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## **HUMAN STERILIZATION**

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## HUMAN STERILIZATION\*

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### 1. INTRODUCTION.

Since, in our times, there are so many influencing factors that are diametrically opposed to man's well-being — a psychosomatic entity assailed by such diseases as tuberculosis, syphilis, mental diseases and myriads of other ailments, and on account of the distressing and inexplicable fact that these diseases are passed on to the family and society by the scathing hand of heredity, and since so many hereditary traits prove to be pernicious to the same family and society — not only various individuals but also nations at large have been striving to arrive at some conclusion as to how these evils could be exterminated, or at least reduced to a less quantitative inheritance ratio. But alas, many of the remedies and antidotal theories put forward were and still are not founded on a sound moral basis; in fact, illicit issues such as neomalthusianism, abortion, sterilization etc. are the decided recommendations.

Having discussed the first two subjects of the conception-preventives elsewhere, and at some length, (1) we shall now attempt to treat of the third kind — sterilization.

### 2. DEFINITION AND DIVISION.

Sterilization, in the generic sense, constitutes that action or operation which renders the subject sterile, in that unproductivity is the result, as for example, an operation hindering the fermentation of milk, hence the sterili-

\*A paper read in the Library of the R.M. University on January 13, 1950.

(1) Vide: *Lucerna*, 1938, p. 104 and *Scientia*, 1945, p. 27, respectively.

zation of same. Sterilization, in biology, signifies an action whereby the fecundity of the living organism is thwarted, in that reproduction is impossible; in physiology, it comprises an action depriving man or woman of potential procreation. It is under this latter sense that theologians and canonists view sterilization. Thus, they conclude that sterilization is 'any operation on the organs of sex which leaves an individual capable of sex intercourse but incapable of propagation.'

Sterilization may be divided into:

I. *Therapeutic*, when the operation is employed for the protection and well-being of the physical self of an individual. *Eugenic* when employed as a preventive against transmission to potential offspring of some undesirable mental or physical characteristic (2).

II. *Direct*, when the act of sterilization is intended as an act in itself, having as its ultimate aim and object the act of sterilization proper. When the act is not intended in itself it is called *indirect*. Therefore, the direct sterilization has its immediate end mutilation, whilst indirect, though mutilation must perforce come in, aims at a primary end that is extraneous to the direct act proper (3).

### 3. DIFFERENT METHODS.

I. *Biological means*: by an intravenous injection into the female, the fluid being composed of some spermal elements, especially of the ram, which remains effective between six to eight and a half months; an ovarian, placental, foetal or anaphrodisiac (which perhaps is also effective in the male) extracts, but these retain their sterilizing powers for only a limited period.

(2) FAIRFIELD, I., *The Case Against Sterilization*, London, 1935, p. 6-7.

(3) MERKELBACH, B.H., *Questiones de Embryologia et de Sterilisatione*, 1937, p. 70.

II. *Physical means*: especially by X-rays directed into the male testes, or into the female ovaries, these same rays probably producing atrophy.

III. *Surgical means*: (a) in the male:

i. by *castration*, i.e. by ablation of both testes, this operation, however, being noxious to the human body since the internal secretion of the hormones is stopped.

ii. by *vasectomy*, i.e., excision of the *vas deferens* ducts. This operation is of a simple nature and is neither harmful nor dangerous, in fact, it takes five to ten minutes to perform.

(b) in the female:

i. by *ovariectomy* and *hysterectomy*, i.e., excision of the ovaries and uterus respectively; these operations being less dangerous than castration in the male.

ii. by *fallectomy* or *salpingectomy*, i.e., binding or excision of the fallopian tubes. This operation is somewhat dangerous, nor is the effect always certain.

iii. by *inclusion into or isolation of the uterus*. Again, this operation is not altogether reliable.

The operations commonly performed today are vasectomy and fallectomy (4).

