splendor* and the Persistence of the Law-Conscience Binary in Catholic Moral Theology

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**Abstract:** This essay considers why the conflict between law and conscience in modern Catholic moral theology that *Veritatis Splendor* sought to overcome has nevertheless persisted in the three decades since its publication. Without the further development of a theory of prudential judgment, *Veritatis Splendor* cannot adequately address the problem of moral uncertainty that has directly contributed to the law-conscience binary's enduring influence on contemporary moral theology. After examining the encyclical's discussion of conscience and the application of moral precepts, the essay explores what a theory of prudential judgment consistent with the teaching of *Veritatis Splendor* might look like, and how it would differ from the prevailing understanding of moral discernment among contemporary moral theologians. Rather than minimizing the significance of absolute moral norms in response to the problem of moral uncertainty, such an account would instead emphasize the essential role such norms play in any satisfactory solution to this problem.

IN 1985, SERVAIS PINCKAERS WROTE IN A CRUCIAL YET OFTEN neglected passage of his now-classic work, *The Sources of Christian Ethics*: “It is all too easy to say that today the era of the manuals is over and to take an opposite stand, pronouncing ourselves systematically in favor of freedom and conscience as opposed to law and authority. In so doing, we would be caught in the very spiral of the specific categories of moral theology that we wish to critique, notably the opposition between law and freedom.”<sup>1</sup> Among those who gave heed to this warning was John Paul II, who eight years later in *Veritatis Splendor* set out to combat certain “currents of thought which end by detaching human freedom from its essential and constitutive relationship to truth” (no. 4). Although the extent of Pinckaers's influence on the 1993 encyclical remains a matter of speculation, there is little doubt that his critical perspective on dominant trends in post-

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<sup>1</sup> Servais Pinckaers, OP, *The Sources of Christian Ethics*, trans. Mary Thomas Noble (The Catholic University of America Press, 1995), 279.

conciliar moral theology lies in the proximate background of its composition.<sup>2</sup> Like Pinckaers, John Paul II was deeply concerned with overcoming the conflict between law and conscience that has plagued Catholic moral theology throughout much of the modern period.<sup>3</sup> While *Veritatis Splendor* is most well-known for its trenchant critique of proportionalist ethical theories and resolute defense of absolute moral prohibitions, its overarching aim is to present a vision of the Christian life that views the moral law not as a burden or threat to the dignity of conscience but a gift that invites us to “share in the divine Goodness revealed and communicated in Jesus” (no. 11). Thirty years after its publication, the encyclical’s account of the inseparable connection between truth and freedom remains perhaps the single most significant attempt to liberate modern moral theology from the constraints of the law-conscience binary.

Yet, despite the significance of *Veritatis Splendor*, the field of Catholic moral theology arguably remains just as trapped in this binary today as it was three decades ago. In recent years, moral theologians have continued to champion revisionist theories of conscience that aim to safeguard human freedom by restricting the binding force of the moral law.<sup>4</sup> This raises an important question: How can we explain the persistence of the law-conscience binary despite the best efforts of John Paul II to overcome it? If *Veritatis Splendor* helps illumine a path forward beyond the modern opposition between freedom and truth, why do revisionist accounts of the Christian moral life that pit the dignity of the individual conscience against the binding force of the moral law continue to thrive? Those sympathetic to the thought of John Paul II might be tempted to think that the law-conscience binary’s enduring influence on moral theology can be adequately explained by the fact that *Veritatis Splendor* has still not been fully received. Thus, it is sometimes suggested that to move beyond the current impasse, we need only present anew the encyclical’s sweeping

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<sup>2</sup> For further discussion of Pinckaers’s involvement in the drafting of *Veritatis Splendor*, see Craig S. Titus, “Servais Pinckaers and the Renewal of Catholic Moral Theology,” *Journal of Moral Theology* 1, no. 1 (2012): 43–68, esp. 57–58; see also Romanus Cessario, OP, “On the Place of Servais Pinckaers († 7 April 2008) in the Renewal of Catholic Theology,” *The Thomist* 73, no. 1 (2009): 1–27.

<sup>3</sup> For an insightful analysis of the history of this conflict, see David Cloutier and Robert Koerpel, “Beyond the Law-Conscience Binary in Catholic Moral Thought,” *Journal of Moral Theology* 10, no. 2 (2021): 160–93.

<sup>4</sup> See, for example, many of the essays published in three recent edited volumes: *The Concept of Intrinsic Evil and Catholic Theological Ethics*, ed. Nenad Polgar and Joseph A. Selling (Lexington, 2019); *A Point of No Return? Amoris Laetitia on Marriage, Divorce, and Remarriage*, ed. Thomas Kneips-Port le Roi (Lit, 2017); and *Amoris Laetitia: Wendepunkt in der Moralthologie?*, ed. Stephan Goertz and Caroline Witting (Herder, 2016).

vision of freedom and truth, albeit with certain minor revisions that target the latest manifestations of the law-conscience binary.<sup>5</sup>

While there is undoubtedly some truth to this suggestion, such a limited response to the current impasse in moral theology is ultimately bound to fail. Although we continue to have much to learn from *Veritatis Splendor*, it must be acknowledged that the encyclical fails to address certain crucial problems in Catholic moral theology that have directly contributed to the persistence of the law-conscience binary in the decades since its publication. Recent scholarship, for instance, has shown the need for further development of the encyclical's teaching on Christian obedience in accordance with a more nuanced account of moral growth and magisterial authority.<sup>6</sup> Setting these issues aside, this essay focuses specifically on the problem of moral uncertainty. It argues that while *Veritatis Splendor* presents a cogent defense of the absolute moral law, which ought to be unreservedly affirmed, it fails to adequately account for the difficulties that can arise when applying this law to specific cases. Without further developing a theory of prudential judgment that acknowledges the uncertainty which often characterizes the interpretation and application of moral precepts, *Veritatis Splendor* will be unable to adequately address one of the most pressing concerns motivating the development of contemporary revisionist theories of conscience.

The argument of the essay proceeds in two parts. In the first section, I critically examine *Veritatis Splendor*'s discussion of conscience and the application of moral precepts to lay bare its overall approach to the problem of moral uncertainty. This approach, I argue, is characterized by a failure to appreciate the indispensable role of prudence in bridging the gap between the generality of the moral law and the particularity of concrete situations, which sometimes allow for multiple legitimate moral interpretations. Consequently, in the second section, I consider what a theory of prudential judgment consistent with the teaching of *Veritatis Splendor* might look like and how it would differ from the prevailing understanding of moral discernment among contemporary moral theologians. I contend that, rather than minimizing the significance of absolute moral norms in response to the problem of moral uncertainty, such an account would instead

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<sup>5</sup> For a recent argument along these lines, see Ryan Connors, "Veritatis Splendor at Thirty: Three Decades of Moral Teaching Founded on the Splendor of Truth," *National Catholic Bioethics Quarterly* 23, no. 4 (2023): 655–68.

