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Vitale H. Paganelli

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An Update on Sterilization
Vitale H. Paganelli, M.D.

Following a cursory review of the last fifteen years of magisterial teaching related to sterilization, I shall discuss the principle of cooperation and attempt to relate the principle to the problem of sterilization in the light of the magisterial teaching.

Albeit not exhaustive, the recent teaching begins in 1931 with the publication of Casti Connubii in which there is at least one reference to mutilation as well as several references to contraceptive practices. The key concept is expressed, "... individuals have not absolute control over their bodies. God alone has that. The individual may not destroy or mutilate any part of his body by medical or surgical means, unless no other means are available for the health of the whole body."1

There is found chronologically another mention of mutilation in Gaudium et Spes (1965) "... whatever violates the integrity of the human person such as mutilation... all these things and others of their like are inhuman indeed."2

Humanae Vitae (7/22/68) further refined the teaching, to wit: "Equally to be excluded, as the teaching authority of the Church has frequently declared, is direct sterilization, whether perpetual or temporary, whether of the man or the woman."3

The preceding quotation, which is taken out of context, can be more clearly understood in its pejorative sense if it is related to the preceding paragraph of the encyclical where it is stated that abortion is absolutely excluded.4 Thus also is direct sterilization excluded absolutely.

In the section of the encyclical following the above, a qualifying statement is introduced which, in effect and in fact, defines (without using the term) indirect sterilization, viz., "the Church on the contrary does not at all consider illicit the use of those therapeutic means truly necessary to cure diseases of the organism, even if an impediment to procreation, which may be foreseen, should result therefrom, provided such impediment is not, for whatever motive, directly willed."5

It would be appropriate at this point then, to define direct sterilization as any sterilization "which aims, either as a means or an end in itself, to render childbearing impossible."6

Lastly in this brief and incomplete scan of the teaching Church is the March, 1975 reply of the Sacred Congregation for the Doctrine of the Faith (SCDF) in response to questions of the North American Episcopate. A translation of this document was published in the August, 1976 Linacre Quarterly.7 Herein again, direct sterilization is defined, following which it is stated categorically that direct sterilization is "absolutely forbidden according to the doctrine of the Church." The Sacred Congregation then went on in answer to the questions put to it by the North American Hierarchy to deny that the principles of common good, totality or contrary opinion may be invoked to justify direct sterilization. It does specifically uphold Article 20 of the Ethical and Religious Directives8 approved by the National Conference of Catholic Bishops in 1971 and again in 1973.

Becoming more specific and referring to the management of Catholic hospitals, the SCDF again denies the permissibility of direct sterilization, absolutely (italics mine) condemning it as being in the objective order of its very nature (or intrinsically) evil.

In a final two paragraph statement and qualified by the following phrases, "utmost prudence" (once), "if the case warrants" (twice), "great care (must be) taken against scandal" and against "danger of any misunderstanding," it approves the application of the principle of material cooperation with all its proper historical theological distinctions.

Unmentioned in this brief review are the many teaching statements of the same period which condemn contraception, frequently defined as a "temporary sterilization." Thus, if these references were added to the few cited above, which have referred either to mutilative procedures or permanent sterilization, the frequent condemnation of direct sterilization can leave no doubt as to the mind of the teaching Church on this subject. (Proper recognition is made of the surgical potential to repair some surgical sterilizations thereby converting a permanent sterilization to a temporary sterilization. This has little bearing on this immediate discussion.)

Doctor Paganelli, a general practitioner in Glens Falls, N.Y., received the 1971 Thomas Linacre Award for his article on "The Catholic Physician, the Teaching Magisterium and the Theologian." He is an associate editor of Linacre.

This paper represents an editing of the author's notes prior to his presentation on the title subject at the 1976 Chicago NFCPG meeting.
The Principle of Material Cooperation

The explicit concept of material cooperation can be traced to the time of St. Alphonsus in the 18th century although both St. Thomas (13th century) and St. Augustine (5th century) refer to “tolerating evil” in order to have a greater good prevail or to avoid a more serious evil.

