

Natural Law and the Problem of Contraception: Some Neglected Perspectives

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Artificial contraception is widely held to pose an ethical question whose answer hinges on arguments rooted in the “natural law” tradition. Within the Roman Catholic Church, in particular, these arguments are officially held to indicate that it is wrong to indulge in the human sexual act in any way which deliberately frustrates its “natural” purpose: that of procreating children. As a result of the practical difficulties of conforming to this ruling, many Christians in practice ignore it, and at least some of them attempt to justify this by claiming that the natural law tradition is somehow fundamentally flawed. Many of those who make this claim, however, not only manifest little recognition of the subtlety and complexity of the discussions that have given rise to the official ruling. They also often ignore or belittle the essential insight on which the natural law tradition is based. Christian ethics, they simplistically claim, does not need to take into account what the world itself indicates about God’s intentions as its creator.

If opponents of the natural law tradition often fail to recognize the validity of its fundamental motivation, however, defenders of the tradition frequently manifest a rather narrow view of how God’s creative intentions should be “read off” from the empirical world. The problem is not merely that the scholastic reliance on classical legal thinking may have led to an undue stress on human faculties at the expense of the human person or community, though this is certainly arguable.¹ More importantly, much of the practice of natural law thinking has been based — as I shall argue in what follows — on a view of “nature” that requires expansion, both from a theological and a scientific perspective.

Theologically, this argument may be approached through an important aspect of the eastern Christian tradition: that which sees the empirical world not as natural but, in some sense, as sub-natural. Philip Sherrard, for example, has expressed this view in terms of the different understandings of the resurrection of the dead that were

¹ See e.g. the comments of Charles Curran, *Medicine and Morals* (Washington 1970) p.65

held in the patristic period. In the west, he notes, there was in this period a strong stress — as in Tertullian — on the resurrection of the “flesh,” by which was meant quite explicitly the flesh of the body experienced in our earthly life. In the east, by contrast, there was an alternative understanding, especially in writers such as Gregory of Nyssa and Maximos the Confessor. In this understanding, says Sherrard, the resurrection body was not identified with the body in its present state, “composed of juices and glands and organs for excreting and procreating, and subject to the processes of conception, childbirth, adulthood, old age, sickness, and death.” These aspects of the earthly body were not seen as parts of the “original” body intended by God when he created the world. They were, rather, “aspects of the ‘garments of skin’ added to the original body as a result of the fall . . . accretions, things grown over the body.”²

This early divergence between east and west may be seen as emblematic of a more general and continuing divergence in relation to the theological understanding of the empirical world. On the one hand, by its stress on the effects of the fall, the eastern Christian tradition has tended in many respects to be more pessimistic about the empirical world than has the western one. Paradoxically however, it has also, in other respects, been more optimistic. For despite its stress on the “fallen” character of the empirical world, it has tended to avoid the notion of some kind of “pure nature” to which grace must be added as a supernatural gift. Rather, as Vladimir Lossky has put it, there is, for the eastern tradition, “no natural or normal state, since grace is implied in the act of creation itself.”³

For Sherrard, this more optimistic strand is reflected in the view of the human condition that the eastern tradition has tended to take. Western theology, he says, conceives of man — even as originally created — as a union of the intellectual and the animal or organic life, so that the latter is not, as in the east, “seen as superadded to man as a consequence of the fall.” In addition, he goes on, the spiritual aspect of man’s nature is not, in the west, seen as an intrinsic part of the human condition. “On the contrary,” he says, for western theology it is “the spiritual life which is added to man’s natural state. Man is not spiritual by nature, as he is in the eastern Christian tradition. He is spiritual through a supererogatory act of grace.”⁴

² Philip Sherrard, *Christianity and Eros: Essays on the Theme of Sexual Love* (London, SPCK, 1976) p.40. (The “garments of skin” here refer to those which Adam and Eve took to wearing after the fall. These were, in eastern patristic thinking, often interpreted as Sherrard indicates here.)

³ Vladimir Lossky, *The Mystical Theology of the Eastern Church* (Cambridge, James Clarke, 1957) p.101

⁴ Sherrard op.cit. p.8

When Sherrard speaks in these terms, it is perhaps arguable that he oversimplifies the cosmological and anthropological understandings of east and west. Certainly, he seems to have little sense that the tendencies that he contrasts may represent complementary rather than antithetical ways of understanding the created order. Despite this weakness, however, the contrast that he emphasizes arguably remains a useful one for the purpose for which he makes it: that of exploring the theologies of marriage and sexuality that are either implicit or explicit in the two parts of the Christian world.

