

## POPE PIUS XII AND THE PRINCIPLE OF TOTALITY

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IN HIS important address to the First International Congress on the Histopathology of the Nervous System,<sup>1</sup> Pope Pius XII considered the three reasons frequently alleged as a justification for experimentation on human beings. The first of these, the advancement of science, he admitted to be valid within properly determined limits. Speaking of the second alleged reason, the good of the patient, the Pope first insisted on the need of having the patient's consent, then continued:

As for the patient, he is not absolute master of himself, of his body or of his soul. He cannot, therefore, freely dispose of himself as he pleases. Even the reason for which he acts is of itself neither sufficient nor determining. The patient is bound to the immanent teleology laid down by nature. He has the right of *use*, limited by natural finality, of the faculties and powers of his human nature. Because he is a user and not a proprietor, he does not have unlimited power to destroy or mutilate his body and its functions. Nevertheless, by virtue of the principle of totality, by virtue of his right to use the services of his organism as a whole, the patient can allow individual parts to be destroyed or mutilated when and to the extent necessary for the good of his being as a whole. He may do so to ensure his being's existence and to avoid or, naturally, to repair serious and lasting damage which cannot otherwise be avoided or repaired.<sup>2</sup>

This was the first time, as far as I have been able to discover, that Pius XII used the expression, "principle of totality," in a public statement; but it was not his first reference to the principle itself. As early as 1944 he had explained the principle and showed how it applies only to the physical whole, not to the moral whole:

Even though limited, man's power over his members and organs is direct because they are constituent parts of his physical being. It is clear then that, since their differentiation into a perfect unity has no other purpose than the good of the entire physical organism, each of the organs and members can be sacrificed if it places the whole in a danger that cannot be otherwise averted. Very different is society, which is not a physical being with the individuals constituting the parts, but merely a

<sup>1</sup> Sept. 13, 1952; *AAS* 44 (1952) 779-89. English translations of this address used in my text are taken mostly, but not entirely, from the version in *Linacre Quarterly* 19 (1952) 98-107.

<sup>2</sup> *AAS* 44 (1952) 782.

community of purpose and action. On this title society can demand of those that constitute it and are called its members all the services that the true common good really requires.<sup>3</sup>

The principle of totality was not, of course, introduced by Pope Pius XII. St. Thomas used it to show why a diseased member could be sacrificed for the good of the whole; other theologians, notably de Lugo, applied it even to the excision of a healthy member; through the intervening centuries moralists have used it in solving problems of mutilation; and Pope Pius XI gave it perhaps its best-known formulation when, after having condemned involuntary eugenic sterilization, he added:

Furthermore, Christian doctrine establishes, and the light of human reason makes it most clear, that private individuals have no other power over the members of their bodies than that which pertains to their natural ends; and they are not free to destroy or mutilate their members, or in any other way render themselves unfit for their natural functions, except when no other provision can be made for the good of the whole body.<sup>4</sup>

Although the principle of totality was well known before his pontificate, no other pope nor any theologian has used it so often or stressed it so much as Pope Pius XII. Because of the important part it has played in his allocutions, there is need, it seems to me, to study his use of the principle and to try to determine how it must or may be applied not only to certain ordinary problems of medical ethics but also to some specifically modern questions. This can best be done by first surveying the allocutions in which the principle has been used, even though this method may entail a multiplication of quotations.

I have already indicated two of the alleged reasons for justifying experimentation on human beings that were discussed in the allocu-

<sup>3</sup> Cf. *Pio XII: Discorsi ai medici* (Roma: Orizzonte Medico, 1954) p. 11. This address, "All'Unione Italiana Medico-biologica 'San Luca,'" Nov. 12, 1944, is perhaps the most comprehensive of all the Pope's talks to the medical profession—in fact, it is a little treatise on medical ethics. It is the first of thirty-five addresses to the medical profession contained in *Discorsi ai medici*. A complete French version of the address is given by the Monks of Solesmes in *Le corps humain* (Desclée, 1953) pp. 34–49. Numerous excerpts from the allocution are given by Abbé R. Kothern in *Directives récentes de l'église concernant l'exercice de la médecine* (Louvain: Em. Warny, 1952).

<sup>4</sup> *AAS* 22 (1930) 565. English translation from the version of the Encyclical on Christian Marriage published by the America Press, pp. 21–22.

tion to the histopathologists: the good of science, and the good of the patient. The third alleged reason is the common good, the subordination of the individual to the community. The papal discussion of this reason constitutes approximately half of the total discourse. In appraising what is said, one must constantly keep in mind that Pius XII, like his immediate predecessor, was keenly interested in protecting the individual against the actual and potential abuses of state totalitarianism. To do this, he gave a lengthy exposition of what he had previously stated very briefly to the Roman Guild of St. Luke concerning the difference between the physical entity and the moral entity, and how the principle of totality applies to the former but not to the latter. The passages of special value in the present study are the following:

The community is the great means intended by nature and God to regulate the exchange of mutual needs and to aid each man to develop his personality fully according to his individual and social abilities. Considered as a whole the community is not a physical unity subsisting in itself and its individual members are not integral parts of it. Considered as a whole, the physical organism of living beings, of plants, animals or man, has a unity subsisting in itself. Each of the members, for example, the hand, the foot, the heart, the eye, is an integral part destined by all its being to be inserted in the whole organism. Outside the organism it has not, by its very nature, any sense, any finality. It is wholly absorbed by the totality of the organism to which it is attached.

In the moral community and in every organism of a purely moral character, it is an entirely different story. Here the whole has no unity subsisting in itself, but a simple unity of finality and action. In the community individuals are merely collaborators and instruments for the realization of the common end.

What results as far as the physical organism is concerned? The master and user of this organism, which possesses a subsisting unity, can dispose directly and immediately of integral parts, members and organs within the scope of their natural finality. He can also intervene, as often as and to the extent that the good of the whole demands, to paralyze, destroy, mutilate and separate the members. But, on the contrary, when the whole has only a unity of finality and action, its head—in the present case, the public authority—doubtlessly holds direct authority and the right to make demands upon the activities of the parts, but in no case can it dispose of its physical being. Indeed, every direct attempt upon its essence constitutes an abuse of the power of authority. . . .