As will be seen shortly these two qualifying conditions still prevail regarding the application of the principle of material cooperation.

Again certain definitions appear to be in order. First, formal cooperation in activity which is objectively evil must be distinguished from material cooperation. By the former it is understood that the cooperating individual assents, either explicitly or implicitly, to the evil act or to the evil intent of the principal agent. By material cooperation it is understood that the cooperating individual does not in any way assent either to the evil act or to the evil intent of the principal agent but cooperates either (a) to avoid a greater evil, or (b) to achieve a greater good. It will be recognized immediately that the two qualifying conditions dating to Augustine for “tolerating an evil” are inherent as well in the definition and application of material cooperation.

Before leaving the subject, it may be said briefly and succinctly that formal cooperation is never licit. Thus the physician may never directly intervene to perform an abortion, a sterilization (permanent or temporary), an act of euthanasia, or a foetocide.

Several theologians have challenged the concept that a given act can always, everywhere and at all times be relegated to a category of acts which in the objective order (in themselves) are evil. In fact, a challenge has been made regarding the very existence of such a category of evil acts in themselves. Neither my presentation at the meeting nor this summary are prepared to meet these objections which are currently confined to the arena of theological and philosophical speculation.

Still other questions have been raised attempting to quantify various evil acts (e.g., a direct abortion more evil in itself than is direct sterilization?) and to draw distinctions between the negative and positive aspects of moral acts. These questions have been touched upon in magisterial statements but they, too, are beyond the scope of this review.

Finally, how an act is constituted as objectively evil and more generically the question of evil itself are even less the prerogative of this discussion.

In addition to the important qualifiers mentioned above, viz., avoidance of greater evil and more importantly the question of a greater good, there are other conditions imposed on the application of the principle of material cooperation. Cooperation can be said to be either “proximate” or “remote” depending on the nearness in time, place and person of the cooperating agency. Cooperation is also referred to as being “necessary” or “free” in relation to the more or less required presence of the cooperating agency. Thus, for example, an anesthesiologist compared to an orderly would be spoken of as a proximate agent compared to a remote agent in the preparation of a patient for an abortion. If only a single hospital had the capability of performing a procedure (e.g., heart transplant) it would be considered a “necessary” agent as compared to a hospital which was among one of several capable of performing a procedure (e.g., open heart surgery) which would be said to be “free” (i.e., either free to perform the procedure or refer it to a sister hospital). The two sets of qualifying adjectives may be and usually are combined in reference to given situations. Thus, for example, an agent or agency involved in material cooperation may be both proximate and necessary or proximate and free, or remote and necessary, or remote and free depending on circumstance.

In addition to the above consideration there is an element of proportionality that must be superimposed on all the above. Thus the more proximate or necessary the agent involved in material cooperation of an act objectively evil, the greater proportionately must be the good to be gained (or conversely the evil to be avoided).

Similarly, the more evil the act posited by the primary agent, proportionately greater must be the good to be derived in permitting an application of material cooperation. Thus, material cooperation in an act of abortion would require proportionately greater good to be derived than would materially cooperating in a direct sterilization because of the greater evil associated with abortion than with sterilization.

The document of the SCDF has explicitly stated in respect to the management of a Catholic hospital that “any cooperation (italics mine) with direct sterilization is absolutely forbidden.” *(In my Chicago presentation I gave as an example of material proximate necessary cooperation the case of a Catholic hospital providing its facilities for a direct sterilization procedure by a non-Catholic doctor. This example was intended to demonstrate an application of the principle of material cooperation. It was an unfortunate choice for an example since the document of the SCDF makes explicit condemnation of either formal or material cooperation in direct sterilization by anyone, Catholic or non-Catholic M.D., in a Catholic institution.)*

