Abstract. Issues surrounding transsexualism, especially when surgical operations have been performed to achieve the desired sex, can create serious problems for canon law. After an examination of how sex is determined, the author provides a clear explanation of transsexualism and then differentiates it from hermaphroditism, homosexuality, and transvestitism. Transsexualism’s effect on the licetiy of marriage is analyzed, followed by an exploration of considerations regarding transsexualism and Holy Orders. Finally, transsexualism and the vowed religious life are examined. The author encourages those faced with such situations to pursue solutions that preserve, as well as possible, the good of the patient and their community, as well as the Church.

Nowadays there are more and more cases of transsexual persons, who, as commonly happens, even submit to surgical operations so that their new sex, as they say, might be acknowledged legally and socially as a matter of public record too. It is obvious how many serious problems cases of this sort can cause in canon law, either with respect to Matrimony, or as far as Holy Orders and consecrated life are concerned, or even with regard to the life of the parish community to which the transsexual person belongs. It seems appropriate, therefore, that the matter be examined from the canonical perspective as well.

I prescind altogether from the many questions of an ethical and moral order that arise in this province, especially with regard to whether or not surgical operations are

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permissible in extremely serious cases, if operations of this sort are deemed to be an effective means of freeing the patient from an intolerable psychological conflict and obtaining peace of mind. My study is restricted to the canonical field.

**Determination of Sex**

First of all, we need to make several remarks about the things that determine sex. For indeed, in today’s circumstances there are some who think that the determination of sex depends on psychological factors alone. There are even some who view the body as an object that the person possesses as its absolute master and can therefore dispose of with complete freedom, either as to the heterosexual or homosexual use of one’s own sexuality, or even as to a change of sex if someone is unhappy with the sex to which he belongs, in terms of somatic characteristics. According to this anthropological concept, since an individual’s sexuality is essentially something mental, then his physical or somatic sexuality is nothing more than an accessory to the subject and, therefore, can be corrected or changed, without any ethical difficulty whatsoever, if the subject feels that he belongs to a sex other than the one indicated by the somatic elements.

Plainly, this concept of the human being is far removed from the concept offered by Christian anthropology, according to which man, created in the image and likeness of God, is not the master but the steward of everything by which he is what he is. Now it is true that a human being is a human being precisely as a result of the substantial union of two things, namely soul and body. On the other hand, God in his incomprehensible wisdom ordained that life in all its forms would for the most part be transmitted only by the juncture of two factors, which we call masculine and feminine and are derived from a male and a female respectively. Included also in this universal plan of God is man, whom God created sexed: “male and female he created them” (Gen. 1:27), even though, as the Council remarks, both human sexuality and the human reproductive faculty “wondrously surpass the endowments of lower forms of life.”

Sex, moreover, profoundly marks the human person, either as a man or as a woman. As the Congregation for the Doctrine of the Faith says,

> the human person is so profoundly affected by sexuality that it must be considered as one of the factors which give to each individual’s life the principal traits that distinguish it. In fact it is from sex that the human person receives the characteristics which, on the biological, psychological and spiritual levels, make that person a man or a woman, and thereby largely condition his or her progress towards maturity and insertion into society.  

Plainly, there are many questions pertaining to the determination of sex that have not yet been solved scientifically. Nevertheless, according to Christian anthropology, no sort of absolute dichotomy is admissible between soul and body as though

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1 Paul VI, *Gaudium et spes* (December 7, 1965), n. 51.

2 Congregation for the Doctrine of the Faith, “Declaration on Certain Questions Concerning Sexual Ethics” (December 29, 1975); the Italian text published in *AAS* 68 (1976): 77–96, citation at 77.
sexuality were determined merely by the spiritual factors alone or by the somatic factors alone. For man is an incarnate spirit, that is, a soul substantially united to a body, through which it both works and is manifested. Therefore, human sexuality is a complex thing, and facts both of a psychological order and of a physical or somatic order combine to determine it. For indeed, someone’s sex does not exist solely in the higher levels of the consciousness that dictates to which sex that person belongs, nor therefore does it consist in the mere internal and profound perception of one’s own sex, but at the same time it is something somatic that is biologically structured. In normal cases, the conscious perception of one’s own sex corresponds to the somatic, biological structure, which today is rather well known scientifically in its fundamental elements.

It does not seem superfluous to keep in mind the different stages by which sex is produced from the first embryonic moment of the future man or future woman.

