

February 1978

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### Recommended Citation

O'Donnell, Thomas J. (1978) "A Recent Decision of the Holy See Regarding Impotence and Sterility Implications for Medical Practice," *The Linacre Quarterly*: Vol. 45: No. 1, Article 6.

Available at: <http://epublications.marquette.edu/lnq/vol45/iss1/6>

# A Recent Decision of the Holy See Regarding Impotence and Sterility

## *Implications for Medical Practice*

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*Father O'Donnell prepared this article expressly for Linacre Quarterly; it was published, by special permission, in the English language edition of Osservatore Romano.*

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A recent decree of the Sacred Congregation for the Doctrine of the Faith (May 13, 1977) suggests a review of the ecclesial concepts of male potency and impotence with regard to marriage in order that the physician dealing with the Catholic patient may more easily coordinate the canonical concept of impotence with the medical meaning, and thus be in a better position to advise and counsel the patient when questions arise in this regard.

At the outset it is extremely important to clarify the proper medical and canonical concepts of impotence and sterility. Canonically, impotence means the inability to perform the marriage act. Note that the question of precisely what the marriage act implies, on the part of the male partner, will be, to a large extent, the subject matter of this article. Sterility refers only to the inability to generate offspring. Thus, it is clear that although these two concepts can be said to overlap to some extent, the meaning of each term is clearly defined. After hysterectomy a woman would be sterile, but still capable of the act of intercourse and hence not impotent; whereas a woman who is incapable of marital intercourse because of the smallness of an abnormal vagina, but capable of being artificially inseminated, would be physically impotent but not sterile.<sup>1</sup>

The clarity of the distinction is important because sometimes medical writers use the terms somewhat indiscriminately, even though the proper medical definitions correspond quite well with the canonical concepts. Thus Dorland's *Medical Dictionary* defines impotence as "lack of power, chiefly of copulative power of the male . . ." and

sterility as "the inability to produce offspring, that is, the inability to conceive or to induce conception." (25th edition, 1974, Philadelphia, Saunders).

The reason why it is important to stress that impotence (the inability to perform the marriage act) and sterility (the inability to conceive or to induce conception) are distinct concepts is twofold: (1) in this article we are discussing only the concept of male impotence, and (2) the Church teaches that impotence, if antecedent to the marriage and permanent, makes marriage impossible; while sterility neither invalidates marriage nor makes it illicit. (Canon 1068)

It should be noted that it is the practice of the Church "not to hinder marriage" when impotence is doubtful, either "in law" (i.e., in the natural law, as far as it can be discerned, there may be a doubt as to whether or not a specific physical limitation constitutes impotence) or "in fact" (i.e., where it is clear that a physical limitation does constitute impotence, but there is a doubt whether or not such a limitation is present, or is permanent). This does not mean that where the impotence is doubtful the marriage is certainly valid. It means only that it is canonical practice to permit a presumption in favor of the validity of the marriage when there is a reasonable doubt about impotence. If the presumption later yields to the certainty of antecedent and perpetual impotence, the marriage would be declared invalid as from its beginning.

These distinctions may seem dry and technical, legalistic and perhaps even too biological, but it must be remembered that the beauty and holiness of Christian marriage is much more than this. But even these prosaic elements are important. To ignore them may not only seem to give wider range to short term goals, but at the same time ultimately to distort and destroy what the holiness and happiness of marriage are meant to be.

Certainly the concept of Christian marriage includes, as essential, the mutual, exclusive and perpetual right to those "acts which are of themselves suitable for the generation of children." (Canon 1081) This, however, is a formula which requires careful understanding. While the act of marital intercourse may be (and usually is) sterile, whether because of the natural rhythm of the woman's ovulation cycle or even because of some permanent defect (such as the absence of viable spermatozoa in the male ejaculate or the irreversible occlusion of the female Fallopian tubes) nonetheless the act of marital intercourse is *that kind of an act* which is proper to human generation, whether or not it is, or even can be, generative.

At this point it seems appropriate to review, in some detail, the historical development of the question to which the Holy See has recently offered an authoritative answer. Surely physicians are interested not only in the proposed solutions, but also in the background and development of the questions. And the question here is precisely

what, in the teaching of the Church, is required in the ejaculate of the male in order that it may properly be called "true semen" and thus adequate for a true marital act.

Before approaching this question in its historical and contemporaneous development it is necessary to comment on the technical term "semen." Although the Latin word itself means "seed" and thus, in terms of reproduction, would seem to imply spermatozoa (when applied to the human male), the English derivative (semen) is not used that strictly in either medical or canonical terminology. Webster's *New Collegiate Dictionary* defines semen as "the viscid whitish fluid produced in the male reproductive organs which contains the spermatozoa and hence serves to fertilize the eggs." Likewise Dorland's *Medical Dictionary* defines semen as "the thick, whitish secretion of the reproductive organs in the male; composed of spermatozoa in a nutrient plasma, secretions from the prostate, seminal vesicles and various other glands, epithelial cells and minor constituents." Thus each definition includes the idea of present spermatozoa but not explicitly as an essential constituent and without specifying the condition of the spermatozoa. Indeed, it seems clear that the "seminal vesicles" are called *seminal* more in relation to the "viscid whitish fluid" than to the presence or absence of spermatozoa. The point of all this is that the canonical term "true semen" has, at times, as we shall see, left the question of the presence of spermatozoa, or the condition of the spermatozoa, if present, a somewhat open one.