#### 4. WHERE STERILIZATION IS CARRIED ON.

The law in favour of sterilization, though not acclaimed unanimously, was first put on the table in 1897 in the state of Michigan (U.S.A.). In the year 1907 the new law was taken up by the state of Indiana, afterwards to be followed by many other federated states, so that up to January 1, 1930, out of fortyeight states, we have twentyeight with

(4) MERKELBACH, *Op. cit.*, p. 65.

the law of sterilization incorporated in their statutes (5). In the dominion of Canada the two states of Alberta and British Columbia passed this act in 1928 and 1933 respectively. Primarily this law was enacted for eugenic reasons; only secondarily for economic reasons, that is, the state would not be burdened with a heavy expenditure for the benefit of disease-ridden individuals. Germany adopted this law for both the reasons just mentioned, but the most comprehensive law to this effect was promulgated on the 1st January, 1934. This law then filtered into the Swiss canton of Vaud and Denmark (1929), Norway and Sweden (1934) and finally into Finland (1936).

Precise similarity of the enactments was not the rule; but, in a way, all were rigorous and only certain diseases were taken into consideration. Some, however, admitted and asked for the consent of the patient concerned or in some cases, the *fiat* of the patient's relatives (6).

Under English law, the legality of any operation is unquestionable when competent medical opinion considers such an operation as a necessary step for the patient's treatment. Therefore therapeutic sterilization is legal, but the case for eugenic sterilization is not quite clear, although an operating surgeon would be rendered liable to prosecution under various acts, namely, the Person Act (1861), section 55 of the Deficiency Act (1913), section 1 of the Children and Young Persons Act (1933) (7). All this means that

(5) Indiana (1927), Oregon (1929), Washington (1921), California (1917), North Dakota (1927), Kansas (1917), Michigan (1929), Nebraska (1929), Wisconsin (1925, the bill vetoed), New Hampshire (1929), Connecticut (1918), Nevada (statute of 1911 held to be unconstitutional), New York (statute of 1912 repealed), New Jersey (statute of 1911 held to be unconstitutional), Iowa (1915), South Dakota (1911), Montana (1923), Maine (1929), Delaware (1929), Virginia (1927, the statute upheld by the U.S. Supreme Court; case of Carrie Buck, a defective mother of a defective child), Idaho (1929), Utah (1929), Minnesota (1925), Kentucky (1928), Mississippi (1928), Arizona (1929), North Carolina (1929), West Virginia (1929). — DAVIS, H., S.J., *State Sterilization of the Unfit*. London, 1931, p. 17-18.

(6) FAIRFIELD, *Op. cit.*, p. 26; MERKELBACH, *Op. cit.*, p. 67.

(7) BONNAR, A., *The Catholic Doctor*, London, 1944, p. 106.

there are no decided and clearly defined cases and it would be for a jury to decide whether the eugenic reason constituted a valid defence or not. Such operations are performed in private since hospitals do not care to take the risk fully understanding, according to the Report of the Departmental Committee on Sterilization (1932), that it would seem that a charge of manslaughter would be brought against the operating surgeon in the event of a patient's death (8).

In Malta no such laws exist, in fact, their inclusion would prove to be of scandalous effect considering that the Island is one hundred per cent Catholic, although, as always can happen, in recent years false ideologies with regard to therapeutic sterilization, with the resultant moral abuses, have crept in and germinated in a clandestine fashion.

##### 5. WHEN LICIT AND WHEN NOT.

Without doubt no one would deny that sterilization is a serious mutilation, more so when performed through the operations of vasectomy and ovariectomy. The gravity must be judged not merely by the physical measurement of the part destroyed, but by the physical function thereby lost. In our case the function destroyed is one of the human body's most important — that of the procreation of children. Consequently when this operation is performed for the removal of organs which are in themselves perfectly healthy for the purpose of intercourse being possible without the fear of pregnancy, no one acquainted with the elements of natural law can have a moment's hesitation in condemning the operation as grossly unmoral. The sex instinct was given to man by his Maker for the purpose of propagating the human race; so, any attempt to satisfy the sexual appetite outside its legitimate use in matrimony, or to alter or destroy the Creator's plans, is a transgression of the

(8) FAIRFIELD, *Op. cit.*, p. 25-6.

law of nature, a perversion of the physical powers and, in its degree, a subversion of the social milieu. Hence, nobody, male or female, may be sterilized when the end sought is freedom to enjoy sexual pleasure; otherwise it would constitute a deliberate and complete act of contraception (9). All this is the Catholic teaching set forth boldly in numerous books on Moral Theology; but one may enquire as to the liceity of therapeutic and eugenic sterilization.