We cannot refrain from explaining once more the point treated in this third part in the light of the principle to which one customarily appeals in like cases. We mean the principle of totality. This principle asserts that the part exists for the whole and that, consequently, the good of the part remains subordinated to the good of

the whole, that the whole is a determining factor for the part and can dispose of it in its own interest. This principle flows from the essence of ideas and things and must, therefore, have an absolute value.

We respect the principle of totality in itself but, in order to be able to apply it correctly, one must always explain certain premises first. The basic premise is that of clarifying the *quaestio facti*, the question of fact. Are the objects to which the principle is applied in the relation of a whole to its parts? A second premise is the clarification of the nature, extension and limitation of this relationship. Is it on the level of essence or merely on that of action, or on both? Does it apply to the part under a certain aspect or in all its relations? And, in the field where it applies, does it absorb the part completely or still leave it a limited finality, a limited independence? The answers to these questions can never be inferred from the principle of totality itself. That would be a vicious circle. They must be drawn from other facts and other knowledge. The principle of totality itself affirms only this: where the relationship of a whole to its part holds good, and in the exact measure it holds good, the part is subordinated to the whole and the whole, in its own interest, can dispose of the part.<sup>5</sup>

A year after his address to the histopathologists, the Pope again explained the principle of totality—this time in his allocution to the Twenty-sixth Congress of the Italian Society of Urologists.<sup>6</sup> These doctors were especially concerned about the morality of castration in the treatment of cancer of the prostate, because this operation entails the destruction of sex glands that are themselves healthy. Relative to this problem the Pope said:

Three conditions govern the moral licitness of surgical intervention which entails anatomical or functional mutilation. First, the continued presence or functioning of a particular organ causes serious damage to the whole organism or constitutes a threat to it. Secondly, the harm cannot be avoided or notably reduced except by the mutilation which, on its part, gives promise of being effective. Finally, one can reasonably expect that the negative effect—i.e., the mutilation and its consequences—will be offset by the positive effect: removal of danger to the entire organism, palliation of pain, etc.

The decisive point here is not that the organ which is removed or rendered inoperative be itself diseased, but that its preservation or its functioning entails directly or indirectly a serious threat to the whole body. It is quite possible that, by its normal function, a healthy organ may exercise on a diseased one so harmful an effect as to aggravate the disease and its repercussions on the whole body. It can also happen that the removal of a healthy organ and the suppression of its

<sup>5</sup> *AAS* 44 (1952) 786–88.

<sup>6</sup> Oct. 8, 1953; *AAS* 45 (1953) 673–79.

normal function may remove from a disease—cancer, for example—its area for development or, in any case, essentially alter its conditions of existence. If no other remedy is available, surgical intervention is permissible in both cases.

The conclusion that We have drawn is deduced from the right of disposition that man has received from the Creator in regard to his own body, in accordance with the principle of totality, which is valid here also, and in virtue of which each particular organ is subordinated to the whole body and must yield to it in case of conflict. Consequently, he who has received the use of the entire organism has the right to sacrifice a particular organ if its preservation or its functioning causes to the whole a notable harm that cannot be avoided in some other way.<sup>7</sup>

Shortly after his address to the urologists, the Pope spoke to the International Office of Documentation for Military Medicine.<sup>8</sup> This address was primarily concerned with the necessity of having a universally accepted code of medical ethics, especially with the need of clearly defined moral standards for the conduct of doctors during war. Referring once more to the allocution to histopathologists, the Pope succinctly stated the principle of totality as follows: "The patient, on the other hand, the individual himself, does not have the right to dispose of his life, or the integrity of his body, of particular organs or of their capacity to function except in so far as the good of his whole body requires it."<sup>9</sup>

We have now given all the papal quotations necessary for clarifying the theme of the present article; other pertinent quotations will be introduced as the individual topics call for them. The theme of the article may be stated in these three questions: (1) How does the principle of totality apply to the ordinary problems of medicine as outlined in the Code of Medical Ethics for Catholic Hospitals? (2) How does the principle of totality affect medical experimentation on human beings? (3) Does the principle of totality exclude organic transplantation?

#### THE ORDINARY PROBLEMS OF MEDICINE

The core of the Catholic Hospital Code is mainly concerned with three kind of procedures: (a) non-sterilizing treatments that affect only the patients; (b) treatments that effect sterility; and (c) treatments of a pregnant mother which, whether sterilizing or not, entail

<sup>7</sup> *Ibid.*, pp. 673-74.

<sup>8</sup> Oct. 19, 1953; *Ibid.*, pp. 744-54.

<sup>9</sup> *Ibid.*, p. 747.

danger or actual harm to her unborn child.<sup>10</sup> These may be called ordinary problems of medicine; and it seems advisable to note how the principle of totality applies to them before going on to the specific problems of experimentation and organic transplantation.

*Non-sterilizing Treatments That Affect Only the Patient*

This is a broad heading. It includes surgical operations such as appendectomy, cholecystectomy, thyroidectomy, lobotomy, etc.; the destruction of organs and functions by irradiation; medical treatments with untoward by-products, e.g., use of the antibiotics; etc. In a word, the heading comprises any treatment (surgical, chemical, electrical, etc.) which in any way affects the integrity of the body or creates danger for the person, without also inducing sterility or endangering a fetus. It is difficult to find a single term to designate these things. Doctors speak of *mutilation*, by which they mean "depriving of a limb, member, or important part," and *wounding*, which signifies the violent breaking of the "continuity of an internal or external surface." A similar terminology is used by some theologians; others distinguish between major and minor mutilations; and still others between mutilations in the strict sense and in a wide sense. The popes themselves seem to have avoided the precise terminology of any theological school. Pius XI distinguished between destruction, mutilation, and other ways of rendering oneself unfit for one's natural functions. Pius XII spoke of paralyzing, destroying, mutilating, and separating the members; also of wounds and dangers.

Regardless of the terminology under which the treatments considered here are to be classified, it seems clear enough that, speaking generally and positively, their morality is governed by the principle of totality; that is, they are permitted when they are necessary for the good of the whole. Neither moralists nor good physicians would object to this statement.

But the inquisitive intellect is not content with generalities. It likes to probe more deeply into the significance of principles; and, when it

<sup>10</sup> Cf. *Ethical and Religious Directives for Catholic Hospitals* (St. Louis: Catholic Hospital Association, 1949), or the briefer statement of directives, in chart form, under the title, *Code of Medical Ethics for Catholic Hospitals*. See also the *Moral Code* approved by the Canadian Hierarchy and published in both French and English by the Catholic Hospital Association of Canada (Ottawa, Ontario).

does this, it is apt to find problems even in apparently uncomplicated cases. That is certainly true in the present case.

