

January 1942

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Recommended Citation

O'Brien, James W. (1942) "Ectopic Gestation II: Moral Aspects," *The Linacre Quarterly*: Vol. 10: No. 1, Article 4.
Available at: <http://epublications.marquette.edu/lnq/vol10/iss1/4>

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ECTOPIC GESTATION—II

Moral Aspects

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There are two decrees of Holy Office referring directly to the moral aspects of the case of ectopic gestation. The first, issued May 4, 1898, states that it is licit to perform the operation called laparotomy for the purpose of removing the ectopic foetus, provided that serious effort is made to save the lives of both the mother and the child. The text of this decree and the text of the others referred to in this article are appended. The obvious sense of this decree is that the operation is illicit unless the foetus is viable, because otherwise there could be no serious effort to save its life. Any doubt as to its meaning, however, is taken away by the subsequent decree of March 5, 1902, which declares that the ejection of the immature foetus is always illicit. This decree further lays

down certain conditions for the licitness of hastening the birth of even the viable foetus. This decree calls attention to the previous one and states that its own regulations are in conformity with it.

Besides these two decrees directly concerned with the ectopic foetus, there are two others that have a bearing upon it, even if only indirect, namely, those of May 28, 1884, and of August 14, 1889, the latter excluding any operation directly harmful to the foetus or to the mother. At first there was some question about the meaning of the decree of 1884, because of the wording "tuto doceri non potest," but the difficulty is removed by the explicit and unescapable assertion of the succeeding one.

These decrees of Holy Office, therefore, even if they are under-

stood in the strictest possible sense, certainly exclude anything that tends toward the direct killing or ejection of the immature foetus. It is to be noted that general moral principles are, and have been, in conformity with these decrees. The ejection of the living non-viable foetus from the womb, the Fallopian tube, or any other organ of the mother is illicit because it is tantamount to direct killing. Obviously, the use of X-rays, electric current, or such operations as craniotomy, when they are directly fatal to the foetus, are also wrong. Every operation directly harmful to the foetus is condemned by the decree of 1889.

While there have been theologians who defended the licitness of ejecting the foetus even from the womb, when this act is necessary to save the mother's life, they are to be found only among those who wrote before these authentic regulations of the Holy Office were promulgated. Probably the best known of these theologians and the most recent was Lehmkuhl, who in the early edition of his work stated that it is licit to induce abortion in the event there is actual danger to the life of the mother which can be prevented in no other way (Lehmkuhl, *Theologia Moralis*, Edition 1890, cap. iii, no. 841, III). Others, including Sanchez and Layman, admitted this view, but only for the time during which the foetus was not yet considered to have a rational soul (Sanchez, *De Sancto Matrimonii Sacramento*, I, IX disp. XX n. 9; Lay-

man, *Theologia Moralis*, I, iii, p. 293). In regard to this view, there are two propositions condemned by Innocent XI, March 2, 1679, which can only with difficulty be interpreted in a way that would not be contrary to this opinion. These two propositions are included with the decrees of Holy Office at the end of this paper.

The contrary opinion, however, was defended by the vast majority of theologians even before the decrees were published, among them Lessius, De Lugo, La Croix, Gury, and Genicot. Most of these are mentioned in the article on abortion in the *Dictionnaire de Theologie Catholique*. Gury and Genicot are perhaps the most popular. The view of Gury is expressed in vol. I, page 328; that of Genicot in his *Theologiae Moralis Institutiones*, vol. I, page 343. It is to be noted that the latter author refers explicitly to extrauterine pregnancies. Since the promulgation of the decrees, the conclusion is unanimous with regard to the direct removal of the foetus. All later theologians say that the direct removal of the foetus, whether from the womb or from the Fallopian tubes, is illicit, for, as Merkelbach states, there is absolutely no reason for making a distinction between the foetus in the womb and one outside, as far as the morality of the act is concerned (Cfr. also Eschbach, *Disputationes Physiologico-Theologicae*, p. 472). This view with regard to normal gestation, and to ectopic gestation as well,

is held by Aertnys Damen (*Theologia Moralis*, vol. I, no. 583); Pruemmer (*Manuale Theologiae Moralis*, vol. II, no. 146); Noldin (*De Peccatis*, no. 343); Merkelbach (*Summa Theologiae Moralis*, vol. II, no. 362; also *Quaestiones de Embriologia*, p. 48); and even by Davis, one of the more liberal writers on the subject of ectopic gestation (*Moral and Pastoral Theology*, vol. II, p. 138, p. 147).