### I. *Therapeutic.*

a. When the operation is performed for the removal of the organs of reproduction which are the subject of some disease, such as cancer, therapeutic sterilization is licit. It is true that congress without fear of pregnancy results, but in this case the removal of diseased organs is intended first, the sterilizing effect, although foreseen, is only permitted. Hence we have an act of *indirect* sterilization, which, when there is a justifiable and sufficiently grave reason, liceity is absolute.

The reader would do well to bear in mind the principle of '*twofold effect*'. This moral principle teaches that when two effects, the one good and the other evil, result from the same cause, the evil effect is not imputed to him that places the cause, providing the following conditions are verified:

1. that the cause be good, or at least indifferent;
2. that the good effect does not result from the cause through the means of the bad effect;
3. that the agent intends the good effect, only permitting the bad effect;
4. that there be a reason proportionately grave to counterbalance the result of the evil effect.

These conditions, when examining the imputability of an action, must necessarily be seen together in their four-fold division; if one condition is absent the evil effect is considered as determined and present.

(9) COPPENS, C. — SPALDING, H., *Moral Principles and Medical Practice* New York, 1921, p. 245.

b. When sterilization of the sex organs, which in themselves are perfectly healthy, is performed, say on a woman suffering from cardio-vascular neurosis or some other physical deformity, with the excuse that therapeutic surgery is imperative owing to the fact that childbirth would be abnormally dangerous, even to both child and parent, the operation is illicit, although perhaps permitted by civil laws. In this case the imputability of the effect rests as evil since the good effect, i.e., the removal of any danger, would result from the evil effect, i.e., the removal of the healthy reproductive organs. An operation under these circumstances intends a *direct* act of sterilization, and we must not attempt to escape from the pangs of conscience since we know full well that we have no direct or absolute control over our soma; only a utilitarian concept of possession is allowed us. We are a creation of God, hence God is the sole and supreme ruler.

## II. *Eugenic.*

The aforesaid conditions must be ascertained when an operation is performed with the eugenic intent. Hence individuals who are themselves healthy but may possibly be carrying in their 'germ plasm' the seeds of some disease or deformity which has appeared before in the family line (these individuals being called 'carriers' in modern parlance), or again those individuals suffering already from some disease or deformity such as mental defect and certain types of nervous diseases, are not justified in their accepting sterilization. Eugenics seeks the good effect through the medium of a bad effect; moreover, the end never justifies the means, this being the underlying principle to be perpetually borne in mind, an axiom, if we may add, accepted by all modern civilized communities.

The conclusion is therefore potent, namely, that eugenic sterilization is illicit to a grave degree. The eugenic idea has also been condemned by the Holy See, by several

decrees of the Holy Office, (10) by Canon Law, (11) and by Pope Pius XI in the encyclical on 'Christian Marriage' (12).

#### 6. THE RIGHT OF THE STATE.

Has the state any right to enact laws in favour of compulsory sterilization? Definitely not. The state's right is a qualified one, and its power over us is limited. The state has no right to treat us as chattels or beasts. The integrity of the body depends on an antecedent and inalienable right and hence no legislative power of the state may deprive an individual of this right. "Those (states) who act in this way", says Pope Pius XI, "are at fault in losing sight of the fact that the family is more sacred than the state, and that men are begotten not for the earth and for time, but for Heaven and eternity" (13). It is true that the defective is a heavy burden to the state; but he has a right to claim the protection of the state against those who go about the business of mutilating those judged to be unfit and the state would commit a manifest failing in its duty if it did not defend the just rights of a perfectly innocent citizen.