At one level, says Sherrard, the issue here may be expressed in terms of the question of what it means to speak of marriage as sacramental. For in medieval western thinking, he claims, not only was this notion limited very largely to the symbolic link between marriage and the union of Christ with the church. In addition, he says, the understanding of this symbolism “was limited in a manner which prevented a full realization of its scope.”⁵

A sacred symbolism, Sherrard goes on to explain, “becomes a creative or spiritualizing influence when it is seen as capable of acting upon the matter to which it applies in such a way that it helps to transform this matter into the reality which the symbolism is intended to signify. This presupposes the perception that within the matter to which the symbolism applies there is the capacity or the potentiality to be transformed in this way.”⁶ This means, he continues, that only if it is “understood that the relationship between man and woman is capable of possessing an eternal and metaphysical character can it actually become a fully achieved sacramental union.”⁷

Neither in the thought of Augustine nor in that of the scholastics, Sherrard observes, “is there any recognition that the relationship between man and woman is capable of attaining a sacramental dignity in this sense.” Indeed, he goes on, nowhere in medieval western thinking is there any doctrine “in which sexual love is recognized as providing the basis of a spiritualizing process whose consummation is the union, soul and body, of man and woman in God, a revelation of the divine in and through their deepening sense of each other’s being. The idea that the sexual relationship might create a metaphysical bond which death itself is powerless to destroy is alien to the mind of medieval theology as a whole. Marriage is regarded above all as an ecclesiastical or social institution designed for procreation.”⁸

Against this historical background, recent thinking within the Roman Catholic Church represents, in Sherrard’s view, an advance. This, he says, is reflected even in the encyclical letter *Humanae Vitae*,

⁵ Ibid. pp.13f.

⁶ Ibid.

⁷ Ibid., p. 14

⁸ Ibid.

in which the teaching against artificial contraception is reiterated. For, he observes, the document clearly sees marriage in terms of its status as a gift of husband and wife to one another, a union through which they may perfect one another. However, he goes on, “this positive and enriching image of marriage is not enlarged on or even allowed to stand in its own right. It is made subordinate to the conventional non-sacramental view of the early theologians: that the principal end of marriage and that which uniquely specifies its nature is the procreation and education of children. We are told in effect that the perfection of each other which man and woman may achieve through marriage is not an end in itself, but exists ‘in order to co-operate with God in the procreation and education of children’... This is the ultimate purpose of marriage, its final *raison d’être*. It is not that through their union man and woman should achieve the integrity of the human creature by means of an inner transformation of the mortal and corrupt conditions of their present existence ..”⁹

A major aspect of the problem here is, for Sherrard, that when nature is spoken of in the document, it is effectively identified both with what God has willed and with “nature in its present state, not as it is in its original state, as it issued from the hand of God.” Here, he goes on, we are “within an order of theology which represents an uneasy alliance between the [Augustinian] conception of original sin ... and Aristotelian optimism in respect of mundane existence.” The effect of this alliance, in his view, is that “there is no sharp distinction made between the order of nature prior to the fall and the order of nature subsequent to the fall; both are treated as expressing the will of God.”¹⁰

In this way, Sherrard goes on, western theology tends to see man’s fallen life and the natural processes to which he is subjected in the fallen world as expressing the will, pleasure, and purpose of God, and thus “as constituting the norm on which the moral law of the Church is to be based.” However, he argues, if it is understood “that it is not the fallen state of nature and of man which is natural, but their pre-fallen and paradisaical state, and that it is this state which expresses the will of God, then a quite different attitude to the relationship between the moral and natural law will prevail, and quite different conclusions may be drawn from it as a consequence.”¹¹

It is at this point, perhaps, that we can begin to perceive the way in which the views of Sherrard may be somewhat one-sided, in a way that goes beyond mere polemic or historical over-simplification. For when he says that the world as we know it “is not that which God has created or intended for man, but is what man has brought

⁹ Ibid. p. 18

¹⁰ Ibid. p. 25

¹¹ Ibid. pp. 25f.

on himself as a result of his own defection and error,"¹² he seems to have little recognition that God's anticipation of the fall may have mitigated its consequences. There is, for example, little in what he writes to indicate that these consequences might be seen primarily as a divinely-ordained "medicine" rather than as a retributive punishment.¹³

There is, moreover, no clear reflection in Sherrard's argument of the characteristic eastern belief that the fall's effect on the underlying principles of created things — what Maximos the Confessor calls their *logoi* — has been not to distort or destroy them, but only to obscure them.¹⁴ Here, it would seem, Sherrard, while basing his argument on the eastern theological tradition, has failed to take fully into account the aspect of it which Alexander Schmemmann emphasizes in terms of the notion of the "sacramentality of creation," based on the belief that the empirical world, "however much it has fallen as 'this world,' will remain God's world . . ."¹⁵ While Sherrard has often spoken about the world's sacramentality in terms¹⁶ similar to those used by Schmemmann, there is something in his tone — if not in the formal content of his argument — which suggests that his attitude here has strayed from this belief. While far from being puritanical in its effect, his attitude is one that is akin, in certain respects, to a puritan dualism.