<sup>6</sup> See, for example, David Elliot, "Irregular Unions and Moral Growth in *Amoris Laetitia*," *Journal of Moral Theology* 8, no. 2 (2019): 31–59, as well as Matthew Levering, "The Church as Temple of the Spirit: Is There Room for Magisterial Error?," *Communio* 50 (Spring 2023): 7–36.

emphasize the essential role such norms play in any satisfactory solution to it. Thus, in contrast with those who argue that a system of exceptionless moral precepts stands opposed to the development of a genuine culture of moral discernment, I conclude that such a system, when rightly understood, should instead be regarded as an indispensable element of it.

### MORAL UNCERTAINTY AND PRUDENTIAL JUDGMENT IN *VERITATIS SPLENDOR*

To gain insight into *Veritatis Splendor*'s overall approach to the problem of moral uncertainty, it will be helpful to begin by examining its discussion of conscience and moral judgment. As is well known, this discussion is organized around John Paul II's criticism of so-called "creative" conceptions of conscience (nos. 54–64).<sup>7</sup> According to this family of views, the specific norms of the moral law ought to be regarded not as a "binding objective criterion," but as indications of a "general perspective" that must be interpreted by each of us individually in the concrete circumstances of our lives (no. 55). Obedience to the dictates of conscience therefore ought to lead "not so much to a meticulous observance of universal norms as to a creative and responsible acceptance of the personal tasks entrusted to him by God" (no. 55). For John Paul II, the essential problem with this view is that it proposes "a kind of double status of moral truth" (no. 56). While the validity of objective moral norms is affirmed on a "doctrinal and abstract level," a certain priority is nevertheless given to an "existential consideration" of the concrete reality to which such norms refer, making it possible for "one to do in practice and in good conscience what is qualified as intrinsically evil by the moral law" (no. 56). Accordingly, a separation is established "between the teaching of the precept, which is valid in general, and the norm of the individual conscience, which would in fact make the final decision about what is good and what is evil" (no. 56). If taken to an extreme, the Pope argues, such a separation would result in the eclipse of a shared moral standard by which we can hold each other accountable, leaving us with a merely subjective "criterion of sincerity, authenticity, and 'being at peace with oneself'" (no. 32).

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<sup>7</sup> Although it is beyond the scope of this essay to demonstrate the accuracy of this criticism of revisionist moral theology, the influence of a "creative" conception of conscience is arguably reflected in Bernard Häring's *Free and Faithful in Christ: Moral Theology for Clergy and Laity*, vol. 1: *General Moral Theology* (Seabury, 1978), esp. 223–301, as well as Karl Rahner's late essay on "Conscience: Freedom and the Dignity of Human Decision," in *Theological Investigations*, vol. 22: *Humane Society and the Church of Tomorrow*, trans. Joseph Donceel, SJ (Crossroad, 1991), 3–13.

In contrast with this view, *Veritatis Splendor* defends the traditional teaching that “conscience expresses itself in acts of ‘judgment’ which reflect the truth about the good, and not in arbitrary ‘decisions’” (no. 61). One could perhaps summarize John Paul II’s account of conscience by saying that it is characterized not so much by *creativity* as by *receptivity*: “The dignity of this rational forum and the authority of its voice and judgments derive from the truth about moral good and evil, which it is called to listen to and to express” (no. 60). Thus, against those who appeal to a subjective criterion of sincerity or authenticity in defending the judgments of an erroneous conscience, the Pope maintains that “it is always from the truth that the dignity of conscience derives” (no. 63). Of course, this is not to deny the moral legitimacy of a conscience that errs because of invincible ignorance. Following *Gaudium et Spes*, no. 16, John Paul II acknowledges that such a conscience “does not lose its dignity, because even when it directs us to act in a way not in conformity with the objective moral order, it continues to speak in the name of that truth about the good which the subject is called to seek sincerely” (no. 62). Nevertheless, he insists that there can be no possibility of conflict between the objective requirements of the moral law and the judgments of a well-formed conscience. It is therefore mistaken to view the moral law as “only an ‘ideal’ which must then be adapted, proportioned, graduated to the so-called concrete possibilities of man” (no. 103), for to do so would be tantamount to denying that “before the demands of morality we are all absolutely equal” (no. 96).

In speaking here of the “demands of morality,” John Paul II especially has in mind the Church’s teaching regarding the existence of intrinsically evil actions prohibited “always and *per se*,” regardless of the circumstances or further intentions of the acting person (no. 80). These are actions such as murder, theft, and adultery, which are “in no case compatible with the goodness of the will of the acting person, with his vocation to life with God and to communion with his neighbor” (no. 52). In other words, they are bad simply by virtue of their object, on which the morality of the human act “primarily and fundamentally” depends (no. 78).<sup>8</sup> Accordingly, John Paul II maintains that the negative precepts of the moral law that prohibit such actions do not admit of any legitimate exception: “They do not leave room, in any morally acceptable way, for the ‘creativity’ of any contrary determination whatsoever” (no. 67). Of course, the Pope is keenly aware that this teaching is “not infrequently seen as the sign of an intolerable intransigence, particularly with regard to the enormously

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<sup>8</sup> For a helpful discussion of *Veritatis Splendor*’s teaching on the object of human action, see Stephen L. Brock, “*Veritatis Splendor* §78, St. Thomas, and (Not Merely) Physical Objects of Moral Acts,” *Nova et Vetera* 6, no. 1 (2008): 1–62.

complex and conflict-filled situations present in the moral life of individuals and of society today” (no. 95). Nevertheless, he insists that it is “only by obedience to universal moral norms” that the human person finds “full confirmation of his personal uniqueness and the possibility of authentic moral growth” (no. 96). Consequently, he considers any attempt to safeguard human dignity by qualifying the binding force of moral prohibitions to be profoundly misguided, as this would ultimately undermine the very foundation upon which that dignity is established.

What are we to make of this account? On the one hand, I suspect that most moral theologians today would strongly sympathize with John Paul II’s rejection of conscience-centered theories that deny the existence of an objective moral standard to which we are all equally accountable. Although the notion of intrinsic evil is certainly not uncontroversial, it nevertheless resonates with the widespread belief that certain kinds of behavior—say, rape or torture—are so morally abhorrent that they can never be justified under any circumstances. While some moral theologians might disagree with the Pope about exactly which actions should be included in this category, few would deny that at least some such actions exist. On the other hand, *Veritatis Splendor*’s strict dichotomy between creative and receptive theories of conscience is likely to strike many moral theologians as overly simplistic. Without further qualification, it would seem to suggest that any diversity of opinion regarding how the moral law ought to be applied in a particular case must stem from the corrupting influence of a creative conception of conscience. Granted, John Paul II does acknowledge the role of human reason in applying the moral law, observing that “the moral life calls for that creativity and originality typical of the person, the source and cause of his own deliberate acts” (no. 40). Thus, the opposition he posits between creativity and receptivity in moral judgment is by no means absolute. Nevertheless, his discussion of conscience largely overlooks the complexities and challenges that can arise when applying moral precepts to specific situations—even for those who view these moral precepts as universally binding. In other words, *Veritatis Splendor*’s account of conscience and moral judgment seems to suffer from a certain neglect of the problem of moral uncertainty.