For instance, just what is the "good of the whole" which justifies the treatments we are considering here? Is it the good of the body, or the good of the physical organism, or, as Fr. Connery has phrased it, "the total good of the person"?<sup>11</sup> It seems to me that Fr. Connery's phraseology best expresses the true meaning of the principle of totality, because the complete whole to which the various parts are ultimately subordinated is not merely the body, but the whole man. Moreover, to speak of the total good of the person has distinct advantages both in dealing with the medical profession and in clearly explaining certain commonly accepted solutions to modern medical problems. It is very important—as Pius XII has said on more than one occasion—that the doctor be conscious of the fact that he is treating a person and not merely a body. And as for the modern problems, it is certainly easier to explain the licitness of such things as lobotomy, electro-shock therapy, and hormone treatments in terms of the total good of the person than merely in terms of the good of the body. It might be objected that the popes have referred the principle of totality only to the whole body or the whole physical organism. This is true of the formulation of Pius XI; but Pius XII has spoken not only of the body and the physical organism, but also of the good of the "being as a whole"<sup>12</sup>—which, it seems, is best interpreted as the person.

M. Zalba, S.J., apparently agrees with the broader interpretation of "whole" when he says that self-mutilation is licit "si fiat ex necessitate vel convenientia totius individui, ad servandam vitam vel sanitatem."<sup>13</sup> In speaking thus, he also gives a key to a second problem involved in the interpretation of the principle of totality, namely, the meaning of "necessary." Must it be interpreted in the strict sense, or is it correct to say, with Fr. Zalba, that mutilations are permissible when necessary or *useful* for the total good of the person? In a previous discussion of this point I reached the conclusion that genuine utility is a sufficient justification for mutilation.<sup>14</sup> That was before the address

<sup>11</sup> THEOLOGICAL STUDIES 15 (1954) 602.      <sup>12</sup> Cf. *supra*, p. 373.

<sup>13</sup> Cf. Regatillo-Zalba, *Theologiae moralis summa 2* (Madrid: Biblioteca de Autores Cristianos, 1953) n. 251.

<sup>14</sup> Cf. THEOLOGICAL STUDIES 9 (1948) 93-94.

to the histopathologists; yet, having carefully examined that address and the subsequent statements of the principle of totality, I see no reason for changing the conclusion. There is no doubt that Pius XII has usually spoken in terms of necessity when applying the principle of totality to mutilations; but there is no evidence that he meant to restrict the meaning of necessity in such a way that it could not mean utility. His main point has always been that mutilations are permissible when they are productive of a proportionate good for the whole and this same good cannot be achieved by a less radical means.

A practical reason for keeping to the larger meaning of necessity is that in concrete cases it is often impossible to draw the line between the useful and the necessary. To insist that this line always be drawn would crucify the consciences of doctors. Moreover, medicine is not the only aspect of life in which it is difficult to distinguish between strict necessity and genuine utility. Who, for instance, can always draw the precise line between necessary recreation and useful recreation; necessary work and useful work; necessary reading and useful reading, etc.? Extreme cases are clear enough, but there is a broad border line in all these practical aspects of life in which, according to common parlance, necessary and useful mean approximately the same thing. The interpretation of the principle of totality can safely follow this pattern; and the necessity which justifies mutilations may be considered as meaning anything from dire necessity to genuine utility.

A more acute problem concerning necessity in interpreting the principle of totality is indicated by the negative phrasing of the principle used by Pius XI, namely, that individuals have not the right to mutilate their bodies "except when no other provision can be made for the good of the whole." Pius XII has used similar expressions. If these words are interpreted literally they apparently mean that a mutilation is never permissible if the desired good effect can be attained by more conservative measures. This literal interpretation leads logically to the embarrassing conclusion that both Pius XI and Pius XII teach that an individual is obliged to do more to preserve an individual organ than the common teaching of moralists would require him to do to preserve life itself. For example, a man who could keep a gall-bladder ailment under control by a heroic diet would have to choose the diet instead of a cholecystectomy. Since neither Pius XI nor Pius XII has

manifested any desire to change the common teaching regarding the duty of using extraordinary means to preserve life, and since it is not reasonable to interpret either of them as teaching that the member is more important than life, one may well conclude that the necessity of which they speak in the principle of totality is not absolute but merely relative. It was with this in mind that the theologians who helped in the formulation of the ethical directives for our Catholic hospitals stated that certain drastic mutilations are licit "when a simpler remedy is not reasonably available." Thus, when an individual is faced with the choice between an operation and a treatment that involves great expense, great inconvenience, etc., he is morally free to choose the operation.<sup>15</sup>

To sum up briefly: The treatments we have been considering in this section are non-sterilizing treatments (surgical, chemical, medical, etc.) that are supposed to be for the good of an individual patient and that create no danger for others. These treatments are certainly governed by the principle of totality, which in this case means—to put it positively rather than negatively—that the treatments are morally justified when they offer the subject the sound hope of genuine benefit and this same benefit cannot be attained by simpler means that are reasonably available. It should be noted here that, in so far as the principle of totality is applied, there is no need of using the principle of the double effect. The reason for this is, as Pius XII has stated repeatedly, that man's right to dispose of members and functions for the good of the whole is direct and immediate. Resort to the principle of the double effect is required only in special cases; for example, when the use of hormones for bone healing brings with it the untoward by-product of sexual temptations.

