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On the Warranted Falsehood, or in Defense of the Grotian Qualifier: A Response to Tollefsen and Skalko

Abstract: Of late defenses of an absolute prohibition of knowingly telling a falsehood have become quite abundant. Tollefsen, in his book *Lying and Christian Ethics* (2014) argues that intentionally saying something that one does not believe to be true is always wrong as it violates the basic goods of integrity, sociality, truth, and religion. Tollefsen, as well as Skalko (2015), accordingly, attack the view of Grotius, and his Catholic followers, that it is sometimes licit to tell a falsehood to someone who does not have a right to the truth. They argue that the view of Grotius is too narrow, unnuanced, and vague. In this essay, we defend the appropriateness of adding the so-called Grotian qualifier – »to someone who has a right to the truth« – to the definition of a lie. That is to say, we argue that telling a falsehood in certain contexts is warranted, and in fact does not constitute lying, just because in said contexts various individuals do not have a right to the truth. We attempt to develop conditions, however, that limit when one can engage in the telling of such a falsehood in order to reply to the criticisms of the position of Grotius by Tollefsen and Skalko.

Key words: lying, falsehood, right to the truth, Grotius, Tollefsen, Skalko

Povzetek: **O upravičenosti neresnice ali v obrambo Grotiusovega označevalca: odgovor Tollefsenu in Skalku**

Zagovarjanje absolutne prepovedi zavestnega izrekanja neresnice je v zadnjem času precej pogosto. Tollefsen v svoji knjigi *Lying and Christian Ethics* (*Laganje in krščanska etika*) (2014) zagovarja stališče, da je hoteno izrekanje nečesa, za kar kdo verjame, da ni resnično, vedno napačno, saj krši temeljne dobrine poštenosti, skupnega življenja, resnice in religije. V skladu s tem Tollefsen in tudi Skalko (2015) napadata pogled Grotiusa in njegovih katoliških somišljenikov, da je govorjenje neresnice včasih dopustno v odnosu do tistih, ki do resnice nimajo pravice. Omenjena avtorja pojasnjujeta, da je Grotiusov pogled preozek, nediferenciran in nejasen. V tem članku zagovarjamo, da je t. i. Grotiusov označevalec – »glede tistega, ki ima pravico do resnice« – primerno dodati k definiciji laži. To pomeni, da zagovarjamo stališče, da je v določenem kontekstu izrekanje neresnice upravičeno in dejansko ne tvori laži, saj v takšnih kontekstih različni posamezniki do resnice nimajo pravice. Po drugi strani pa, da bi odgovorili na Tollefse-

novo in Skalkovo kritiko Grotiusa, poskušamo razviti pogoje, ki tovrstno izrekanje neresnice omejujejo.

Ključne besede: laganje, neresnica, pravica do resnice, Grotius, Tollefsen, Skalko

1. Introduction

As is well-known, the Bible is a bit ambiguous as to whether or not telling a falsehood is always wrong. There are clear admonitions against doing so, as with Leviticus 19,11 »You shall not deceive (ψεύσῃς) or speak falsely (συκοφαντήσῃ) to one another«; Proverbs 12,22 »Lying lips (χείλη ψευδῆ) are an abomination to the Lord«; and Ephesians 4,25 »Therefore, putting away falsehood (ψεῦδος), speak the truth (ἀλήθειαν), each one to his neighbor, for we are members one of another«.¹ At the same time, various passages seem to praise the use of occasional verbal deceit in dealing with challenging situations.

For instance, Scripture seems laudatory when it describes how Abraham tells the Pharaoh that Sarai is his sister instead of his wife (Gen 12,10-19), Jacob tells his blind father Isaac that he is his other son Esau (Gen 27,1-45), and Rahab tells the king of Jericho that the spies she has hidden on her roof have already departed and will have to be pursued at once to be overtaken (Josh 2,1-24).²

Nor will an appeal to the testimony of the Church Fathers or Scholastics resolve this issue as there was a diversity of opinion on the propriety of telling falsehoods. True, Augustine wrote two treatises on the wrongness of lying, *De mendacio* (c. 395) and *Contra mendacium* (c. 420). In these works, he makes such claims as »We must hate all kinds of lies (*mendaciorum genera omnia*)« (Contra mend., 3.4). In this Augustine was following the sentiment of Lactantius who claims in his *Institutiones divinae* (c. 305) that »no one should ever speak falsely (*mentiat*) for the sake of deceiving or injuring. For it is unlawful for him who cultivates truth to be deceitful (*fallacem*) in anything.« (VI.18).³ Yet several Church Fathers argued that one can tell a falsehood at times for a greater good. For example, John Chrysostom, in his treatise *De sacerdotio* (c. 390), exhorts that

»For great is the value of deceit, provided it be not introduced with a mischievous intention. In fact action of this kind ought not to be called deceit (ἀπάτην), but rather a kind of good management, cleverness, and skill (οἰκονομίαν τινὰ καὶ σοφίαν καὶ τέχνην), capable of finding out ways where resources fail, and making up for the defects of the mind.« (I.8)⁴

¹ Translations from the New American Bible (2011). See also Job 27,4; Ps 12,2-5; Wis 1,11; Zech 8,16; Col 3,9; Rev 14,5; 21,8; 22,15.

² See also Gen 26,6-11; Ex 1,15-22; 1 Sam 19,8-17; 20,1-42; Jn 7,8-10. For more on the Scriptural views of lying see Klopfenstein 1964, and Freund 1991.