This problem arises in cases where the object of an action is not immediately evident, making it difficult to determine how the moral law should be applied to the specific situation. While there will often be little doubt about whether a proposed course of action is morally permissible, complex situations nevertheless arise that generate what Oliver O’Donovan calls “a deliberative or reflective crisis,” precisely

because they seem open to various legitimate moral interpretations.<sup>9</sup> As a number of moral theologians and philosophers have recognized, there is a certain “complexity involved in act descriptions” that can make the straightforward application of moral precepts difficult.<sup>10</sup> For example, the question of whether a particular instance of killing should be classified as an act of murder or legitimate self-defense will not always be easy to discern, just as it will sometimes be unclear whether a particular business practice should be considered a valid market strategy or a form of worker exploitation. While it is both possible and necessary for us to identify what Elizabeth Anscombe calls the “hard core” of moral concepts such as murder and theft, we must also recognize that this core is “surrounded by a relatively fuzzy penumbra” where significant uncertainty can arise regarding whether a particular moral concept accurately describes a given action.<sup>11</sup>

Unfortunately, *Veritatis Splendor*’s neglect of the problem of moral uncertainty is not confined to its discussion of conscience but also extends to other sections of the encyclical. It is particularly evident in John Paul II’s explanation of the difference in how positive and negative moral precepts apply to particular actions:

In the case of the positive moral precepts, prudence always has the task of verifying that they apply in a specific situation, for example, in view of other duties which may be more important or urgent. But the negative moral precepts, those prohibiting certain concrete actions or kinds of behavior as intrinsically evil, do not allow for any legitimate exception. They do not leave room, in any morally acceptable way, for the “creativity” of any contrary determination whatsoever. Once the moral species of an action prohibited by a universal rule is concretely recognized, the only morally good act is that of obeying the moral law and of refraining from the action which it forbids. (no. 67)

According to this passage, the crucial difference between positive and negative precepts has to do precisely with the need for prudence in determining their application to concrete cases. Whereas positive precepts, which bind only under certain circumstances, require

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<sup>9</sup> Oliver O’Donovan, *Resurrection and Moral Order: An Outline for Evangelical Ethics* (Eerdmans, 1994), 198.

<sup>10</sup> Cloutier and Koepel, “Beyond the Law-Conscience Binary,” 192. For further discussion of action description as a moral task that cannot be separated from reflection on the practices of a community, see Charles Pinches, *Theology and Action: After Theory in Christian Ethics* (Eerdmans, 2001) and Jean Porter, *Moral Action and Christian Ethics* (Cambridge University Press, 1995).

<sup>11</sup> Elizabeth Anscombe, “Murder and the Morality of Euthanasia,” in *Human Life, Action, and Ethics: Essays by G. E. M. Anscombe*, ed. Mary Geach and Luke Gormally (Imprint, 2005), 262.

prudential judgment to verify their application to particular situations, negative precepts do not. Instead, they “forbid a given action *semper et pro semper* [literally, in every instance and at all times]” (no. 52; see also no. 82). Thus, once a behavior has been identified as belonging to a prohibited action type, there can be no question about whether the circumstances are such that the prohibition applies. Rather, that determination is, as it were, already built into the formulation of the precept.

Such an explanation seems straightforward. After all, the distinction between negative precepts that bind *semper et pro semper* and affirmative precepts that bind *semper et non pro semper* can be traced at least as far back as Aquinas, and has often been discussed by modern thinkers in terms of the difference between perfect and imperfect duties.<sup>12</sup> Perfect duties obligate everyone at all times to refrain from certain actions, while imperfect ones can require us to act in a variety of ways depending on the situation. There may be certain times and circumstances, for example, when an act of generosity or almsgiving that would normally be considered praiseworthy is rendered not only inappropriate but perhaps even blameworthy—such as when it would deprive those for whom one is responsible of the material resources they are owed. In contrast, there is never an occasion when an act of, say, extortion or slander is to be deemed morally permissible, let alone required. As John Paul II explains, whereas in the former kind of case “what must be done in any given situation depends on the circumstances, not all of which can be foreseen,” the latter pertains to “behavior which can never, in any situation, be . . . a response which is in conformity with the dignity of the person” (no. 52).

Yet, upon further examination, such a distinction between perfect and imperfect duties, however valid in itself, nevertheless obscures from view the ineliminable aspect of judgment that informs moral deliberation at the level of action description. That is, it fails to capture how the determination of whether a precept binds *semper et pro semper* or merely *semper et non pro semper* depends not simply on whether it positively enjoins or negatively forbids certain kinds of action but, more fundamentally, on how such enjoined or forbidden actions are specified. Recall how, in the passage quoted above, the exceptionless binding force of a negative moral precept is premised

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<sup>12</sup> For Aquinas, the difference between these two kinds of precept has to do with a certain asymmetry between action and omission. Whereas there can be no question whether an action that falls under the scope of a negative precept is sinful, an omission that falls under the scope of a positive precept is sinful only at the time during which the precept imposes an obligation. See *Summa Theologiae*, I-II, q. 71, a. 5, ad 3; II-II, q. 33, a. 2 (hereafter ST).



upon the fact that the “moral species of an action” prohibited by it has been “concretely recognized.” By this, John Paul II seems to mean that negative moral precepts only apply to actions already identified as belonging to a prohibited action type. For example, it is only when behavior that results in the death of another human being is recognized not simply as an act of killing but as an instance of murder that there can be no doubt about its moral wrongness. Therefore, the relevant question is not whether murder can be justified under certain circumstances but how to determine when a particular act of killing should be deemed murderous.

On the other hand, the encyclical adopts a markedly different perspective when it comes to the positive moral precepts. In contrast to the negative precepts, where it was assumed that any action to which they refer is necessarily prohibited, there is no corresponding assumption that those actions that fall under the scope of a positive precept are always morally required. Rather, this will depend on the situation. As John Paul II notes, there may be competing duties “more important or urgent” that require one to refrain from such actions, at least for a time. For example, although there is an imperfect duty to feed the hungry, whether *I* am obligated to feed *this* hungry person *now* can only be determined after a careful consideration of the circumstances. What the encyclical fails to consider, however, is how the conditionality of the positive precepts is related to their lack of specificity. It is customary for positive precepts to be formulated in a highly general way, which means that prudence is normally required to determine their application to actions that fall under their scope. However, if the acts enjoined by such precepts are described more precisely, so as to take this prudential judgment into account (e.g., feed the hungry *at the right time, in the appropriate place, with suitable means, in the proper manner*, etc.), then there will no longer be any doubt about whether they impose an obligation in those situations to which they refer. A parallel observation applies to negative precepts: just as the positive precept to feed the hungry can be further specified in a way that expresses a perfect duty binding *semper et pro semper*, so can the absolute prohibition against murder be reformulated to express an imperfect duty to avoid killing that admits of certain exceptions. This symmetry underscores the role of specification and prudential judgment in applying both positive and negative precepts.