Before going on to the next section I should like to mention one further point that is of considerable importance in correctly interpreting the principle of totality. Moralists not infrequently say that a mutilation is permissible only when it is required to remove a present harm or present danger. Perhaps these moralists are fearful of abuses that might concern a future danger contingent on pregnancy. And perhaps it is merely a question of words. For example, it is common medical practice to remove a uterus, even though still undiseased,

<sup>15</sup> This point was also included in the discussion cited in the preceding footnote.

when malignant ovaries are excised. One reason for this is apparently to prevent the recurrence of cancer in the reproduction system. Supposing that reason to be valid, I doubt that any theologian would raise a moral objection to the hysterectomy. Moreover, this solution seems in keeping with the statement of Pius XII that mutilations are permitted "to avoid . . . serious and lasting damage. . . ."<sup>16</sup>

### *Treatments That Effect Sterility*

The coherent discussion of the morality of sterilizing procedures calls for the distinction between direct and indirect sterilization. Direct sterilization, according to Pius XII, is a procedure which is designed, either as a means or as an end in itself, to render child-bearing impossible.<sup>17</sup> In other words, a sterilization is direct when sterility is purposely induced. Pius XII has never, as far as I know, used the expression, "indirect"; but by implication his definition of direct sterilization and by analogy his explanation of indirect killing<sup>18</sup> would lead to the following description of indirect sterilization: a procedure with an accessory consequence of sterility, in no way desired or intended, though inevitably connected with necessary therapeutic treatment. In other words, when sterility is merely the unintentional by-product of some needed therapeutic procedure, the sterilization is indirect.

It seems clear enough that the principle of totality applies to indirect sterilizations, because Pius XII himself used this principle in solving the problem of castration for carcinoma of the prostate. We can dismiss the problem of indirect sterilization, therefore, after simply noting two interesting points. First, in these cases there is a combination of direct mutilation (because, for example, an organ or its endocrine function is intentionally removed or suppressed) and an indirect sterilization (because the destruction of the procreative power is merely an unintentional, unavoidable by-product). Secondly, by reason of this combination, the problems of indirect sterilization are really solved by using both the principle of totality and the principle of the double effect.

After showing the Italian urologists how the principle of totality is correctly applied to the case of castration for carcinoma of the prostate, Pius XII took occasion to point out that the same principle can-

<sup>16</sup> Cf. *supra*, p. 373.

<sup>17</sup> Cf. *AAS* 43 (1951) 843-44.

<sup>18</sup> *Ibid.*, p. 859.

not be applied to justify the removal or section of healthy Fallopian tubes when pregnancy might be dangerous by reason of diseases of the heart, lungs, kidneys, etc. "In this case," he said,

the danger that threatens the mother does not arise, either directly or indirectly, from the presence or the normal functioning of the tubes, nor from their influence on the diseased organs—kidneys, lungs, heart. The danger would arise only if free sexual activity would start a pregnancy that would threaten the aforesaid weak or sick organs. The conditions that would allow the disposal of one part for the good of the whole by reason of the principle of totality are lacking. It is therefore not morally permitted to interfere with the healthy tubes.<sup>19</sup>

The Pope's negative reply is not surprising; but it is surprising, it seems to me, that he did not use this occasion at least to refer to his own strong teaching about direct sterilization. It was he who explicitly defined direct sterilization as a contraceptive procedure—in fact, he explained it as the most radical of all contraceptive measures; and in his own reiteration of his predecessor's solemn teaching he made it perfectly clear that such measures are intrinsically immoral "and that no alleged 'indication' or need can convert an intrinsically immoral act into a moral and lawful one."<sup>20</sup> Moreover, like his predecessor, in condemning contraception as intrinsically immoral he avoided the so-called practical arguments and stressed the metaphysical argument of finality. All this would suggest that the ultimate reason why the principle of totality cannot be applied to cases of direct sterilization is that the reproductive function as such is not subordinated to the individual; his direct right over this power is limited to use and non-use and does not extend further than that.

Whatever be the ultimate explanation, it is clear enough from the papal teaching that the principle of totality cannot be invoked to justify direct sterilization. This is certainly the *per se* rule. But one may legitimately ask whether, by reason of entirely special circumstances, an individual might acquire the right to destroy his procreative power or to consent to its destruction. For instance, there is the case discussed by Fr. Connery concerning the individual who can avoid unjust detention in a state institution only by consenting to a sterilization.<sup>21</sup> I would agree with Fr. Connery that the individual may

<sup>19</sup> *Ibid.* 45 (1953) 675.

<sup>20</sup> *Ibid.* 43 (1951) 843.

<sup>21</sup> Cf. THEOLOGICAL STUDIES 15 (1954) 605-6.

probably give consent. Also, I think that the analogy with the historic opinion that self-mutilation is permissible when it is the only alternative to an unjust threat of death or some similar evil is pertinent.<sup>22</sup> Nevertheless, to defend this position one must show either that direct sterilization is permitted in a case like this or that the action, from the point of view of the innocent individual, is not a direct sterilization.

Even since the decree against direct sterilization, some authors have held that it is permissible if necessary for the good of the whole.<sup>23</sup> Whether this position is tenable seems very dubious; but certainly, if it is held, the conditions for applying the principle of totality must be interpreted much more strictly than for indirect sterilizations and other mutilations.

The better approach, it seems to me, is to try, with Fr. Connery, to show that from the point of view of the individual's consent the sterilizing operation is not direct. Fr. Connery's explanation, it will be remembered, is that the operations ordered by the state are direct sterilizations only by reason of the state's intention, and not *ex objecto*; hence he concludes that the individuals can limit their consent to the operations in so far as they are mutilations necessary for their own welfare. Although I agree with the conclusion, I would prefer a slightly different explanation. It seems to me that the operations themselves, being eugenic sterilizations, are per se direct sterilizations; therefore, viewed only from the aspect of the state, they are direct sterilizations both *ex natura actus* and *ex intentione agentis*. On the other hand, when the acts are viewed from the standpoint of the oppressed individuals, a new factor must be considered, namely, the unjust but unavoidable alternative imposed by the law. Because of this new factor the act becomes, for the oppressed individuals, not precisely a direct sterilization but merely a licit mutilation. In other words, my explanation would be analogous to the case of the innocent person who is forced by a thief to help him carry off a strong box. Here the same act objectively considered is theft for one, not theft for the other.

Perhaps a further analogy may be drawn from the teaching of many

<sup>22</sup> This analogy is also used by F. J. Connell, C.S.S.R., to explain why the individual may consent to the sterilization: cf. *Morals in Politics and the Professions* (Westminster, Md.: Newman, 1946) p. 167.

<sup>23</sup> Cf. THEOLOGICAL STUDIES 8 (1947) 102.

theologians that a raped girl may remove or destroy the semen of the rapist. In a purely material sense her act is contraceptive; but it is not contraception in the accepted sense of the word, because this supposes the frustration of a voluntary sexual act.<sup>24</sup> So, too, may we not say that, even though the eugenic sterilization to which the innocent individual is forced to consent is per se a contraceptive act, it is not formally contraceptive for him?

