



From Mutilation to Donation:

The evolution of Catholic moral theology regarding organ transplantation

Excerpts of a lecture by Albert R. Jonsen, Ph.D., Professor Emeritus of Ethics in Medicine, University of Washington. Delivered for the Lane Center for Catholic Studies and Social Thought, March 2005

Catholic moral theology has been, since most ancient times, deeply engaged in the life of the body as much as that of the soul. In particular, the work of medicine was considered a moral task, capable of being done virtuously or sinfully, and various medical procedures fell under the scrutiny of moral theologians.

The purpose of this Lane Lecture is to trace the evolution of a particular teaching in Catholic moral theology, namely, the moral permissibility of taking a vital organ for transplantation from one person to another. The history of this teaching reveals a movement from one moral stance, condemnation, to another, commendation. It reveals a move from an individualistic to a social view of the problem and, finally, it shows an internal Catholic moral teaching that had a significant impact on secular moral judgment about the issue.

Since organ transplantation was not physically possible before the 1950s, it was not included in the treatises of the moralists. However, another procedure, amputation, was a standard part of the medical agenda. The moral theologians considered it under the general rubric of the Fifth Commandment of the Decalogue, "Thou shalt not kill." They collected under that rubric not only acts of violence that killed but those that maimed or harmed the physical body. Since amputation of a crushed or partially severed limb was often the only means to save life, moral theologians had to ask whether this mutilation of the body was morally legitimate. In general, they noted that the human body was under God's dominion: thus, suicide and mutilation were a violation of God's dominion. Humans, however, have a delegated dominion: they must act to preserve the body in life and health. Thus, they concluded, a mutilation that

was necessary to preserve the body was permitted. This concept was formulated as the "principle of totality:" any bodily mutilation was justifiable morally if and only if it contributed to the good of the whole body. St. Thomas Aquinas discusses this principle briefly!

In 1954, Drs. Joseph Murray and John Merrill at Boston's Peter Bent Brigham Hospital transplanted a kidney from an identical twin to his brother. Since they were genetically identical, the kidney was not rejected and the patient survived for many years. The age of transplantation was under way. Within a few years, drugs to combat rejection had been devised and transplant moved from identical twins to closely related persons. In 1967, the next great leap was taken: Dr. Christian Barnard of Capetown, South Africa, transplanted a heart into Philip Blaiberg who lived a year and a half. Within a decade, hearts, kidneys, livers, lungs, and pancreas

were being transplanted all throughout the world.

The moral theologians now had a new topic to include in the treatise on mutilation: organ transplantation. The first moral problem that they noted was, quite naturally, the aspect of transplantation closest to the traditional doctrine: the removal of a vital organ from a healthy human being. Since the first decade of transplantation was almost exclusively one of taking organs from living persons to give to another (a practice made possible by the physical fact that a kidney can be removed from the body without impairing renal function: persons can live perfectly well with only one kidney and by the genetic fact that organs were best "matched" between relatives). Thus, the first question was: is it morally legitimate to remove an organ, not for the benefit of the person from whom it is taken (as in a medically necessary amputation) but for the benefit of another person. This was an unprecedented moral situation.

The response from the moral theologians was almost unanimous. Their judgment was that such a procedure was immoral: it simply violated the principle of totality. The harshness of the judgment was somewhat mitigated by the sad fact that many transplantations, in those early days, were not successful. It was still a highly experimental and highly risky procedure. There was, however, one exception to the almost uniform condemnation. A graduate student at Catholic University of America, Fr. Bert Cunningham,

wrote a bold doctoral thesis, contesting the judgment of his elders. Interestingly enough, he also had the jump on them, since he wrote in 1944, before transplantation had become possible. Cunningham's thesis was that transplantation was not a violation of the principle of totality. He drew on a doctrine of Catholic theology that was, at that time, very much discussed:

the doctrine of the Mystical Body of Christ. This doctrine proposed that some scriptural references, largely from the writings of the Apostle Paul, suggested that the church could be conceived as an organic body, with Christ as the head and all Christians as members. Cunningham drew moral implications from this theological doctrine. He wrote, "there exists an ordination of men to one another and as a consequence, an order of their members to one another.... Thus, we contend that men are ordained to society as parts to a whole and, as such, are in some way ordained to one another." This spiritual ordering allows any person to mutilate himself physically for the good of another part of the mystical body (unless the mutilation caused sterilization or great bodily harm). Crucial to this theological doctrine is the concept that this body is "mystical" in the sense that it is not coincident with the visible

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church: it contains all humans, even those who do not know that they are part of it, because all humans have been redeemed by Christ. Thus, transplantation is morally legitimate between all humans.

