currently recommended for AIDS are adequate and that the risk of transmission within hospitals is low" (p. 3).

The good news mentioned above must be cherished — for the bad news is so devastating. The most optimistic view on developing a vaccine to ward off AIDS was expressed by an expert who helped develop the polio vaccine: "It would be idle optimism to expect a vaccine in less than three years and that would be express" (Time, April 30, 1984). In his editorial (cf. opening paragraph of this article), Dr. Quinn speaks of anticipating "an additional 40,000 cases of AIDS over the next two years in the United States alone" (p. 247). The victims of this ravishing killer-disease must languish with the callous conviction that there is no cure — and that when it comes, it may be too late for them. In the meantime, let prayer and charity prevail! May all of the victims be treated in accord with the sentiments of a staff-member at the San Francisco General Hospital (as reported in the Feb. 1, 1984, issue of Hospitals, p. 43: "... the most important thing we can do is to treat our patients with dignity ..."

The Reverend Orville N. Griese, S.T.D., J.C.D.
Director of Research

Sterilizing the Severely Retarded Woman

Is it Morally Different from Contraceptive Sterilization?

Over the past three years, theologians who take their lead from the Church's official teaching have begun again to raise some healthy discussion about a subject they had not treated for some time: the sterilization of the severely retarded woman as a last and desperate resort to protect her from criminal impregnation. One of the most eminent American moralists prior to the Second Vatican Council, the late Francis Connell, CSSR, of Catholic University, for all the conservatism alleged of him, wrote in 1966 in favor of such sterilization. After that article, however, we find silence on the issue, at least in the United States and among moralists who defended the Church's doctrine on sexuality as found in Humanae Vitae. It might be argued that circumstances after 1968 were forcing them to expend their energies in defense of numerous well-established moral positions— even the most fundamental ones—to which her official teaching commits the Church.

At any rate, during and after 1982, the issue appeared again, notably in the pages of Dr. Frank Ayd's Medical Moral Newsletter.' The reader is referred to that periodical for both sides of what showed itself as still a somewhat contorted matter. Here it might be pointed out in a rather summary way that the case for such sterilization is based on two moral principles.

First, what one might call the Principle of Defensive Sterilization: in an extreme case, where there is no other way for a woman to avoid basically unjust impregnation, she may, in light of the Principle of Totality consent even to physical sterilization. This fundamentally defensive (as distinguished from contraceptive) sterilization has been defended by a number of eminent theologians who base their arguments on the Church's teaching as enunciated by Pope Pius XII. In 1975 when the Holy See condemned contraceptive sterilizations in Catholic hospitals, the Congregation for the Doctrine of the Faith spoke only of sterilizations to avoid pregnancy from "deliberate sexual actions of the person sterilized." Thus the Congregation with deliberate care avoided condemning some theologians' teaching on "defensive sterilization", that is, in cases where a woman was not allowing sexual actions, but being forced into them.

Second, what one might call the Principle of the Medical Rights of the Handicapped: the handicapped have a right to seriously needed surgery, even though some legitimate proxy must give consent for them. This right is the foundation of our insistence that "Infant Doe" and other handicapped neo-nates be given surgery any normal baby would be given, but it applies also to the handicapped who have reached puberty.

A Last Resort

It is important to stress here, contrary to the tendencies of some powerful secular humanistic movements of yesteryear (e.g., the Nazi sterilization programs) and perhaps also of these, our years, that defensive sterilization must clearly be a last resort. It applies only in what we can hope will be extreme cases where other, humanly preferable lines of defense are not possible against the sexual exploitation and criminal impregnation of women or girls who cannot in any basic way comprehend or consent to sexual actions into which they are forced or enticed.

The first line of defense is always education in self-governance. Too easily do we write off the limited powers of the mentally, but mildly handicapped to appreciate their own beauty and worth, and to say no to "sexual" actions which are mere and miserable caricatures of what human beings are made for.