Can we say, then, that because of this tendency Sherrard is simply mistaken in his critique of the western natural law tradition? Certainly, I believe, we can see his critique as incomplete and in certain respects distorted. Despite this, however, we can surely see his main point as at least arguable: that it is not only in terms of the empirical world that we should attempt to understand God's creative purposes. Our understanding must also take fully into account our eschatological hope, our understanding of the state to which we are, in our healing journey through this world, being led. Sherrard's perception that this world represents a journey of this kind — one which may be properly understood only in terms of God's ultimate intentions for us — is

¹² Ibid. p.26

¹³ This "medicinal" aspect of the patristic concept of the "garments of skin" is explored, for example, in Panayiotis Nellis, *Deification in Christ: Orthodox Perspectives on the Nature of the Human Person* tr. Norman Russell (Crestwood N.Y., St.Vladimir's Seminary Press, 1997) ch.2.

¹⁴ See e.g. Andrew Louth, "The Cosmic Vision of St.Maximos the Confessor", in Philip Clayton and Arthur Peacocke, eds., *In Whom We Live and Move and Have Our Being: Panentheistic Reflections on God's Presence in a Scientific World* (Grand Rapids, Eerdmans, 2004) p.189

¹⁵ Alexander Schmemmann, *The Eucharist: Sacrament of the Kingdom* (Crestwood, St.Vladimir's Seminary Press, 1987) pp.33f.

¹⁶ For a brief account of Sherrard's view of the sacramental, antinomical character of the created order as we experience it, see Philip Sherrard, "The Sacrament" in A.J.Philippou, ed., *The Orthodox Ethos: Essays in Honour of the Centenary of the Greek Orthodox Archdiocese of North and South America* (Oxford, Holywell Press, 1964) pp. 133ff.

surely one from which we have much to learn, and not least in relation to his reflections on marriage and on human sexuality.

Especially in the light of contemporary psychological insights, we can, in particular, learn a great deal from his strong sense of the sacramental potentiality and divine origin of the deepest roots of human sexuality. For if, as we surely should, we accept his view that the sexual energy in man and woman, “has its source in the deepest strata of their life . . . is rooted in the ultimate mystery of their being . . . [and] is the source and generator of all human creativity,” then much will follow. In particular, it will be no great step for us — especially if our faith is incarnationally-focused — to acknowledge that this energy is, as he goes on to say, one which “derives its sacramental quality not from any purpose, such as the procreation of offspring . . . [but] from the fact that its own origin is divine and its own nature is sacred.”¹⁷

Before we can adopt this position, however, there is one aspect of Sherrard’s approach which — because it strikes a note of dissonance when understood in a superficial way — we need to understand more fully. This is his way of pointing towards God’s ultimate intentions largely in terms of the “pre-fallen” state of the cosmos. For, given the scientific evidence that the empirical world has never undergone a transition of the sort that he seems to envisage, it may at first seem that a stress on some hypothetical pre-fallen state is now no more than an anachronism.

We must remember, however, that Sherrard — as his reflections on the resurrection body indicate — is not merely looking backwards when he speaks of our pre-fallen state. His focus on that state is always implicitly used to point us towards our eschatological hope. Moreover, to use scientific evidence of the world’s continuity as a counter-argument to Sherrard’s approach is to ignore the subtlety of the concept of the fall that he adopts. For he does not see the fall as occurring within the empirical space-time processes which can be investigated by means of the scientific methodology. He is speaking, rather, about what he calls a fall “into a materialized space-time universe”¹⁸ (my emphasis). In this context, talk of a pre-fallen state is misleading if the “pre” prefix is interpreted in terms of empirical temporal duration. And because of this, the sciences — which deal only with this empirical dimension of reality — can have nothing to say about the matter. By definition, they only deal with the fallen world.

This is not, however, to say that the sciences have nothing to teach us when we reflect on the natural law tradition (though Sherrard

¹⁷ Sherrard, *Christianity and Eros* op.cit. pp.76f.