Some doctors, to defend the right of the state, have brought forward numerous analogies, but no one has been derived from moral and logical premises. One analogy was that of the state's right to send its men to war and hence be mutilated or killed — and all this for the common good. This may be so, but the intention of the state, it must be remembered, is not to see its men killed but to have them fight for their fatherland, and if possible all should return safe and sound. The parallel here between sending soldiers to war and the sterilization of the unfit is impossible and the argument is based on false hypothetical data. Another analogy was that of the state's power to enforce obligatory cowpox

(10) Decrt. S. Off. 'De Eugénica', 21 March, 1931. (A.A.S., XXIII, 1931, 118ss.) — Decrt. 24 February, 1940. (A.A.S., XXXII, 1940, p. 73).

(11) Can. 985, n. 5 and 2354.

(12) Cfr. Encyc. 'Casti Connubii', 31 December, 1930, (A.A.S., XXII, 1930).

(13) Encyc. 'Casti Connubii', *l.c.*

vaccination on children thus exposing the little ones to violent fevers and even death. Here, again, the state obliges vaccination with a good intention, namely, for the benefit of the child itself; only incidentally do others profit or benefit thereby. When sterilization of the defective is sought it is not the individual's physical good that is intended, but the alleviation of the heavy responsibilities and expensive outcomes that will have necessarily to be incurred if the state has to keep and take care of our more unfortunate brothers. The analogy in this case is once more impossible and the conclusions arrived at are at variance with sound common sense and moral guidance.

Some difficulty may arise here as to whether the state may sterilize habitual criminals or degenerates. Since public authority may lawfully take the life of a criminal for certain grave offences, the same authority may lawfully punish even by mutilation some other minor crimes, including the sexual ones such as homosexuality or exhibitionism (14). But this exception is more of theoretical than of practical importance, because, these operations in no sense can be classified as suitable punishment since the habitual offender when finally turned out loose in the community will still be found to be a source of danger because sterilization does not extinguish the criminal sexual tendencies, and in some cases, the operation might even be welcomed (15). Hence, practicability of this penalty is never sound and countries with such laws on their statute books are not in favour of such penalization.

It is true that heredity sees to it that its tentacles are felt, but the fact cannot be escaped from that so very

(14) In the text of the Encyc. "Casti Connubii" (n. 13., A.A.S., 31, Dec. 1930) we read that sterilization on evildoers is strongly condemned. But in n. 14 of the same review an authentic correction was made whereby the liceity of sterilization on evildoers is still rendered questionable. Cfr. PIJTULA, J., *De Medicina Pastoralis*, Marietti, 1948, n. 150. Cfr. also GRANERIS, in *Apollinaris*, 1940, p. 12.

(15) GERRARD, T.J., REV., *The Church and eugenics*, 1921, Oxford, Catholic Social Guild, p. 24-26.

often the siblings are reared in an environment very unbecoming to normal civilized human beings, and consequently they are never presented with an occasion to fight life's aggressive thrusts on an even and fair field. "Neither hereditary factors nor environmental influences can be solely responsible for any character" but the track of the mutant gene in man can be followed through the "variations in both the heredity and the environment", (16). Also quoting from Dr. Gemelli: "Nessuno ha spiegato, nè probabilmente spiegherà mai con le sole leggi dell'eredità come vi siano figli incomparabilmente migliori dei genitori e altri irremediabilmente peggiori" (17). The state is perfectly justified in segregating any defectives but when it resorts to sterilization the act is unjust since the patients during isolation are not given incentives or facilities for marriage, so the injustice is obvious since the operation besides being superfluous is excessive (18).

Reading through the Report of the Departmental Committee on Sterilization (1934) we find the same objection, i.e. compulsory sterilization is condemned since "it would be hazardous to attempt to forecast the genetic results of any union" and it does nothing to relieve the conditions for which the vast majority of defectives come under institution care. It does not cure the helplessness of the low-grade cases or the anti-social tendencies of the criminal, or the instability of the sex-offender, and although the same Committee recommended, in some cases, voluntary sterilization, the act should be subservient to many and severe conditions because sterilization has a "...small place in the case of defectives".

