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## Letters...

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# Letters...



## Analysis of An Article

Father Brian Johnstone's article "The Sanctity of Life, the Quality of Life, and the New 'Baby Doe' Law" (August 1985) offers a balance and corrective to much of the discussion of treatment for the severely ill.

It seems to me, however, that towards the end, he enters into a line of thinking which is highly questionable, if not out-and-out incompatible with Catholic moral doctrine. For he seems to indicate that when burdens coming from an individual's physical or neurological *condition* of life are going to offer significant obstruction to the normal Christian orientation and maturation of one's life, the individual is not obliged further to sustain that life. Thus he seems to defend withholding effective medical treatment even when the *treatment* itself will *not add to* the physical pain and emotional struggle *already* inherent in the severely handicapped *condition* of the "Baby Does" of this world. To cite the pain involved in a sad physical *condition already present*, and its predictable consequences for the near and distant future as reason for non-treatment is quite a different story from citing *new* difficulties which the medical *treatment itself* will *add to* what is already present and in store for the patient. We can, I believe, justify *not adding to* the patient's already sad condition, as the Pope John Center writers cited in the article all agree. It is not at all clear, however, that the Catholic moral tradition (or even any purely rational enterprise at

ethics) would allow us effectively to aim at terminating a severely limited life simply because that life already promises to be full of obstacles and temptations. The fact that we would terminate such burdensome life by *neglect* (withholding or withdrawing effective treatment which *treatment* does not *add* to the patient's sad condition) rather than by "positive euthanasia" (interventions aimed by their very nature at hastening death) would not affect the morality of such a move. Could any *unhandicapped* person claim the same right for himself or herself: to refuse a simple, unburdensome, effective life-saving procedure on the grounds that, if treatment is refused now, overwhelming spiritual problems (sin, temptation, atrophy, etc.) clearly predictable for the coming years, will be avoided? One must wonder: On this point is Father Johnstone unwittingly writing a prescription for suicide or euthanasia "for spiritual reasons"?

Non-treatment of our "Baby Does" might in some cases better be defended, perhaps, when one is faced with the fact that this one *initial* operation will not for *long* keep the child alive, but will soon have to be followed by a whole series of other procedures. It might then be argued that the initial operation, in itself, is substantially useless. This analysis combined with the accumulated burden of procedures yet facing the child, could very well render the initial operation non-obligatory.

Father Johnstone has written a thought-provoking article which, we can hope, will help all of us examine more accurately the implications of the sanctity of human life which we, in a special way as Catholics, are called to uphold.

Yours sincerely,

**Edward J. Bayer, S.T.D.**  
**Director of Continuing**  
**Education**  
**The Pope John Center**  
**Braintree, Massachusetts**

## A Response to the Preceding

I am grateful for the opportunity to reply to the letter of Rev. Edward J. Bayer. In such a difficult matter we can hope to make progress only through the kind of serious discussion to which his letter invites. I thank Father Bayer for his reflections and hope that this exchange may help to clarify some points. For the sake of brevity, I will pass over the matters on which we would agree and address myself to our differences.

We have a positive duty to protect and foster life. But like all positive duties this may be limited. This point, I take it, would not be in dispute. If I have understood Father Bayer correctly, the precise point on which we differ is the following: Father Bayer holds that there are two and only two morally relevant factors which limit that obligation. One is given where the means of treatment *add to* the physical pain and emotional struggle already inherent in the afflicted person. To say that the means of treatment "add to" the suffering means that these treatments, in fact, cause suffering over and above that which is already being endured by the patient. The second is determined by the "effectiveness" of the means. In Father Bayer's terms a treatment is counted to be "effective" if it preserves life (for some time), where the term "life" means biological functioning. Thus, to reach a moral judgment as to whether the treatment is obligatory or not, it is sufficient to ask two questions. (1) Is the means of treatment "effective" in the sense defined? (2) Does the means of treatment add to the suffering? If we can answer yes to the first question and no to the second, then it follows that the treatment ought to be given. To omit such treatment would then be the omission of what we have a duty to do and, as such, would be morally wrong. It would then count as "neglect" and would be morally equivalent to "positive euthanasia." I hope that I have not misunderstood Father Bayer's position.

The basis of my own approach can be stated briefly. I recognize the above as valid questions which must be answered. But I would argue that the judgment

ought to rest on a more complex set of factors. The set of factors I have in mind are those mentioned in the *Declaration on Euthanasia*. In particular, it would seem to me that the basic question is not simply whether we can or cannot sustain the biological functioning as a state or condition, but rather whether we can sustain and foster the life or, better, the "living" of a person. In this perspective, it is not only the physical pain and emotional struggle which must be considered, but also the state of the sick person and his or her physical and *moral* resources. The latter factor is indicated in the statement of Pius XII and is explicit in the *Declaration on Euthanasia*. I sought to include it in my considerations. I acknowledge the difficulty in applying this to the case of an infant, and would recognize that my proposal may need further refinement.

However, I would not agree that my position would lead to justifying withholding treatment on the sole ground of clearly predictable spiritual problems in the future. In the type of case I considered, a present, severe disability, considered in relation to the treatments available and the resources of the person, may provide grounds for limiting the obligation to treat. The "unhandicapped" person discussed by Father Bayer must be suffering from some disability, otherwise there would be no question of an obligation to treat. What would have to be decided is whether that disability, considered in relation to the means of treatment and the resources of the person constituted a limit on the obligation to treat.