³ Translation from Cleveland Coxe et al. 1886, 183. See also Basil, *Regulae brevius tractatae*, no. 76; Gregory the Great, *Magna Moralia*, book 18, chapter 5-7; John Climachus, *Scala paradise*, book XII; Aquinas, *Summa theologiae*, 2a2ae, q. 110, a. 3, for other clear admonitions against lying.

⁴ Translation from Schaff 1908, 38. See also Hilary of Poitiers, *Tractatus super psalmos*, book XIV, chapter

And another John, John Cassian, writes in his *Collationes* (c. 420) that »we ought to regard a lie and to employ it as if its nature were that of hellebore; which is useful if taken when some deadly disease is threatening, but if taken without being required by some great danger is the cause of immediate death« (XVII.17).⁵

Even magisterial authority is vague here. *The Catechism of the Council of Trent* (1566) encourages the faithful to lay aside all dissimulation (*simulatio*), deceit (*fal-laciis*), false testimony (*falso testimonio*), and lies (*mendacio*), and instead measure words by the simple standard of truth (p. III, c. 9, q. 2 and 5). And the *Revised Baltimore Catechism* (1941) clearly states »No reason, however good, will excuse the telling of a lie, because a lie is always bad in itself« (I. 30, q. 1309).⁶ However, the provisional first edition of the *Catechism of the Catholic Church* (1994) seems to leave some wiggle-room for the telling of falsehoods to people who are up to no good when it defines a lie as »to speak or act against the truth in order to lead into error someone who has the right to know the truth« (no. 2483).⁷

The ambiguity found in tradition is the reason why defenders of absolutism tend to appeal to philosophical defenses of the perpetual wrongness of telling a falsehood, defenses which have become quite common in the past two decades. One thinks here of Christopher Tollefsen's book *Lying and Christian Ethics* (2014)⁸ as well as of works written by Conte, Dewan, Griffiths, Skalko, and others.⁹ Furthermore, a common target of many of these works is the influential position of Hugo Grotius, who defended the propriety of telling a falsehood on certain occasions.

2. The Grotian qualifier

The Dutch Protestant Hugo Grotius wrote a significant book on international law, *De jure belli ac pacis* (1625), in which he distinguished the common notion of a lie (*communem mendacii notionem*) from the strict notion of a lie (*notione laxiori strictiori mendacii*). He went on to assert that telling a falsehood in certain situations did not, strictly speaking, constitute a lie, as under certain conditions one's right to something may be given up or lost.¹⁰ For example, Grotius declares that

9–10, for another defense of telling a falsehood when necessary.

⁵ Translation from Schaff 1894, 464. For more on the diversity of positions on lying found in the Church Fathers see Dorszynski 1948; Müller 1962, 322–324; Griffiths 2004, 133–184; and also Schindler 1922; Ramsey 1985.

⁶ Taken from O'Connell 1941.

⁷ The modifier »the right to know the truth« was removed from the definition of lying in the Editio Typica of the *Catechism* issued in 1997. The revised definition of lying in the current edition of the *Catechism* is thus: »A lie consists in speaking a falsehood with the intention of deceiving.« (no. 2482).

⁸ Tollefsen's book echoes the absolutist position against telling a falsehood of fellow defenders of the New Natural Law Theory including: Grisez 1993, 405–412; Finnis 1998, 154–163; Boyle 1999.

⁹ Recent absolutist arguments against the wrongfulness of intentionally telling falsehoods occur in: Griffiths 2004; Conte 2013; Skalko 2015; and additionally in Dewan 1997; Garcia 1998; Somme 2005; Demmer 2010; Butler 2012; Petri and Wahl 2012; as well as in various blogs such as those of Edward Feser.

¹⁰ See also Tollefsen 2014, 137–138. Grotius was influenced by Protestant forerunners such as Alberico

it is not a lie in the strict sense to intentionally utter a falsehood in a situation in which the parties explicitly or tacitly consent not to reveal certain matters. Nor is it lying proper to tell a falsehood to children or to the insane who are not capable of the use of reason. Finally, it is not lying, strictly speaking, to tell a falsehood in order to encourage a friend in distress or in the midst of an illness, to utter falsehoods in the interest of the public welfare if the public would not feel aggrieved at being deceived when in possession of the full facts, nor to speak falsely to avoid revealing sensitive information to eavesdroppers or to preserve the life of an innocent party. (III.1.11–17) With this in mind, Grotius defined a lie as »a violation regarding the existing and permanent right of someone to whom a discourse or remark is directed (*repugnatium cum jure existente ac manente ejus ad quem sermo aut nota dirigitur*)« (III.1.11).

Grotius' definition of a lie, slightly reformulated, as »intentionally telling a falsehood to someone who does not have a right to the truth«, quickly became the predominant one among Protestant casuists.¹¹ Such a reformist position on the morality of lying was not as common among Catholic theologians initially. However, several Jesuits in the early eighteenth-century such as Tomasso Tamburini, Carlo Ambrogio Cattaneo, Domenico Viva, and Claude LaCroix, distinguished between materially false and formally false speech, and claimed that false speech rendered in defense of the innocent is only materially false and so not a lie strictly speaking. Variants of this view were continued in the late eighteenth-century by the Catholic theologians Antoine Martinet, John Henry Newman, Benedict Stattler, Johannes Van Rijckevorsel, and Ferdinand Geminian

Gentili, *De jure belli* (1598), and *De abuso mendacii* (1599). See in this regard, Lavenia 2015. The whole question of how the views of Gentili and Grotius on the morality of telling a falsehood developed out of Renaissance and Reformation thought still needs to be more thoroughly studied. It is not without interest that Gentili, in advancing his cause, refers to the views of the Catholics Erasmus, Machiavelli, Thomas More, Juan Luis Vives, Domingo de Soto, Girolamo Cardano, John Case, and Justus Lipsius, in addition to classical authors and the Church Fathers, and Grotius himself seems to have been influenced by the Catholic tradition and mentions the views of Jerome, Ambrose, Chrysostom, Eustratius of Nicaea, Alonso Tostado, Cajetan, Erasmus, and Andrea Masio, even if his thought goes beyond theirs.