As a corollary we would like to point out that since the state cannot make compulsory the operation of sterilization, it also cannot for eugenic reasons bar marriage to any

(16) SNYDER, L.H., (Dr), *The Principles of Heredity*, 1946, D. C. Heath & Co., Boston, p. 370.

(17) Cfr. *Vita e Pensiero*, 1931, p. 608.

(18) DAVIS, H., S.J.: *Moral and Pastoral Theology*, London, 1943, II, p. 158-9.

defective. Too many individuals, amongst them unfortunately, some ecclesiastics, have been heard to express the unjust statement that the state should take steps to forbid marriage between or with defectives, but we beg to differ, and we pronounce together with St. Thomas (19), all moralists, and Pope Pius XI that since man is capable of begetting offspring his right to marriage should not be withdrawn or debarred him.

#### 7. COOPERATION.

Here we do not intend to deal with cooperation as related to licit sterilization, which question we discussed under no. 5, I (a), concluding that any cooperation is licit so long as the means in themselves are good. Under the present division we shall discuss that cooperation which has its relationship with illicit sterilization (also dealt with in no. 5, I (b) and II).

Cooperation is of two kinds:

I. *Formal*, when the cooperator consents to the will of the principal agent and intends the same agent's act.

II. *Material*, when the cooperator does not consent to the agent's intention, but acts with another intention, with the prevision, that the agent is using him (the cooperator) as his (the agent's) tool. Material cooperation may be:- (a) *immediate*, when the cooperator takes an active part with the agent; (b) *mediate*, when the cooperator supplies the agent with the means.

A. *Formal cooperation* is always sinful and hence is absolutely forbidden, and is in fact, a sin of the same species as sterilization, therefore, it is a special sin against the virtue of justice.

Consequently, not only those who give themselves voluntarily to be sterilized commit a sin against this virtue, but also the doctors who on their own initiative perform this operation, as are also included those who compile, aid or

(19) In Suppl. III p., q. 64, a. 1 to 4.

approve by their vote of the law in favour of this kind of sterilization. Married couples who consent to sterilization are also committing a grave sin. Again all those officers or officials that know of the occurrence of this illicit operation should *ex officio*, when feasible, prevent its continuation.

B. *Material cooperation*, when:

a. *immediate*, is forbidden since it consists of the execution of the same sinful act. Therefore, it is sinful that doctors perform this operation although compelled by law;

b. *mediate*, is licit so long as the act is not sinful in itself and there is a proportionate grave reason or sufficient cause that makes an individual cooperate. It is not sinful when nurses or servants prepare or hand the instruments to the operating surgeon, or even when they have to take care of the instruments themselves.

C. Influencing another (*inductio*) to be sterilized is also forbidden. Those who persuade, advise, praise, petition (for the sake of others), defend and all others who hold in with these views commit a sin similar to that of inducers (20).

### 8. RELATION TO MARRIAGE.

Can sterilized individuals enter into marriage, or is there the impediment of impotency as put down in Can. 1068 against them?

The impediment of impotency, according to the common doctrine of the Canonists (21), is in the *incapacity* of coitus, i.e., perfect copulation is not arrived at (*incapacitas coeundi*) and not in the incapacity for generation, i.e., the begetting of offspring (*incapacitas generandi*). This impotency to annul marriage must be not only antecedent, but also perpetual. Therefore:-

I. *The male*, when:

(20) MERKELBACH, *Op. cit.*, p. 84.