While all the more recent theologians accept these decrees in so far as direct abortion is concerned, and even with regard to the ectopic foetus, many conclude that any interference with the foetus that is only indirect would not be included in these responses of the Holy Office. This is the contention of Pruemmer, Davis, and the other authors mentioned above. No good argument can be advanced for rejecting this view if the principles regarding the indirect voluntary are admitted. Some confirmation can even be drawn from the decree of August 14, 1889, which explicitly refers to direct killing . . . "directe occisivam foetus vel matris gestantis."

It would, therefore, be licit to remove a cancerous womb which is here and now dangerous to the mother or to ligate the Fallopian tubes or arteries to prevent her bleeding to death, even though these actions result also in the death of the foetus. Such operations would be licit only when the death of the foetus is brought about indirectly. It is not easy to determine in all cases if the kill-

ing is indirect. There can be little serious doubt that the killing is indirect when there is actually a pathological condition of the tube which is at present dangerous to the mother's life. In this case there would be no difference, from the moral point of view, between removing the tube and removing a diseased womb which is placing the mother's life in jeopardy.

Some go so far as to say that in all cases of ectopic gestation there is such a pathological condition of the tube. Hence, they say, the tube containing the ectopic foetus can in all cases be removed. The moral question, therefore, according to this opinion, would be one of method rather than of substance, for as long as the foetus is not directly removed, there would always be a time when the pregnant tube itself would become dangerous to the mother, and so every ectopic foetus could at some time be removed.

Some authors go still further. Davis and others assert that this pathological condition is present during the entire time of gestation and hence, they say, the tube can be removed at any time during the pregnancy. They say also that while the condition of the tube may not at the moment be dangerous to the mother, it is certain to become so, and since there is only the remotest probability that the foetus will come to term, it is not necessary to wait until the danger is actually present. It must be admitted that Davis is not very positive in his assertions,

proposing his views more in the form of rhetorical questions, but there cannot be much doubt as to his opinion. Some of the arguments he brings to bear, notably those drawn from professional ethics and practice, tend more to cloud the issue than to clarify it. Lawsuits and loss of standing in the medical profession are undoubtedly important considerations, but they can have no bearing on the principal point at issue, namely, whether there is a pathological condition of the tube dangerous to the mother at all times.

Now, in order to make applicable the principles governing the indirect voluntary, it must be shown that the danger to the mother results from the condition of the tube itself and not merely from the hazard of pregnancy. If it is the presence of the foetus that is causing the danger to the mother, then it is the removal of the foetus that relieves her. If moralists allowed this, there could be no clearer exemplification of the false principle that the end justifies the means. On the other hand, if the danger comes from the diseased tube itself, then it is the removal of the tube and not of the foetus which saves the mother. This would, indeed, be a case of the voluntary "in causa" (cfr. Gury, p. 330 footnote).

Davis insists that the moralist must rely upon medical opinion to determine whether or not a pathological condition of the tube exists. To this contention there can be no objection. But it must be

remembered that medical opinion is far from unanimous on the point. Furthermore, even when medical experts seem to be in complete accord there is danger in reaching the conclusion that the moralist should accept their statements at their face value. Physicians cannot be expected to be familiar with the field of moral theology any more than the moralist can be expected to be familiar with the field of medicine. Because of his misunderstanding of the exact point involved, the physician may reach conclusions that seemingly sustain some moral doctrine which conclusions upon closer examination are found to be of little practical value. There is certainly no agreement on the part of medical men that in all cases of ectopic gestation there is during the entire period of pregnancy a pathological condition of the tube. The majority of the answers of physicians mentioned by Davis (pp. 155-158) can be interpreted as meaning that the doctors in question are satisfied that there is as much danger to the mother in tubal pregnancy as would be found, for instance, in the case of cancer of the womb, if not more. Just as danger to the mother could arise from the mere presence of the foetus in the womb, so also it can arise from the mere presence of the foetus in the Fallopian tube. To remove the Fallopian tube in such instances could hardly be justified, any more than the removal of the womb.

The question of danger to the

mother, therefore, is a secondary consideration—an important one, of course, but only if it be antecedently established that the death of the foetus is not a means to the end. There are then two problems that must be solved, the most important of which is to determine that the death of the foetus is not *per se* intended, that it is not a means of saving the mother's life. Once this is established, the second problem can be taken up, namely, whether or not there is sufficient reason for permitting even the death of the foetus.

