The Linacre Quarterly

Volume 28 | Number 4 Article 4

November 1961

Moral Considerations on Autopsy

Richard A. McCormick

MORAL CONSIDERATIONS on AUTOPSY

RICHARD A. MCCORMICK, S.J.*

THE first autopsy on medical record occurred in 1341. From that time on the practice grew gradually until, in the last century, Rokitansky and Virchow brought the study of the human cadaver to a new dignity. Through the efforts of such masters, new and more precise knowledge has been made available and has brought enormous benefits to medicine and the clinical sciences. By now the practice is frequent enough in modern medicine that the words "autopsy" and "post-mortem"[1] come easily to the lips of even the rankest medical amateur. However, if few are ignorant of the procedure, there are still many with distorted notions of its morality. Some wonder that moral considerations are operative at all when there is question of a cadaver; others, usually from mistaken religious conviction or an unenlightened and sentimental delicacy condemn the operations out of hand as brutalities. Both positions are, of course, extremist. This article will attempt to summarize the standard moral teaching on the autopsy.

The sources for such a presentation, besides the popular manuals of medical ethics,[2] are two talks delivered by the late Pius XII, one a short summary[3] (which did not deal with autopsies in particular but with the use of the human cadaver for scientific purposes in general), the other a very thorough analysis of the moral considerations.[4] Furthermore, as the Pontiff has indicated, since only the most general truths (scarcely sufficient to provide the detailed direction needed) emerge from natural law and dogmatic

*Father McCormick is Professor of Moral and Pastoral Theology at West Baden College, West Baden Springs, Indiana.

[1]These two terms are identified in popular usage; but there is a legitimate distinction. Post-mortem is the more general term and can be used to refer to any examination on a cadaver, whether cutting be involved or only palpation and manipulation. B. J. Ficarra, *Newer Ethical Problems in Medicine and Surgery*, 1951, 119.

[2]Cf. J. Paquin, S.J., *Morale et Medicine*, ed. 3, 1960, 408-9; B. J. Ficarra, *loc. cit.*; E. Healy, S.J., *Medical Ethics*, 1956, 142-3; C. J. McFadden, O.S.A., *Medical Ethics*, ed. 3, 1953, 276; Godin and O'Hanley, *Hospital Ethics*, 1957, 56-7; P. Finney and P. O'Brien, *Moral Problems in Hospital Practice*, 1956, 233-4; J. P. Kenny, O.P., *Principles of Medical Ethics*, 1952, 108. An excellent and thorough treatment of the subject is that of L. S. Smith, M.D., "The Dead Do Tell Tales," *Hospital Progress* 36 (April, 1954) 52-55.

[3]An Address to the Eighth Congress of the World Medical Association, Sept. 30, 1954. *AAS* 46 (1954) 587-98 at 595. Cf. *Catholic Mind* 53 (1955) 242-52 at 246.

[4]An Address to a group of eye specialists, May 14, 1956. *AAS* 48 (1956) 459-67. Cf. *The Pope Speaks*, vol. 3, 198-206.

considerations, it is the duty of public authority to specify the control of autopsy by sound legislation built upon the more basic and more remote truths. Thus it is that legality and morality merge; or in other words, the practical moral obligations are often enough the result of detailed legislation by civil authority. But since these specifications of civil authority differ according to locality, it would be helpful to indicate in passing where the duties are determinations of the civil law.

By way of general principle, the morality of autopsies could be enunciated as follows: (1) with a proportionate reason, (2) and given proper consent, (3) autopsy may be performed (4) on the certainly dead human body.

A PROPORTIONATE REASON

Mutilation of a living human being is generally justifiable (and sometimes obligatory) when it is useful or necessary for the total good of the person. The organs and functions of the body are goods with a definite and limited purpose: to serve the good of the whole. To impair or eliminate a good without sufficient cause is unreasonable and immoral conduct since it exceeds the limited rights of stewardship given man over his own body. Even when a reason is had, it must be in accord with the limited and definite purpose of this good. To use the organs and functions of the body in any other way would be to do violence to this intrinsic purpose. Clearly, then, the reason justifying mutilation on the living is quite strictly and narrowly definable.[5]

But the above reason cannot be applied to autopsy as the explanation is not far to seek. In autopsy there is no deprivation of a good. Because the whole organism (the person) no longer exists, organs and functions which were important and had significance because they were parts of this organism no longer have the character of parts of a living whole; hence they no longer have the same significance. The bodily organs and functions if indeed one may refer to a function where bodily life has ceased no longer have the character of *goods* in the cadaver; for "they no longer serve it and no longer have a relation to any end."[6] It is clear then, that the principle of the whole (totality) which justifies and limits mutilation on the living has no application here.