*Treatment of a Pregnant Mother Involving Danger or Actual Harm to Her Unborn Child*

Little need be said under this heading. It is evident that one may not simply apply the principle of totality when treatment of a mother entails danger for her child, because the child cannot be included under the subordination of part to whole requisite for the use of the principle of totality. In other words, one may not make the absolute rule that any treatment, surgical or otherwise, which would be licit as regards a non-pregnant woman is also licit during pregnancy. When danger to the unborn child is involved, the principle of the double effect must be invoked; and in particular two questions must be considered: (a) whether the treatment helps the mother without directly harming the fetus; and (b) whether there is a proportionate reason for using the treatment before the child can be safely delivered.

EXPERIMENTATION ON HUMAN BEINGS

Even medical treatments of proved worth are sometimes accompanied by risk because of the unpredictable reactions of the patient. Avoidance of such risks for the patient is one purpose of the careful diagnosis required by medical societies; and avoidance of similar risks for others is one purpose of the autopsy. Yet, even the utmost care cannot completely eliminate such risk; and it is not to this kind of risk that the expression, "medical experimentation," refers. Rather, experimentation usually means either the use of treatments not sufficiently established or the use of procedures which have for their precise purpose the discovery of some truth or the verification of some hypothesis.

<sup>24</sup> Thus, referring to sterilizations, Pope Pius XII spoke of the indissoluble bond that the Creator Himself has attached to the *voluntary* use of the generative faculty and its inherent procreative purpose; cf. *Discorsi ai medici*, p. 18.

When the purpose of experimental treatments is the good of the patient, the principle of totality (perhaps combined with the principle of double effect) is applicable. Obviously, what is permitted as regards destruction, risk, etc., depends on the prudent estimate of such factors as the desperateness of the patient's condition, the proportion between probable benefit and probable harm, etc. This problem is usually outlined in the theology manuals where the use of probable remedies is discussed; and Pope Pius XII followed this standard teaching in his statements on experimentation.

Of special difficulty is the problem of experimentation on human beings for the good of others. For the most part, the teaching of Pius XII on this subject is clear; but there are obscure points on which one can offer only a tentative interpretation. The purposes of the remainder of this section are, first, to state the clear points briefly, and, secondly, to suggest a reasonable interpretation of what is obscure. Neither of these purposes can be properly fulfilled without considering the papal statements in their historical background, that is, with reference to certain philosophical attitudes characteristic of our time, as well as with reference to the actual practice of clinical investigators and research workers in the field of medicine.

Of dominant importance is the totalitarian attitude, the view that the individual exists for the community and is subordinate to it as part to whole. The most glaring example of this is the experimentation carried on by the Nazi doctors. Civilization looks with horror on these experiments; nevertheless, as the Pope has stressed more than once, the totalitarian attitude did not die with the execution of the war criminals. In condemning this attitude the Pope clearly taught that the individual is not a subordinate part of society and that, as a consequence, the principle of totality may not be invoked to justify any medical experimentation for the good of others.

Another attitude is the extreme individualism which holds that, granted a person freely consents to an experiment, there is practically no limit to what may be done. A modification of this attitude is that, though there may be certain limits when experiments are carried out on others, these limits may be ignored when the experimenting scientists are themselves the subjects. Against these views the Pope taught that there are some moral limits even when consent is freely given and that these limits are the same for all.

Perhaps it is because of one of the foregoing attitudes that there are abuses by clinical investigators and research workers. At any rate, that there are real abuses is clear to me both from my reading and from what I have been told by doctors. These abuses mainly consist in doing things without consent or in practically forcing the consent of "charity" patients; but in some cases risks are apparently taken that would not be justified even with consent. For example, some small things done without consent might be making certain tests with a needle or practicing with some instrument such as a proctoscope. These things are done, not for the good of the patient, but to build up statistics or to give young doctors practice. Such things do the patient no harm but they do annoy him. Other abuses concern more serious matters: transfusions with blood from a person with a serious blood disease; giving hormones or vaccine to one group that might be harmed and withholding the same from a group that may need them—all for the purpose of having "control groups" for research projects. I would not want to say that these or similar abuses are common, but I have good reason to believe that they are not entirely uncommon. That the Pope was conscious of such abuses, and perhaps much more serious ones, is evident from his address to the histopathologists; and it was in view of such things that he taught not only what has been previously indicated in this section but also the absolute need of the individual's consent, at least tacit, for any treatment, even for his own good.

The preceding points are clearly contained in the teaching of Pius XII, as may be seen either in the quotations already given in this article or in some that will be cited later. But obscurity, with the possibility of divergent interpretations, begins when one faces the question, do the papal statements allow for any harmful or risky experimentation merely for the good of others? It seems to me that the following paragraph contains an affirmative answer to the question:

In the domain of your science it is an obvious law that the application of new methods to living men must be preceded by research on the dead body or the laboratory model, and by experimentation on animals. Sometimes, however, this procedure is found to be impossible, inadequate, or impracticable. In that case, medical research will try to work on its immediate object, the living human being, in the interest of science, in the interest of the patient, and in the interest of the community. This is not to be dismissed without further consideration; but it is necessary to stop at the moral limits We have explained,<sup>25</sup>

<sup>25</sup> *AAS* 44 (1952) 788.

This paragraph seems to refer to both kinds of experimentation—for the patient's good, and for the good of others. If that interpretation is correct, the next question to be answered is posed by the last sentence: what is the moral limit of experimentation for the good of others? Again speaking tentatively, I would suggest that the Pope's answer is contained in one sentence in the address to the histopathologists and in a paragraph of the address to the World Medical Association. To the histopathologists he said: "The patient, then, has no right to involve his physical or psychic integrity in medical experiments or research when they entail, either immediately or subsequently, serious destructions, mutilations, wounds, or dangers."<sup>26</sup> At first sight, this sentence might seem to refer to experiments for the patient's own good, because the sentence follows immediately on the explanation of the principle of totality. But this interpretation seems unsound, because all the things mentioned may be permitted when they are genuinely required for the patient's own good. Moreover, when the Pope repeated more or less the same limitation in a later address, he obviously had in mind experiments for the good of others. Thus, in his address to delegates to the Eighth Congress of the World Medical Association, he said:

What goes for the doctor in regard to his patient, goes also for the doctor in regard to himself. He is subject to the same great moral and juridical principles. He cannot, therefore, submit himself to scientific experiments or practices that entail serious harm or threaten his health. Still less is he authorized to attempt an experiment which, according to authoritative information, may involve mutilation or suicide. The same must be said, furthermore, of male and female nurses and of anyone who may be disposed to give himself to therapeutic research. They cannot submit themselves to such experiments.<sup>27</sup>

<sup>26</sup> *Ibid.*, p. 782. The original French text reads as follows: "Le patient n'a donc pas le droit d'engager son intégrité physique et psychique en des expériences ou recherches médicales, quand ces interventions entraînent avec ou après elles des destructions, mutilations, blessures ou périls sérieux." I have translated "sérieux" as applying to the complete enumeration because this seems the better meaning in terms of moral theology and because several French scholars have told me they consider this meaning preferable.