A second line of defense, if self-governance is not possible in a given case, is adequate custodial care. Society has an obligation to support and, if necessary, to take over the responsibility of parents to guard effectively against the sexual degradation of a retarded child, whatever his or her age. Such custodial care requires strong legal sanctions against the seduction of the mentally handicapped adult — a neglected area, I am told, when compared to the legal protection afforded minors. It requires also a truly humane expenditure of adequate public and private funds which a highly materialist society chooses to spend on more "glamorous" causes. It requires, in other words, the personal witness and even the political weight of Christians and
of others convinced of the fundamental dignity of every human person, no matter how handicapped.

The problem with which defensive sterilization deals, however, is that society, in some instances, will not be able or willing to protect the retarded woman from being sexually exploited. And others who might wish to fill in for the failure of society may not find it possible to do so. Such cases should be rare, and no one would like to hope that they are. But where the unfortunate instance is realized that there is no possibility of providing either the training in self-governance or the custodial care that would protect the woman from such exploitation, then she has the same right to protection from unjust impregnation as does a mentally normal woman. And in the extreme case, where there is no other way, the mentally normal woman could rightfully resort to surgical sterilization to avoid unjust impregnation.

Reasons for Facing the Issue Anew

Some have argued that, where a man can be convicted of criminal intent to abuse a retarded woman sexually, a case might be made for his sterilization. Be that as it may (and I would agree), in some instances, the problem is that there are many males around such a woman, and the ones who might attempt exploitation (or have done so) cannot be clearly identified ahead of time.

Though the present writer knows of no documentation for this, there also is a widespread impression that sexual abuse in mental hospitals has at certain times and in certain instances been quite ugly. Authorities in such institutions, it is alleged, could not or would not provide the kind of environment and custody which would have prevented such incidents. If such is the case, one must admit that at times it may not be the fault of the authorities there, but, once again, of society as a whole which is unwilling to fund such institutions adequately. The problem is often treated as though the budget, not basic moral and humane principles of morality, were the only deciding factor.

Unfortunately, also, our society as a whole allows for "solutions" such as abortion. It is every citizen's duty, of course, to help our society form a correct conscience on such issues and be willing to put forth the funds necessary to take care of the retarded, including the pregnant retarded and their unborn children, in a manner worthy of the human person's true dignity. Unfortunately, some people find, society seems to consider the lives of the retarded and their unborn children a waste, and simply does not want to spend money on them. Parents and family, at least in some rare extreme conditions, find that the same society will insist on aborting the retarded woman, should she become pregnant. If, as many theologians insist, defensive sterilization is not an intrinsically evil thing (as contraceptive sterilization is) then, unfortunate as it is, it would be better to take such a defensive measure than to have a retarded woman later pressured or forced by society into an abortion.

Conclusion

Whatever stand one takes at this point of time on the issue of "defensive sterilization" and especially its application to the retarded woman, certainly the dilemmas facing those responsible for the well-being of the retarded force us to examine the issue in the light of Church teaching. I can only hope that this brief treatment along with the other materials indicated above may serve to that end.

The Reverend Edward J. Bayer, S.T.D,
Director of Continuing Education

Footnotes

3. For the basis of this principle in the teaching of Pius XI, Pius XII, Paul VI, and John Paul II, see Rape Within Marriage: A Moral Analysis Delayed, by Edward J. Bayer (Washington: University Press of America, 1985), to be published in April, 1985.
4. "Sterilization in Catholic Hospitals", in Vatican Council II: Volume II, edited by Austin Flannery (Boston: St. Paul Editions, 1982), p. 455, section 3-a (emphasis is added). Cf. also, ibid, section 1: that (and only that) sterilization is condemned which "deprives subsequent freely chosen sexual acts of an essential element" (emphasis added).
5. See Medical-Moral Newsletter, February 1985, for a fuller development of these and other basic and prudential considerations.