But while the cadaver is not living and not subject to the laws governing mutilation of the living, neither is it just an animal body or a "thing," a thing which one may treat as he pleases. Man has found some use for nearly every part of the merely animal body and few would challenge the propriety of such use; for the beast is essentially subordinate to the reasonable uses of man. The same could be said of the human corpse if one considers only the material aspects or components. But that such components cannot alone be a criterion is clear from two considerations, one of which might be called the objective, the other the subjective.

Objectively, the dead human body is something with a certain measure of dignity. It was the abode of the soul. While always remaining distinct and ultimately separable, the body and soul were so closely united that the only accurate statement of this unity is the word "one." The struggles of the soul, its leaps of joy and warmth, its ineffable anguishing, its glorious virtues were shared by, related to, conditioned by, manifested in, occasioned by, and so forth, the body. Similarly the growth and very health of the body were a tremendous influence on the condition of the soul. Psychosomatic medicine is just beginning to scrape the surface of this profound unity. Depth psychology, happening upon the eerie regions where the two become one, has accumulated a body of observations, luxuriant and confusing — as fugitive and delicate as the line between body and spirit. The sacrament of extreme unction, whose principal effect is the spiritual uprigging of the gravely sick, is daily testimony to the prostration of the mental forces which follows collapse of the inferior powers, that is, to the profound and mysterious unity of body and soul. The very agony of death speaks of the terrible intensity of this union as it bursts asunder. If, then, human beings retain and reverence clothes, furniture, rings, pictures of those they love (as memories of a much looser union), how much more dignity does not the human body itself possess?

But not only was it the abode of the soul and essential constituent of the human personality; it is also destined to rise again, when and in the manner pleasing to God Himself. It is destined to reconstruct for all eternity the human personality to share the unspeakable rewards or punishments of the decisions in which it has played so prominent a part. Objectively, then, the human body is not just a "thing" or a mere animal carcass.

But even subjectively the need for a degree of reverence exists. It is a fact of religious psychology that our actions not only stem from our convictions and beliefs, but also intensify or undermine these beliefs. We witness this phenomenon in all areas of human activity. A failure in reverence before the Blessed Sacrament tends to increase the weakness of faith from which it springs and even to proliferate into other areas of faith. Contrarily an act of supernatural charity tends to deepen one's grasp of the Christ-likeness of others. Similarly, just as reckless and irreverent treatment of the human corpse stems from a faulty concept of the body, so it tends to intensify and even extend this erroneous attitude. Eventually to treat the dead body as if it were merely an animal carcass could

[5] To what extent experimentation on the living and transplantation of organs are permissible is still a developing theological problem. The above statement and anything that follows do not intend to exclude these procedures as morally unwarranted.

[6] *The Pope Speaks*, vol. 3, 204.

easily pose a threat to the reverence due to the living body itself. Our living needs partially dictate our treatment of the dead.

These are the basic truths and facts, rather general indeed, which form the moral bases for the uses of cadavers. Positive legislation by civil authority should, and usually does, build upon such bases. Any use which respects these demands of natural-law morality is from this point of view morally acceptable. These general demands forbid only reckless use of cadavers, one where no reason functions to assure maintenance of reverence based on the distinction between the human and the merely animal.

But there are genuine needs justifying autopsy. And because these needs are genuine, they can guarantee that the proper reverence based on the dignity of the body can be maintained even where autopsy is performed. Two general categories of needs stand out: scientific advancement and public order. Competently performed autopsies can contribute greatly to more precise knowledge of the origin, sites, and advances of killing processes; they can lead to the discovery of unknown conditions, to the definitive disproof of a growing misconception or the establishment of a clinical hypothesis. They can render great aid to medical education by making available the only realistic subject for anatomy courses and the often awkward first-steps of incision, exploration, and suture.[7] Furthermore, the demands of public order often suggest the need of autopsy. Frequently it is the only way to determine whether death has come naturally or violently (suicide, homicide). This determination plays an obvious role in the detection, prosecution, and prevention of crime, in the probating of wills, in the achievement of peace of mind of surviving acquaintances.[8] There are so many valid reasons for autopsy that it can be said that there scarcely is any problem from this point of view. Realistically, there could scarcely be abuse through useless autopsy because there seems to be very sound medical reason for saying that no autopsy properly performed is useless."[9] Practically the determination or desirability of autopsy in an individual case is the business of the conscientious pathologist or surgeon or authorized public official. If abuse of the procedure is present, it will generally be present not through lack of reason to perform the autopsy, but by way of negligent performance, arbitrary extension, lack of consent and so on.

