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# BOOK REVIEWS

## *Health and Medicine in the Catholic Tradition*

Richard A. McCormick, S.J.

New York; Crossroads, 1984

(The following review is reprinted, with permission, from *Ethics & Medics*, a monthly publication of Pope John Center, 186 Forbes Road, Braintree, Massachusetts, 02184.)

### Introduction

The issues addressed by Richard A. McCormick, S.J., in his now widely circulated book, *Health and Medicine in the Catholic Tradition* (New York: Crossroads 1984 — hereafter HMCT), are of paramount importance. For this reason the Pope John Center considers it expedient to comment on this book from the vantage point of the authentic magisterial teaching of both the American bishops and the universal episcopate, especially as mirrored in pronouncements and actions of the Sacred Congregation for the Doctrine of Faith. Clearly, no attempt can be made in such brief space to offer a comprehensive critique. Rather, this report will respond to what appears to be the underlying spirit of the book, as well as reflect on several specific items in its "guidelines" or in Father McCormick's elaboration of them.

### Proposed Ethical Guidelines and Catholic Identity

The book has the stated purpose of presenting ethical guidelines which the author presumably considers adequate for any health care institution which wants to consider itself authentically Catholic. Yet, these guidelines, the author notes,

were developed privately over a two-year period by a group of Catholic theologians, ethicists and health care personnel. . . . The draft of the guidelines used here has no official status. The guidelines were neither commissioned nor approved by ecclesiastical authorities (p. 6).

These prepared "guidelines", it should be noted, are significantly different from the *Ethical and Religious Directives for Catholic Health Facilities* which are the national code approved by the National Conference of Catholic Bishops, subject to acceptance by the individual ordinary for use in his diocese. Because of what the author considers to be the "broad consultation" that went into the "guidelines" construction, the author concludes that "they can lay claim to representing a contemporary Catholic consciousness" (*Ibid.* emphasis added).

HMCT is part of a series, "Health/Medicine and the Faith Traditions," edited by Martin E. Marty and Kenneth L. Vaux, which, admirably, seeks to inform its readers of the attitudes of various religious groups towards ethical questions in medical care. Most, but not all, of the ethical guidelines promoted by Father McCormick are widely accepted, and, thus, we can presume that most Catholic institutions are already practicing what they recommend. Indeed, most hospitals under other religious auspices, and indeed many under public auspices, may find little to object to in the book

### Problems

There are, nonetheless, serious problems, with the book. For it can mislead the reader to believe that, not merely most, but all the principles it champions are compatible with an institution's or health professional's authentically Catholic identity. At best, certain key "guidelines" are presented in a way which, in our judgment, at the very least invites serious misinterpretation of what Catholic identity means in light of the Church's authoritative teaching. At worst, these same key "guidelines" and the author's expansion upon them, appear to promote such misinterpretation — though Father McCormick's intentions in

this regard are not at all clear. Although he apparently takes the positions he does in order to protect and promote the well-being of the total human person (the person "integrally and adequately considered"), he appears in these few "guidelines" to fall short of that goal, at least by authentically Catholic standards. The book's total effect is to approve, or at least leave the door wide open to, policies and practices which are at odds with the authentic teaching of the Catholic Church.

### Proportionalism

Fundamental to the concrete applications of moral norms which the book advocates is a theological method of moral analysis known as "proportionalism" — though the book does not use the term. Father McCormick and other theologians who over the past fifteen years or more have been repudiating various official teachings underlying certain of the *Ethical and Religious Directives for Catholic Health Facilities*, commonly have been promoting a "proportionalism" of one variety or another. All these versions of dissent, however, have one thing in common: they deny that sexual actions which abandon the physiological and spiritual structure of the conjugal act are universally wrong (see pp. 97ff). Thus, not only contraception, but also extramarital, pre-marital, homosexual, masturbatory, and other sexual actions could conceivably *in some circumstances* be morally right. The same proportionalist approach allows also, once again *under some circumstances*, that one could aim a lethal attack at an innocent person because killing that person will serve some "proportionately" worthwhile purpose (see, e.g., pp 131-2). Thus, one could logically *in some circumstances* rightly aim to bring to an end an innocent human life, whether newly conceived or at some later stage of uterine development.

