

# Professor Grisez and Natural Law

250

by Justus George Lawler

Professor Germain Grisez of Georgetown has written his criticism of contraception from the viewpoint of a natural-law theorist.<sup>1</sup> He goes about his task in a tidily business-like way, first setting forth some of his own credentials:

‘My wife, Jeannette, and I married thirteen years ago. At that time I was just entering studies for the degree of Doctor of Philosophy. We now have four children, the oldest twelve and the youngest six. Life has not been easy during all of these years. Yet we have survived without contraception, and we think the conviction that we had to survive and could survive without it has been essential to doing so’.

Husband and wife, to use some earlier imagery of the book were not ‘goaded on to wrong paths by enthusiasm over the greener pastures projected in an illusory light by the latest phantasms of secular thought.’ Being thus armored in these durable orthodoxies, Professor Grisez adds a kindly admonition for many of his readers, ‘Those not accustomed to subtle argument, as well as those who do not respect reason, will be little moved by what I have to say. Against the heart reason has little power, and it is just as impotent against sentimentalism which has become confused with charity as it is against plain ill will.’

The subtlety of the argument is immediately evident in Professor Grisez’s derivation of the fundamental and absolutely basic principles of morality from our knowledge of man’s intrinsic inclinations. He inquires: ‘What are all the inclinations with which man is endowed prior to acculturation or any choice of his own?’ He then notes that this ‘question requires and can be settled only by empirical inquiry.’ Fortunately, psychologists, despite their theoretical disagreements, have come to a remarkable consensus that human motivation presupposes a number of basic inclinations. Although these inclinations are classified and named in different ways by different authors, they tend to form a list which can be summarized as follows. Man’s fundamental inclinations are: the tendency to preserve life, especially by food-seeking and by self-defensive behavior; the tendency to mate and to raise his children; the tendency to seek certain experiences which are enjoyed for their own sake; the tendency to develop skills and to exercise them in play and the fine arts; the tendency to

<sup>1</sup>Contraception and the Natural Law (*Bruce* 1965).

explore and to question; the tendency to seek out the company of other men and to try to gain their approval; the tendency to try to establish good relationships with unknown higher powers; and the tendency to use intelligence in guiding action.

Anthropological investigation only confirms what psychology states. In fact, these basic motives are the topics according to which anthropological investigations commonly are conducted. This is so precisely because these motives are the principles which collectively define whatever human life possibly could be.

By interpretation these basic data give rise to 'principles of practical reason' which constitute the unchanging norm of morality. These principles demand only that the 'human possibilities they establish should be maintained.' This maintenance requires in Professor Grisez's theory that no action can be taken against one basic principle 'in order to maximize another.' Contraception is evil, therefore, because it maximizes the value of interpersonal communion by acting *directly* against the 'good of procreation.' Unfortunately it is never made very clear why an isolated contraceptive act placed in the context of a marriage consciously dedicated to the 'good of procreation' is itself intrinsically immoral, particularly when such an act may be directly aimed at that good of procreation which derives from the basic inclination to 'raise children.'

Professor Grisez recognizes some order among these various principles, but it is an order of a highly republican character: all of the principles are in effect created equal. Perhaps a more apt figure than a republican polity would be that of an anarchy in which though some principles are more equal than others, they all possess the same power of vote and veto. But one may wonder, however, whether a more genuinely human ethical structure would not be better patterned after a constitutional monarchy in which there is a hierarchy of values all subordinated to the ruling principle which is not the Good as such, but the free exercise of the human spirit.

Like most descriptive metaphysicians, Professor Grisez is correct in his affirmations but weak with regard to what he has negated. One feels he has said something, but left unsaid much more. If we are talking about a genuinely 'empirical inquiry' into man's basic inclinations we must know, for example, what 'men' were studied, what were the sample groups considered, how representative were they, what were the controls employed, how rigorous was the methodology, etc. It is something less than cogent to say that psychologists and anthropologists agree on such or such, and to casually supply as verification references to a couple of textbooks in psychology and anthropology. Moreover, how can one determine with what 'man is endowed *prior* to acculturation,' if those making the determination are themselves products of an obviously long-term acculturation? And if acculturation is one of man's distinctive attributes, to abstract from it may leave one with a definition of man

which is applicable to no living human being. The danger in this kind of shorthand investigation is that one may end up with only an amorphous residue, only an en-bloc brute distillation, only a crude common denominator, more or less acceptable only to the degree it may mesh with one's own personal 'sentimentalism.'