Indirect sterilization, for example, hysterectomy for a cancer of the uterus, bilateral oophorectomy for cancer of the breast, bilateral orchectomy for cancer of the prostate, does not fall under the aegis of the principle of material cooperation and hence is not
application is there of the principle of material cooperation in respect to direct sterilization? Since sterilization outside a Catholic hospital there can be no application, it must be assumed that the Roman document refers only to application of the principle of material cooperation to direct sterilization outside a Catholic hospital. It intends an application of the principle, for example, to Catholic personnel in non-Catholic institutions— the Catholic anesthesiologist, nurse, clerk, orderly, or administrative personnel, etc., employed in non-Catholic institutions. For practical purposes, even here the principle of material cooperation will have an exceedingly rare application since the conscience clause has been upheld in the courts. It would be a rare situation indeed in which the Catholic anesthesiologist, resident, intern, OR or floor nurse, etc., could not exercise this right of conscience and be replaced in the conflict situation by other non-Catholic personnel. It is, however, not inconceivable that in a small, non-Catholic hospital in a remote area the only available anesthesiologist or OR nurse, for example, is a Catholic. In this instance, there may be a place for the licit application of the principle of material cooperation.

*In Chicago, the question was raised whether a Catholic OB-GYN surgeon could perform a Caesarean section and then step out of the operating arena while a non-Catholic colleague and a bilateral tubal ligation. Answered that it was possible for this situation to be considered a licit application of the principle of material cooperation. In so responding, I did not intend to pre-empt the Bishops’ committee. Perhaps the guidelines that the Bishops’ committee’s present drawing will prove my informative response to be in error. If I was in error, I shall be pleased to be corrected. However, each case must be considered individually on its own merits since that which conditions the application of the principle of material cooperation, as earlier indicated, is dependent on meeting a number of qualifying conditions, i.e., remote-proximate, etc.)

For example, consider the situation of a small, remote, non-Catholic hospital whose only OB-GYN staff surgeon is a Catholic. After he has performed a Caesarean section, he is followed by a non-Catholic general surgeon who performs a direct sterilization. Given these circumstances, it is conceivable that the principle of material cooperation may be licitly applied to the Catholic OB-GYN surgeon. Obviously, circumstances ad infinitum can be envisioned which influence also ad infinitum the probable licitness with which the principle may be applied. Herein I have cited one possible relatively realistic situation.

It should be further noted that the principle of material cooperation may not be applied solely for material gain. Thus, for example, the moonlighting Catholic anesthesiology resident may not deliver anesthesia for direct sterilizations if his sole purpose is to augment his income.

Concluding Thoughts

In reference to "Sterilization Committees In Catholic Hospitals," it would appear that in light of the document from the SCDF the very terms of the phrase involve a contradiction in terms. Direct sterilization is "absolutely" excluded in Catholic hospitals, thus no need exists for such committees. Properly defined indirect sterilization is not a problem.

With reference to counseling Catholic personnel in non-Catholic institutions who have conflict situations, the formation of a diocesan medical-moral committee would be a worthwhile consideration. Such a committee should include the ordinary, theologians and Catholic attorneys, administrators and physicians with knowledge of medical-moral problems and their solutions. This committee could provide solid advice for those seeking it. The matter of applying properly the principle of material cooperation with all its nuances is a complicated matter.

Finally, worth quoting and worth considering: "... when there is a question of harmonizing conjugal love with the responsible transmission of life, the moral aspect of any procedure does not depend solely on sincere intentions or on an evaluation of motives. It must be determined by objective standards."

"Relying on these principles, sons of the Church may not undertake methods of regulating procreation which are found blameworthy by the teaching authority of the Church in its unfolding of the divine law." 11 Remarkably, this quote is lifted from Gaudium et Spes, Vatican II.

REFERENCES

5. Idem., paragraph 15.
8. The Ethical and Religious Directives, National Conference of Catholic Bishops, article 20.