McCormick is not unambiguous as to whether he would personally be open to such a termination of life, even though the proportionalistic principles he espouses seem to lead inexorably to that conclusion. Furthermore, he fails often to distinguish between a lethal invasion of the fetal body and the mere toleration of fetal death without making such an invasion.

### Biology and the Human Person

A recurrent theme allegedly supportive of McCormick's proportionalism both in this book and in his other writings, particularly those which deal with the ethics of human sexuality, is that the basis of moral evaluation is the whole human person, not simply the biology of the person (see, p. 19). Apparently wishing to find support for his interpretation of this principle, he cites a teaching of Vatican Council II: "The moral aspect of any procedure . . . must be determined by objective standards which are based on the nature of the person and the person's acts" (p. 15). He also notes that the official commentary on this phrase explains that "it refers to human person integrally and adequately considered" (*Ibid.*).

Yet somehow, in McCormick's interpretation, the biology of the human person is not only ruled out as the sole primary deciding factor in certain moral decisions, but rather, this biology is totally ignored and eliminated from such decisions. According to this logic, one may rightfully and willfully pursue certain sexual actions basically bereft of the biological structure of the conjugal act. Or, as noted above, one may, in some cases by proportionalistic principles, ethically invade the living fetus in an act which has only one immediate effect — a lethal one — without violating the fetal person's fundamental human dignity and rights. Thus, our human biology, given of God and intrinsic to our very selves, is to be subordinated to what appears to be a residual platonic dualism. Paraphrasing Louis Janssens, McCormick writes in reference to person, "corporeality is essential to, and, therefore, shares in the excellence and dignity of the human person" (p. 16). As stated, these two remarks about biology and person sound as if they imply that the human person is somehow distinct and separate from his or her corporeality. What, then, is the human person in McCormick's mind? It seems to be some transcendental spiritual element (see, p. 131) while the body is merely its conjoined instrument.

More in keeping with Biblical thought (and consistent Church teaching, particularly at the papal level) is to see and understand the human person as this individual biological being, of whom the "body" (*materia prima*) and the soul are both principles which together form the individual living human soul-body, the person. The body, in this teaching, is not something which can even exist, precisely as *human and living*, apart from its spiritual dimension, the soul. Contrary to McCormick's direction of thought, the human body does not merely "share in the excellence and dignity of the human person," anymore than the soul merely "shares" in this excellence and dignity. Neither soul nor body share in the excellence and dignity of some purported higher entity called "the person". They do not "share" in — they *are together* the person. Thus, the "person integrally and adequately considered" is not something superior and transcendent to the living body — it *is* the person situated in the space-time continuum, as a human *body*.

Hence, when McCormick applies his notion of person to issues of sexuality, especially with regard to marital intercourse, he interprets and rejects papal teaching as being "too biological" (see, for example, pp. 57 and 97). Whereas, in fact, papal and other Church teaching are simply being fully respectful of the person as a *spiritualized body*. Sexual intercourse of a husband and wife involves both a physical coupling which is as truly an expression of their personhood as is their mutual blending of their emotions, convictions and commitments. Perhaps only a streak of Manichaeism could consider *human biology* to be inferior to human psychology in their radical constituency. To the contrary, the human body and its truly physiological actions are spiritualized by its soul, and *both* have been created by God, redeemed by the Son and sanctified by the Spirit.

The human body and its actions are not on the same plane as the body of its nearest evolutionary neighbors, the great apes; for these latter primates are not *spiritualized* bodies, they are not persons. That is why human *biological* activity is transcendent, that is, more than animal, why it has a moral value, why it has such great dignity, why in its very physicality it reflects the activity of God Himself in a way no mere animal, plant, or mineral ever could. McCormick, it seems, misses this point when he relegates human biology to a subordinate level.