One notes, for instance, among these empirical inquirers a rather considerable lacuna: we have psychologists of a certain persuasion – strong on Freud and Adler, weak on Jung – and anthropologists; but no sociologists. This neat discrimination makes the classifying of fundamental inclinations more representative of primitive urges, and therefore wondrously well-adapted to bolstering up a primitive – or, in nicer prose, 'traditional' – doctrine. And in fact, apart from the last added item – 'the tendency to use intelligence in guiding action' – Professor Grisez's list could have been assembled by the careful observation of any anthropoids. Even a little sociology would make one wary of these global reductionist theories; and even a little zoology – perhaps even some belles-lettres: e.g., *After Many A Summer Dies the Swan* – might lead other empiric inquirers to a radically different notion of what man's basic inclinations are. The peril in these approaches to descriptive metaphysics is the philosopher's penchant for ultimately relying on his own educated impressions and selective hunches to peg his predetermined thesis. Since there is no quarrel here with Professor Grisez's belief that basic human inclinations become primary principles of morality by intuitive discernment rather than by theoretical reflection, it is necessary to concentrate on this pivotal question of what are man's 'basic human inclinations' – prescinding for present purposes from the larger question (in order that the discussion may be carried on within Professor Grisez's chosen framework) of whether one can adequately define man as anything other than the 'undefinable'.

The arbitrary character of these 'descriptions' is brought out in a statement much later in the book: 'There is little use for a proponent of contraception to appeal to psychology at this point. Some psychologists have been influenced by their own ideology with regard to sexual activity and also by various situationist philosophical views.' But if some psychologists have, then some haven't: on which ones can we depend in determining *basic* human inclinations, and what *pre-basic* criterion do we use to justify our dependence? The quoted passage above is followed immediately by this: 'More relevant is the almost universal agreement of the sages that the psychic drive for sexual release must be mastered if man is to become fully human.' 'Those not accustomed to subtle argument' may hesitate over this juxtaposing of 'sages' and 'psychologists': is it that 'psychologists have been influenced by their own ideology,' while sages suffer no such trammel? Actually the distinction between psychologists and sages is as subtle and just as rhetorically functional as the distinction between logic-choppers and philosophers, gerund-grinders and poets,

ward-bosses and public servants. The bias implicit in the very choice of words – ‘psychologists’ v. ‘sages’ – makes it clear that what Professor Grisez is really opposing are, in his unspeakable terms, ‘modern novelty’ and ‘traditional wisdom’: or in my own ineffable coinage, ‘science’ and ‘folklore.’

One gets curious as to exactly which psychologists have contradicted the sages’ view that ‘the psychic drive for sexual release must be mastered if man is to become fully human.’ Many would have thought the problem to be one of *how* sexual release is to be mastered and what direction that mastery should take. By name, who are these psychologists? One fears that we are here once again back among the textbooks, among the *Playboy* scholars and the M-G-M Freuds. But the more relevant conclusion is the commonplace that the ‘universal agreement’ of the sages is a fiction: the agreement of the sages in one age is their disagreement in the next – it could even be that the psychologists of one age may be the sages of the next.

Professor Grisez’s polarizing of past and present (sages v. psychologists), and his uneasiness at the apparent opposition of the two, raise what is the underlying and fundamental issue in the entire debate over the morality of contraception: the significance of the development of human consciousness. Professor Grisez pays due homage to the principle of evolution and embraces with enthusiasm most of his putative opponents’ dynamic conceptions about ‘the fact that human nature really is changing.’ Yet oddly enough for one who adopts a consistently more-holistic-than-thou attitude in the face of the dangerous ‘dualism’ of Canon Janssens, Professor Grisez can declare that ‘in man we find an evolution not of organism but of spirit’ – an observation which collides disastrously with an earlier affirmation that ‘man is one nature not two and his life is *not* divided between the conscious life of personality and the material processes of an organism.’ (Italics added.) The contradiction is more evident in that we have also been previously told that *man* is ‘an organism whose highest integration is that of rational intelligence.’ What then is the meaning of the distinction in the quotation above that ‘*in* man we find an evolution not of *organism* but of spirit?’

Professor Grisez is quite severe with Canon Janssens and other ‘situationists’ because of their acceptance of the notion that man is an ‘incarnate spirit,’ and he takes Janssens to task for the following statement: ‘. . . because man is an incarnate spirit, even the bodily aspects of his sexuality have an intrinsic sense diverse from that of the animals, for these aspects participate in his spiritual interiority. . .’: of which Grisez says, ‘This explanation implies, of course, the dualistic pre-supposition that apart from their participation in man’s spiritual interiority the bodily aspects of human sexuality are little better than animal functions.’ But if one weighs the two statements it becomes apparent that it is the Professor and not the Canon who is the dualist, for he seems to believe that the ‘bodily aspects of human

sexuality' *apart* from their relationship to man's interiority can even be a subject of consideration, can even constitute a reality. It entails a radical and dangerous dualism merely to toy with the notion that one could conceive of the 'bodily aspects of human sexuality' in some pure state where they do not participate in man's spirit. Moreover, if by some miracle of abstraction one could so conceive of them, it is patent that they would not be better than animal functions, they would be *inferior* to them, and this precisely because of their de-racinated character, because of their essential incompleteness. One muses over what Professor Grisez's dualism would do to the agreement of the 'sages' on the traditional doctrine of separated substances.