It is, therefore, mistaken to assume that the difference between positive and negative moral precepts can be explained simply in terms of the need for prudence in determining their application to particular situations of moral choice. On the contrary, it is evident that prudence is required in applying any moral precept whatsoever, regardless of whether it is positive or negative. The need for prudence is admittedly most evident when a precept is formulated to express an imperfect duty

that imposes a moral requirement only under certain circumstances. However, even when a precept is further specified to express a perfect duty that binds without exception, prudential judgment is still needed to determine whether any particular action falls under its scope. The interpretive judgment required to accurately describe or correctly identify the object of an action is not limited to those that fall under general precepts, which admit certain exceptions, but applies universally to *all* actions. Thus, regardless of whether the precept in question expresses a perfect or imperfect duty, we cannot determine whether the acts that it enjoins or forbids ought to be performed or avoided here and now without some exercise of prudential judgment that interprets the precept and applies it to the situation at hand.

It is crucial to realize that the need for such prudential judgment does not result from any deficiency in the formulation of the law, as if the problem of moral uncertainty could be addressed simply by developing a more comprehensive specification of moral precepts. While an organized system of precepts can certainly assist deliberation by providing guidance on how to act in a wide variety of situations, it can never fully account for all the possible contingencies that may arise. Indeed, as Josef Pieper notes, “Any moral theology becomes truer and more genuine, and above all more capable of dealing with life, the more it expressly renounces such a claim.”<sup>13</sup> Moreover, such a system cannot itself determine how we ought to classify any particular situation of moral choice we face. There is, as it were, an ineliminable gap between the generality of the moral law and the particularity of those concrete situations to which it refers, which prudential judgment alone can bridge. It may be tempting to think that once we have gathered all the morally relevant facts of a situation and properly consulted the moral law, the application of precepts will occur more or less automatically.<sup>14</sup> In reality, however, no system of moral precepts can interpret itself, no matter how specific or comprehensive. Rather, it is only what John Henry Newman calls the “living intellect”—whether our own or another’s whose counsel we heed—that can apply the law to the situation we face here and now.<sup>15</sup>

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<sup>13</sup> Josef Pieper, *The Four Cardinal Virtues: Prudence, Justice, Fortitude, Temperance* (University of Notre Dame Press, 1966), 28.

<sup>14</sup> Such a view is rightly rejected in the International Theological Commission’s 2009 document *In Search of a Universal Ethic: A New Look at the Natural Law*, which states that “moral science cannot furnish an acting subject with a norm to be applied adequately and almost automatically to concrete situations” (no. 59).

<sup>15</sup> John Henry Newman, *An Essay in Aid of a Grammar of Assent* (University of Notre Dame Press, 2001), 277.

Put otherwise, a concrete action cannot ultimately be an object of theoretical demonstration but only of practical advice.<sup>16</sup>

Although *Veritatis Splendor* does not explicitly contradict these claims, it nevertheless reflects a general failure to appreciate their significance. This is particularly evident toward the end of the encyclical, where John Paul II asserts that the universal precepts of the moral law represent not only the “unshakable foundation” but also the “solid guarantee” of a just and peaceful society: “By protecting the inviolable personal dignity of every human being they help to preserve the human social fabric and its proper and fruitful development” (nos. 96–97). While such claims may seem unobjectionable at first, they nevertheless overlook the crucial fact that human dignity is protected not only by moral norms but, more importantly, by individual persons who properly conform their actions to them. That is to say, for such norms to provide the “solid guarantee” of peace and justice John Paul II ascribes to them, they not only need to be acknowledged and respected but understood and intelligently applied. Thus, while rejecting the absolute validity of the moral law in the name of freedom of conscience is certainly one way human dignity can be undermined and the social fabric unraveled, it is by no means the only one. If the moral law does not find prudent application in the judgments of individual moral agents, then the recognition of absolute moral prohibitions will be powerless to promote a more just and humane society. As Jean Porter puts it, “Respect for the moral law is a necessary, but not a sufficient condition for the attainment of genuine respect for other persons, both for individuals and for society as a whole.”<sup>17</sup>

Setting these passages aside, perhaps no section of *Veritatis Splendor* has faced more criticism for neglecting the problem of moral uncertainty than its discussion of the Old Testament story of Susanna. In this discussion, John Paul II recounts how Susanna heroically resists the sexual advances of two unjust judges who threaten to condemn her to death if she refuses to comply with their wishes (no. 91). He then praises her as a “prime example” of “fidelity to the holy law of God even to the point of a voluntary acceptance of death,” who ought to be extolled as a “perfectly clear witness” to the absoluteness of the moral order (no. 91). However, a number of moral theologians have challenged his interpretation of Susanna’s decision, or at least

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<sup>16</sup> See Livio Melina, *Sharing in Christ’s Virtues: For a Renewal of Moral Theology in Light of Veritatis Splendor*, trans. William E. May (The Catholic University of America Press, 2001), 87.

<sup>17</sup> Jean Porter, “Moral Reasoning, Authority, and Community in *Veritatis Splendor*,” *The Annual of the Society of Christian Ethics* 15 (1995): 214.

questioned whether it is as clear-cut a case as he suggests.<sup>18</sup> The problem, they argue, is that the encyclical simply assumes that Susanna is correct in her assessment that to submit to the judges would constitute a mortal sin of adultery without properly considering the duress under which such a decision would have been made. As Katherine TePas remarks, "From the context, it looks as if she was choosing not to be raped more so than choosing not to commit adultery."<sup>19</sup> Although it is true that Susanna does not face an immediate and certain threat to her life, the fact that she believes (on reasonable grounds) that she will be condemned to death if she resists clearly indicates that she was under significant coercion, which should at least complicate any straightforward application of the prohibition against adultery. Thus, TePas concludes that while the story of Susanna may serve as an inspiring example of devotion to God's law, it is "less convincing as an image of knowing what sin is in a given situation."<sup>20</sup>

Of course, one need not agree with this alternative interpretation of Susanna's predicament to appreciate the broader significance of the criticism. Even if John Paul II is ultimately right to affirm Susanna's own assessment of her situation, he does not elaborate as fully as one might hope on why he believes this assessment to be correct. This lack of elaboration is perhaps the result of his assumption that circumstances of coercion are not relevant to violations of negative precepts in the way they are for violations of positive ones. As he explains earlier on in the encyclical, "It is always possible that man, as the result of coercion or other circumstances, can be hindered from doing certain good actions; but he can never be hindered from not doing certain actions, especially if he is prepared to die rather than to do evil" (no. 52). While this is undoubtedly true, without further qualification it could be taken to mean that the threat of death never makes a significant difference in the moral assessment of whether a particular action violates a negative moral precept. Yet we sometimes do make precisely this sort of assessment. Consider, for example, the case of a cashier held at gunpoint who hands his employer's money over to a robber.<sup>21</sup> Such an act is not normally considered an instance of theft, because we consider it unreasonable to expect someone to

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<sup>18</sup> See, for example, Katherine M. TePas, "'If You Wish to Be Perfect...': Images of Perfection in *Veritatis Splendor*," in *Veritatis Splendor: American Responses*, ed. Michael E. Allsopp and John J. O'Keefe (Sheed & Ward, 1995), 48–59; Cristina L. H. Traina, "Oh, Susanna: The New Absolutism and Natural Law," *Journal of the American Academy of Religion* 65, no. 2 (1997): 371–401; and Porter, "Moral Reasoning, Authority, and Community in *Veritatis Splendor*."