¹¹ Grotius' Protestant followers include Jeremy Taylor, *Ductor dubitantium* (1660); Samuel von Pufendorf, *De jure naturae et gentium* (1672); Johann Gottlieb Heineccius, *Elementa juris naturae et gentium* (1738); Christian Wolff, *Jus naturae* (1743); Emer De Vattel, *Le droit de gens* (1758); William Paley, *The Principles of Moral and Political Philosophy* (1785); and Benjamin Constant, *Des réactions politiques* (1797), where we first find the classic formulation »Dire la vérité n'est donc un devoir qu'envers ceux qui ont droit à la vérité«. Other Protestants allowed for lying outright for a greater good such as Martin Luther, William Tyndale, Philip Melancthon, Peter Martyr Vermigli, Joachim Camerarius, Henry Bullinger, Girolamo Zanchi, Frederick Baldwin, Dietrich von Bonhoeffer, and Axel Denecke. For more on such figures see Dorzynski 1948, 30–31; Sommerville 1988; Zagorin 1990.

Wanker.¹² In spite of the fact, however, that the Grotian view on lying has had many defenders over the years, recently it has been much maligned.

3. Arguments against the Grotian position on telling a falsehood

Tollefsen (2014) and Skalko (2015) assert that telling a falsehood is never justifiable and so defend an absolutist position regarding lying. Indeed, on their view one is not even justified in telling a falsehood to save others, to achieve political goals, or to advance needed social reforms. As Tollefsen asserts »the choice to lie is one that no agent should ever make for any reason« (196). Hence, Tollefsen and Skalko criticize the view of Grotius that someone can tell a falsehood that is not a lie if the person or group lied to has no right to the truth. Tollefsen calls the »right to the truth« clause implied by Grotius and added by his followers to the definition of lying the »Grotian modifier«. They present three main arguments, in concert or individually, against the addition of such a Grotian modifier, and so against the position that the prohibition against the telling of a falsehood admits of exceptions.

First, Tollefsen and Skalko claim that if a lie is defined as »a falsehood told to someone who has a right to know the truth« then this is too narrow of a definition and makes some things out to be non-lies which are clearly lies when applied to the context of daily life. Tollefsen (29) gives the example of a husband who has regrettably spent \$500 of a family's money on gambling. Here it seems that his wife has a right to know this truth but that his son does not. This being the case, argues Tollefsen, the husband can tell his son a falsehood about how the money was spent and claim it was spent on charity without lying, which seems incorrect. Skalko (165) presents a similar counter-example to the Grotian definition in the context of someone shopping for groceries. In such a situation, it is clear that none of the strangers one encounters in the grocery store have a right to know how much money is in one's pocket. All the same, it seems manifestly to be a lie to assert that one has no money in one's pocket when talking to random strangers. Nor, claims Skalko, do other patients sitting in a waiting room at a doctor's office have a right to know about my life story. Still, if I go around telling them fanciful stories about my childhood this would constitute a lie. Tollefsen (29) likewise no-

¹² Indeed more or less explicit defenses of the Grotian position on lying became very popular in the early twentieth-century among such Catholic theologians as Stephano Bersani, René Brouillard, Mihael Brunec, Jean-Arthur Chollet, Francis Connell, Julius Dorszynski, F. Dubois, Georges Fonsegrive, Franz Furger, Édouard Génicot, L. Godefroy, Walter Hill, Maurice Huftier, Tomasso Angelo Ioro, Gerald Kelly, Joseph Koterski, Matthias Laros, Michaël Ledrus, Émile-Charles Lesserteur, Johannes Lindworsky, Serafino da Lojano, Waldemar Molinski, François Perriot, Giovanni Battista Pighi, Aloysius Piscetta, Ludwig Ruland, John Ryan, Gaston Sortais, Adolphe Tanqueray, Joseph Ubach, Pius Van der Velden, and Jean-Benoît Vittrant. For an account of such Catholic thinkers who defended the Grotian Qualifier see Skalko 2015, 160–162; Dorszynski 1948, 31–37; 49–64; and Müller 1962, 325–326. Contemporary Catholic defenders of the position of Grotius would include Schockenhoff 2005; Schockenhoff 2000; Smith 2011, 45–49; as well as Alan Vincelette.

tes that strangers in a restaurant do not have a right to the truth about what one just ate for breakfast but that it would certainly be a lie to assert to an inquiring stranger that one ate something other than what one in fact did. Hence Tollefsen and Skalko argue that the Grotian definition of a lie is not broad enough and excludes things from being lies which clearly are in fact lies.¹³