The most significant early ecclesiastical declaration on the matter of male potency is to be found in the papal document known (from its opening words) as the *Cum frequenter*, issued by Pope Sixtus V, in 1587, in response to a question submitted by the Bishop of Navarre as to whether or not eunuchs should be allowed to marry.

### Reasons for Negative Reply

The *Cum frequenter* replied in the negative, and contained three reasons for this reply: that eunuchs were frigid by nature and unsuited for matrimony, that they were incapable of the marriage act, and that by their futile efforts to perform the marriage act and by their substitutions for it, they themselves sinned and were an occasion of sin to others.

The interpretation of this document by the canonists and moralists was that in order to have "true semen" (or marital potency) the male ejaculate must contain some products of the testicles. Indeed it is easy to understand the logic of this conclusion in view of the fact that the histology and endocrinology of the testes were not known for many years after the publication of the *Cum frequenter*. It was not without reason that men without testicles were presumed to be (or soon would be) incapable of the marital act.

It is one thing, however, to have said, at a certain stage of medical knowledge, that active testicular tissue was *de facto* necessary for the ability to perform the marriage act (and that is all the *Cum frequenter* really said). It is quite another thing to conclude that, *de jure* (i.e., according to the natural law) the presence of either testicular tissue itself, or something elaborated in the testes, is essential to the idea of marital potency. The *Cum frequenter* merely acknowledged a fact which was quite true and presupposed in the 16th century. But in subsequent years many canonists and moralists drew the unwarranted *de jure* conclusion that the natural law demanded testicular tissue for marital potency. It must, however, be said in their defense that there was no reason to suspect otherwise, in the generality of cases, until the synthesis of pharmacological testosterone (the principal male hormone) in the 20th century. Galen (130-200 A.D.) concluded that there was a relationship of functional similarity between the female ovaries and the male testicles, but it was not until 1939 that Butenandt of Berlin and Ruzicka of Zurich shared a Nobel prize for their work on the isolation of sex hormones during the previous decade, although as early as 1775 Theophile de Bordeu of Paris had suggested that the loss of sexual vigor which followed castration was probably due to the loss of some substance that was produced by the testicles and passed directly into the blood stream.

Thus, with the steady advance of medical knowledge and surgical technique, it is not surprising that the canonical questions concerning male impotence and sterility took on new and sometimes somewhat confusing dimensions. The more detailed clinical knowledge of the physiology and function of the male testicles, including identification of the seminiferous tubules with their epithelial cells in various stages of spermatogenesis (transforming progressively into spermatogonia, spermatocytes, spermatids and spermatozoa, to be delivered *ad extra* through the *vasa deferentia*) and the interstitial cells of Leydig elaborating the internal hormone secretions which are directly picked up by the blood stream and are responsible for secondary sex characteristics as well as sexual vigor all had to be evaluated in relation to the meaning of the marriage act and integrated into the ecclesiastical concept of marital potency and impotence.

It was realized that, either by natural occlusion or surgical intervention, the pathway of spermatozoa to the ejaculate could be effectively blocked without disturbing the production of the male hormones in the testicles and their direct delivery into the system. In such cases a man is capable of an apparently normal ejaculate, lacking only the microscopic presence of spermatozoa, and containing nothing that has been elaborated in the testicles. Hence the question arose: can such an ejaculate be considered "true semen" in the canonical sense that such an act of intercourse, apart from its sterility, can be said to be that

kind of act which otherwise would be a true and proper act of marital intercourse?

That is the kind of question which obviously demands a great deal of the kind of scientific research and theological reflection which goes into what is legitimately called the development of doctrine. As this process progressed two theories emerged, and it is important to understand the scene and nature of their emergence.

The Roman *Rota* (the chief marriage tribunal of the Church), which obviously seeks to render its decisions in accord with Catholic teaching but whose competence is juridical rather than doctrinal, habitually followed the traditional interpretation of the *Cum frequenter* and held that such an ejaculate could not be considered to fulfill the idea of "true semen," and that although the absence of healthy or developed spermatozoa implied only sterility, the proper concept of "true semen" required at least something in the ejaculate which had been elaborated in at least one testicle. The *Rota*, of course, pointed out on more than one occasion that to impede marriage the impotence must be perpetual, as well as certain; and the importance of this consideration increased as the surgical re-anastomosis of the vasectomized male became more frequent and more successful.