### Repudiation of Church Teaching

More fundamentally objectionable, particularly in a treatise allegedly presenting an authentically "Catholic consciousness" on medical-ethical problems, are McCormick's attacks on the teaching authority of the hierarchy. McCormick, appropriately, defines authority "as the right to speak for, decide for, a particular group, to bind the members to the goals and methods of the group. It is the right to command and order" (pp 24-25). This definition seems to speak clearly only of the hierarchy's role in *deciding* what moves the Church as a community will make. The definition is weak, however, regarding the hierarchy's competence to discern what direction the Church has an *obligation* to take by virtue of the *truth* about God and man as seen in the light of Jesus and His Spirit, a light available in a privileged and unique way to the bishops as shepherds of the flock (see Canons 749-754). But somehow he does not seem to apply fully even the "right to command and order" to the authority of the Pope and bishops. For while he recognizes that their authority is more than "leadership", he does not appear to distinguish *secular* authority from the *religious* authority of the body of the Church's bishop-pastors united under the ministry of Peter. For this universal body of Church authority of necessity receives its power from Christ rather than from a mandate of the governed, as secular authorities do. McCormick not only passes in silence over this fundamental fact of genuine Catholicism, but calls for a new democratic mode of exercising Church authority. Then McCormick promotes a revised concept and practice particularly of the magisterium. He suggests that without negating the authoritative character of papal or collegial-episcopal pronouncements, contemporary theology devotes more attention to evidence and sound analysis in assessing the ultimate meaning and value of such teaching (p. 68).

It is difficult to see how that places the ultimate review power anywhere else than in the hands of the learned, but still human, genius of theologians.

McCormick, accordingly, proposes that the magisterium is composed of three distinguishable components: The prophetic charism (very broadly understood as previously noted, so as to include many competencies); the doctrinal-pastoral charism of the hierarchy; and the scientific charism of the hierarchy; and the scientific charism of the theologian. It is the interplay of these charisms that constitute the full teaching function of the Church . . . ." (p. 68).

What he fails to face, however, is the question: Who *ultimately* decides when a conflict arises? Which of the three components of this magisterium has the *final* word? An old axiom is applicable here: Where there is to be coordination, some degree of subordination must be present. One can certainly agree that an "interplay" of these various competencies is desirable and indeed has been the case throughout the Church's 1900 year old life. But this same interplay must respect and allow the hierarchy's divine mandate to be the ultimate "teachers and judges of Faith and Morals" (see Canon 749).

More is involved here than simply Father McCormick's seemingly cynical remark about some "episcopal frowns and some crozier thumpings here and there" which he expects these "guidelines" are likely to provoke (p. 6). Apparently, he wants to give the distinct impression that sincere and authentic Catholics can, *in some circumstances*, and without jeopardizing their identity as Catholics, legitimately pursue actions specifically condemned by the Church as intrinsically evil. He seems to be saying that, for the faithful Catholic rightly to exercise this "freedom", it is required only that some theologians continue to debate, that is, dissent from, condemnations by the hierarchy.

The following quotation from the guidelines reflects the spirit of the above observations:

In moral questions debated by moral theologians in Church, Catholic tradition upholds the liberty to follow opinions which seem more in conformity with standards of good health care (p. 9).

Actually, the Catholic tradition allows a moralist in good faith to continue to argue in scholarly disputation for a position formally (even if not finally) rejected by the Church. For such a rejection is sometimes a cautionary measure the Church takes because the theologian has poorly defended his position. Indeed, he may eventually make his case to the satisfaction of Church authorities. But until that happens, Catholic health care institutions may not legitimately follow his opinion. Moreover, further discussion and study must in no way even appear to be an attempt to pre-empt for himself (or others) the unique role of the bishops to discern ultimately what is or is not morally compatible with a human and Christian life (see Canon 747). Finally, when the Church in her official teaching has consistently, persistently, and publicly condemned certain courses of action as immoral, no Catholic can pursue such actions and rightfully claim, nonetheless, to be acting objectively in a morally acceptable manner.

### Procreative Choices

The "guidelines" later apply an alleged freedom to follow out in practice opinions which dissent from Church teaching. Not surprisingly, the application is made especially to the issues of contraception and the termination of life in the womb.

The moral status of some of the means to responsible procreation and limitation of children is *controverted* in the Church today. Health care personnel should be aware of these controversies, and health care institutions would take them into account in formulating their policies" (p. 12, #14, emphasis added).

This kind of statement encourages corporate owners and sponsors of Catholic hospitals to take this "guideline" as an open invitation to institute policies allowing for contraceptive services, including sterilization, because the issue allegedly is controverted.