Skalko furthermore claims (167) that the Grotian view of lying would open the door to numerous intentional falsehoods no longer being counted as lies in the very cases the addition of the »right to know the truth« clause was meant to address – the unjust inquirer seeking to harm innocents. For, argues Skalko, if the Nazi at the door has no right to the truth then not only telling him »I am hiding no Jews« is not lying but whatever wild story one tells the Nazi about Jews in one's house would not be a lie, for example, if one said »No, but my neighbor is hiding Jews in his house« even though he was not. The Grotian view then would seem to make it impossible to lie to the Nazi at the door, at least in relation to the presence of Jews. Yet as Skalko queries, surely it is possible to lie to the would-be murderer at the door. So too, writes Skalko, on the position of Grotius it seems martyrs who denied their faith in Jesus Christ when threatened by persecutors would not be lying as the persecutors would have no right to the truth. (167) Nor, in fact, would the addition of the Grotian qualifier allow for lying under duress as this condition would remove the right to the truth, at least for the person placing one under duress. For instance, Skalko asserts that if a person points a gun at one and says »Tell me a lie or I will kill you« it would ironically be impossible to tell him a lie. For the threatening person has no right to the truth, and so whatever falsehood one told him would not be a lie. Indeed, in such a scenario it would seem that the shrewd sinister person would have to carry through on his threat to kill one, as one would not be able to follow through with telling him a lie. (167)

Second, according to Skalko the addition of the »right to know the truth« clause makes all falsehoods either morally obligatory or grievously evil and mortally sinful and so there is no place for little white lies or venial sins of lying (169–170). Such a view is hence too simplistic, unnuanced, and introduces a false dichotomy. For on the Grotian view, officious lies, that is falsehoods told to unjust inquirers who do not have a right to the truth in order to help innocent persons, would not be sins at all, as opposed to being venial sins with Augustine and Aquinas. Nor, suggests Skalko, on the Grotian view would jocose lies, or falsehoods told in jest, be sinful, for they would not violate anyone's right to the truth, or perhaps at most they would be venial sins. (178–179) On the Grotian view then all sinful falsehoods would be

¹³ Skalko (175) notes that one way out of such a dilemma would be to claim that strangers do have a right to know the truth about such everyday matters. However, he rightly remarks that this seems counter-intuitive (178). Skalko, however, goes too far, we believe, when he claims that if strangers do have a right to know about such matters as how much money I have in my pocket or my life story then one is »morally obligated to go around telling random people random truths that you know« (175–176). For such a right may be conditional, that is one might be morally obligated to reveal such information only when asked about it, otherwise one can remain silent. In general though, as we shall see, we agree with Skalko that one has a right to privacy and so strangers do not have a right to know basic facts about one's everyday life.

mortal sins, either mischievous lies which seek to injure someone or pathological vicious lies offered up for the mere sake of deceiving. This then would drastically reduce the varying degrees of the malice of lying found in Augustine and Aquinas.

Third, Tollefsen and Skalko charge that the Grotian view is indefinite and unclear as to what counts as a lie when compared to the precise and well-worked-out views of Augustine and Aquinas on lying, theft, and murder. Things may appear otherwise, as it can seem that adding the Grotian qualifier »someone who has a right to the truth« to the definition of a lie parallels the Thomistic notion of murder as the intentional »killing of the innocent«. In fact, historically it has been quite common for defenders of the Grotian view to link the permissibility of telling a falsehood to an evil person seeking to harm innocents to the right of self-defense against an unjust aggressor.¹⁴

However, Tollefsen (87–92) argues that there are important differences between these two kinds of rights and their corresponding definitions. Murder, defined as the intentional killing of innocent humans, excludes a distinct class of individuals that one can kill in self-defense, namely, the non-innocents – either those who are unjust aggressors attacking innocents or those who have been convicted of capital crimes. And so too the qualifier »of the innocent« picks out a definite class of persons, the intentional killing of which is always and everywhere wrong – those neither unjustly attacking innocents nor convicted of a capital crime. In contrast, Tollefsen claims, lying defined in Grotian terms, that is as a false assertion intentionally made to someone who has a right to the truth, does not exclude a distinct class of persons, as it does not identify just who has and who does not have a right to the truth. In other words, it does not specify a distinct class of persons to whom one can make false assertions as they do not have a right to the truth. Similarly, the Grotian qualifier »with a right to the truth« does not pick out a definite class of persons, the making of false assertions to whom can always be considered wrong. In other words, says Tollefsen, the addition of the Grotian qualifier »leaves all the necessary normative work as yet to be done, so as to identify just who has and who does not have a right to the truth« (89). Similarly, Tollefsen argues that we can give a fairly clear notion of when one can or cannot steal based on the view of Aquinas (29–30). Property must always serve the common good, and so when a particular person's welfare is so extremely threatened that he will suffer greatly or die, he may appropriate some item belonging to another if there is no other option available. Yet this is not the case with the Grotian definition of lying as tradition provides very little guidance for when a *falsiloquium* (falsehood) would be permissible. As Tollefsen asks

»What in particular, does it mean to have a right to the truth, and under what conditions is that right lost or waived? Are the conditions easy to meet or strict? Frequently met or only rarely? Are they well known?« (29)¹⁵

¹⁴ One thinks of such figures as Caramuel y Lobkowitz, *Theologia moralis fundamentalis* (1656); Martinet, *Moralia theologia* (1867); Newman 1908, 358; Vermeersch 1922, 658–661. Ruland 1942, 60–61; Smith 2011, 45–49.

¹⁵ See also Skalko 2015, 166.

Hence, all in all, the Grotian definition raises more questions than it answers per Tollefsen and Skalko.

4. Response to the arguments of Tollefsen and Skalko against the Grotian view of telling a falsehood

We do not find the arguments of Tollefsen and Skalko successful in showing that the Grotian view of lying is incorrect. We will examine each of them in turn and point out how a defender of the Grotian position could answer their objections. Still, it must be said that Tollefsen and Skalko are helpful in pointing out where the Grotian account of lying needs to be amended or supplemented. For one is forced to clarify, develop, and work-out the Grotian position on lying in order to respond to their objections and counter-examples, which is a quite useful exercise, and one that we propose to do here.

