

## **The Principle of Fraternal Charity, Organ Donation and Embryo Adoption:**

### **From Magisterial Condemnation to Magisterial Commendation**

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As those of us who are passionate about resolving the plight of hundreds of thousands of frozen embryos continue to faithfully discuss and debate the various difficult and complex issues that are involved, we are actually helping each other to research and rediscover important moral and ethical principles that the Magisterium has so carefully developed and protected over the centuries to preserve the *depositum fidei* from any error, especially in recent years given the emergence of so many bioethical and moral challenges.

Since the promulgation of *Donum vitae* in 1987, followed by the promulgation of *Dignitas personae* in 2008, faithful Catholic scholars have been philosophically and theologically wrestling with each other over the morality or immorality of embryo adoption, a serious question that has been left unanswered over the past 30+ years by the Magisterium of the Catholic Church. During these scholarly debates, I began to wonder why the donation of a human organ or human tissue to a complete stranger is considered not only licit and moral but highly commendable and virtuous, while the donation of a “leftover” human embryo to a complete stranger is considered by some moral theologians to be not only illicit and immoral, but intrinsically “evil.”

This discrepancy led me to research the medical history and the theological development regarding the magisterial morality of human organ and tissue donation. This research has been a rewarding and highly illuminating journey. What it uncovered was that moral theologians, and even several Popes themselves, wrestled for decades, both in public and in private, vigorously debating the many complex and difficult pros and cons regarding organ and tissue transplantations until “it became clear that the classical theological treatise about mutilation needed to be revised in light of the scientific achievements in transplantation.” (1)

The Magisterium of the Catholic Church faithfully reformed its own moral teachings regarding human organ and human tissue donation from what had previously been considered immoral “mutilation” to what it now considers to be a heroic work of mercy. It took decades of theological debate before the Church concluded that human organ and tissue donation is, in fact, an act of heroic, self-giving love. How did all this happen?

This essay will attempt to provide a brief synopsis of the key individuals who, despite fierce doctrinal and moral opposition from prominent ecclesiastical authorities, were inspired to reconcile and merge the new, promising, life-saving medical procedures involving organ transplantation with Jesus’ New Commandment to “love your neighbor as yourself.” (2) Their efforts led to the development of what is now heralded as the Principle of Fraternal Charity which has allowed the Magisterium of the Catholic Church to bless and praise the now-well-established morality regarding the heroic donation of blood, tissue and even organs. Perhaps, someday, this very same Principle of Fraternal Charity will also allow the Catholic Church to publicly bless and praise of those who support embryo donation and embryo adoption as further heroic examples of the great commandment to Love our neighbor and by giving the great gift of Life to the very least

among us: literally hundreds of thousands of innocent, abused, abandoned, and endangered frozen human embryos.

### **The Morality of Organ Transplantation Today**

I began my research by reviewing the final chapter of *Catholic Bioethics and the Gift of Human Life* by William E. May, specifically the last section of the chapter dedicated to discussing “Organ Transplants From the Living (*Inter Vivos*).” The first two sentences were powerful statements explaining what is at stake and why organ and tissue donation is so praiseworthy:

“Today the transplanting of vital organs, such as a kidney, a portion of the liver, etc., from one living person to another in desperate need of a vital organ is commonplace. We intuitively and instinctively judge that the giving of a part of one’s own body to help a gravely or even mortally ill fellow human person is not only morally justifiable but an act of heroic charity.” (3)

St. John Paul II, in his *Address to the First International Congress of the Society for Organ Sharing*, said:

“[A] transplant, and even a simple blood transfusion, is not like other operations. It must not be separated from the donor’s act of self-giving, from the love that gives life. The physician should always be conscious of the particular nobility of his work; he becomes the mediator of something especially significant, the *gift of self* which one person has made... so that another might live.” (4)

*The Catechism of the Catholic Church* confirms the morality of organ transplantation, saying:

“Organ transplants are in conformity with the moral law if the physical and psychological dangers and risks to the donor are proportionate to the good that is sought for the recipient.” (5)

The Bishops of the United States also fully concur:

“The transplantation of organs from living donors is morally permissible when such a donation will not sacrifice or seriously impair any essential bodily function and the anticipated benefit to the recipient is proportionate to the harm done to the donor.” (6)

This said, what followed next was both unexpected and perplexing: Dr. May proceeded to state that while the Magisterium praises the self-giving of vital organs by living persons, nevertheless, there is no single, clear justification for organ donations and it “is still a matter of debate among Catholic theologians.” (7)

So, how did this “debate” begin? What was the original controversy, and how did it “evolve” over the years?