(21) There are others, however, with different opinions; Cfr. e.g., A CORONATA M., *Institutiones J.C.*, 1946, De Sacramentis, III, p. 382 et sqq.

a. castrated in both testicles indubitably should not be permitted to marry, since the real semen cannot be present and hence perfect copulation which in itself is adapted for generation would be impossible. In any case, Pope Pius Sextus V's declaration ('Cum Frequenter', 27, June, 1587, de Eunuchis et Spadonibus) (22), leaves no room for argument;

b. the testicles are submitted to X-rays, may enter into matrimony because this process produces a sterility or impotency which lasts only for a time;

c. vasectomy has been undergone and if the operation is *imperfect*, marriage is licit; but if it is *perfect* and *perpetual* (on the grounds of medical authority), marriage is forbidden, there being little difference here from the castrated individual. It is true that after vasectomy has been performed a liquid similar to semen may be ejaculated, but this liquid lacks the spermatozoa which is the elemental essence of semen (23). It is also true that this operation has occasionally been 'reversed' in some animals, i.e., the reproductive power restored by a second operation; but in man this procedure is very uncertain and problematic, and thus the individual who was once understood to be impotent must now prove that he is rendered potent.

Neither can it be argued that an individual has a right to the gratification of concupiscence since the latter is a secondary aim of marriage; in fact, perusing Encyc. 'Casti Connubii' (par. 59) we read that: "both matrimony and the use of the matrimonial right have secondary ends... which husband and wife are quite entitled to have in view, so long as the intrinsic nature of that act, and therefore its due subordination to its primary end, is safe-guarded." When vasectomy has been undergone the nature of the marital act is perverted since the process of the propagating of the

(22) Codicis J. Fontes, I., n. 161 (p. 298).

(23) This is denied by Drs. O'MALLAY and GEMELLI; and according to them vasectomy does not constitute an impediment of impotency. Cfr. MERKELBACH, *Op. cit.*, p. 92.

species is eliminated, and hence those operated upon are in the order as related to matrimony in the same category as eunuchs (24).

II. *The female* when sterilized (*excisa* or *recisa* in modern canonical terminology), according to the more accepted doctrine, may be allowed to enter into matrimony. The reason is that such a woman is capable of arriving at and experiencing copulation if she receives the true semen. In other words, nothing impels us to doubt that in this case there will not be the *actio humana* really *gratifying*, or the perfect copulation in itself adapted for the generation of children, if and when the male penis penetrates into the vagina and there ejaculates the semen. If from the outcome of this congress no generation is forthcoming, this can be put down *per accidens*, since we have a deficiency of the *actio naturae* (25). Therefore, the excised female can be treated as similar to a sterile woman (26). But sterility, on the other hand, does not constitute any canonical impediment, as evidenced in Can. 1068, par. 3, because it is not the possibility for generation, but only the capacity for copulation that constitutes the object of the contract of marriage (27).

We said above "according to the more accepted doctrine" because there are some authors who think otherwise (28). These latter canonists place the matrimonial copula as formally that copula by means of which, physiologically speaking, offspring is possible; therefore, the excised female is compared to the castrated male. But we beg to repeat that

(24) MERKELBACH, *Op. cit.*, p. 93.

(25) GASPARRI, P., *De Matrimonio*, I, n. 524.

(26) GASPARRI, *Op. Cit.*, p. 532.

(27) AERTNEYS, J. *Theol. Mor.*, II, n. 713.

(28) CHELODI, J., *De Matrimonio*, Vicenza, 1947, n. 71; ANTONELLI, *Medicina Pastoralis*, III, n. 537; NOLDIN, in early editions of *Moral Theology* not however in recent editions that start from 1927; various other legal students, e.g., CANDOR, PERGOLESE, and VIGLINO, as can be found in *Antonianum*, An. III, p. 540 et sqq.; DAL BON in *Perfice-Munus*, 1947, p. 119 and MANCINI A., *Ibid.*, 1948, p. 480.