[7]The remarks surrounding autopsy proper could be extended, with some obvious cautions, to the use of cadavers for educational purposes in the anatomy classroom. For the urgency of the need of such anatomical material and the factors making for urgency, cf. J. D. Ratcliff, "Let the Dead Teach the Living," *Readers Digest*, August, 1961, 87-90. Pius XII explicitly mentions the licitness of such use. (*The Pope Speaks*, vol. 3, 204-5.)

[8]Cf. R. M. P. Donaghy, M.D., "A Post-Mortem Gift of Life," *Trustee* 13 (1960) 24-27 at 25-6.

[9]G. Kelly, S.J., "Autopsy Attitudes," *Hospital Progress* 36 (May 1955) 78.

PROPER CONSENT

It is clear from the preceding considerations that the care of a corpse, its integrity, and the treatment to which it is subjected are not insignificant considerations. But it is equally clear that the corpse cannot care for itself. Hence the duty of proper care must devolve upon someone else. This much seems arguable from the general principles of natural-law morality. And if someone else is answerable for the proper care of the cadaver, then the consent of this party to autopsy will be required.

But who is this someone else? Positive law usually makes this abundantly clear.[10] Because the spouse or next of kin are generally those best prepared to bestow such care and because they stand to suffer most from abuse of the corpse, civil laws generally establish as theirs both the duty and the correlative right. But not always. When considerations involving public order are at stake, the care of the cadaver is vested immediately in the coroner or medical examiner; for in such a case public interests cannot be left dependent on individual caprice or the often clouded, emotional decisions so characteristic of the next of kin at the time of bereavement. While this authority of the coroner is a specification of the civil law, it is eminently in accord with the broad demands of a reverential treatment of the dead. This third party, whoever he be in the case, acquires, in the language of the Supreme Pontiff, "rights and duties properly so called." Thus it is that consent of those with authority over the body is necessary before an autopsy can be performed. So clearly is this right established that damages are ordinarily recoverable from one who mutilates, dissects, and so forth, a corpse without consent.[11]

If consent is a requisite for autopsy, it is also that which controls the procedure in other respects. Moralists would agree that permission for an autopsy does not carry with it automatically consent to the removal of tissues for classroom, laboratory, or museum use.[12] Only that which is necessary to autopsy itself is understood as granted with con-

[10]Shartel and Plant, *The Law of Medical Practice*, 1959, 65 summarize American legal conclusions as follows: i) the consent of relatives is probably not requisite if the decedent himself has authorized an autopsy; ii) the consent of relatives to an autopsy is not necessary if decedent's death occurs under circumstances which point to possible homicide, suicide, or other unnatural causes; iii) the consent which the physician ought to obtain before he performs an autopsy does not mean the consent of all the decedent's relatives but merely the consent of the relative or relatives who stand nearest to him in blood and affection. There are many complexities which make legal sequence an involved matter; but there seems to be very little difficulty where there is a surviving spouse with whom decedent was living, where the decedent was a minor child living with its parents, where the decedent is a widowed parent.

[11]Jackson, *The Law of Cadavers*, ed. 2, 1950, 159. The damages recoverable are, it seems, primarily to compensate for the injury to the relatives' feelings, to assuage mental anguish, or, as Jackson notes, for the kind of grief that requires financial relief.

[12]J. Paquin, S.J., *Morale et médicine*, 409: Ficarra, *loc. cit.*, 121.

sent. Civil law generally supports this moral unanimity. While the aforesaid uses of the human corpse are at times perfectly legitimate and even desirable, it is precisely consent which at least partially renders them legitimate.

Oral consent, it is true, is probably the most frequent form of consent where autopsy is concerned. In most cases it is probably legally sufficient; yet some jurisdictions, (e.g. California, Michigan)[13] at least in some cases, demand written consent. Writers even speak of implied consent. They mean by this that the authorized person, conscious of his rights, cooperates in bringing about the performance of the autopsy or stands by and sees it performed.[14] There is always danger of misunderstanding, difficulty of proof, hence of legal action in such cases. It can scarcely be doubted that written consent is the most desirable form from every point of view.