<sup>19</sup> TePas, "'If You Wish to Be Perfect,'" 56.

<sup>20</sup> TePas, "'If You Wish to Be Perfect,'" 56.

<sup>21</sup> The following examples are drawn from Porter, "Moral Reasoning, Authority, and Community in *Veritatis Splendor*," 211.

sacrifice his life for the sake of protecting another's property.<sup>22</sup> On the other hand, if the cashier were to fatally shoot an innocent bystander at the robber's command, we would likely judge him guilty of murder (albeit with mitigated culpability), precisely because we do expect each other to value and respect the lives of others as much as our own. As Jean Porter remarks, the difference between these two cases demonstrates how "moral concepts have built into them, so to speak, a set of judgments about the kinds of sacrifices that it is reasonable to expect of persons, and the kinds of coercion which we expect ourselves and others to withstand, in defense of given aims."<sup>23</sup> Thus, even if Susanna's decision to preserve her sexual integrity at the cost of her own life is deserving of praise and admiration, some justification must nevertheless be given for this judgment, given the complexity of her situation.

At this point, however, one might object that to admit this degree of uncertainty in the application of moral precepts would open the door to rampant abuse in the name of the generality of the moral law. After all, is not the purpose of specifying exceptionless moral rules precisely to eliminate such ambiguity?<sup>24</sup> If it is not unreasonable to question whether Susanna would have committed adultery had she submitted to the judges, who is to say that someone facing a far less serious threat should not also be excused for engaging in similar behavior?<sup>25</sup> To allow for such discretion in our moral judgments would seem to foster precisely the kind of moral laxity *Veritatis Splendor* was written to combat.

In response to this objection, we must first acknowledge that moral theologians have not always demonstrated sound judgment in applying the moral law to concrete situations. The casuistic tradition is replete with examples of moralists who subtly undermined the absolute validity of the moral law by casting doubt on what ought to have been straightforward moral judgments.<sup>26</sup> Nevertheless, it would

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<sup>22</sup> See Aquinas, ST II-II, q. 62, a. 7 ad 3 and q. 78, a. 4.

<sup>23</sup> Porter, "Moral Reasoning, Authority, and Community in *Veritatis Splendor*," 211.

<sup>24</sup> For an influential account of absolute moral norms profoundly shaped by this concern, see John Finnis, *Moral Absolutes: Tradition, Revision, and Truth* (The Catholic University of America Press, 1991).

<sup>25</sup> There continues to be much debate about what degree of coercion is necessary for an unwanted sexual encounter to be considered an instance of rape. For a recent examination of this contentious issue, especially as it pertains to criminal law, see Kimberly Kessler Ferzan, "Consent, Culpability, and the Law of Rape," *Ohio State Journal of Criminal Law* 13 (2016): 397–439. For broader discussions, see Alan Wertheimer, *Coercion* (Princeton University Press, 1987) and *Consent to Sexual Relations* (Cambridge University Press, 2003).

<sup>26</sup> For an insightful overview of the casuistic tradition, with a helpful discussion of various "laxist" authors, see Stefania Tutino, *Uncertainty in Post-Reformation Catholicism: A History of Probabilism* (Oxford University Press, 2017), esp. 148–88.

be a mistake to think that the threat of laxism could be eliminated by adopting an absolutist stance that attempts to render moral judgment unnecessary. As we have already observed, the problem with this approach is that, no matter how strictly one wishes to enforce the moral law, such enforcement will inevitably require the exercise of prudence. As Porter puts it, "The difficulty with the project of living by the norms of morality without exercising any sort of interpretative judgment at all is not that it is unattractive or too stringent," but that it is "logically impossible."<sup>27</sup> Therefore, the proper response to the threat of laxism is not to attempt to eliminate the need for moral judgment altogether but to deepen our understanding of what its prudential exercise requires. We now turn to this task in the second part of this essay, where we will consider what a theory of prudential judgment consistent with the teaching of *Veritatis Splendor* might look like and how it would differ from the prevailing understanding of moral discernment among contemporary moral theologians.

### EXCEPTIONLESS MORAL PROHIBITIONS AND THE TASK OF MORAL DISCERNMENT

Needless to say, it is far beyond the scope of this essay to develop a full-blown theory of prudential judgment. It ought to be observed, however, that such a theory would undoubtedly require a more sophisticated account of moral prohibitions, which takes into consideration their relative priority with respect to one another. When *Veritatis Splendor* discusses negative moral precepts, it tends to abstract from their specific characteristics to emphasize their systematic unity as elements of an absolutely valid moral law. Yet prohibitions possess a complexity that must be considered when determining how they apply to particular cases.<sup>28</sup> We observed in the previous section how the prohibition against theft regulates human action in a more flexible manner than the prohibition against murder. In addition to the example discussed above, moral theologians have traditionally recognized a number of other exceptional situations in which an act that involves taking what belongs to another is morally justified.<sup>29</sup> In contrast, the prohibition against murder admits far less

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<sup>27</sup> Porter, "Moral Reasoning, Authority, and Community in *Veritatis Splendor*," 210.

<sup>28</sup> This point is helpfully made by Alasdair MacIntyre in "How Can We Learn What *Veritatis Splendor* Has to Teach?," *The Thomist* 58, no. 2 (1994): 180.

<sup>29</sup> See Aquinas, ST II-II, q. 66, a. 7 and q. 120, a. 1. It is important to clarify that these cases are not, properly speaking, exceptions to the prohibition against theft but situations that fall outside the scope of the prohibition. For an insightful discussion of this point as it applies to exceptionless moral rules more generally, see Paul Ramsey, "The Case of the Curious Exception," in *Norm and Context in Christian Ethics*, ed. Gene Outka and Paul Ramsey (Charles Scribner's Sons, 1968), 67–138.

variability in its application. While it may not always be clear when a particular action should be considered an instance of the direct and voluntary killing of an innocent human being, it has traditionally been held that any such act of killing is *de facto* an instance of murder (see *Evangelium Vitae*, no. 57). Thus, while both precepts are exceptionless in the sense with which *Veritatis Splendor* is concerned, we nevertheless recognize an important difference in how they inform our judgment in particular situations of moral choice, with the latter applying in a more stringent way than the former due to the preeminent value of human life and the conditionality of the right to private property.

