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Current Medical — Moral [illegible]ment

Thomas J. O'Donnell, S.J.

A recent article by Ian Jackson, F.R.C.S., on the construction of an artificial vagina by plastic surgery according to the McIndoe-Read procedure and also the Frank method suggests certain moral and canonical questions related to vaginoplasty. The moral dimension of vaginoplasty in the context of hermaphrodism and pseudohermaphrodism is concerned with the true determination of sex. The canonical significance relates to the validity of a subsequent marriage contract.

It should be pointed out that reconstructive surgery on the vagina after compromise of the external genitalia due to cancer of the cervix or other lesion is unlikely to present any problem beyond the strictly clinical. Pratt deals with this subject in an article that is both historically rich and promisingly investigative.[2] But when identification of the true sex of the patient is questionable, as is more likely in cases involving a congenital absence of the vagina, certain moral considerations are added to the problem.

It would seem reasonable to say that everyone has a right to be a member of [illegible] sex or the other. To have any [illegible]nsistencies of one's sexual anato[illegible]orrected by plastic surgery and/[illegible]armacological, insofar as thi[illegible]clinically feasible, seems reason[illegible]

In cases w[illegible] sex variables are totally equiv[illegible] the corrective approach may, [illegible]m a moral viewpoint, be t[illegible]ards either sex depending up[illegible] the choice of the individual. T[illegible] parents though in the case of in[illegible]s should make the decision after [illegible]sultation with the specialist. Del[illegible]ng the decision until the child is [illegible]d enough to make it, is contraind[illegible]ated both anatomically and p[illegible]hologically. This point was expr[illegible]ed in an article by Jones and Wi[illegible]ns four years ago. From a moral [illegible]ewpoint one could not accept Jone[illegible]and Wilkins premise that most [illegible]ale hermaphrodites with partially [illegible]sculinized genitals should be rear[illegible] as females because the external g[illegible]nitalia are better suited to fem[illegible]le reconstruction.[3] The apparent supposition here is that one sex (male in this case) is identifiable as predominately determined. In these circumstances the moral indication would be for corrective measures in the direction of the determined sex, although not infrequently the opposite practice seems to be presented as medically acceptable. In an individual patient where determined sex is identifiable, it seems evident that the plastic construction of the external genitalia in the opposite direction would not really change the sex. And the attempt to do so would be an unjustified mutilation. In such a case a male, externally fashioned as a female, could not validly marry, nor even attempt marriage without sexual perversion. It is also likely that his transvestism would be an occasion of sin to himself and scandal to others.

Of course, all of this suggests the extremely difficult question of exactly what sex is and how it is determined. The mere inspection of the external genitalia at birth, with the supposition that the other are within normal bounds suffices in 99.9 per cent of the population. But when the equation is equivocal, the problem becomes acute.

Although external and internal genital morphology is important, it may be compromised and less than conclusive. Chromosomal sex is indicative yet admittedly less than conclusive.[4] Yet one cannot help feeling that too much emphasis is placed on the gender role, by some, as an almost absolute determinant. Therefore, one must not overemphasize the importance of partially developed external or even internal generative organs as indications of sex. Hamblen and his associates at Duke have pointed out the simple expedient of arriving at a decision on the evidence of gonadal predominance. They then surgically fashion the individual to fit the gonadal sex as best as one can. This is "objective an[illegible] academic" but ignores environmental, social and psychological components and is liable to be psychosexually traumatic.[5]

There is no attempt here to solve, or even adequately summarize, the problems of determination of sex in these cases. The intricacies and variables of the endocrinological and morphological dimensions of the individual cases are almost numberless. It is quite likely that, from a moral viewpoint, this comment will pose more questions than it answers. But the questions must be asked: how is sex to be determined?, what are the relative values of the variables? and in how many cases is "true hermaphrodism" (where definite sex determination is, by definition, impossible) to be distinguished from "pseudohermaphrodism" (where sex is determined, but with an overlay of other sex characteristics)? Hampson and his associates posited the "seven variables of sex" as chromosomal, gonadal, hormonal, internal genital, external genital, rearing and gender orientation. This at least provides a reasonable starting point.[6] The problem of their relative values is primarily a medical and anthropological problem. The moral dimension allows for the development of the true hermaphrodite towards either masculinity or femininity and in accordance with the clinical judgment of the physician and the wishes of the patients or parents. The moral dimension though limits the development of the pseudohermaphrodite to the completion of the already established sex. Because of the human damage and grave moral dangers

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1. *Journal of Obstet. Gynaec. of the British Commonwealth*, 72: 336-341, 1965.
2. *American Journal of Ob. and Gyn.*, 81: 535-545, 1961.
3. *American Journal of Ob. and Gyn.*, 82: 1142-1153, 1961.
4. Barr, M. L.: Cytological tests of sex. *Lancet*, 1: 47, 1957.
5. *American Journal of Ob. and Gyn.*, 74: 1228-1244, 1957.
6. *Journal of Clinical Endocrinology*, 16: 547, 1956.

involved in an only apparent change of sex, this becomes an area where values beyond the purely clinical must be considered.

The canonical considerations pertinent to vaginoplasty arise from the concept of marital impotence. Here the church introduces an important canonical distinction between "impotence" and "sterility" which is not always evident in the accepted medical use of these two terms. Canonical impotence means the inability to perform the marital act. Canonical sterility means simply the inability to conceive. The former, if it is permanent and certain, makes subsequent marriage impossible; the latter neither invalidates nor prohibits marriage.[7] Thus the minimum physical requirement for marriage in a woman is that she have a vagina that can be penetrated by the man she is to marry, and the absence of any or all of the post-vaginal generative organs does not constitute the impediment of impotence but only the fact of sterility.

If granted that the individual is actually of the female sex, a vagina surgically constructed in the normal anatomical p[illegible]on and functional for the act o[illegible]ercourse is at least probably su[illegible]nt for marriage. Therefore m[illegible]age is not to be hindered.[8,9,] [illegible] Whether or not such a vagi[illegible] joined to a uterus, or whether [illegible]ot a uterus is present, does no[illegible]m any more pertinent to this [illegible] than to the case of a natural vag[illegible]

It should [illegible]oted; however, that canon 1031 [illegible]cts pastors to consult the bish[illegible]efore assisting at a marriage whe[illegible]ome doubt exists as to the prese[illegible] of an impediment. Hence, it wo[illegible] be appropriate for the physician [illegible]uggest to the Catholic patient c[illegible]mplating marriage that she info[illegible]her pastor of these special circum[illegible]nces and suggest that her pas[illegible] consult with her physician. Mo[illegible]over both prudence and charity w[illegible]d demand that she inform her int[illegible]ded husband.

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7. *The Code of Canon Law,* canon 1068.

8. Ford, J. C., [illegible]: *Theological Studies,* 5: 533-534, 19[illegible]

9. Healy, E. F., S.J.: *Medical Ethics,* Chicago, Loyola [illegible]niversity Press, p. 137, 1956.

10. Tesson, P., S.J.: *New Problems in Medical Ethics* (ed. Dom. Peter Flood, O.S.B.), Westminster Newman Press, pp. 58-60, 1952.