### **The Original “Unanimous” Condemnation of Organ Transplantation as Immoral Mutilation**

It is difficult today to imagine that organ transplantation was almost unanimously condemned by moral theologians following the first successful kidney transplant between two twin brothers in Boston back in 1954, but it was, according to Dr. Albert R. Jonsen, Professor Emeritus of Ethics in Medicine at the University of Washington, who in March 2005 delivered a lecture entitled, “From Mutilation to Donation: The evolution of Catholic moral theology regarding organ

transplantation” for the Lane Center for Catholic Studies and Social Thought which was published three years later in the Spring 2008 issue of *Urbi et Orbi*.

The purpose of Dr. Jonsen’s speech was,

“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.” (8)

Prior to the 1950’s, when organ transplantation was still medically impossible, Dr. Jonsen explained that the only “mutilation” that was permissible under the “principle of totality” was the removal of a crushed or partially severed limb as the only means to save life. (9) St. Thomas Aquinas touched briefly upon this “principle of totality” which condemned suicide and self-mutilation as violations of the Fifth Commandment of the Decalogue, “Thou shalt not kill,” as well as violations of God’s absolute dominion over the human body. (10) According to the “principle of totality,” humans were allowed a “delegated dominion” over their bodies, but only to preserve their bodies in health and life, stating: “any bodily mutilation was justifiable morally if and only if it contributed to the good of the whole body.” (11)

#### **Rev. Bert Cunningham’s “Bold” Dissertation: *The Morality of Organic Transplantation***

An extraordinary exception to this nearly “unanimous” condemnation of organ transplantation by prominent moral theologians was Rev. Bert Cunningham, C.M., A.M., S.T.L. In 1944, a full ten years prior to the first successful transplantation of a single kidney, Fr. Cunningham “wrote a bold doctoral thesis, contesting the judgment of his elders,” (12) and submitted his inspiring and illuminating dissertation to the Faculty of the School of Sacred Theology of the Catholic University of America.

“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 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).” (13)

Dr. Jonsen continued, emphasizing the extension of this doctrine to *all humans*, not just Christians:

“Crucial to this theological doctrine is the concept that this body is ‘mystical’ in the sense that it is not coincident with the visible 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.*” (14) (Emphasis added)

#### **The Importance of Context Regarding Pope Pius XII’s Opposition to Cunningham’s Thesis**

Eight years later, in 1952, Pope Pius XII, delivered a speech to a convention of histopathologists and, while not mentioning Cunningham by name, took direct issue with his doctoral thesis, calling

the justification of experiments on individuals for the good of society a distortion of the moral notion of community:

“Community 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.” (15)

Four years later, on the topic of corneal transplants in an address to a group of ophthalmologists in 1956, Pope Pius XII once again, without citing Cunningham directly, calls into question his 1944 doctoral thesis:

“We must note a remark 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.” (16)

“Both of these [papal] allocutions,” Dr. Jonsen remarks, “emphasize an individualistic rather than a communitarian interpretation of the principle of totality.” (17)

While most of the leading moral theologians during this early period cite these statements as authoritative and magisterial censures of organ transplantation, according to Dr. Jonsen, they failed “to set the papal remarks in full context” (18), especially in the important context of Pope Pius XI’s 1930 Encyclical that addressed mutilation for the purpose of eugenic sterilization. Dr. Jonsen explains:

“The two allocutions of Pius XII, while endorsing an individualistic 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 [Pius XII’s] remarks about the principle of totality in relation to experimentation explicitly has the Nazi medical experiments in mind.” (19)