On the issue of abortion, another "guideline" seriously misrepresents the Church's doctrine:

Thus abortion has been rejected by the Church *in the vast majority of instances* as a violation of nascent life (p. 12, #15, emphasis added).

Actually, the Catholic moral tradition rejects direct abortion in *all* instances, not in just "the vast majority" of them.

Regarding the heart-rending question of treatment of rape victims, we find again an appeal to "debate" which in reality can be out and out dissent from official Church teaching.

These options [for treating the rape victim] have important moral dimensions, some of which (prevention of implantation) are *the subject of controversy* in the Church (p. 12, #16, emphasis added).

Thus it is implied that, in practice, a sincere Catholic may legitimately by-pass the age-old and constant teaching of the Church that "human life must be safeguarded from conception" (*Declaration on Abortion*, #17) because that teaching is currently "the subject of controversy". One must note that it is a controversy initiated precisely by those who reject the Church's teaching.

There are other misrepresentations of Catholic doctrine in the book, e.g., regarding artificial insemination and other procedures to overcome infertility (pp. 99-101). But perhaps these few examples we have given will serve as a *caveat lector*.

### The Local Bishop's Authority

In these "guidelines" there is clearly an equivocation regarding the word "Church." True, among several meanings "Church" is used to signify "the whole community of believers", certainly an appropriate meaning for the word. But nowhere in these "guidelines" or in their introduction is there recognition that such a community exists only to the degree that there is within it the uniting, verifying and strengthening ministry of the hierarchy. Consequently, nowhere does McCormick recognize that the hierarchy may have a special role and competency in moral matters pertaining to Catholic health care institutions. The only mention made to the hierarchy is made in discussion of the various sources of moral knowledge available to help resolve value conflicts:

Sources include: The experience of the health care and larger Christian communities, the local bishop, moral theologians and Church documents (p. 9, E).

The local bishop's voice and "Church documents" (whatever that may include) seem to be given, at best, equal footing with the other sources — a note in harmony with McCormick's plea, mentioned above, for a more "democratic" way of arriving at Church teaching. Indeed Father McCormick rejects the teaching contained in the Preamble to *Ethical and Religious Directives for Catholic Hospitals* (1971 edition, now in force), namely that:

The moral evaluation of new scientific developments and legitimately debated questions must be *finally* submitted to the teaching authority of the Church in the person of the local bishop, who has the ultimate responsibility for teaching Catholic doctrine (emphasis added).

McCormick asserts that "nothing in traditional Catholic theology will support this extension of episcopal authority" (p. 73).

Such an assertion made without proof can be denied, of course, rightly without proof. Nonetheless, one can easily point out McCormick will not find support in the present Code of Canon Law (c. 753) which states that

Whether they teach *individually* (emphasis added) or in Episcopal Conferences, or gathered together in particular councils. Bishops in communion with the head and the members of the College, while not infallible in their teaching, are the authentic instructors and teachers of the faith for Christ's faithful entrusted to their care. The faithful are bound to adhere, with a religious submission of mind,

to this authentic *magisterium* of their Bishops.

Of particular relevance here is that *individual* bishops "are the authentic instructors and teachers of the faith for Christ's faithful entrusted to their care". If there were many voices in a diocese who claimed to speak with finality on moral issues, that would, at best, lead to much confusion. One boast of the Church in Germany in Nazi days was that at least some local bishops spoke out authoritatively on "secular" issues. If local bishops have any role at all, it is to be the staunch witness to the faith of Jesus Christ regarding what is or is not compatible with that faith. Of course, it is understood that individually they do so, as the Canon notes, in union with both the head and other members of the worldwide College of Bishops. To deny their individual, local role, however, is to deny the unique charism granted to them. The individual local bishops teach authentically, that is, bindingly, though not infallibly, on the local level (see canon 753).

This situation may be akin to the civil courts, which at various levels may make conflicting decisions. Nonetheless, in their respective jurisdictions the court is the authentic interpreter of the law and is to be obeyed until, and unless, a higher court reverses the decision.