Cunningham's thesis got some notice a decade later, when transplantation was much closer to reality. Pope Pius XII spoke to a convention of histopathologists in 1952. He devoted his remarks to a discussion of experimentation and noted that one justification often given for experimenting on individuals is the good of society. He comments that this is a distortion of the moral notion of community. "Community," he said, "exists to facilitate exchange of mutual need and to aid each man to develop his personality in accord with his individual and social abilities. Community is not a physical unity subsisting in itself and its individual members are not integral parts of it."¹⁴ Cunningham is not mentioned by name, but his thesis is clearly in the Pope's eye.

Two years later, Pope Pius XII addressed a group of ophthalmologists on the topic of corneal transplants. He does not directly cite Cunningham, but the allusion is clear enough. "We must note a remark," he said, "that leads to confusion and which we must rectify... that individuals could be considered parts and members of the whole organism that constitutes 'humanity' in the same manner—or almost—as they are parts of the individual organism of a man. This is inaccurate.

Integrity means the bodily unity of a physical organism in which parts have no independent function except in relation to a whole... in 'humanity' each individual is a value in himself, although related to others."¹⁵ Both of these allocutions emphasize an individualist rather than a communitarian interpretation of the principle of totality.

These papal statements played a significant role in the interpretation that the moral theologians of the first era of transplantation give to mutilation. Most of the leading theologians cite these statements as authoritative when they censure mutilation for transplantation. However, they fail to set the papal remarks in full context. The 1930 Encyclical of Pius XI was discussing the mutilation for the purpose of eugenic sterilization. The two allocutions of Pius XII, while endorsing an individualist interpretation of the principle of totality and condemning its extension to society, were given at a time when the Pope (and the rest of the world) were deeply concerned about totalitarianism, the political ideology that subordinates individuals to the state. His remarks about the principle of totality in relation to experimentation explicitly has the Nazi medical experiments in mind.

Traditional concepts of moral theology undergo evolution due to circumstances and to critical evaluation of the contexts in which they originate.

In 1954, the year Drs. Murray and Merrill performed the first kidney transplant, a hint of change in the universally negative theological opinion appeared. In the United States, the Jesuit theological journal, *Theological Studies*, published a paper by Fr. John Connery, a leading American Jesuit moral theologian commenting on Cunningham's thesis. "Personally," he said, "I am in favor of it." He did not consider Cunningham's justification based on the theology of the Mystical Body at any length. Rather he simply referred to an analogous issue. Theologians allowed a pregnant woman to undergo risky surgery in order to save her fetus; why should they object to a person undergoing similar risks to "sacrifice an organ for the good of another."¹⁶

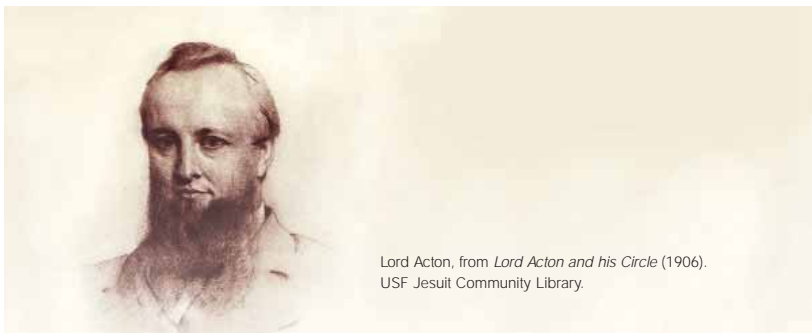
Two years later, the most eminent Jesuit moralist, Fr. Gerald Kelly, devoted an entire article to "Pope Pius XII and the Principle of Totality." He noted that the Pope's condemnations of mutilation are in their context intended as condemnations of eugenic sterilization and of human experimentation under totalitarian coercion. They were not directly relevant to organ transplantation. Kelly fashions an argument that combines Connery's claim that a person can assume risk for the sake of another and Cunningham's thesis about the unity of the human race (abstaining from the more theological Mystical Body argument). He added another point of his own. Transplantation is justified by the law of charity, calling on

persons to make sacrifices for the good of others, just as Christ had sacrificed himself for the salvation of the world. St. Thomas had affirmed that a person may even give his life for the good of another person. "Aquinas showed that in giving one's life for his neighbor, one prefers his own good of a higher order...namely, not a physical

good but the good of virtue." Thus, even the one who sacrifices an organ is himself the recipient of a good.

Kelly wrote a second article in the next year, giving it the suggestive title, "The morality of mutilation: toward a revision of the treatise." It had become clear, in his view, that the classical theological treatise about mutilation needed to be revised in light of the scientific achievements in transplantation. Not only could a kidney be taken from a healthy person with relatively low risk, that same organ was very likely to save the life of another. The classical arguments about mutilation, including the papal statements, were valid in their contexts but were inadequate to deal with this new phenomenon. A new formulation was required. He suggested that formulation:

"The rule of morality should be stated: ordinarily, direct self
(Continued on page 8)



Lord Acton, from *Lord Acton and his Circle* (1906).
USF Jesuit Community Library.