<sup>27</sup> *AAS* 46 (1954) 593-94; English translation from the *Catholic Mind* 53 (1955) 245. This address, given Sept. 30, 1954, contains references to several previous allocutions and includes lengthy notes from them. English translations of the entire text with notes are in the *Catholic Mind*, April, 1955, and *The Pope Speaks*, 4th Quarter, 1954. The Pope also made several references to the "International Code of Medical Ethics," already approved by some forty-two nations. The text of this Code, with the "Declaration of Geneva," is in *Linacre Quarterly* 22 (1955) 56.

Since this paragraph concerns not what the patients may allow but what the doctors themselves may do or submit to, one can hardly doubt that it refers to experimentation for the good of others. Moreover, by explicitly stating limits, the Pope implicitly concedes that within these limits such experimentation is permitted. There may be some differences of opinion as to what are the precise limits, because the Pope does not define each of his terms; but I believe that what Fr. Ford and I wrote in our Notes for 1953 is within the general tenor of the papal teaching and may be taken as a good working rule. We suggested that experiments for the good of others may be permitted, "provided (a) that the subject freely consents, (b) that no experiment which directly inflicts grave injury or death is used, and (c) that all reasonable precautions are taken to avoid even the indirect causing of grave injury or death."<sup>28</sup>

I have previously mentioned certain abuses by clinical investigators and research workers. These abuses pertained to actual practice. I should like to add, in fairness to the medical profession, that the published professional standards that I have seen contain little or nothing that could be considered objectionable. For example, the rules for experimentation on human beings used at the Nuremberg medical trials contain such points as these: the absolute need for the enlightened consent of the human subject;<sup>29</sup> the preliminary use, as far as possible,

<sup>28</sup> THEOLOGICAL STUDIES 15 (1954) 76-77. This discussion on experimentation is reprinted in *Medico-Moral Problems: Part V* (St. Louis: Catholic Hospital Association, 1955) 45-46. J. Paquin, S.J., who treats the subject of experimentation very thoroughly, reaches a conclusion similar to that expressed above; see *Médecine et morale* (Montréal: Comité des Hôpitaux du Québec, 1955) pp. 357-58. Incidentally, in a discussion of experimentation published several years before the papal addresses, Fr. Ford had reached tentative conclusions substantially the same as those given in my text; cf. THEOLOGICAL STUDIES 6 (1945) 536-37. There may be a touch of human interest in noting that neither of us adverted to this previous discussion when we collaborated on the Notes for 1953.

<sup>29</sup> The Nuremberg rules are in *Linnæus Quarterly* 20 (1953) 114-15. The rule concerning consent is so splendidly stated that it should be repeated here. It reads: "The voluntary consent of the human subject is absolutely essential. This means that the person involved should have legal capacity to give consent; should be so situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, over-reaching, or other ulterior form of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the subject matter involved as to enable him to make an understanding and enlightened decision. This latter element requires that before the acceptance of an affirmative decision by the experimental subject there should be made known to him the nature, duration, and purpose of the experiment; the method and means by which it is to be conducted; all inconveniences and hazards

of animal experimentation and other methods of study; the sound hope of fruitful results, with due proportion between this and the risk involved; avoidance of any experiment when there is an *a priori* reason to believe that death or disabling injury will occur;<sup>30</sup> the use of all possible precautions against injury; the complete liberty of the human subject to terminate the experiment at any time when he thinks his physical or mental state requires it; and the sincere willingness of the scientist to terminate the experiment at any stage when its continuation is likely to result in injury, disability, or death for the subject. It seems to me that there is no conflict between these provisions and the teaching of Pius XII; rather, they seem to make his teaching more concrete.

Even tentative conclusions should be based on principle. Consequently, one may well ask, on what principle medical experimentation, within the limits outlined here, may be justified. Certainly the justification is not to be found in the principle of totality. Rather, it seems, we must invoke the more general principle of fraternal charity. But if this principle is invoked—and it seems to me that such is the case—another difficulty must be faced. If we prescind from experiments in which some direct harm is inflicted on the subject and consider only the matter of risk, we naturally ask why the Pope was careful to say that even serious risks must be avoided. Charity itself does not limit risk; rather, there are cases in which charity permits, if it does not demand, the greatest risk, even to loss of life. I believe that the answer to this problem is found in the point I have previously stressed, namely, that the Pope's remarks about medical experimentation were made with reference to a definite historical background. He was not saying that in no conceivable circumstances could serious risks be taken in experimentation; he was saying that in medical experimentation and

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reasonably to be expected; and the effects upon his health or person which may possibly come from his participation in the experiment. The duty and responsibility for ascertaining the quality of the consent rests upon each individual who initiates, directs, or engages in the experiment. It is a personal duty and responsibility which may not be delegated to another with impunity."

<sup>30</sup> Rule 5 reads as follows: "No experiment should be conducted where there is an *a priori* reason to believe that death or disabling injury will occur; except, perhaps, in those experiments where the experimental physicians also serve as subjects." This tentative admission that the moral limits might be extended when the experimenters themselves are the subjects is the only point that seems to conflict in any way with the teaching of Pius XII.

research as it is carried on today by the medical profession there is no proportionate reason for serious risks. On the factual plane this is in accord with the approved practice of the profession, e.g., the Nuremberg rules; and in the sphere of principle it agrees with the traditional explanation of fraternal charity. No theologian would hold that charity justifies clearly disproportionate risks.