¹⁸ Ibid. p. 26

himself, with his strong anti-scientific bias,¹⁹ would probably have taken this view.) For one of the main deficiencies of medieval thinking about natural law was that it inevitably — given the science of the time — assumed an essentially static created order. The purposes of God in this order were thus believed to be straightforwardly readable — so to speak — from the way that things were seen to be, and this is, in fact, still assumed by the vast majority of defenders of the natural law tradition. In the evolutionary perspective of modern scientific theory, however, we can no longer take for granted this simple kind of “givenness.” We now understand that if we are to appreciate why things are as they are, we must understand both how they have been in the past and why they have developed in the way that they have.

Thus, for example, for the old static model, sexuality could be understood in terms that partly relied — if only implicitly — on the analogy with animals. The physical structure of the human sexual act was clearly identical to that of other mammals, and this encouraged the belief that its purpose was therefore identical in the two cases. God’s intention for human sexuality could thus easily be seen in purely procreative terms. In an evolutionary perspective, however, this approach is no longer tenable, at least in any simplistic way. For the concept of evolutionary adaptation applies not only to physical characteristics, but also to behavioural ones. Physical organs and behavioural traits, we now realize, can and do take on new dimensions of significance and purpose during the evolutionary process.

For the Christian who accepts these basic scientific insights, this is of immense importance. For if we see God as working his creative will through the developmental processes to which the scientists point, then we will see significance not only in the created order as it is today, but also in the direction of the evolutionary processes that have given rise to the present situation. In particular, it becomes at least arguable that it is the later developments of the evolutionary process that we should see as defining God’s prime intention for us now, especially when these represent what differentiates us from the rest of the animal kingdom.

For our remote, pre-human ancestors, for example, the sexual act was, as for other animals, simply the result of an instinctive urge which — without their knowing it — led to the divinely-willed result of reproduction. By the time God had created human beings through the evolutionary process, however, he had also created new and far more complex aspects of the sexual dimension of our lives. It is these on which many now tend to focus when they speak about God’s

¹⁹ See in particular Philip Sherrard, *The Rape of Man and Nature* (Ipswich, Golgonooza, 1986).

intentions for our sexuality, and arguably this focus is a theologically justifiable one.

One of the characteristics of the later stages of human evolutionary development, for example, was an increasing stress on the sexual dimension of life. (This stress is now, in fact, much greater than that usually found among animals,²⁰ for whom there has, it would seem, been no evolutionary pressure to indulge in sexual activity far more than is required for the reproduction of the species.) One reason for this increased emphasis among humans has, presumably, been the fact that our evolutionary development has involved the unfolding of something that is absent from animal reproductive behaviour: the kind of tenderness that now usually accompanies the human sexual act. Even if the forms of this tenderness, such as kissing and caressing, “are in origin actually actions of parental care,”²¹ this does not detract from the fact that what they express in the sexual context represents something highly significant which sets us apart from our purely animal ancestors. Another development during the later stages of our evolutionary history has been — as Sherrard has stressed in the wake of numerous psychologists — the emergence of a strong link between sexuality, on the one hand, and a specifically human creativity and religious responsiveness on the other.²² This again, now gives to the sexual act a new significance.

If we take seriously the notion that God has worked through the evolutionary process, then all of these facets of human sexuality may be seen as aspects of the way in which God has taken our rootedness in our animal nature and moulded it for his ultimate purposes in us. The sexual developments that have occurred during the later stages of our evolution can be understood in terms of the “emergent properties” that many — especially within the current science and religion debate — stress as a way of speaking about God’s action through natural processes.²³ Not only have we been taken beyond the merely animal aspects of sexuality during the later stages of our evolution. In addition, the aspects of human sexuality that transcend the merely

²⁰ See e.g. the comments in Mary Midgley, *Beast and Man: The Roots of Human Nature*, revised edn. (London, Routledge, 1995) p.39

²¹ Irenäus Eibl-Eibesfeldt, *Love and Hate* tr. Geoffrey Strachan (London, Methuen, 1971) p.143 (See also n.22 below.)

²² Eibl-Eibesfeldt (ibid.) notes in this respect how psychologists, while right in suggesting links between sexuality and other aspects of life, are often wrong in their explication of it. Thus, for example, after noting (see n.21) the link between sexual and parenting behavioural patterns, he notes that Freud, “in a strikingly topsy-turvy interpretation, once observed that a mother would certainly be shocked if she realized how she was lavishing sexual behaviour patterns on her child. In this case Freud got things back to front. A mother looks after her children with the actions of parental care; these she also uses to woo her husband ..”