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The eternal gave them a firm rock to stand on. The historical let them see that Christianity's message — although in some sense unchanging — can be neither a museum nor a mausoleum. It is a living organism, always in process of development, always adapting itself to new conditions.

What is the purpose of the Lane Center and why is it so important in 2006? Its purpose, to my mind, is to assist a new generation of Catholics as they travel paths similar to those of Acton and Newman. A good number of Catholics today find themselves internally conflicted. On the one hand, they want their faith to be a rock on which to stand in good times and in bad. On the other hand, they live very much in their skin as Americans, Californians, San Franciscans. Their convictions about issues today — often enough based on empirical research and evolution in our understanding of human dignity — can seem to conflict with present Catholic teaching. Moreover, for those who feel most alienated, this is not merely a difference of political opinion. It is an ethical conflict. It can seem unethical to be Catholic.

The Lane Center for Catholic Studies and Social Thought is intended to be a meeting place for those at the University of San Francisco who want to recover centuries of Catholic traditions — a variety of traditions in all their rich complexity and fertile conflict — for a new generation that faces challenges never before seen. Two millennia of Catholic ideas and representations — of the mystery of God and the mystery of the human, of the nature and purpose of existence, of the rights and duties belonging to persons — provide a wealth of past wisdom for future guidance. The University's mission, situated in the rich cultural and intellectual context of the San Francisco Bay Area, is to shape the present in light of traditions handed on by means of education.

Ours is not the first generation to face this task. It will not be the last. For encouragement, Lord Acton offered these words in 1863: "Not that this labour is an easy one, or one capable of being brought to a close. Each generation has to carry it forward. None can complete it; for there will always be some progress to be made, some new discoveries to adopt and assimilate, some discord to harmonize, some half-truth which has become an error to lop away. It is a process never to be terminated, till God has finished the work of educating the human race to know Him and to love Him."

The University of San Francisco has played its role in this process for the past 150 years. The Lane Center aims to continue this work in a renewed way: to retrieve the fullness of Catholic traditions in order to revitalize our experience of life as citizens of San Francisco, the United States, and the globe. Please join us as we embark on this endeavor ever ancient, ever new.

Stephen Schloesser, S.J. Director

Suggestions for further reading:

- Owen Chadwick**, *The Secularization of the European Mind in the 19th-Century* (1978)
- Roland Hill**, *Lord Acton* (2000)
- Frank M. Turner**, *John Henry Newman: The Challenge to Evangelical Religion* (2002)
- John T. Noonan, Jr.**, *A Church that Can and Cannot Change: The Development of Catholic Moral Teaching* (2005)

(Continued from page 5)

mutilation is permitted only for one's own direct good but, in exceptional circumstances, the law of charity allows it for the benefit of the neighbor."^v

He concluded his article with a comment that, although some called for an explicit papal statement to resolve the controversy, he felt that the controversy itself was valuable. "We are learning much from the controversy and we will still learn more, and surely no harm will come from it if moralists avoid the moral errors at which papal statements have been leveled." Fr. Kelly was a strong advocate of respect for papal teaching but, at the same time, as a skilled theologian, he recognized that any papal statement called for careful interpretation in the light of context and circumstances.

The "revision of the treatise" took hold. One of the Church's most respected moralists, Bernard Haring, wrote in his major textbook, "...it is surely the mark of the most profound reverence toward our neighbor to be willing to sacrifice an organ of one's own body for him in his necessity....In transplantation, the organ is not destroyed but lovingly transferred to one's neighbor in order to overcome a hazard to his life."^{vi}

The law of charity, so central to Catholic morality took its place as the most basic justification of the previously condemned mutilation. In the secular world of medical ethics and law, the non-theological counterpart of charity became the key concept behind the morality of transplantation. That concept was the giving of a gift, donation; and the gift that was given was "the gift of life."

Traditional concepts of moral theology undergo evolution due to circumstances and to critical evaluation of the contexts in which they originate. Unquestionably, the problem of evolution or development of moral doctrine is a complex one and calls for many more examples and much more analysis than this lecture can provide. Yet the brief story of the shift from mutilation to donation is one instructive example. ■

- i Summa Theologiae, II-II, 65, 1.
- ii Acta Apostolici Sedis 1952; 44: 786.
- iii Acta Apostolici Sedis, 1956; 48: 446)
- iv Notes on Moral Theology, Theological Studies, 1954; 15:
- v Theological Studies, 1956; 17: 342
- vi The Law of Christ, III, 242.

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