ty of mercy is essential to the practice of medicine; here, of all places, it should not be strained (op. cit.).

Conclusion

Pain, the fear of pain, and the fear of not getting enough pain relief, are all compounding factors which determine a patient's actual experience of pain. The experience can drive some patients to despair. Most patients can learn to deal with death. Few can deal with unrelieved pain. Some patients may wish to identify a certain degree of pain with the Passion of Christ. Most will want to feel free from pain as much as possible. All need to know that either decision may be just as good or heroic as the other:

Everything depends on the particular circumstances. The most perfect and heroic decision can be present as fully in acceptance as in refusal (Pius XII, Address of Feb. 24, 1957, The Pope Speaks, Vol. 4, pp. 48-49).

The choice must remain with the patient. If the patient is incompetent, the presumption should always favor full pain relief.

Care providers need to adopt a quality of mercy in health care, providing a human alternative to the often sterile technological environment which leads some to seek the misguided solutions offered by assisted suicide and euthanasia. Most pain associated with terminal illness can be effectively treated (cf. K.M. Foley, "The Treatment of Cancer Pain," New England Journal of Medicine 1988; 84:291-301).

Patients need to know this and need to be reassured that they will have access to that effective treatment.

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HIV and Marriage – II

(Continued from previous issue, February, 1991)

With respect to the proposed marriage of an HIV infected person, the specifics of his or her own situation must be taken into account. An individual who is Symptomatic HIV Positive, for example, is more infectious than one who is A-Symptomatic. Nonetheless, since both are infectious states intercourse could be ruled out for them.

In making judgments regarding marriage and conjugal acts for HIV infected persons, certain principles (such as the obligation to avoid placing oneself or another in serious personal danger), must be kept in mind. In Pacem in Terris John XXIII taught that "the right to life is correlative to the duty to preserve life." It is difficult to imagine motives sufficiently grave that would permit one to posit an act which would almost assuredly lead to death, as in sexual intercourse with an HIV infected person.

Pius XI reminded his readers in Casti Connubii that men are created not first and foremost for this earth and for a temporal existence but for heaven and eternity. Consequently, Catholics will sometimes place their lives at risk for sufficiently grave reasons as they pursue the good, accepting but not choosing possible evil consequences. However, they may never choose to do evil and certainly may never choose to do an act which of its nature would be homicidal or suicidal.

The law cannot prohibit a marriage when one or both of the partners are infected with HIV. However, any pastor should certainly do his utmost to discourage such a couple from marriage. A couple with an infected partner assuredly should not marry for sentimental reasons or out of a desire to care for the dying person. That can be done without marriage. There must be very serious reasons for marrying if it is to be morally justifiable because even under the best circumstances it will be difficult to live out the fullness of the marital union.

If a couple is already married and one of the partners contracts the virus, the infected partner may no longer request the conjugal act. Using outdated language, it may be said that the infected partner cannot claim the "marital debt", and the uninfected partner would be under no obligation to render the debt were it claimed (cf. I Cor. 7:3-5). To demand payment of the marital debt if one is infected with HIV would be to act against the good of friendship and mutual support in the marriage since the consequences would be almost certain death for the partner. It could in no way be called an act of love for the spouse.

A couple should simply abstain entirely from sexual relations if one of the partners is infected with HIV. Condomistic sexual relations cannot be justified while

(continued on page 4)
the woman is still fertile because of its contraceptive effects. Besides, even with the use of condoms there is danger of transmission of the virus. Were the woman infertile condomistic sexual acts would still be immoral even if the condoms were used as a prophylaxis because of the danger of transmission of HIV. Also the physically incomplete act of sexual intercourse would belie the meaning of the conjugal act as a total and mutual self-donation (cf. Ethics & Medics, Vol. 13, No. 9).

If both partners in a marriage are infected with HIV, there would be less reason to abstain from sexual relations since both will, most likely, die from the disease in any event. However, because of the high risk of transmitting the disease to offspring or the probability of the parents not surviving to raise the child should it be born without the disease, there would be strong motives for avoiding the conception of a child. Consequently, if both partners of a marriage were HIV positive they should abstain from sexual relations during the wife's fertile period unless there were the most grave reason to attempt conception and there were some probability that the child could be conceived and brought to term without contracting the disease. If the couple did conceive and it were discovered that the child was infected, they should be particularly solicitous to see that the child is baptized as soon as possible and to make whatever provisions are necessary to assure the child's eternal welfare.

However, if both partners are infected with HIV it would be better to abstain altogether from sexual relations to avoid the possibility of an infected child. The abstention would also provide them with the opportunity to give themselves more fully to prayer and penance in preparation for their probable death from the disease. Indeed, one possible good aspect of the HIV infection is that those who suffer from it will probably not die suddenly or unexpectedly but rather will have sufficient time for reflection and preparation for death.

In conclusion, it should be noted that the local diocesan bishop has the right and obligation to regulate, though not forbid, marriage. Canon 1077.1 reads: "In a particular case the local ordinary can prohibit the marriage of his own subjects . . ., but only for a time, for a serious cause and as long as that exists." The Church has stipulated forbidden seasons for the celebration of marriage and has set periods of time for preparation which can vary from diocese to diocese. With a matter as grave as marriage and with almost certain death resulting from "unprotected" (or even "protected") intercourse, for persons infected with HIV, it would seem that a local diocesan bishop could place severe restrictions on marriages in which at least one of the persons is HIV positive in order to make certain that the partners are thoroughly instructed about the grave implications of their contemplated action.

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