Now, it seems apparent that a majority of the doctors to whom this questionnaire was sent gave due consideration only to this second point—that is, permitting the death of the foetus. The physicians answered almost unanimously in the affirmative. There can be little doubt that as time goes on tubal pregnancy is extremely dangerous to the mother, and hence if the physician is on firm ground regarding the first point, namely, that the tube itself is the cause of the danger, there would at times be no difficulty regarding the existence of a sufficient cause for permitting the death of the foetus. This would not be the case during the entire time of tubal pregnancy, because there is no immediate danger of death to the mother at all times. However, it is on the first point chiefly that certitude is lacking. If the danger to the mother results merely from the pregnancy, it would be just as wrong to remove

the tube as to remove a pregnant womb when the pregnancy is dangerous.

Even if it were admitted that there is a pathological condition of the tube, at least in the late stages of the development of the ectopic foetus, there still would be no certitude that such a condition is seriously dangerous to the mother from the very outset of the tubal conception. The difficulty of diagnosis will make the necessity for a decision extremely rare in the early stages of the pregnancy. There is, however, a possibility that the surgeon, while performing an operation for some other purpose, may be confronted with what seems to him to be a tubal pregnancy in its early development. Most authors maintain that in such a case it would be necessary to wait until it is established that the tube does not contain a foetus, or that the foetus is dead, before removing it. There is a possibility, as physicians testify, that it will come to term, but that possibility is so remote that it can be neglected. In the view of Davis and of others, however, it would be licit to remove the tube immediately, since it can be foreseen almost with certitude that the danger to the mother will readily develop.

This view takes too much for granted. It supposes that there is always an opportunity to say that the removal is indirect, and it supposes, further, that there is always a sufficient cause for permitting an evil effect. It seems to

be the belief of these authors that once an effect is shown to be indirectly voluntary, then automatically it becomes licit to place its cause.

This supposition is incorrect. To permit an evil effect, there must be a proportion between it and the good effect which is directly intended. Such a proportion exists when there is imminent danger to the mother. Certainly it must be admitted that the life of the mother is at least equivalent to that of the foetus. To save one life when two are in danger, one can permit the loss of the other. If, however, the danger to the mother is not imminent and the life of the foetus is at least abbreviated by the operation, there would seem to be no proportion between the two effects. While it is true, very likely, that the foetus in the Fallopian tube will never become viable, and hence there is little hope of saving it, it still remains also true that the preservation of that life as long as possible is a good that cannot be foregone unless there is adequate reason. The life of the foetus, according to the law of justice, is to be protected as far as possible (Merkelbach, *Quaestiones de Embriologia*, p. 47). The difficulty of undergoing expectant treatment and the need for a future operation do not seem to be reasons sufficient to justify permitting the death of the infant.

Furthermore, the fact that the condition of the tube itself is not seriously dangerous to the mother

at all stages of the development of the ectopic foetus seems to be indicated by the medical practice of not removing the tube in which the pregnancy does not occur even when there is a definite pathological condition of the tube. It would seem, then, that it is the development of the foetus which makes the condition of the tube dangerous to the mother—if, indeed, it can be admitted that the tube becomes dangerous in all cases—but it is not dangerous from the beginning. The danger, it seems, is avoided in this case by preventing the development of the foetus. Such a thing could never be justified.

In particular cases where there is a definite pathological condition of the tube endangering the mother's life, the surgeon can conscientiously remove the tube. Whether or not such a condition exists, it must be confessed, is primarily a medical question, to be answered by those who are experienced in the field and who understand the exact point at issue and not by the *a priori* argumentation from the very doubtful premise that there is at all times such a condition in cases of ectopic gestation. When this is established in particular cases there is no reason on moral grounds why the surgeon should not remove the tube, or the part affected, for the purpose of saving the mother's life, permitting the death of the foetus, which will in any case very likely die within a short time. Until this is certain, however, there is

grave danger that the surgeon in operating will save the mother by killing the infant, or at least by removing it. In both cases the killing is direct and therefore illicit. Whatever be the attitude or practice of the surgeon, he should at all times be prepared to obey any further decrees of the Holy See, if any should be promulgated.