#### ORGANIC TRANSPLANTATION

In medicine organic transplantation may mean a heterograft, an autograft, or a homograft. The first refers to the grafting of a part of an animal onto a human being. We are not concerned with that here. The second refers to a graft taken from the same person, e.g., the use of skin from another part of the body to remove a scar, or the use of cartilage from a rib to repair a fractured nose. Autografts obviously present no moral problem when medically indicated, because the whole procedure is for the good of the person affected.

The theological problem concerns homografts, i.e., the use for grafting purposes of a part taken from another human being. Even here, however, some distinction must be made before focusing on the problem of controversy. For example, there can be no reasonable doubt concerning the licitness, granted proper medical indications, of making grafts from cadavers or from parts of legitimately amputated organs—as would usually be the case with corneal transplants.<sup>31</sup> Also, one can hardly question the morality of homografts when they are for the good of both parties involved in the procedure, e.g., to remedy contrary pathological conditions.<sup>32</sup> But there is a moral problem when one person

<sup>31</sup> Moralists often discuss the case of a living person sacrificing a healthy eye in order to supply a cornea, but this case is hardly practical. The standard practice of doctors is to make corneal transplants either from the eyes of a deceased person or from an eye which had to be removed because of a diseased condition that did not affect the cornea. As regards the deceased person, a legal difficulty sometimes arises when a dying person wills his corneas to an eye bank but after his death the relatives object to the procedure. It seems that legally the relatives usually, if not always, have the right of disposition of the body. It seems to me that their opposition is not morally justifiable if they know that the deceased had wanted his corneas to be available for transplants.

<sup>32</sup> E.g., "Dr. Bennett's first ovarian isoplast was occasioned in this wise: two sisters, patients of his, suffered from what may be called complementary ovarian pathological conditions. One was a victim of amenorrhea and the other, the younger, of hypermenorrhea." Quoted from B. J. Cunningham, C.M., *The Morality of Organic Transplantation* (Washington: Catholic University, 1944) p. 50. This dissertation, which favors transplantation, is the most complete work yet published on the subject, as far as I know.

gives a healthy organ or a part of an organ to remedy a pathological condition in another. The problem, of course, directly concerns the donor, who submits to an operation which is not for his own good. The subsequent paragraphs deal with organic transplantation only in this last sense.

Moralists have usually discussed organic transplantation with reference to specific cases, such as corneal, ovarian, or renal transplants. But the problem need not be limited to such cases; it concerns any organ or section thereof that might be successfully transplanted. The *status quaestionis*, with various pros and cons, is no doubt well known to readers of these pages; consequently a detailed presentation is not required now.<sup>33</sup> In general, the thesis of the proponents of transplantation comes to this: organic transplantation is licit provided it confers a proportionate benefit on the recipient, without exposing the donor to great risk of life or depriving him completely of an important function. This thesis is proposed as solidly probable, not certain.<sup>34</sup> The principal argument for the opinion is the law of charity, which is based on the natural and supernatural unity of mankind, and according to which one's neighbor is "another self." Thus arises the principle that "we may do for the neighbor that which in similar circumstances we may do for ourselves." Subsidiary arguments are drawn from the common teaching of theologians that one may, and sometimes must, risk

<sup>33</sup> Cf. THEOLOGICAL STUDIES 5 (1944) 517-18; 8 (1947) 97-101; 15 (1954) 602-4. In the first of these references Fr. Ford gave a favorable pre-publication estimate of Fr. Cunningham's dissertation. In the second the present writer surveyed the dissertation, appraised the arguments pro and con, and reached a tentative favorable conclusion. In the third Fr. Connery, also favoring Fr. Cunningham's thesis, answered an objection proposed by Fr. Bender. Another survey of the problem, with consideration of a special difficulty relative to ovarian transplantation, is given in *Medico-Moral Problems: Part III* (St. Louis: Catholic Hospital Association, 1951) pp. 22-28.

<sup>34</sup> Besides those mentioned in the preceding footnotes, others who have defended organic transplantation as probably licit are: E. F. Healy, S.J., *Teacher's Manual for Moral Guidance* (Chicago: Loyola University, 1942) p. 38, case 11; J. McCarthy, *Irish Ecclesiastical Record* 67 (1946) 192-98; L. Babbini, O.F.M., *Palestra del clero* 29 (1950) 347-50, and *ibid.* 34 (1955) 359-61; F. J. Connell, C.S.S.R., *American Ecclesiastical Review* 128 (1953) 391; G. Dantinne, O.P., *Evangeliser* 9 (1954) 44-47; D. P. Bongiovanni, S.D.B., *Perfice munus* 29 (1954) 696-702; D.A. Gennaro, *ibid.* 30 (1955) 208; and J. Paquin, S.J., *op. cit.*, pp. 245-48. Some of these speak of transplantation in general, some about one of a pair of organs. Fr. Connell has written often in favor of Fr. Cunningham's thesis; I give here only my latest reference. Neither this list nor the list of opponents to be given is complete; they represent only works that I have read.

one's life for one's neighbor, and that blood transfusions and skin grafts are permissible for the good of the neighbor. Since the sacrifice of an organ or section thereof is less than the risk of life, it ought a fortiori to be permitted; and, since it is of the same species as blood transfusions and skin grafts, though greater in degree, it ought a pari to be permitted for a proportionate reason.<sup>35</sup>

Opponents of transplantation are quick to show flaws in these arguments; but undoubtedly the strongest case for the opposition rests on the contention that organic transplantation is contrary to the papal teaching on the principle of totality.<sup>36</sup> If this contention is groundless, there is no great difficulty in maintaining the solid probability of the thesis for transplantation. The study of this argument will require some repetition of points already developed in this article, but it will also help to a deeper understanding of the papal teaching on the principle of totality.

The papal teaching makes it clear that the direct sacrifice of a part of one's body for the good of others cannot be justified by the principle of totality. The thesis favoring transplantation is not contrary to this teaching, because this thesis justifies transplantation not on the score that one individual is subordinated to another but rather on the basis of a quasi-identity of the two individuals—that is, the neighbor is another self. The totalitarian concept of man, so strongly condemned by Pius XII, is thus neither explicit nor latent in the thesis for transplantation.