The first challenge of Tollefsen and Skalko to the Grotian view is that it is too narrow a definition of lying and categorizes some things as non-lies which are clearly lies, especially in regard to everyday life. For Grotius allows that one can tell a falsehood to someone who does not have a right to the truth, and strangers have no right the truth about one's finances, dietary preferences, background, etc., so such a view wrongly claims that telling a falsehood about these matters would not be lying. In response one has to recognize that telling a falsehood is a serious matter, and even if it would not necessarily constitute a lie on the Grotian position, only a strong proportionate reason could ever justify doing so. In other words, the default position is that one should tell the truth and only tell a falsehood when absolutely necessary. Typically moral theologians have only allowed the telling of a falsehood, or even a mental reservation for that matter, under very strict conditions: namely, if one is protecting an innocent party against an unjust malefactor; or if one is safeguarding the seal of the confessional or a professional secret against an unjust inquirer or meddlesome inquirer.¹⁶ Traditionally many Church fathers also argued that one could tell a falsehood to someone whose health was in danger to avoid upsetting them and compromising their health. Such a view is less common today, except perhaps in regard to dealing with a confused Alzheimer's patient. Some moral theologians have jokingly added a fourth condition allowing for the telling of a falsehood, namely, if a woman asks if she looks good in something, but that is neither here nor there. In any case, the important point is that the situations in which one can tell what is not the strict truth are very narrowly constrained by tradition. And this is so both for defenders of the practice of mental reservation as well as defenders of the Grotian qualifier, and even for defenders of the view that it is only licit to relay partial truths, evasive statements, or just keep silent.

¹⁶ See, for instance, Berardi 1884; Godefroy 1928, 529; Vermeersch 1922, 661; Dorszynski 1948, 88–94. Grotius himself supplied various conditions limiting when one can tell a falsehood to someone who has no right to the truth. For he asserted one could not tell a falsehood if it harmed someone other than one's enemy, nor could one assert falsehoods in the cases of promises or oaths (III.1.18–19).

To take one example, Alasdair MacIntyre, who goes beyond the Grotian position in even allowing the telling of a lie and not just a falsehood, presents the following moral principle in regard to veracity:

»Uphold truthfulness in all your actions by being unqualifiedly truthful in all your relationships and by lying to aggressors only in order to protect those truthful relationships against aggressors, and even then only when lying is the least harm that can afford an effective defense against aggression.« (1995, 357)¹⁷

In point of fact, the defender of the Grotian position Dorszynski, in his treatise on lying (1948, 86–88), first notes that deceptive speech is ordinarily quite harmful to the mutual trust necessary for society, and so even if there are times when the right to truth can be forfeited, these are rare and are strictly governed by various factors.¹⁸ Dorszynski (88–91) then goes on to explicitly set forth the principles that would allow for the telling of a falsehood and provide the factors that must be taken into account. Building upon the work of Dorszynski, let me now set forth some limiting conditions on the telling of a falsehood:

In communicating with other individuals one must ordinarily seek to tell the truth and can only intentionally tell them a falsehood meant to deceive under the following conditions:

1. There must be an unjust aggression, whether the aggressor be aware of it or not, such that an individual is trying to gain information to which he or she has no strict right.
 - a. Typical examples of unjust aggression would involve either a malicious interrogator, prying enquirer, or someone not in the right frame of mind.
 - b. There is no unjust aggression when the one seeking knowledge has a right to certain knowledge by some specific rank and is performing a correlated task with non-malevolent ends, such as a judge, police officer, spiritual director, confessor, rector, administrator, physician, teacher, caregiver, or parent.

¹⁷ Besides MacIntyre 1995, other Catholic defenders of the view that telling a lie to avoid a greater evil or for the greater political good is at times licit, include: Machiavelli, *Il principe* (1532); Cardano, *De sapientia* (1544); Case, *Speculum quaestionum moralium* (1589); Juan de Mariana, *De rege et regis institutione* (1591); Lipsius, *Politicoorum* (1589); Bolgeni, *Il Possesso* (1796); Lesserteur, *Étude sur la malice intrinsèque du mensonge* (1899); Génicot, *Theologiae moralis institutions* (1902); Boulenger, *La Morale* (1920); Pighi, *Cursus theologiae moralis* (1926); Brouillard, *Le mensonge* (1930); Prümmer, *Manuale theologiae moralis* (1933); Iorio, *Compendium theologiae moralis* (1934); D'Auria, *Elementa theologiae moralis* (1941); Huftier, *Le mensonge* (1962); Peschke, *Christian Ethics: Moral Theology in the Light of Vatican II* (1997); Flierl, *Ethical Perspectives on Lying and the Virtue of Veracity* (2007). The doctrine that it may be moral in certain situations to tell an outright lie was also very common in proportionalist thinkers such as Charles Curran, Louis Janssens, and Bruno Schüller. See, in particular, the proportionalist-inspired works of Bernard Hoose: *Truth and Lies* (1996); and *Towards the Truth about Hiding the Truth* (2001).

¹⁸ Indeed Tollefsen (2014, 188–196), and Petkovšek (2015a; 2015b; 2017), influenced by the thought of Solzhenitsyn, both show how even in quite unjust situations, such as in totalitarian regimes that make use of frequent falsehoods and violence, the unwavering commitment to the telling of the truth is often the best way to remedy the situation.

