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# **“Uterine Isolation” Unacceptable in Catholic Teaching**

by

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Some years ago this author considered the idea of a uterus so damaged by a number of Caesarean sections that it would be judged by an obstetrician to be unable to safely support another pregnancy. If so, could it be surgically removed? This question presented a further consideration, if it were deemed clinically advisable not to do the extra surgery of hysterectomy on the occasion of this Caesarean section and judgment of the competent obstetrician, could the damaged uterus simply be isolated from the system at the tubal adnexa? The rationale for the second question was that, granted that the damaged uterus could be morally removed as a functionally dangerous pathological organ, what would be the problem of simply isolating it at the tubal adnexa as the safer surgical procedure?

The first question: whether a thus damaged uterus could be legitimately removed was hotly debated among American moral theologians in the 1940's and beyond. Father Francis Connell, C.S.S.R. (Professor of Moral Theology at the Catholic University of America, Washington, D.C.) maintained that the damaged uterus did not constitute a danger to the woman unless she became pregnant and that thus pregnancy was the cause of any future danger, and contended, quite reasonably, that if the indication for hysterectomy was to prevent pregnancy, then the hysterectomy was clearly a contraceptive sterilization.

Father Gerald Kelly, S.J. (Professor of Moral Theology, at St. Mary's Jesuit Seminary in Kansas) opposed Father Connell's opinion and maintained that the surgical removal was a legitimate application of the principle of double effect. The removal of the damaged uterus was but an application of the principle of totality (that the part, as a part, was subordinated to the good of the whole) and the consequent sterility was not directly intended, but rather a moral "by-product" of the surgery, and not being directly intended could be viewed as such under the principle of "double effect".

Father Kelly's opinion prevailed as being solidly probable and appeared as

Directive 35 in *The Ethical and Religious Directives for Catholic Hospitals* (1955) and these Directives were accepted by the Catholic Hospital Association of the United States and Canada and generally accepted in the United States. The wording of Directive 35 was: "Hysterectomy is not permitted as a routine procedure after any definite number of Caesarean sections. In these cases the pathology of each patient must be considered individually; and care must be had that hysterectomy is not performed as a merely contraceptive procedure."

Father Kelly wrote, in the journal *Theological Studies* (March 1951 pp. 70-71) that he had discussed this question with many moral theologians over a period of ten years, and asserted: "As a result of these many consultations, I am confident that my view is solidly probable, although I realize it is not certain. But obviously, if mine is probable, the opposing opinion is not certain and should not be presented as certain." (loc. cit.).

In my text *Morals in Medicine* (Westminster, Newman Press, 1960, pp. 148-149) I adopted this opinion of Father Kelly, S.J. (op. cit., loc. cit.). The same position was proposed by Father E. Tesson, S.J. in the French moral journal *Cahiers Laenec* (June 2, 1964) and I subsequently advanced Father Kelly's opinion in the *Georgetown Medical Bulletin* (May 4, 1967) and in the *New Catholic Encyclopedia* under "Hysterectomy" (Vol 7, pp. 307-308) and in the correspondence course of the Catholic Home Study Institute (Leesburg, Virginia, 1989) as a solidly probable opinion (pp. 109-110).

By 1970 a preliminary draft of revised *Ethical and Religious Directives for Catholic Health Facilities* had been prepared by a Committee assigned to this task and Directive 34 included the following: "Hysterectomy is permitted when it is judged to be a necessary means of removing some serious pathology. If in accord with this principle hysterectomy is indicated, the physician may, in accord with his medical judgment, employ the simpler procedure of tubal ligation."