Meanwhile another agency of the Holy See, the Congregation for the Doctrine of the Faith (which, prior to 1965 had been known as "The Holy Office" and whose competence is much more doctrinal than merely juridical), had occasion to render a significant decision in a more general context. Under the Third Reich there was a fairly widespread practice of legally imposed sterilization by double vasectomy. The Bishop of Aachen petitioned the Holy Office for a decision regarding impotence or sterility in these cases. In a private reply to the bishop the Holy Office stated, without explaining its reasons for the reply, that marriage was not to be hindered. This was no more than a "straw in the wind," and could be interpreted either as indicating a reasonable doubt about the necessity of testicular products in the ejaculate, or about the certainty of the permanence of these sterilizations, or even possibly foreshadowing a development of doctrine. Subsequently, and much more significantly, there were five other private replies by the same Congregation, to cases involving even the total absence of testicles but in which the man was still capable of an act of intercourse.<sup>2</sup> These replies noted their own rationale: that the question of testicular products being required for "true semen" was still unsettled. Thus it was clear that in the opinion of the Congregation for the Doctrine of the Faith the necessity of testicular products in the ejaculate was at least doubtful (*dubium juris*: i.e., a doubt regarding what was required by the natural law or by the very nature of marital intercourse) and that therefore marriage was not to be hindered.

Finally, on May 13, 1977, the Congregation for the Doctrine of the Faith, now clearly exercising its doctrinal competence, stated, with

the explicit approval of the Roman Pontiff, that the authentic current teaching of the Church is that while impotence is indeed an impediment to marriage, the concept of canonical potency does not necessarily require anything in the ejaculate that has been produced in the testicles. As a decree of the Congregation for the Doctrine of the Faith, this becomes normative for the whole Church and is of considerable doctrinal authority; although it is, of course, neither infallible nor irreformable.

### Review of Recent Decree

At this point it will be helpful to review the text of this most recent decree of the Congregation for the Doctrine of the Faith, issued on May 13, 1977 and which Pope Paul VI "approved and ordered to be published."

The Congregation issued the decree in the form of two questions and two answers:

1. "Whether impotence, which renders matrimony invalid, consists in the incapacity, antecedent and perpetual, whether absolute or relative, of performing conjugal copula." Answer: "Affirmative."
2. "In view of the above affirmative, whether ejaculation of semen that has been elaborated in the testicles is necessarily required for conjugal copula." Answer: "Negative."

Finally, then, it is important to review and summarize what the decree obviously means, and what it obviously does not mean.

The decree means that it is the current teaching of the Church that the doubly vasectomized male is capable of a marriage act provided erection, penetration, and the ejaculation of secretions from the prostate, seminal vesicles and various other glands is possible; that the grossly normal ejaculate is sufficient to fulfill the canonical concept of "true semen" and to achieve that *kind* of an act which otherwise would be generative, even though in this case the ejaculate is sterile and contains nothing elaborated in the testicles. While the decree does not explicitly mention that this is likewise true of the castrate, it is clearly implied and the implication is confirmed by the earlier replies of the same Congregation referred to above, which explicitly dealt with cases of castration. Moreover clinical experience indicates the practicality of androgen hormone therapy in cases of castration.

The decree does *not* mean that double vasectomy is a morally acceptable contraceptive technique, nor does it in any way imply any change, or even "shadow of change" in the Church's teaching regarding the intrinsic evil of contraception or contraceptive sterilization.

Nor does the decree have any implication regarding marital potency after so-called transsexual surgery. The idea that an identifiable male can be changed into a female by plastic-surgical constructs of external genitalia and the application of synthetic hormones is to suppose that the

beauty, dignity and integrity of human sexual differentiation is merely a question of functional instrumentation. Sex is a marvelous modification of the whole human person and not merely a fabricated adjustment of external organs and hormone sufficiencies. And it is the teaching of the Church that marriage is a union of a man and a woman.

It would be inappropriate to close these considerations regarding the decree of the Congregation without recalling again that the beautiful and holy dignity of Christian marriage is much more than these technical and biological decisions, and that such decisions seek only to support and develop the total and true meaning of that divine institution whose sacramental sign reflects the intimate and loving union of Christ and His Church — His pilgrim people. And it is important that each of us, who are His pilgrim people, recognizing and loving Him in His Church, see beneath the surface of decrees of Congregations. His Church, trying to pick its way through such pedestrian problems under the guidance of those entrusted with its teaching authority, deserves our reverence and love. The Lord Jesus comes to us in His Church, and each pedestrian action of Christ as He walked this earth was not as significant as His sermon on the mount or His sacrifice on Calvary. And yet when He only picked His way through the crowded, twisting streets of Jerusalem on an ordinary day, His footsteps left the ground holy where He walked. So too, His gentle love and holiness are reflected in every action of His holy Church.

#### REFERENCES

1. This reference to artificial insemination is made simply by way of an example, without implied approval of the process and without going into the many-faceted moral aspects of artificial insemination and artificial aids to natural insemination. For a full treatment of the Church's teaching on artificial insemination see: O'Donnell, S.J., Thomas J., *Medicine and Christian Morality* (New York: Alba House, 1976), pp. 263-270.
  2. Cf. Silvestreli, A., "Circa l'impotenza e l'inconsumazione nella giurisprudenza canonica anche del S. Ufficio," *Monitor Ecclesiasticus*, 98 (1973), pp. 112-130.
  3. *Acta Apostolicae Sedis*, LXIX, 7 (July 31, 1977), p. 426.
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