With our present knowledge, it is extremely difficult to defend as a general norm that the surgical removal of the tube is always licit. It must be remembered that the Holy Office forbids at least any action that directly affects the life of the foetus. While these decrees are not infallible or irreformable, it seems certain that this prohibition will not be revoked or modified. This is a conclusion similar to that of Coppens, as stated in his article on abortion in the *Catholic Encyclopedia*. Unless these decrees are purely theoretical, then there must be some cases of ectopic gestation in which the removal of the tube is wrong. Otherwise, the decrees are devoid of practical value. With regard to indirect killing, there is nothing authoritatively stated. Aertnys-Damen ventures the hope that in this difficult matter a safe norm of action will be forthcoming from the Holy See. It seems, however, that some theologians, placing undue emphasis upon indirect interference with the foetus, assume without sufficient evidence from the medical profession that in all cases of ectopic gestation, from the moment of conception, there is

a pathological condition of the tube, and therefore its removal is always licit. This contention puts a strain on moral principles, medical evidence, and the decrees of the Church.

It is important for priests to remember that many physicians insist that it is very difficult to diagnose ectopic conception, especially in the early stages. The absence of a foetus or the presence of a dead one can more readily be recognized. In such cases, which are comparatively frequent, there is no difficulty from the moral point of view, as far as the right to life of the foetus is concerned. There may, of course, be other moral questions involved, such as that of the mutilation of the individual. Merkelbach says, in terms that are perhaps too general, that if a living foetus is present, laparotomy cannot be performed unless the foetus is viable. He quotes hesitantly the opinion of Noldin and Antonelli—that in doubt about the presence of the foetus, it would be licit to remove the tumor to save the mother's life.

Priests should insist before giving advice in practical cases that physicians be sure that there really is a pathological condition of the tube.

If a questionnaire were prepared by specialists in this field for Catholic hospitals and if they were requested to report on all cases of ectopic gestation with which they come in contact, doubtlessly a good deal of advantage would accrue to both the physician

and the moralist. The questionnaire should be as detailed as possible and cover every phase of ectopic gestation from the medical point of view.

The following decrees of the Holy Office are quoted from the *Collectanea S. Congregationis de Propaganda Fide*, edition 1907. They differ in minor respects from the variety of texts offered in the manuals of Moral Theology.

1. Decree of Holy Office, May 4, 1898. Coll. 1997.

3. Estne licita laparotomia, quando agitur de pregnatione extrauterina, seu de ectopicis conceptibus?

R. ad 3. Necessitate cogente, licitam esse laparotomiam ad extrahendos e sinu matris ectopicis conceptibus? modo et foetus et matris vitae quantum fieri potest, serio et opportune provideatur. SSmus. adprobavit.

2. Decree of Holy Office, March 5, 1902. Marianopol. Coll. 2131.

"Utrum aliquando liceat e sinu matris extrahere foetus ectopicos adhuc immaturos, nondum exacto sexto mense post conceptionem?

Negative iuxta decretum fer. IV, 4 Maii, 1898, vi cuius foetus et matris vitae, quantum fieri potest, sero et opportune providendum est; quoad vero tempus, uxa idem decretum, orator meminerit, nullam partus accelerationem licitam esse, nisi perficiatur tempore ac modis, quibus ex ordinare contin-

gentibus matris ac foetus vitae consulatur."

3. Decree of Holy Office, May 28, 1884. Coll. 1618.

"An tuto doceri possit in scholis catholicis, licitam esse operationem chirurgicam quam craniotomiam appellant, quando scilicet ea omisa, mater et infans perituri sunt; ea e contra admissa, salvanda sit mater infante pereunte?

R. Tuto doceri non posse.

4. Decree of Holy Office, August 14, 1889. Coll. 1716.

"In scholas catholicis tuto doceri non posse licitam esse operationem chirurgicam, quam craniotomiam appellant, sicut declaratum fuit de 28 Maii 1884, et quamcumque operationem directe occisivam foetus vel matris gestantis."

The following propositions, condemned by Innocent XI, March 2, 1679, are quoted from the *Enchiridion Symbolorum*, Denziger-Bannwart.

1184. Prop. 34. "Licet procurare abortum ante animationem foetus, ne puella deprehensa gravida occidatur aut infametur."

1185. Prop. 35. "Videtur probabile, omnem foetum (quamdiu in utero est) carere anima rationali et tunc primum incipere eandem habere, cum paritur: ac consequenter dicendam erit, in nullo abortu homicidium committi."