Proper consent, then, means consent of those charged with the care of the body. Yet to be authorized in the fullest sense of the word *proper*, autopsy should not only take into account fundamental minimum rights; it should further regard the delicate human feelings so often involved. It is here that Pius XII points to an area of possible abuse:

> Nor would it be fair for the bodies of poor patients in public clinics and hospitals to be regularly desti to the service of doctors and surg s, while the bodies of wealthier patie are not. Money and social status sh not intervene when it is a questior sparing such delicate human feelings

While it is true tha eelings can be abused by an unf advantage over the poor or something bordering on ex tion of consent, yet this diffi y can generally be met by pro education in this matter. Sou morality is never content mer to separate the prohibited fro he permissible. Among othe things, such minimalism risks tifying the permissible with the od, thus tending seriously to lim the notion of the good. Educa n to the need and propriety o autopsy must go further. It shou present autopsy not only as p nissible, but as an act of chari toward suffering humanity, as glorified by the aureole of merci charity toward some suffering b thers."[16]

OBLIGATION

Autopsy performed or good reasons is not only bey nd moral reproach; it can be an a of charity, a genuine sacrifice o the part of those whose feelings must perhaps be disciplined to allow it. But is it ever morally obligatory? Probably most moralists would believe that generally it is not. But could there not be exceptional circumstances where it would be so decisive that it would impose itself? For example, it is quite conceivable that the good to be achieved in an individual case or the harm to be prevented by autopsy could be so considerable that autopsy would be a moral obligation. Practically, however, it would be obligatory only with the simultaneous fulfillment of three conditions. a) There is at least a solid probability that autopsy will secure the good or prevent the harm envisaged. b) There is no other reasonably convenient way of achieving the same results. c) The autopsy will not of itself involve hardship which outweighs the benefits. Given the fulfillment of these conditions, exceptional circumstances could impose a duty either in justice or charity to perform an autopsy: a duty upon the spouse or next of kin to consent if the cadaver has been remitted to their care, or the duty to operate if the body has been committed to the coroner.

THE CERTAINLY DEAD BODY

In explanation of this we can be comfortably satisfied with a summary of the illuminating remarks already made on the subject by Reverend John J. Lynch, S.J. As soon as the physician is certain of real (as opposed to apparent) medical (as opposed to theological) death, autopsy is permissible. Real medical death is the cessation of essential vital function beyond every reasonable hope of resuscitation. Apparent death would amount to cessation of certain signs (e.g. absence of pulse) which might not in themselves be sufficient to provide certainty of final cessation of life. Theological death is understood as the separation of body and soul. It is by no means absolutely clear when the soul leaves the body, nor is it absolutely clear that it leaves it concomitantly with medical death. "Theologians are inclined for several reasons to favor a somewhat delayed separation of soul and body. Consequently they are more than willing to concede an interval of time between the instant of real medical death and the moment of theological death,"[17] especially after violent or sudden death. This has practical overtones for the administration of the sacraments, but not for the performance of autopsy. It is the prerogative of the doctor to decide when real medical death has occurred.

OBJECTIONS ANSWERED

It is entirely possible for the wrong impression to emerge from a consideration of the morality of autopsy. While a genuine reason is required and while real abuse is at times possible, in practice these are not the problems. The true usefulness of autopsy and cadaver material for anatomy classes is beyond reasonable question. The problem is rather the practical one of either stimulating the medical profession to a greater diligence in the performance of autopsies[18]

[13] Shartel and Plant, *loc. cit.*, 65; R. B. H. Gradwohl, *Legal Medicine*, 1954, chapter 3, "Legal Authorization for Autopsy" by L. J. Regan, 68-107.

[14] Ficarra, *loc. cit.*, 122.

[15] *The Pope Speaks*, vol. 3, 205. The Pontiff's reference to "sparing such delicate human feelings" (sc. of the relatives) leaves little doubt that he was not discussing *unclaimed* cadavers, the chief source of educational anatomical material.

[16] *The Pope Speaks*, vol. 3, 206.

[17] J. J. Lynch, S.J., "Autopsy — How Soon After Death?" *Linacre Quarterly*, 27 (1960) 98-101 at 99.