It should also be observed that such a theory would reject any strict division between moral discernment in concrete situations and rule-based forms of practical reasoning. It has sometimes been suggested that prudential judgment involves grasping a situation's unique character in a manner that cannot ultimately be subsumed under a general rule.<sup>30</sup> Karl Rahner, for example, argues in his existential ethics for the possibility of a "moral demand which is not identical with the validity of general principles, but is a concrete, particular, individual obligation."<sup>31</sup> The problem with this view, however, is that by insisting so emphatically on the absolute uniqueness of the particular situation, it risks making prudential judgment unintelligible as a form of practical wisdom that can be communicated to others.<sup>32</sup> Taken to an extreme, it would entail not only that concrete actions cannot be objects of demonstration but also that they cannot be objects of advice, since a norm that is valid in one situation would not necessarily apply to any other. While Rahner and other advocates of this view are rightly critical of a purely deductive model of practical reasoning that reduces the task of prudential judgment to the simple and straightforward application of moral rules, they are mistaken to conclude that it is not rule-governed at all. Although it may not always be clear how a moral precept applies to a particular case, there is no situation in which prudence might dictate acting in a manner that is not an intelligible expression of the universal requirements of the moral law.

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<sup>30</sup> For an influential statement of this view, see Karl Rahner, SJ, *The Dynamic Element in the Church*, trans. W. J. O'Hara (Herder and Herder, 1964). Although there appears to be no direct influence between the two, this view shares a certain affinity with the "moral particularism" advocated by some contemporary analytic philosophers. See, for example, Jonathan Dancy, *Ethics Without Principles* (Clarendon, 2004).

<sup>31</sup> Rahner, *The Dynamic Element in the Church*, 16.

<sup>32</sup> Here I am indebted to the insights of Oliver O'Donovan in *Resurrection and Moral Order*, 181–203, as well as his more recent *Finding and Seeking: Ethics as Theology*, vol. 2 (Eerdmans, 2014), 225–30.

All of this may seem relatively uncontroversial, at least for those who adopt a broadly Thomistic or neo-Aristotelian approach to practical reasoning. On such a view, it is generally assumed that moral judgment characteristically involves the prudential application of moral precepts to particular cases in accordance with a nuanced understanding of the goods and values to which these precepts are ordered.<sup>33</sup> Nevertheless, this approach has faced significant criticism in recent years from moral theologians who contend that appeals to exceptionless moral norms are ill-equipped to address the problem of moral uncertainty.<sup>34</sup> This critique has been powerfully expressed in a recent article by Conor Kelly, who joins other prominent voices in Catholic moral theology calling for a shift from a preoccupation with exceptionless norms to a greater emphasis on conscience and moral discernment.<sup>35</sup> Kelly's contribution merits special attention because of its lucid and nuanced analysis of the problem of moral uncertainty, which presents an opportunity for constructive dialogue between revisionist moral theologians and those more sympathetic to the teaching of *Veritatis Splendor*.

While Kelly does not deny the existence of absolute moral norms, he nevertheless maintains that "the majority of moral decisions are not going to be made with reference to [them]; instead, these decisions will take place in an area where moral absolutes do not directly apply."<sup>36</sup> Accordingly, he suggests that moral theologians should "tread carefully when proposing moral rules" and "regard the pronouncement of absolute norms more as a last resort than as the default position."<sup>37</sup> Insofar as moral theologians are "committed to the task of improving moral discernment in the face of uncertainty," he argues that they should focus less on issuing definitive statements about intrinsically evil actions and direct more attention to prudential matters "that do admit variety and doubt."<sup>38</sup> At the very least, "the definition of absolute prohibitions should not be the primary focus of moral theology."<sup>39</sup> Rather, the task of the moral theologian today

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<sup>33</sup> For further reflections along these lines, see Jean Porter, *Nature as Reason: A Thomistic Theory of the Natural Law* (Eerdmans, 2005), 309–321.

<sup>34</sup> See, for example, Nicholas Austin, "Moral Theology as Servant of Discernment: Reflecting on the Call of *Amoris Laetitia*," *Gregorianum* 99, no. 4 (2018): 739–758; James T. Bretzke, "Moral Theology and the Paradigm Shift of Vatican II," in *The Oxford Handbook of Vatican II*, ed. Catherine E. Clifford and Massimo Faggioli (Oxford University Press, 2023), 418–431; and James F. Keenan, SJ, "Receiving *Amoris Laetitia*," *Theological Studies* 78, no. 1 (2017): 193–212.

<sup>35</sup> Conor M. Kelly, "The Role of the Moral Theologian in the Church: A Proposal in Light of *Amoris Laetitia*," *Theological Studies* 77, no. 4 (2016): 931.

<sup>36</sup> Kelly, "The Role of the Moral Theologian in the Church," 931.

<sup>37</sup> Kelly, "The Role of the Moral Theologian in the Church," 932–933.

<sup>38</sup> Kelly, "The Role of the Moral Theologian in the Church," 931–932.

<sup>39</sup> Kelly, "The Role of the Moral Theologian in the Church," 931.



should be to promote the development of an ecclesial “culture of moral discernment” that can form the consciences of the faithful and empower them to act responsibly in areas of human life mostly unregulated by exceptionless moral norms.<sup>40</sup>

Kelly’s article has much to commend it, and he is undoubtedly correct that the role of the moral theologian cannot simply be reduced to defining exceptionless moral prohibitions. After all, the task of moral discernment is not simply to identify sins to be avoided but ultimately to determine what singular course of action here and now would be most conducive to beatitude. Nevertheless, Kelly’s framing of this task remains shaped by the law-conscience binary to an extent that obscures the crucial role exceptionless moral prohibitions play in the process of discernment. The problem with this framing is that no strict division can ultimately be sustained between intrinsically evil actions that are always and everywhere prohibited and so-called prudential matters, the moral permissibility of which can vary according to circumstances. Kelly seems to view these as two separate spheres of human activity, with moral prohibitions providing a sort of boundary that marks off the limits of permissible action while leaving the majority of moral decisions open to the prudential or conscientious judgment of individuals.<sup>41</sup> However, as we observed in the previous section, the difference between actions that fall under exceptionless moral prohibitions and those that fall under more general positive precepts is merely a superficial one, resulting from how the behaviors in question are described. What may initially appear as a moral failure related to some prudential matter will often, upon further reflection, be recognizable as an instance of an intrinsically evil type of action, and vice versa.<sup>42</sup>

For example, just as the murder of a trespasser can be more generally understood as a morally irresponsible attempt to protect one’s property, a seemingly prudential matter such as the act of selling a car (when one knows it to be a lemon) can be recognized as an instance of the intrinsically evil act of fraud. In both cases, the difference between the two act descriptions results from how certain morally relevant details are incorporated into our explanation of what the agent is doing. From one perspective, these details can be viewed as mere circumstances that undermine the goodness of an otherwise

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<sup>40</sup> Kelly, “The Role of the Moral Theologian in the Church,” 944.