2. The information sought after must be such that if it is revealed it will cause grave spiritual or physical harm to an innocent party, either oneself or another.
 - a. There is no grave matter involved if the knowledge sought after, while private or secret, is of such small import that it will not cause any grave spiritual or physical harm to oneself or another if revealed.
 - b. There is no grave matter involved if the knowledge sought after, though embarrassing or upsetting or inconveniencing or socially awkward, will not cause any grave spiritual or physical harm to oneself or another if revealed.
 - c. There is no grave matter involved if one is operating in a context wherein interlocutors have no expectation of being told the truth, such as in the context of acting, scientific research on lying, game-playing, etc.
3. There must be a proportionate reason for the intentional use of false speech.
 - a. There is no proportionate reason if the use of false speech is not directed at a specific and worthy end or would be unsuccessful in preventing grave harm.
 - b. There is reduced proportionate reason if one has explicitly made an oath or promise to tell the truth.
 - c. In repelling an unjust aggressor, one must use the least amount of deception that suffices to effectively repel him or her; hence, one must make use of falsehoods as a last resort and one is obliged to use all other less deceptive means available for successfully repelling the aggression such as silence, explicit refusal to answer a question, evasion, partial truths, or manifest ambiguity.

Notice that though on the above principles one can tell a falsehood to someone under the condition that he or she does not have a right to the truth, this condition is not the only one. Other conditions must occur as well to make telling a falsehood licit and a form of non-lying. This is similar to how it works for self-defense. One has a right to use self-defense against an unjust aggressor, however, other criteria also come into play. Especially important in this regard is the use of proportionate reason whereby one should use only as much force as is necessary in order to defend oneself and one can be guilty of an evil act if one uses needlessly excessive force in self-defense against an unjust aggressor.

Paralleling the above use of self-defense, there must occur a grave matter and a proportionate reason for the intentional stating of falsehoods to be licit. If someone just decides to deceive for its own sake through the use of falsehoods this would count as a lie even on the Grotian position. The above principles also rule out the intentional stating of falsehoods in order to prevent oneself for getting in trouble for something one should not have done, or to avoid an inconvenience or embarrassment. Hence in order to determine if one can tell a falsehood on the Grotian position one has to take into consideration several factors, such as who is seeking the information as well as his or her character, intentions, and end, the effects of telling a falsehood to hide the information or of revealing the information and how much harm would therein occur, and whether other less deceptive

means than a falsehood would be successful in preventing the harm, etc.¹⁹ Hence, even on the Grotian view, though one can tell a falsehood to someone who does not have a right to the truth, one must do so as a last resort and only tell falsehoods to the extent they help extricate oneself or others from an unjust and harmful situation.

With this in mind let us examine some of the scenarios that Tollefsen and Skalko raised above as challenges to the Grotian viewpoint. The bulk of these scenarios involve an impertinent inquirer who is pestering one with questions about what one has eaten in a restaurant, how much money one has in a grocery store, or one's life-story in the waiting room of a medical office. They are correct in arguing that such individuals do not have a right to the truth. They are wrong, however, in believing that as a result one may or must tell a falsehood to these individuals on the view of Grotius. In the first place, principles 2A or 2B seem to come into effect here and not countenance the telling of a falsehood as the subject matter that is private does not rise to the level of one that will cause grave harm to oneself or another if revealed. For the information requested as to what one ate or how many coins are in one's pocket seems to be of such minor significance that revealing these things would not cause grave harm to anyone, and so telling a falsehood would not be warranted. Perhaps an exception to this might occur in regard to the case of the prying person in the doctor's waiting room. Here one may harbor a private matter regarding one's health or purpose for being there that is no one's business and is such that revealing it would cause grave harm to oneself or another. Still, yet other principles govern the telling of falsehoods including principle 3C which notes that the telling of a falsehood must be used as a last resort. It seems clear here that in most cases one could halt the forays of impertinent inquirer into one's finances, meal, or life story without telling a falsehood. Instead one could make a joke about how poor or ill one is (evasion), explicitly say that one would rather not reveal such information (explicit denial), or keep silent, give the person an odd look, and move on or look away.

Similarly, in regard to the Nazi at the door, just because the Nazi at the door does not have a right to the truth, that does not mean that one can tell the Nazi any old falsehood one wants. Principle 3A requires that the falsehoods one tell serve a distinct purpose, i.e. that of keeping the hidden Jews safe, and so any falsehoods going beyond this narrow purpose would not be warranted contra Tollefsen and Skalko. Moreover, telling the Nazi a falsehood would only be licit if that were deemed the only way or the safest way of safeguarding the Jews according to Principle 3C. If another course of action were available that was just as effective that would seem preferable, such as berating the Nazis for chasing after Jews, or stating with feigned disdain »There are no stinking Jews here« or »There are no F-ing Jews here«. The latter, of course, would be mental reservations – as one believes the Jews in the house smell fine after just having taken a shower, or one believes that none of the Jews in the house are engaged in sex at that very mo-

¹⁹ See also Dorszynski 1948, 89.

ment, but the Nazis take them to be insults directed at Jews and suggesting one would in no way want to harbor them – and they might work just as well as outright falsehoods. The same can be said *mutatis mutandis* regarding the person with a gun demanding one tell a falsehood or die. One may very well be able to avoid dying without having to tell a falsehood. Still, here the telling of a falsehood does seem licit on the above principles, if necessary, as there is an unjust threat made on one's life. Indeed, in regard to the case of the gunman threatening to kill one if one does not lie, we have a situation in which the gunman requests a falsehood be told and so knows one may well be telling falsehoods. Hence, telling a falsehood in this sort of case would not count as a lie in the strict sense, not just because the gunman does not have a right to the truth, but also because the situation is such that the intention to deceive would be lacking as the gunman would suspect one might be telling a falsehood.