[18] Dr. Smith suggests, *loc. cit.*, 55, this casual factor. Statistics taken from the Catholic Hospital Association questionnaire for the 1954 Directory issue of *Hospital Progress* suggest "that when the examination is really desired by the staff, means are found to overcome the obstacles."

or of obtaining proper consent from the sorrowing next of kin. This latter difficulty is doubtless the more fundamental since it is probably at least partially responsible for any apathy which exists on the part of the medical profession. The more common objections a doctor is likely to meet are the following:[19]

a) *The body of the deceased will be disfigured.* This can be answered by insisting that the incision need not show above the clothing. The autopsy will be performed by a responsibe pathologist. Finally, even the undertaker must cause some disfigurement to do his work properly.

b) *The deceased has suffered enough.* This basically pagan and unreasonable objection can be countered by pointing out that the dead body experiences no pain. Furthermore, incisions and punctures have to be made in the course of embalming.

c) *Let someone else have it done, not our relative.* This is a selfish attitude and if everyone adopted it, there would be no medical progress. Everyone benefits from the knowledge gained by autopsies and so should be willing to contribute his share.

d) *The deceased would not have wanted it.* First of all, it is well to question this allegation and ask if the deceased ever discussed the point with his next of kin. Secondly, it is difficult to be objective about oneself in state of sickness. The seriously sick often have a colored or altered mental outlook toward themselves. Were the individual in complete control of his faculties, his desires would certainly have corresponded (it can be pointed out) to what he always was in life, a generous and unselfish person deeply concerned with the good of others.

e) *The condition from which the patient died is not unusual and is well understood.* It often occurs that routine autopsies reveal medical information not before known or suspected. Unexpected findings seem to be the rule rather than the exception. Even when no unexpected findings are made, autopsies are of value in checking symptoms and different modes of treatment.

f) *It will not bring him back.* True, but it gives someone else, possibly a member of the family, added years of life. It might, for example, detect unsuspected hereditary disease in surviving members of the family.

g) *We do not care what he had.* This may be true now when the shock of grief is sharp; but later when the pain has been relieved, unanswered questions can lead to uneasiness. What was really responsible for death? It is certainly a comfort to survivors to know that everything medically possible was done, that the family need not reproach themselves for neglect. Furthermore, autopsy may actually show that death at this time was a blessing in disguise, considering other prognoses discernible only *post mortem*.

h) *Autopsies are brutal and we know too much about them.* Such an objection probably originates with someone attached to a hospital where undignified conduct has prevailed in the autopsy room. The only answer to such an objection is that autopsies done in *this* hospital are done in a way altogether inoffensive. To see that this is true, those responsible will find Dr. Smith's suggestion a source of both inspiration and meditation:

> Above all it must be impressed upon the staff and students that levity has no place at all in the autopsy rooms. The qualified physician and diener will always view the dead body with reverence. One simple device serves to maintain the proper attitude in the personnel concerned (and *all* hospital personnel should be oriented to the proper necropsy suite attitude): a crucifix, preferably a very large one, should be hung at eye level in a prominent place. The pathologist can quickly elevate his attitude toward the dead human body by quietly saying a prayer for the patient's soul. For some years now I have found that an "Ave" recited while beginning the hard and sometimes unpleasant work of the examination supernaturalizes the task and lightens the load.[20]

It is emotional prejudices such as the above which keep the autopsy count low. While such objections cannot stand up under the cool approach of reason, the reasonableness and desirability of autopsy can scarcely be expected to appeal to those whose deep anguish inhibits sound reasoning. If a more humane attitude is to be hoped for in the sorrowing next of kin, existing prejudices should be dissipated before grief has had a chance to protect, solidify, and intensify the prejudice. The medical profession must do more in popular literature to educate the public to the advantages of autopsy. In pursuance of this worthwhile effort, the Church, after taking stock of human needs and basic truths, would speak her sound and humane position: one midway between materialistic abuse and unwarranted refusal in the face of the many legitimate needs of medical science and the common good. What is true of the care of the sick is shown to be true of the handling of the dead: sound medicine is sound morality.

[19] I borrow these objections and the proposed solutions from Warwick, *Hospitals* 12 (July 1938) 103 as cited in Smith, *loc cit* 53. Cf. also *The Report of the National Conference on the Legal Environment of Medical Sciences*, 1959, 33-4.

[20] Smith, *loc. cit.*, 55.