### **Rev. Gerald Kelly, S.J. and the Revision of the Treatise on Mutilation**

In 1954, following the first successful kidney transplant between twin brother by Drs. Joseph Murray and John Merrill in Boston’s Peter Bent Brigham Hospital, the renowned American Jesuit moral theologian, Fr. John Connery, commented on Fr. Cunningham’s thesis in an article that was published in the theological journal, *Theological Studies*, “Personally, I am in favor of it.” Furthermore, following a risky surgery on a pregnant woman in order to save her fetus, he supported the position of undertaking the risk “to sacrifice an organ for the good of another.” (20)

The major revision of the treatise on mutilation, however, is primarily attributed to Rev. Gerald Kelly, a preeminent Jesuit moralist, who in 1956 wrote an entire article entitled “Pope Pius XII and the Principle of Totality” in which he made the case “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.” (21)

According to Dr. Jonsen, one of Fr. Kelly's major contributions to organ transplantation was to propose that

"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." (22)

In his own words, Fr. Kelly stated in one of his articles in *Theological Studies* that, "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." (23)

Fr. Kelly wrote a second article in 1956, entitled, "The morality of mutilation: toward a revision of the treatise." According to Dr. Jonsen, in this article, Fr. Kelly makes the strong case 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* (emphasis added). A new formulation was required. He suggested that formulation: 'The rule of morality should be stated: ordinarily, direct self 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* (emphasis added).'" (24)

In concluding this important article, Fr. Kelly made a truly remarkable statement about the controversy that had surrounded mutilation and organ donation and which I believe could be very useful during the current controversy that has surrounded embryo transfer and embryo adoption. Dr. Jonsen made the very astute and important observation that while many of Fr. Kelly's contemporary scholars were calling for an explicit papal statement to resolve once and for all the ongoing debate over mutilation and organ transplantation,

"[Fr. Kelly] 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." (25)

### **The Law to Love Our Neighbor and The Principle of Fraternal Charity**

Fr. Kelly's article on the need for a "revision of the treatise" in light of the scientific achievements regarding the life-saving transplantation procedures was widely embraced and succeeded in transforming what was once a condemnation of mutilation and organ transplantation into what is now a commendable and virtuous act of love for one's neighbor. This "new" treatise is often referred to as the "Principle of Fraternal Charity."

One of the Catholic Church's highly respected moralists, Bernard Haring, agreed and wrote the following statement in his book entitled, *The Law of Christ*: "In transplantation, the organ is not destroyed but lovingly transferred to one's neighbor in order to overcome a hazard to his life." (26)

## **Conclusion: The Greatest Commandment of All**

We must always remember Our Lord's words when forming our conscience and in our search for truth:

"But when the Pharisees heard that he had silenced the Saducees, they came together. And one of them, a lawyer, asked him a question, to test him. 'Teacher, which is the great commandment in the law?' And he said to him, 'You shall love the Lord your God with all your heart, with all your soul, and with all your mind. This is the great and first commandment. And a second is like it. You shall love your neighbor as yourself. On these two commandments depend all the law and the prophets.'" (27)

Dr. Jonsen concludes his remarkable lecture on the development of the morality of organ transplantation with the following statement about "giving the gift of life:"

"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." (28)

Life is the greatest gift of all, and in concluding this essay, I would like to offer one final quote from a Zenit article dated August 30, 2003, in which two bioethics experts, Dr. Monica Lopez Barahona and Father Ramon Lucas, were interviewed regarding the licitness and morality of embryo adoption.

One of the questions they were specifically asked recapitulated many of the same concerns expressed in Robertson's article. The question posed to them was this:

Q: "If human life is an absolute and incommensurable value, and if it is necessary to do everything possible to save a person's life, would not the values, recognized by a personalist and Christian anthropology, remain subordinated: the right of the child to be gestated in the womb of his mother; the right of the child to be born in a context that also guarantees the balanced growth of the personality; the value of maternity as a personal event which excludes as a line of principle the separation of the biological, physiological and emotional processes; the representation of human procreation as an interpersonal act of a triadic nature – father, mother, child?