<sup>41</sup> See Kelly, “The Role of the Moral Theologian in the Church,” 933.

<sup>42</sup> Often, but not always, since in many cases we lack the moral vocabulary necessary to describe such failures as intrinsically evil actions. However, this linguistic deficiency should not prevent us from recognizing them as such. On the contrary, I will argue below that it is an essential task of the moral theologian today to promote the development of such a vocabulary of prohibited action types.

morally acceptable act of protecting property or selling a car. From the other perspective, however, they are seen as essential features of the acts themselves, revealing the agent's behavior to be an instance of murder or fraud. Kelly's mistake—one frequently made not only by revisionist moral theologians but also many outspoken defenders of *Veritatis Splendor*—lies in assuming that these two kinds of description correspond to distinct categories of moral wrongdoing, when in fact *both* descriptions are true of *every* evil act.<sup>43</sup> That is to say, there is no failure of prudential judgment that does not result in the performance of an intrinsically evil act, and there is no intrinsically evil act that does not involve some sort of failure of prudential judgment.

This important truth has tended to be obscured by two mistaken assumptions that have profoundly shaped contemporary debates about intrinsically evil actions. The first is that prudential matters can be distinguished from such actions by the fact that judgments of their moral permissibility are uncertain and therefore susceptible to legitimate moral disagreement, whereas those regarding intrinsically evil actions are not. Consider, for example, John Finnis's claim in a recent essay that, unlike the application of negative precepts, the application of positive precepts is relative to assessments of circumstances about which "reasonable people often reasonably disagree."<sup>44</sup> Here Finnis specifically has in mind the moral directives of Catholic social teaching which, to his mind, raise questions of application "the Church is not equipped to answer authoritatively except in hypothetical form."<sup>45</sup> He writes: "Because the diagnosing of causalities, effects and side-effects, risks and probabilities is an inherently difficult and often uncertain matter, it is entirely possible for informed and well-catechized Catholics in good faith to hold diametrically opposed views on, say, climate change, migration policy, sentencing policy, healthcare policy, the organization of employment, laws of inheritance and taxation, and so on, while respecting all relevant moral principles and norms."<sup>46</sup>

Of course, Finnis is correct that the moral teachings of social encyclicals are often intertwined with historical, political, and scientific

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<sup>43</sup> For an insightful elaboration of this point, to which the following discussion is indebted, see Therese Scarpelli Cory, "The Collapse of the Intrinsic/Prudential Judgment Distinction," *Church Life Journal: A Journal of the McGrath Institute for Church Life*, December 3, 2020, [churchlifejournal.nd.edu/articles/the-collapse-of-the-intrinsic-prudential-wall/](http://churchlifejournal.nd.edu/articles/the-collapse-of-the-intrinsic-prudential-wall/).

<sup>44</sup> John Finnis, "A Radical Critique of Catholic Social Teaching," in *Catholic Social Teaching: A Volume of Scholarly Essays*, ed. Gerard V. Bradley and E. Christian Brugger (Cambridge University Press, 2019), 557.

<sup>45</sup> Finnis, "A Radical Critique of Catholic Social Teaching," 566.

<sup>46</sup> Finnis, "A Radical Critique of Catholic Social Teaching," 573.

judgments in a manner that magisterial statements about intrinsically evil actions are not. This difference is recognized in *Donum Veritatis*'s teaching that the Church's "interventions in the prudential order" are subject to a degree of variability and uncertainty absent from its irreformable moral teachings (no. 24). However, while a juridical distinction between those moral teachings binding on all Catholics and those left up to the well-formed consciences of individual believers is certainly legitimate, it provides no basis whatsoever for the *moral* distinction Finnis posits between matters that allow for reasonable disagreement and others that do not.

This would follow only if (1) there could be no certainty about the intrinsic wrongness of an action apart from the determination of the Magisterium, and (2) those intrinsically evil actions about which a definitive pronouncement has been made were to admit of no uncertainty in their application. The falsity of this second claim has already been demonstrated in the above discussion.<sup>47</sup> The fact that we can say with absolute certainty that an act such as murder or theft is never morally justified does not mean there can be no legitimate disagreement about whether some concrete behavior constitutes such an act. On the contrary, it is evident that virtuous persons can hold opposing views on the application of both positive and negative precepts while still respecting all relevant moral principles and norms. As for the first claim, it need only be recalled that actions are not intrinsically evil because the Church prohibits them; rather, it prohibits them because it recognizes them as intrinsically evil. Just because the Magisterium has not (yet) pronounced definitively on the intrinsic wrongness of certain acts pertaining to, say, migration or sentencing policy does not mean that no such acts (e.g., the forced separation of migrant children from their parents or sentencing decisions based on opaque algorithmic judgments) could possibly be identified. Indeed, such a view—taken to an extreme—would seem to entail a kind of practical moral relativism, which assumes that even

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<sup>47</sup> Admittedly, it is not logically inconsistent to acknowledge the need for prudential judgment in applying negative precepts to particular cases and yet to deny that these judgments are ever uncertain. Nevertheless, it would be incumbent upon anyone who holds such a view to demonstrate that cases of legitimate moral uncertainty (as opposed to culpable moral confusion) never actually arise, despite the appearance that they do. The success of such a demonstration, however, seems highly dubious. While the scope of legitimate moral disagreement can certainly be exaggerated, it is implausible to claim that no such disagreement is possible at all. A traditional example from the medieval period is the difference of opinion between St. Thomas and St. Bonaventure regarding whether a judge who orders the execution of a man he privately knows to be innocent, but who has judicially been proven guilty, is culpable of murder. For an insightful analysis of this case and the issue of moral uncertainty more generally, see G. E. M. Anscombe, "The Two Kinds of Error in Action," *The Journal of Philosophy* 60, no. 14 (1963): 398.

though there may be a moral truth about such matters, it is simply inaccessible to human reason.

The second mistaken assumption that informs the contemporary debate is that intrinsically evil actions can be distinguished from prudential matters by the fact that they involve especially serious violations of the moral law.<sup>48</sup> Indeed, it is commonly supposed that the category of intrinsically evil action is more or less equivalent to that of mortal sin. However, these are fundamentally distinct notions. To say that an action is evil by virtue of its object, regardless of the circumstances or further intention of the agent, is not at all to claim that it will necessarily turn one away from God as one's ultimate end. Although the standard list of intrinsically evil actions (murder, adultery, theft, etc.) certainly includes some mortally sinful behaviors, this is not due to any necessary connection between the two concepts. Their differentiation can be seen, for example, in Aquinas's discussion of beneficent lies. While he believes that lying of any kind is intrinsically evil and therefore never morally permissible, he nonetheless argues that when a lie is told to prevent an injustice, it should be considered a merely venial sin (ST II-II, q. 110, a. 3 and 4). Numerous other examples from the *Secunda Secundae* could be adduced of intrinsically evil actions that can be venial in kind, including negligence (q. 54), derision (q. 75), ingratitude (q. 107), hypocrisy (q. 111), boasting (q. 112), and flattery (q. 115). While Aquinas maintains that such actions are never justified under any circumstances, he nevertheless views them as relatively minor violations of the moral law.