Also clear in the papal teaching is the fact that the principle of totality is a principle of finality. All the members and all the functions (with some reservation as regards the reproductive function) exist for the good of the individual. This is true not only of members and

<sup>35</sup> Another thought-provoking consideration was presented by Fr. Connery, namely, that all theologians permit a cesarean section for the safe delivery of a child, and no doubt they would permit a complete hysterectomy if it were necessary for the same purpose; cf. *THEOLOGICAL STUDIES* 15 (1954) 603-4. These would be direct mutilation or serious injury for the sake of another.

<sup>36</sup> Among the opponents are: T. Iorio, S.J., *Theologia moralis* 2 (Naples: M. D'Auria, 1939) n. 200; Regatillo-Zalba, *Theologiae moralis summa* 2 (Madrid: Biblioteca de Auctores Christianos, 1953) n. 252; Noldin-Schmitt-Heinzel, *Summa theologiae moralis* 2 (Innsbruck: Rauch, 1954) n. 328; L. Bender, O.P., *Angelicum* 31 (1954) 139-60, and *Perfice munus* 30 (1955) 209-14; T. Goffi, *La rivista del clero Italiano* 35 (1954) 564-66; G. Borg, *Perfice munus* 30 (1955) 164-67.

functions in the strict sense but also of every part of the body, including even the blood and skin. Thus, when we consider medical procedures which affect only the patient, we need not distinguish between major and minor mutilations, etc.; we need only determine that these procedures are necessary or useful for the total good of the patient. No theologian would question this, because everyone must admit that the parts of the body, small or large, of great importance or slight importance, do exist for the individual. That is why, in treating this particular subject, I stressed the fact that I was considering the principle of totality under its positive aspect.

But do the parts of the body exist only for the individual? This is the *crux quaestionis* regarding transplantation. And this leads us to a consideration of the negative formulations of the principle of totality used by both Pius XI and Pius XII, namely, that the individual is not free to mutilate himself, etc., "except when no other provision can be made for the good of the whole body," or "except in so far as the good of his whole body requires it." Also, one must consider these words of Pius XII: "Each of the members, for example, the hand, the foot, the heart, the eye, is an integral part destined by all its being to be inserted in the whole organism. Outside the organism it has not, by its very nature, any sense, any finality. It is wholly absorbed by the totality of the organism to which it is attached."<sup>37</sup>

The foregoing passages are the strongest arguments against organic transplantation. Any proponent of transplantation who ignores them is playing the ostrich. Personally, I favor the thesis for transplantation, and I think that it is not irreconcilable with the papal teaching. In a previous discussion of this topic I offered a tentative explanation of the teaching of Pius XI.<sup>38</sup> As regards Pius XII, I would suggest that the following points be very carefully considered before one draws the conclusion that organic transplantation is incompatible with his teaching.

<sup>37</sup> Cf. *supra*, p. 375.

<sup>38</sup> THEOLOGICAL STUDIES 8 (1947) 101. The tentative explanation—which I would still sponsor—was that Pius XI was stating the existing theology on self-mutilation, a theology which considered mutilation only under the aspect of destruction of organ or function; hence, granted a new knowledge of the possibility of vital function in another body, the old principle might acquire an extended meaning. It was also pointed out that Pius XI was mainly concerned with condemning eugenic sterilization, whether involuntary or voluntary; he was not professedly treating the general problem of mutilation.

In the first place, there seems to be a justifiable presumption that Pius XII did not intend to condemn transplantation.<sup>39</sup> At any rate, he must be conscious of the debates on this topic; and, had he wished to end them, he has had ample opportunity to do so in his many addresses on medical subjects. Secondly, his own teaching on medical experimentation seems to allow for some right to dispose of the body for the good of others. Thirdly, by praising blood donors for their charity, he obviously admits that this procedure is within man's right to administer his body and that the giving of blood is not contrary to the divine plan.<sup>40</sup> Nor does the fact that the blood restores itself nullify this point, because no one can reasonably deny that the primary purpose even of the donated blood was to function for the donor. The very admission of the licitness of transfusions carries with it the recognition of a further purpose of blood which was not known, as a matter of fact, except through the progress of medical science. Is it inadmissible that progress in the same science can discover further vital purposes that can be served by other parts of the body?<sup>41</sup>

Finally, there is the strong passage that outside the organism a bodily member has no sense, no finality. The context of this passage is the papal attack on the totalitarian concept of society. The Pope is stressing the essential difference between the members of a society and the

<sup>39</sup> Fr. Paquin, *op. cit.*, p. 247, thinks that both Pius XI and Pius XII gave the principles for the ordinary cases of mutilation and prescinded from the present question, without either approving or condemning organic transplantation. Fr. Paquin seems obviously sympathetic to the transplantation thesis; but even F. Hürth, S. J., who shows little sympathy for the thesis, admits that Pius XII "deliberato consilio" refrained from treating this topic in his address of Sept. 30, 1954. (Cf. the very recently revised edition of Fr. Hürth's commentary on the allocution to the midwives, *De re matrimoniali* [Rome: Gregorian University, 1955], pp. 108-9. This commentary now contains several references to later papal addresses.)

<sup>40</sup> See the allocution to blood donors, Oct. 9, 1948, in *Le corps humain*, pp. 89-92.

<sup>41</sup> Opponents of transplantation would usually deny any *a pari* argument from the licitness of blood transfusions because these are not mutilations in the strict sense. Nevertheless, these theologians would certainly say it is *objectively* wrong for a man to drain off a pint of his blood for a whim. By whatever term this would be designated, it would certainly be an unreasonable administration of one's body. The more I study the question of organic transplantation, the more I become convinced that our treatises on the Fifth Commandment should lay less stress on the precise meaning of mutilation and put more emphasis on the meaning of reasonable administration of the body. The Popes have given us a key to this problem by their insistence on natural finality as a determining factor; but the problem itself needs much more study.

members of a physical body; the former, being persons, have a meaning and a finality of their own, whereas the latter, of and by themselves, have no genuine meaning or purpose. In this context the Pope's words are both forceful and completely intelligible. But their application to organic transplantation is certainly not per se obvious; and a theologian may sincerely doubt that the Pope would use the same language in speaking of transplanted organs.

The preceding considerations do not solve all the problems of organic transplantation; but they give the present writer reason for thinking that Pius XII neither explicitly nor implicitly closed the controversy on this question. His teaching on the principle of totality should be understood in the light of the philosophical attitudes he was attacking. To use his words for apodictical generalizations beyond this historical context may not only be unscholarly; it might even be contrary to the Pope's own mind.