I thank Father Bayer for his thought-provoking questions and hope that this reply has clarified some points.

Sincerely,

**Brian V. Johnstone, C.S.S.R.**

**The Catholic University of America**

## On Zalba Article

It takes considerable courage to disagree with a former consultant to the Sacred Congregation for the Doctrine of the Faith and professor of moral theology at the Gregorian University. But when Father Marcelino Zalba, S.J. wrote in 1968 that contraception is correct counsel for cases of "intra-marital rape", it became necessary to disagree respectfully but firmly. Father Zalba states that Pius XI and XII excluded the woman who undergoes sexual violence from her own husband from the definition of marriage, because such acts cannot qualify as deliberate and freely chosen coition. But then Zalba enlarges the definition of marriage to include the situation in which sexual intercourse of the obviously indeliberate and not chosen type is forced on a woman by the man to whom she is legally and sacramentally married. When the act is not free, it does not fit the definition of the marriage act, regardless of the canonical status of the participants. Zalba goes on to liken the situation of habitual intra-marital rape to that of the (religious) women in imminent danger of rape in the Congo who were advised that they could licitly resort to contraceptives to protect themselves against impregnation by rapists.

There is a world of difference between living in a country where violence breaks out with a concomitant proximal risk of rape without possibility of escape, and the situation of a woman who remains in the home with an abusive spouse, even when she interiorly rejects his sexual advances. Rather than advise this woman to become a passive sexual object, the couple need to assess whether they are, in fact, validly married. To that end, spiritual and psychological assessment and family counseling are the first steps. A confessor may be at a great disadvantage because he only encounters the woman. Too often women who allow themselves to be sexually abused are far from mature emotionally as, indeed, are their husbands. (Were the woman emotionally sturdier, there would not be more than a single episode of such rape — she would either assert or defend

herself, or leave, precluding repetition.) Often the confessor is drawn to see the picture as the woman sees it, and reinforces her helpless posture by his sympathy. In the West, there are shelters for battered wives, social service departments, police, welfare grants — any number of ways a woman can leave home, and take her children along to escape the abuse. To tell such a woman that she should stay, and turn herself into a sexual object while protecting herself only against pregnancy but not against the primary abuse, is to add insult to injury.

True, I have had a European religious priest argue passionately that he was justified in giving just such advice to a penitent on the subcontinent. He became angry when I suggested that what he proposed was not a living out of sacramental marriage, but rather tranquilizing the woman under sexual abuse because he saw no other way for her children to be supported. I suggested that he could not be a minister of the Gospel and ask the woman to make a prostitute of herself. If necessary, he and his parish would have to support her and her children. He was most unwilling to do this, and in refusing, demonstrated his belief that women are men's chattel and that the male sexual drive is by rights irresistible, hence women must accommodate it. That premise, put forth by someone who lives a celibate life, is ridiculous. Since when is the sexual drive outside of the human person? And if it is not outside the person, why can't the person control it?

Even the advice which has been given to wives whose husbands wish to have contraceptive intercourse — to accede, passively, but to suppress any active cooperation or feeling of pleasure — is degrading to a woman. Women are not sexual objects. The present Holy Father teaches that in human relations, particularly marriage, the proper relationship is one of intersubjectivity, which precludes using the partner as an object. The above advice reduces women to being an object, which is unworthy of a human being, and even less so in a sacramental union.

To suppose that there is no obligation to accept a pregnancy while there is an obligation to accept intercourse is ludi-

crous. Unless a woman is paralyzed or threatened with immediate harm to herself or her children, she can and must defend herself verbally or physically, get help, or flee the intended abuse, rather than permit an act which purports to express union but is unable to do so because it lacks the necessary preconditions — freedom, love and mutual desire.

Father Zalba clearly provides for anticipation when he counsels the use of birth control, since female contraception requires planning and acquisition of medication or supplies. If one can anticipate the need for contraception, one can also leave. The advice to the woman to have herself sterilized is even more degrading. The suggestion, no matter how well intended, implies that women (and men) have no free will. The woman is perceived as incapable to resist or leave a situation of abuse; the man, as having no control over his sexual impulses. God did not create us in that way, and for a minister of the Gospel to suggest this, even when intending to help the abused, is descending beyond words.

Zalba's 1968 paper probably preceded the publication of *Humanae Vitae*, even

though the editorial note identifies him as probably one of the chief architects of the encyclical. Be that as it may, the article clearly attempts to broaden the definition of marriage to include its opposite — the violation of persons — clearly rejected not only by the pontiffs cited, Pius XI and XII, but also the constant teaching of Paul VI and John Paul II. It ignores their statements on the essential freedom of persons in all areas, including the sexual, and attempts to build a regressive case for the poor male whose ungovernable sexual drive must be catered to by an accommodating wife even if she must sterilize herself temporarily or permanently to avoid unwanted pregnancies. While it is true that matrimony is a "school of sanctity" which can be much more purifying than a monastery, and one which demands not only growth but much forgiveness, love, patience and hope, to suggest that an evil means is admissible, let alone necessary, to assure the survival of an oppressive relationship mislabeled "matrimony" is to take leave of common sense.

—Hanna Klaus, M.D.

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