### Doctrinal Development

Controversies about abortion and contraception have had some beneficial results, namely, they have led to a deeper understanding of the moral dimensions of those physical events. They have led to a more accurately focused discernment of just what, for example, *in the moral sense*, constitutes abortion. Only the passage of time, and the hard work of theologians, ethicists, medical professionals, and the whole Church under the guidance of the Magisterium have made this clearer vision of particular issues possible. Thus, some theologians of past generations considered as a direct abortion the removal of a hemorrhaging fallopian tube-section containing an ectopic pregnancy, or the removal of a pregnant, but cancerous womb. Until quite recently, many theologians made the same judgment regarding expulsion of a non-viable fetus in cases of septic uterus or eclampsia which had become out of control and which surely would be lethal to both mother and infant without prompt evacuation of the womb which had become a lethally hostile environment for the infant. Concomitant to such an evacuation at this present stage of medical possibilities, but not intended, would most likely be the death of the infant. Moral insight has developed to the point today where, without any condemning signals from Church authorities, moralists widely recognize that these procedures are not all abortion in the moral sense as the Church condemns that "abominable crime" (Vatican Council II *The Church in the Modern World*, #51).

Development has also occurred regarding contraception. In former centuries, outstanding moralists considered as contraception or even abortion any effort to expel a rapist's semen. Almost no moralist would hold that today. McCormick himself appeals to the concept of defense against unjust impregnation (p. 153). Not only does the Church offer no opposition to this and similar positions, her officially formulated moral doctrine has led them, and even to some degree reflects them in official documents by restricting its condemnation of contraception to "*freely chosen sexual activity . . .*" or "*. . . sexual actions deliberately performed . . .*" (emphasis added). (See *Humanae Vitae*, section 13; the 1975 *Response of the Sacred Congregation for the Doctrine of the Faith on Sterilization in Catholic Hospitals*, 1977, section I and 3-a; and guidelines issued by the Irish Episcopal Conference quoted in *America*, February 7, 1981, p. 89.) But in this whole process of development of moral doctrine, the Church's bishops, and especially the Popes, have had not only a part, but also a guiding hand in discerning how authentic, that, how compatible with the truly human and Christian life these developments were. Contrary to the impression Father McCormick's assertion gives, the bishop-teachers of the Church have had "in the Catholic tradition" note simply a word, but the *final* word, even if the local ordinary always had to be in accord with the worldwide body of his fellow bishops united through and under the papal ministry.

## Conclusion

Father McCormick puts forth the "guidelines" contained in the book as a suggested replacement for the current *Ethical and Religious Directives for Catholic Health Facilities*, formulated by the National Conference of Catholic Bishops for promulgation by each bishop in his diocese. We find at least two major problems with his effort.

First as indicated above, fundamental issues regarding teaching authority in the Church are seriously mishandled in the book, and as presented there could not, in our opinion, be incorporated into any revision of the current *Directives*. Moreover, specific Church positions, both doctrinal and disciplinary regarding contraception, abortion, and a number of other issues are seriously misrepresented or mishandled.

Second, there is a distinct danger that, on the basis of this book, some Catholic institutions may proceed — or have already done so — to ignore *even now* the *Directives* where they seem to be in conflict with the "guidelines" presented in the book. Such a move would be a disaster, for it would promote positive disinformation about the nature of the Catholic Church and the locus of final teaching authority with the Church, and the moral commitments of the Church. Despite much acceptable content, then, *Health and Medicine in the Catholic Tradition*, threatens real damage to the Church's mission, to her people, and to contemporary society which desperately needs moral guidance and challenge from her teaching and the way of life of her people and institutions.

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## *For Every Idle Silence*

by Henry J. Hyde

*Servant Books, Ann Arbor, MI., 135 pp.*

This book is the watershed publication on the issue of the role of conscience for the Catholic in politics. It documents, first of all, the extent to which the secularist power brokers will go to insure that religion-based values play no role in the political process. During the litigation surrounding the Hyde Amendment, Mr. Hyde was followed to Mass and duly noted to have taken communion and to have read the epistle. All of his mail was read by ACLU and Planned Parenthood lawyers and each instance in which the correspondent had used an expression such as "God bless you", became part of a brief which was submitted as evidence of a religious conspiracy to deny federal funding for abortion. This was "evidence" that Congressman Hyde could not separate his religious beliefs from his political activity. If this seems like an outlandishly bigoted legal tactic, we should remember that the Hyde Amendment was barely sustained by a 5-4 majority in the Supreme Court.