The case of the martyr is different, however, and helps us to focus on the key issues at dispute. Skalko argues that on the Grotian position Christian martyrs would be justified in denying their faith under duress. Would they be? I agree with Skalko in thinking that the unjust persecutors would not have a right to the truth. It also plain that there would be a grave threat to the life of the martyr here, and so principle 2 would hold.

Nor is it clear that in such a scenario one could repeal the threat and save one's life by keeping silent or engaging in evasion, as the persecutors may demand an explicit statement of belief or some sort of act revelatory of one's religious views. All of the conditions allowing the telling of a falsehood thus seem fulfilled. Yet traditionally there were also constraints placed on denial of the faith. For though one who denies the faith may be saving one's life, one may well be damning one's soul which is ultimately of more significance. In fact, arguably the act of denouncing one's faith would involve not just the telling of a falsehood but also apostasy and the violating of one's oath to God, as well as perhaps idolatry and blasphemy if one is forced to curse, spit on, or trample Christian symbols and worship pagan ones. Such a lie then goes beyond a mere officious lie to help someone and involves other grave matters. Hence it is not clear it would be allowable on a Grotian position. Moreover, the telling of a falsehood again must be used as a last resort and so if other forms of deceit are possible, such as the use of a mental reservation, these would be preferable to outright falsehoods.²⁰

In the second objection to the Grotian viewpoint, Skalko charges that it introduces a false dichotomy by making all falsehoods either mortal sins or not sins at all, thus eliminating the alternative of the telling of a falsehood as a venial sin. Now it should be obvious that based on the reasonings given above the telling of a falsehood on the Grotian view may well be a venial sin. For one can imagine instances in which one might be faced with an impertinent inquirer and tell a falsehood when one had no need to do so. One such instance might be when one finally breaks down and tells a falsehood to an overly-friendly and inquisitive wai-

²⁰ See also Kaczor 2012, 109 on the case of the martyr.

tress to get her to back off. Such a falsehood would be a sin on the Grotian perspective, given the principles above, since there would typically not seem to be sufficient proportionate reasons to tell a falsehood in such a case, and additionally one who was more patient could likely get the waitress to leave through means other than the telling of a falsehood. Yet such a falsehood would not seem to rise to the level of a mortal sin, but would instead best be characterized a venial sin, due to the lack of grave harm to the waitress as well as the presence of mitigating factors such as frustration or losing one's temper.²¹ Only telling a falsehood that is wholly unnecessary or gravely harmful to others, i.e. pernicious lies, need constitute mortal sins for a defender of the Grotian position. Skalko is wrong then to think that on the Grotian standpoint all assertions of formal falsehood would be mortal sins and all officious or jocose lies would not be sins at all. The Grotian perspective is more complex and diversified than that.

Finally, in the third challenge Tollefsen argues that, unlike the Thomistic view on the right to self-defense or on stealing, the Grotian view on lying does not clearly set out who has such a right and when. That is to say, the Grotian position is accused of failing to supply the necessary work of identifying just who has a right to the truth and under what conditions. This is a valid challenge to the Grotian viewpoint, though we believe some work had already been done in this direction by individuals such as Grotius himself and Dorszynski. However, we do believe more can be done to specify who has a right to the truth and when it can be lost, and we aimed to remedy this situation by framing the principles above. Based on these principles, one can set forth who has a right to the truth and when it can be lost.

Before this is done, however, we wish to point out that in applied ethics very few moral frameworks have crystal clear applications at all times, and not all matters can be clearly resolved to the satisfaction of everyone. For instance, it is not always clear when lethal self-defense is justified. Some have argued that a fetus can be a materially unjust aggressor and self-defense can be deployed against it, though such a view seems highly questionable to us. What about if one is attacked by a relative who is drugged, or if an out-of-control wheelchair with a child in it is careening down a hill towards one: does one have a right to employ potentially lethal force out of self-defense in these cases? Such matters are open to debate.

Or take the case referred to by Grisez (1993, 406–407) of someone asked to identify children by officials of a totalitarian regime, which children one suspects would be sent off to a labor or death camp, or one might imagine re-assigned to new parents. Here, even for a defender of the Grotian vantage point, it is not clear if one could licitly tell a falsehood or not. Grisez argues that one should explicitly refuse to do so, even at the cost of one's life if necessary, and we tend to agree. For though there is an unjust inquirer here telling a falsehood does not seem absolutely necessary in order to prevent harm to the unidentified children.

²¹ Skalko, in fact, admits the possibility of the violation of someone's right to know insignificant matters being a venial sin (2015, 178).

Here, unlike in the Nazi-at-the-door case, refusing to tell a falsehood does not tip off the unjust pursuer and give away that one is harboring the wanted individuals. Yet one can imagine a defender of the Grotian position thinking that in such a case one can licitly tell a falsehood in order to prevent harm to oneself. Likewise, we think Tollefsen (2014, 28–29) is right to challenge Dorszynski's position that a child who missed mass on Sunday through his own fault can tell a falsehood about this to a nun asking him if he had missed mass in front of his classmates (1948, 95). We would agree that it would constitute a lie to state falsehoods in response to direct public questions from teachers regarding one's obligations at school. That is, arguably the threshold for proportionate reason is not met here, and rather than tell a falsehood one should ask to speak to the teacher in private, request to tell him later, or refuse to speak. We also think that Dorszynski is too lax when he allows that a religious brother can say he does not know of another brother's secret when directly asked about this by his ordinary (95–96).²² For we again think there is no necessity to tell a falsehood in this case, as the prodded brother can just as easily say that he knows Peter's secret but does not feel that he can reveal it in good conscience. These then are cases which defenders of the Grotian perspective may evaluate differently.