The genesis of the idea of simply isolating the dangerously damaged uterus began with conversations between myself and Dr. Andres Marchetti (then head of the Department of Obstetrics and Gynecology, Georgetown University Medical Center). Dr. Marchetti, an eminent obstetrician and most solid Catholic, objected that, at a given Caesarean section, if he judged the uterus could no longer be safely repaired, but the patient was not capable of sustaining the hysterectomy at that time, he would make a repair of the uterus and then go back and do the hysterectomy in an other and added surgery. What was the difference, from a moral viewpoint, of removing the damaged uterus and simply "isolating" it from the rest of the system? I discussed this question with a number of respected moral theologians, and published the opinion as indicated above.

When I saw the opinion in the draft of the *Revised Directives* and had the opportunity to discuss this draft with the Committee on Health Affairs of the United States Catholic Conference, I objected to the words "tubal ligation" and had the Committee substitute "isolate the uterus at the tubal adnexa" in order to stress the concept that this was not a direct sterilization, and to more clearly build into the wording the proposed theological defense of this probable opinion.

Subsequently, in 1971, before the final draft of the revised directives were submitted for approval at the meeting of the National Conference of Catholic

Bishops (November 1971) I persuaded the United States Catholic Conference Department of Health Affairs to drop this Directive 34 from the text because it was recognized to be only a solidly probable opinion and I did not think the Bishops should be asked to formally underwrite what was proposed as only solidly probable. This was done. At the November meeting (1971) of the National Conference, the Bishops requested Cardinal Ratzinger grant some additional time prior to the announcement of the *responsum* to allow for proper preparation of the Catholic faithful, especially those engaged in health care. This request was granted and the *responsum* is anticipated sometime after the English publication of the forthcoming Roman Catechism.

It is our understanding, through private correspondence, that the Congregation for the Doctrine of the Faith will respond (with the approval of Pope John Paul II) that although the uterus can be removed if it presents some serious threat to the mother, immediately and independent of a future pregnancy, but to either remove it or "isolate" it by tubal ligation (which might even be reversible only because the condition of the damaged uterus is not a present threat to the life or health of the woman, but would become so only in consideration of a future pregnancy) is a direct sterilization and not permitted by Catholic teaching. This applies to both "uterine isolation" and to hysterectomy in the case of the uterus, even though damaged by previous Caesarean sections as to be judged to be unable to support another pregnancy but is no immediate threat to the mother.

The purpose of this article is to clarify and renounce the errors I have previously published (as referred to above) defending uterine isolation or hysterectomy in the presence of a uterus so damaged by repeat Caesarean sections as to be judged to not safely support another pregnancy, as a solidly probable opinion which could be followed in practice. At the above Conference of Catholic Bishops I was given the opportunity to respond to questions from the assembled Bishops regarding the proposed revised Directives. I was asked about the omission of Directive 34 from the previous text and explained this omission as I have just described. I further observed that I was convinced of the solid probability of "uterine isolation" under these circumstances and I was of the opinion that individual Bishops could apply this solution in their own dioceses if they agreed and if care was taken that the practice would not be abused.

The dispute over whether, if clinically indicated, uterine isolation instead of hysterectomy was soluble under the principle of double effect, had gone on for almost fifty years.

As recently as 1993 Sister Renee Mirkes, M.A. (of Waukesha, Wisconsin) published an excellent article in *Ethics and Medics* (January 1993) entitled "Uterine Isolation, a Euphemism", in which she pointed out very effectively and with great detail that "uterine isolation" could not be defended as an "indirect sterilization" under the principle of double effect (*loc. cit.*) but was clearly a directly contraceptive sterilization. She writes: "Since it has already been shown that UI does not satisfy the second and third conditions of the principle of double effect and is therefore not morally permissible" (*ibidem*).

By the meeting of the United States Conference of Catholic Bishops in New Orleans (June 1993) there was reason to anticipate a negative reply on the

morality of "uterine isolation" and referred to *responsum* of the Vatican Congregation for the Doctrine of the Faith evacuates this theory of solid probability in these cases.

It should be evident that a moral opinion which has been considered as solidly probable can no longer be so after a current and authentic Vatican declaration to the contrary.

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