The moral equivalence of intrinsically evil actions and failures regarding prudential matters can also be demonstrated by considering the interchangeability of the moral precepts that apply to them. We noted in the previous section how positive and negative precepts do not differ in their need for prudence in determining their application to particular situations; the assumption that they do is simply a result of how they are formulated. One implication of this view, which we have yet to consider, is that positive and negative precepts pertaining to the same sphere of human activity should not ultimately be considered distinct from one another but the same precept formulated in different ways. That is to say, just as a moral precept can be more or less specific in its formulation, it can also be reformulated into the opposite kind of precept without fundamentally altering how it

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<sup>48</sup> This assumption finds expression, for example, in the USCCB document on *Forming Consciences for Faithful Citizenship*: "It is essential for Catholics to be guided by a well-formed conscience that recognizes that all issues do not carry the same moral weight and that the moral obligation to oppose policies promoting intrinsically evil acts has a special claim on our consciences and our actions" (no. 37).

regulates actions falling under its scope. Aquinas helpfully explains this point with reference to the precepts of the Decalogue:

The affirmative precepts are distinct from the negative precepts when one is not included in the other. For instance, the precept that no man should be killed is not included in the precept about honoring one's parents, or vice versa. By contrast, when the affirmative precept is included in the negative one, or vice versa, then it is not the case that there are different precepts about the matter in question. For instance, the precept "You shall not steal" is not a different precept from "Take care of another's property" or "Return another's property to him" (ST I-II, q. 100, a. 4, ad 2).

Unfortunately, Aquinas does not elaborate any further on this point, leaving unexplored the question of what exactly it means for affirmative and negative precepts to be "included" [*comprehenditur*] in one another. Nevertheless, the immediate implications of his perspective are clear: any failure to properly observe a positive precept can, at the same time, be understood as a violation of a negative precept pertaining to the same sphere of action, since these two precepts are not fundamentally distinct. Similarly, any infringement of a negative precept can be interpreted as a failure to fulfill a corresponding positive precept. In short, there can be no violation of a positive precept which is not also a violation of a negative precept, and vice versa.

If this account is correct, then the task of improving moral discernment in the face of uncertainty will likely look quite different from what Kelly envisions. Instead of relegating absolute moral prohibitions to a narrow sphere of human action removed from most of our everyday concerns, effective discernment would instead result in their extension to virtually every area of human activity. Indeed, one of the surest signs of the ecclesial culture of moral discernment Kelly seeks to promote would be the development of a sophisticated moral vocabulary of prohibited action types that gives expression to the manifold ways in which human behavior can deviate from right reason. Kelly comes close to recognizing the importance of such a vocabulary when he argues that the Church needs a "common language that will allow people to explain the processes behind their decisions so that their moral choices do not have to be made alone, but can instead occur in a spirit of communal discernment."<sup>49</sup> Yet, out of an understandable—though ultimately misplaced—concern to avoid "a rigid dogmatism that attempts to answer every possible question with sweeping pronouncements," he overlooks the fact that this

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<sup>49</sup> Kelly, "The Role of the Moral Theologian in the Church," 944.

language is precisely what moral prohibitions provide.<sup>50</sup> Kelly is certainly right to emphasize the need for moral theologians to embrace “the possibility of doubt and uncertainty, of a process of discernment that leads to a conclusion that does not fit in the standard box.”<sup>51</sup> However, as we have observed in this essay, such discernment is in no way impeded by the applicability of an exceptionless moral prohibition to a particular domain of human action. On the contrary, the determination of whether a certain prohibition applies in a particular situation is precisely what, in many cases, moral discernment in the face of uncertainty will entail. Thus, contrary to Kelly’s suggestion that moral theologians should regard the formulation of absolute moral norms as something of a last resort, what is actually needed to aid our discernment in situations of moral uncertainty is—perhaps surprisingly—not fewer prohibitions but more of them.

Of course, a complex system of moral prohibitions will only be effective in guiding discernment as long as it is paired with a nuanced understanding of the goods and values to which these prohibitions are ordered.<sup>52</sup> After all, the purpose of such a system is not ultimately to replace prudential judgment but to support it by providing what Oliver O’Donovan calls a “categorical structure” within which moral discernment can be successfully carried out.<sup>53</sup> To treat a set of moral prohibitions as if they provided a clear blueprint for human action that obviates the need for such discernment would only end up reinforcing the law-conscience binary we are striving to overcome. Thus, in advocating for the development of a more sophisticated vocabulary of moral prohibitions, I am not suggesting that moral theologians should embark on a misguided quest for a comprehensive specification of moral precepts that would eliminate the need for moral judgment altogether. On the contrary, the aim of the preceding discussion has been precisely to articulate a theory of prudential judgment that resists this false dichotomy. According to the view I have outlined, the application of exceptionless moral prohibitions is regarded not as any sort of alternative to or substitute for moral discernment but an essential feature of its responsible exercise.

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<sup>50</sup> Kelly, “The Role of the Moral Theologian in the Church,” 930.

<sup>51</sup> Kelly, “The Role of the Moral Theologian in the Church,” 931.

<sup>52</sup> Although I lack the space to develop the point here, this nuanced understanding of moral prohibitions is always specific to the social practices of particular communities, apart from which the vocabulary of prohibited action types will not be fully intelligible. For further discussion of the inseparability of moral norms from the practices that give them meaning, see Pinches, *Theology and Action*, esp. 137–166.

<sup>53</sup> Oliver O’Donovan, *The Disappearance of Ethics: The Gifford Lectures* (Eerdmans, 2024), 108.

## CONCLUSION

By now it should be evident how an account of prudential judgment consistent with the teaching of *Veritatis Splendor* would diverge from the prevailing understanding of moral discernment among contemporary moral theologians, to which Kelly's article gives lucid and nuanced expression. While acknowledging that the task of moral discernment is not simply to identify sins, it nevertheless recognizes that the formulation and application of exceptionless precepts constitutes an essential part of this task, without which it risks becoming unmoored from the moral law on which it is based. Accordingly, it regards the formulation of exceptionless moral precepts not as a threat to a genuine culture of moral discernment but as a necessary condition of its cultivation and enrichment. Although a system of prohibitions can certainly become rigid and unresponsive to the challenges of moral decision-making, this outcome is far from inevitable and provides little justification for the shift away from moral absolutes Kelly and other revisionist moral theologians have proposed. On the contrary, when integrated with practices of act description sensitive to the complexities of moral judgment, a sophisticated vocabulary of prohibited action types can serve as an invaluable resource for forming consciences and empowering the faithful to act responsibly in situations of moral uncertainty.<sup>54</sup> 

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