It is this dualism, while allowing some play to the evolutionary drive – but perhaps only as an accommodation to ineluctable fact – which requires that Professor Grisez should discover a greater 'spiritualization' of man only within the ambit fixed by his pre-determined 'basic principles.' Relapsing into what he has previously derided as 'conventional natural law theory,' Professor Grisez supplies a number of examples to illustrate the ethical implications of his axiologically harnessed evolutionary factor. Of these examples the reader is told that they 'could be multiplied endlessly, because the body of derived principles of the moral law is vast, and this entire body is potentially subject to change.' (One remarks in passing the paradox that this 'body' but not the basic principles admits of change, whereas with regard to man it is not the 'body' but only the basic principle – the human spirit – which can evolve.) The first two of these examples are generally acceptable, though they may raise problems in moral theology: we are told first 'that usury – the taking of interest as such – *has become* moral because modern man is not the same as pre-modern man in regard to the realities which are expressed in modern business and a technologically grounded economy.' Professor Grisez notes, secondly, that 'it is true to say that obscurantism in relation to theoretical truth *is becoming* very seriously immoral'. Fair enough. It is the third example that evokes wonder: '. . . it is true to observe that slavery *has become* immoral because man has changed.' (Emphasis added in each quotation.) But again, unless one subscribes to an absolute dualism, it is difficult to see how one can affirm that slavery 'has become' immoral. It seems incontestable that slavery by definition frustrates *all* of those basic principles of morality which, according to Professor Grisez, always remain firm. But this example is even more devastating for Professor Grisez's larger argument. For if slavery *has become* objectively immoral, and therefore at one time *was not* objectively immoral, it can only be because slaves had *de facto* as well as *de jure* no human rights; but if they had no human rights, they could not be defined as human beings. And thus those enslaved primates (which we in our rather clumsy and mistaken modern way call 'people') would have been entirely justified in practising contraception, particularly since their

'motives' – like those of captured animals – would have been of the very highest character, that is, to avoid having offspring born into a state of enslavement. If this is true then there was a time when direct contraception was permissible among the anthropoids to whom, as we have already seen, our original scale of 'basic inclinations' was applicable.

We have to do with a peculiarly flexible moral system here: slavery which affronts the whole constellation of man's basic inclinations was once not objectively immoral: but contraception always was and always will be intrinsically immoral since it violates that 'good of procreation' which 'seems to have been as well understood by the primitives as it is by us.' What does this logical and ethical morass tell us about the present natural-law philosophy? It tells us, if nothing more, that it is an admirable instrument for rationalizing many of the worst abuses of Christian moral theology.

Finally, to take the last example of this evolutionary factor as it relates to morality, Professor Grisez observes that 'divorce and polygamy once were not seriously wrong because the mutuality in human friendship which Christian man's sexual activity requires apparently was not required by the sexual activity of the pre-Christian man. Our newer humanity makes greater psychological demands, and these indicate the necessity that the sexual relationship between man and wife be perpetual and exclusive.' Thus once again does philosophy selflessly come to the rescue of some otherwise embarrassing biblical *données*. Yet if one can accept this radical evolution with regard to the licitness of divorce, on the same grounds one ought to be able to argue that those 'greater psychological demands' would allow the marital union to be oriented away from, though not against, the good of procreation as such. But more significantly, at least as far as Professor Grisez's own premises are concerned, one may well maintain that divorce was always wrong – even 'seriously' wrong: an adverb not applied to the institution of slavery – because, as our conventional natural-law morality has said, divorce violates the child's right to that freedom which can normally be rightly cultivated only in a monogamous union.

We do need a natural-law theory of sexuality. And one may agree with Professor Grisez that the conventional elaboration of that theory is seriously defective; but it is not evident that his own effort carries us much beyond the position of the traditional manuals. What needs to be articulated is a doctrine which can mediate between the immobilism of books like the present one and the relativism of a totally situationist ethic. Fortunately the direction in which we must travel has already been charted: 'The realization of the requirements of human perfection or of the content of natural law is a historical *processus*. It is developed with cultural progress which conditions it, and which in turn it must orient towards the enrichment of human dignity.' (Louis Janssens, *Liberté de conscience et liberté religieuse*, Paris, 1964, p. 66.)