Returning to the issue at hand, we think the principles laid out above allow one to say, in a fairly clear manner, who has a right to the truth and when such a right can be lost. Individuals with key roles working for the good of society and seeking information relevant to their task always have a right to the truth: namely, judges, police officers, spiritual directors, confessors, rectors, administrators, physicians, teachers, caregivers, or parents. Other individuals typically have a right to the truth, as the normal societal expectation is that other people will tell the truth. Still regarding such individuals, the right to the truth can be lost if these individuals are seeking information to be used to harm an innocent party, or if they are seeking information about private matters which, if revealed, will lead to grave physical or spiritual harm to someone. Finally, even though one's right to the truth may be lost one may resort to the telling of falsehoods only as a last resort and when one has exhausted all other means of satisfactorily dealing with the situation.

In conclusion, Tollefsen and Skalko are wrong to think that the Grotian definition of lying – wherein a lie is an intentional telling of a falsehood in order to deceive someone who does not have a right to the truth – entails an overly-narrow definition of lying, an overly-simplistic classification of the evils of lying, and an overly-vague notion of who has a right to the truth and when. All of the issues they raise can be addressed by setting forth principles as to when the telling of a falsehood is warranted. I have tried to supply these principles above, such that, though one should normally tell the truth, one can tell a falsehood if no other options are equally viable, and if one is dealing with a malicious interrogator or prying inquirer who is seeking to acquire information the revealing of which would

²² In the case at hand the secret is noted to involve no danger to the community nor to the spiritual or material welfare of either of the brothers.

cause grave harm to someone.

Moreover, we think this Grotian position is a nice development of the principles of Aquinas, even if Aquinas himself would not have agreed that one is ever justified in telling a falsehood (*Summa theologiae*, 2a2ae q. 110 a. 3). For Aquinas, as is well-known, allows for self-defense against an unjust aggressor and does not consider it to be murder if one kills such an aggressor unintentionally and out of necessity (2a2ae q. 64 a. 7). Hence he seems to define murder as the killing of an innocent party, while holding that killing an unjust aggressor in self-defense or while in the military or in an official capacity as state punishment is not murder. Aquinas additionally noted that stealing something when one in grave danger of dying did not constitute theft properly speaking, for when one is in extreme need the property of others becomes one's own.²³ Hence he seems to define thievery as the taking of what does not belong to oneself or the taking of the property of others which one does not need. So the addition of the Grotian qualifier »to someone who has a right to the truth« to the end of the definition of lying as the intentional telling of a falsehood seems a legitimate Thomistic development of ethics, even if not the position of the historical Aquinas.²⁴

A complete defense of the Grotian position, however, would require a more detailed discussion of the purpose of communication, of who is harmed and to what degree if a falsehood is told, and a thorough examination of the absolutist arguments of Tollefsen and others that it is always and everywhere wrong to tell a falsehood, no matter what the circumstances, as this involves an intentional violation of the goods of personal integrity, sociality, truth, and religion.

²³ *Summa theologiae*, 1a2ae q. 18 a. 10; 2a2ae q. 66 a. 7; see as well 1a2ae q. 94 a. 5 ad 2; and 2a2ae q. 66 a. 5 where the Israelite pilfering of items from the Egyptians does not constitute theft as it was licensed by God to whom all things belong.

²⁴ A related position holds that the telling of falsehoods in certain circumstances is licit, not on the basis of someone's lack of the right to the truth, but instead on the basis that in certain contexts there can be no real expectation of the communication of truths. Here it is argued that an enemy or intruder cannot expect the truth to be told, just as someone watching a Broadway play, playing a make-believe game or poker, inquiring on the phone if someone is home, or listening to a joke cannot expect the truth to be told. Such a viewpoint has precursors in the Franciscan Benjamin Elbel, the Capuchins Serafino da Loiano and Gabriele de Varceno, the diocesan priest Ludwig Ruhland, as well as in the Jesuit Arthur Vermeersch. Contemporary defenders of this position include: Kemp, Kenneth, and Sullivan, *Speaking Falsely and Telling Lies* (1993); Pruss, *Lying and Speaking Your Interlocutor's Language* (1999); Guevin, *When a Lie Is Not a Lie: The Importance of Ethical Context* (2002); Chartier, *Toward a Consistent Natural-Law Ethics of False Assertion* (2006); Jaspers, *Benign Misleading: Permissible Deception in Clinical Practice?* (2009); Pruss, *Lies and Dishonest Endorsements* (2010); Rhonheimer, *The Perspective of Morality: Philosophical Foundations of Thomistic Virtue Ethics* (2011); Dixon, *Police Lies and the Catechism on Lying* (2013). Note that, on the principles we set forth above, polite social lies would not be licit, contrary to the view of many of the thinkers above as well as of Tollefsen (2014, 155–157; 169–172). Nor would most political lies, excepting perhaps those made during wartime against an unjust aggressor (180–188). While we believe, in contrast to the views of many of those listed above, that enemies can expect to be told the truth, we do not think they always have a right to said truth.

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