²³ See e.g. Christopher C.Knight, *Wrestling With the Divine: Religion, Science, and Revelation* (Minneapolis, Fortress, 2001) ch.4

animal in this way may be seen as God's prime intention for our expression of that sexuality. (This does not mean that the sexual act as such is transcended — though as Sherrard hints, this may eventually become the case in the most mature sexual relationships.²⁴ It means, rather, that the significance of this act no longer lies primarily in its procreative potential.)

Theologically, this way of interpreting the evolutionary process may be linked to the kind of general perspective that we have seen in Sherrard's arguments. In particular, this may be done through the strand of Greek patristic thinking²⁵ which culminated in the work of Maximos the Confessor (580-662), for whom the inner reality of each created thing is defined by a characteristic *logos* — a "thought" or "word" — which is both a manifestation of the divine *Logos* itself and, as Kallistos Ware puts it, "God's intention for that thing, its inner essence, that which makes it distinctively itself and at the same time draws it toward the divine realm."²⁶

Maximos's model of the created order is, in this way, one that is both teleological and christological. It is a teleological model, not in the Aristotelian sense of the term, but in the sense that the created order is, as Vladimir Lossky puts it, seen as "dynamic, tending always towards its final end."²⁷ It is a christological model in the sense that this teleological dynamism comes about, not through some external created "force," but through the inherent presence — in the innermost essence of each created thing — of the Word of God, made flesh in Christ, which has been the agent of creation from the beginning.

At the present time, perhaps, few (outside of the Eastern Orthodox tradition) are likely to accept the details of Maximos's philosophical articulation of this model. The reasons for this do not, however, preclude a consideration of what we might call the general "teleological-christological" character of the vision that he articulates, especially in the context of current debate about divine action. For, by allowing us to transcend the need for any distinction to be made between what "nature" can do "on its own" and what can only be done through some "special" mode of action, a contemporary model based on these insights would allow us to see God's presence and action in the cosmos

²⁴ Sherrard, *Christianity and Eros* op.cit. remarks, for example, that a fully sexualized love "does not necessarily have any so-called carnal (or genital) expression: not because the man and the woman have taken any vow of virginity or regard celibacy as a superior state of existence, but simply because the kind of communion they experience makes such expression superfluous - a descent into a lower key" (p.3).

²⁵ Aspects of the earlier history of this approach are summarized in Eugene TeSelle, "Divine Action: The Doctrinal Tradition" in Brian Hebblethwaite and Edward Henderson, eds., *Divine Action: Studies Inspired by the Philosophical Theology of Austin Farrer* (Edinburgh, T and T Clark, 1990) pp.71ff.

²⁶ Kallistos Ware, Bishop of Diokleia, "God Immanent yet Transcendent: The Divine Energies according to St.Gregory Palamas" in Clayton and Peacocke op.cit. p.160.

²⁷ Lossky op.cit. p.101

simply as two sides of the same coin. In this respect, it not only underpins the sort of neo-Thomist model that speaks in terms of primary and secondary causes, but also provides this model with a far more definitive theological grounding than it has usually been given.²⁸

In the context of our exploration here, however, what is of prime importance is not the general debate about divine action, but the fact that Maximos's thought is, as Andrew Louth has observed, "open to the idea of evolution . . . as a way of expressing God's providence,"²⁹ so that much of his vision "can be re-thought in terms of modern science."³⁰ For as I have argued elsewhere,³¹ this eastern strand of thought does, in combination with contemporary western insights, suggest a coherent way of integrating our current understanding of evolution into a general picture of God's action as creator. And if this integration does turn out to be possible, then this will considerably enhance the impact of evolutionary thought on the natural law tradition.

Even if this particular route proves to be no more than an intellectual *cul de sac*, however, my more general arguments about the evolutionary perspective will remain valid, as will the other points that I have made. Thus, I would argue, the question with which we began — that of how specific ethical edicts may be developed through the natural law tradition — is not one that has yet been answered in a definitive way. A recognition that a major new dimension of the debate arises through aspects of the eastern Christian tradition and of modern scientific insight may not, in itself, lead to the assumption that any particular ethical ruling will need to be reversed. It does, however, suggest that at least some of the conclusions that have been drawn from the principles of natural law should be seen as having, at best, only a provisional status.

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²⁸ Christopher C.Knight, "Divine Action: A Neo-Byzantine Model": *International Journal for Philosophy of Religion* 58 (2005) pp. 181ff.

²⁹ Louth op. cit. p. 189

³⁰ Ibid. p.195

³¹ Christopher C.Knight, "Naturalism and Faith: Friends or Foes?", *Theology* CVIII (2005) pp.254ff. expands in this respect on arguments presented in Knight, "Wrestling .." op.cit