A: "As said at the beginning, the difference must be made again, between moral acts and rights.

"All those values recognized by a personalist and Christian anthropology are values that are arranged in order of importance according to a value that is original and prior to them all, as is the assumption and necessary condition for them to be present: [That value is] human life.

"Human Life has priority over these enunciated values. Otherwise, it would have to be concluded that the existence of those who have seen those rights violated has no meaning – and this is absurd, among other things, because it would exclude a good part of humanity.

"Moreover, the objection is untenable as, in fact, the frozen embryo has already lost those rights: its biological mother has abandoned it; so has its family; the biological maternity

has been completely perverted and subverted; the same happened with the act of human procreation. ...

The evil is already done. Only prenatal adoption can, to a very limited degree, try to repair in some way such injustices.” (29)

The primacy of life and the New Commandment to love our neighbor, as developed in the Principle of Fraternal Charity, are two powerful arguments that defend both organ transplantation and embryo adoption. May we ponder deeply the primacy of the Gift of Life and the Law of Love as we continue to seek the truth, and to proclaim the truth in love, “*veritatem facientes in caritate*.” (30) Countless frozen embryos are not only our neighbors; they are also the least of our brethren, and what we do to them we do to Jesus.

Today the Magisterium of the Catholic Church commends organ and tissue transplantation *inter vivos* as a corporal work of mercy and an example of heroic virtue. Likewise, embryo adoption *inter vivos* is clearly also a work of mercy and, in fact, encompasses all of the spiritual and corporal works of mercy for the very least of our brethren. Jesus, Perfect God and Perfect Man, was once a one-cell zygote in the womb of His Mother. Clearly, what we do for tiny embryos, we do unto Jesus Himself. Let us pray that the Magisterium will soon proclaim that the Principle of Fraternal Charity equally applies to the least of our brethren: frozen embryos.

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- 1) Albert R. Jonsen, Ph.D., *Urbi et Orbi*, Spring 2008, 5.
  - 2) St. Matthew, 22:39.
  - 3) William E. May, *Catholic Bioethics and the Gift of Human Life* (Huntington, IN: Our Sunday Visitor Publishing Division, 2008), 353.
  - 4) Pope John Paul II, Address to the First International Congress of the Society for Organ Sharing, *L'Osservatore Romano*, English ed. (June 24, 1991), 2.
  - 5) *Catechism of the Catholic Church*, Second Edition (Libreria Editrice Vaticana, 2007), no. 2296.
  - 6) National Conference of Catholic Bishops, *Ethical and Religious Directives for Catholic Health Care Services* (Washington, DC: United States Catholic Conference, 1995), directive no. 30.
  - 7) May, *op cit.*, 354.
  - 8) Jonsen, *op. cit.*, 4.
  - 9) *Ibid.*, 4.
  - 10) *Summa Theologica*, II-II, 65,1.
  - 11) *Ibid.*, 4.
  - 12) *Ibid.*, 4.
  - 13) *Ibid.*, 4.
  - 14) *Ibid.*, 5.
  - 15) *Acta Apostolici Sedis* 1952; 44: 786.
  - 16) *Acta Apostolici Sedis* 1956; 48: 446.

- 17) Jonsen, op.cit., 5.
- 18) Ibid., 5.
- 19) Ibid.
- 20) Notes on Moral Theology, *Theological Studies*, 1954; 15.
- 21) Jonsen, op. cit., 5.
- 22) Ibid., 5, 8.
- 23) Ibid.
- 24) *Theological Studies*, 1956; 17: 342.
- 25) Jonsen, op. cit., 8.
- 26) Bernard Haring, *The Law of Christ*, III, 242.
- 27) St. Matthew, 22:34-40.
- 28) Jonsen, op.cit., 8.
- 29) Monica Lopez Barahona and Rev. Ramon Lucas Lucas, Zenit, August 30, 2003: "Why Adoption of Frozen Human Embryos Could Be Acceptable;" <http://www.zenit.org/en/articles/why-adoption-of-frozen-human-embryos-could-be-acceptable>
- 30) Ephesians 4:15.