the organs situated behind the vaginal tract, i.e., the ovaries and uterus, are not essential for copulation, whilst the real semen is absolutely *a sine qua non*. The organs just mentioned are not necessary for the natural copulation, but are necessary for the end of the copula. And although marriage is entered into for the propagation of children, it is not this obligation that constitutes the 'essence' of marriage, but the obligation for the marital act in itself adapted for the generation of children and not in its circumstances (i.e., in the post-vaginal organs). Therefore so long as the marital act is possible, marriage is licit although there is no offspring. Fr. Arendt, S.J., although he holds the impediment of impotency as the incapacity for coitus, denies the validity of such a marriage on the grounds of the lack of consent, arguing that this consent cannot be carried over to the end of matrimony (i.e. offspring), since generation is impossible. But, as others point out, it is enough that the consent which is given to the right of the copula is present, which copula in itself is conducive to procreation. We must continually bear in mind that the immediate object of the contract of marriage is the reciprocal right to each other's body with a copulation independent of fecundity as the aim; after all, no one can predict the unknown. It is thus that we have sufficient relationship of the object and therefore of the consent to the aim of marriage (29).

Whatever is said about this question, up to the present considered *theoretically*, we may conclude that *in practice* we fall under the *dubium juris*, and therefore, until the Holy See pronounces and lays down any hard and fast rule, marriage should not be forbidden to the excised woman. This is the current praxis of the Roman Curia although the

(29) Davis, *Op. cit.*, IV, p. 126; Aertneys, *Op. cit.*, II, n. 716, 3. — But the woman (or man) is in duty bound to inform the other party of the existing sterility; and if it is the case of a woman who underwent fallocotomy to escape from maternal responsibilities, recourse must be had to the Sacred Congregation of the Holy See, as GASPARRI notes in *De Matrimonio*, I, n. 9 and 829.

fact may be brought up that in the past contrary decisions were not uncommon (30).

It is another question as to whether sterilized individuals may take an active part in the marital act. This argument we shall decide without much discussion and deliberation. The sterilized *woman* may enjoy the conjugal act because in herself she is capable for that act which in itself goes for the propagation of the race. If, however, the existing sterilization has been effected illegitimately and voluntarily, the sterilization must first be remedied, if it is possible, before the woman has a right to request the cooperation of her husband for the performance of sexual intercourse, since otherwise, she would be voluntarily effecting an impediment to generation. But the *man*,

a. if he is cognizant of his impotency may not enjoy the marital act; because if the impediment is antecedent to marriage, and it is perpetual, the marriage contract is null and void. If, on the other hand, impotency is consequent to marriage, the copula is rendered illicit, and then the married couple, until impotency lasts, should cohabit as brother and sister. This is only logical since one cannot perform an action which one knows full well to be beyond one's powers;

b. if there is any doubt as to whether he is impotent or not, after careful medical examination, he may attempt the carnal copula so long as he breeds the hope that the marital act will be well performed.

In practice, however, since married couples that are impotent are easily to be found acting in *bona fide* owing to ignorance of the moral laws being violated, may, on the grounds of some grave reason, be allowed to enjoy their life of *bona fide* (31).

(30) CHELODI, *Op. cit.*, n. 71.

(31) MERKELBACH, *Op. cit.*, p. 96.

## 9. CONCLUSION.

And now we may add a few words intended as counsel to all those who are interested in this question, especially students in medicine and doctors. We are fully aware that birth-control is at present being practised in practically every nation and unfortunately our Islands have not been able to exclude themselves from the sordid company. Hence, Gentlemen, some women may come before you asking for advice or directions as to how contraception could be effected. These same women express unashamedly their desire of being relieved from the fears, responsibilities and discomfort of pregnancy. They will enquire about the instruments or operations commonly performed abroad for the purpose of conception prevention; they will appeal to your sympathy and understanding since they already have too many children, or their husbands' salaries are not sufficient, or that they will be engendering a grave risk of losing their lives.

Gentlemen, if you are fully aware of your noble missions and responsibilities, if you believe in God, if you are good practising Catholics, you should not only refuse to cooperate with such pessimists and tempters of Divine Providence, but it is your supreme duty before the Almighty to point out the evil of the act they would be incurring if they carried out their desire. Let them know that you are physicians and not vile practitioners in things that are wrong. Be kind and patient and try to win these lost souls over to your sides by pointing out the evil and wrong of conception-preventives. Later, if they have been convinced, they will return to thank and bless you for your sound and fatherly advice.