Genetic difference. A human being’s sex depends on the combination of two cells that are united at the moment of fertilization: the female ovum contains twenty-two chromosomes and one X sex chromosome. When it is fertilized, it can be fertilized either with a spermatozoid that contains twenty-two chromosomes and an X sex chromosome or with a spermatozoid that contains twenty-two chromosomes and a Y sex chromosome. In the first case, the total will be forty-four plus XX, which determines the female sex; in the other case, the total will be forty-four plus XY, which determines the male sex.

Gonadal difference. After about five weeks of embryonic life, the gonads of the two sexes already appear to be differentiated. Then, even though the two sexes do not develop at the same rate, by the time of birth both the internal and external sexual organs are clearly determined.

Phenotypic difference. At the moment of birth, the child’s sex is most often determined according to the phenotypic difference, that is, according to the body parts that perceptibly and macroscopically (so to speak) determine the sex, which are simply the external sexual organs. This sort of phenotypic difference develops more and more, especially at the age of puberty, when the so-called secondary sexual characteristics appear: voice, distribution of hair, physical structure of the body, and an increasingly differentiated psychology. In this stage, especially after puberty, the perception of one’s own sex develops at the same time in the psychological strata of the personality, together with a sense of identification with it, and one’s manner of comporting oneself with respect to the opposite sex also matures progressively.

In this process, from the genetic stage on, as well as in all phases of human life, a disturbance of the normal order can occur, which can happen in any one of the three principal stages noted above: either in the genetic process, in which the chromosomal complement may be inadequate (forty-four plus XX for a female or forty-four plus XY for a male); or in the gonadal process, in which the sexual organs may not develop correctly in a way that completely expresses the genetic difference [servata perfecta differentia]; or in the phenotypic process, where the development can undergo traumatic anomalies between physical-sexual development and psycho-sexual development, presenting an occasion for multiple deviations from the norm, which can differ greatly among themselves.
Typology of Transsexuality

A person is said to be transsexual when, with regard to phenotype, he belongs to the male or to the female sex and also, with regard to physiology, functions perfectly in a way corresponding to the sex that the phenotypic attributes indicate, yet that person, in the depths of his consciousness, experiences himself as and feels that he belongs to the opposite sex.

Therefore, two essential things are required in order for there to be a transsexual person: (1) that with respect to chromosomes, gonads, and phenotype and also with respect to physiology, the person belongs to one or the other sex in a fully determinate way; and (2) that that person in the depths of his consciousness experiences himself as belonging to the opposite sex from the one that phenotypic and physiological signs distinctly show.

In keeping with this conscious experience of belonging to a different sex from the one clearly shown by the phenotypic attributes, the person tends to comport himself in life as though he belonged to the sex that he experiences, but not in a manner that corresponds to the sex to which he belongs, according to the phenotypic attributes.

This moreover presupposes that there is a dissociation or a rupture in the person between the phenotypic reality of his sex and his psychological perception of his own sexual identity. This, indeed, happens not as a symptom of some deeper psychological illness, such as schizophrenia, but rather as a typical phenomenon of dissociation between the phenotypic sexual attributes and the psychological perception thereof. Moreover, this sort of dissociation is such as to interfere with the structural unity of one’s own sexual identity, which a normal person perceives and experiences as the patrimony of his own human existence, which cannot not be sexed.

The rupture between the objective reality and the sense of his own sexual identity produces in the patient an internal tension that brings with it anxiety and a vehement impulse to free himself from that state of mind. And indeed, not infrequently matters reach the point where the patient resorts to surgical operations, in the hope that by making the structure of his body conform as much as possible to the sex that he perceives psychologically he might be freed from that internal tension and obtain peace and reconciliation with himself.

Surgical operations of this sort are not at all life-threatening and are performed today at moderate expense, either to adapt the structure of a male body to the female sex or else to adapt the structure of a female body to the male sex. Obviously, however, the outcome of surgical operations cannot be the creation of a male organ that has the functions proper to an organ of this sort. Nor is it possible to create an artificial vagina in this case, because it is not a matter of correcting or constructing a vagina in a female body, but rather of fashioning a cavity in the male body, which can by no means be an organ suitable for conjugal copulation.

One thing must be emphasized: in the juridical and moral order it is necessary to have sure, universal, easily recognizable, and readily applicable criteria for determining sex. Moreover, the interior perception that someone has of his own sex is not and cannot be a criterion, since this is something subjective that is imperceptible to the senses. The criteria are and can be none other than the phenotypic attributes or,
ultimately and more concretely, the external sexual organs. This is the criterion that is applied at the moment of birth or of baptism so that someone may be considered male or female and be registered as such in civil or ecclesiastical records. Nor do civil authorities apply any other criterion when after surgical sex-change operations (as they are called) some citizen shows documents of the treating physicians attesting that that citizen underwent a sex-change operation. This attestation means nothing more than that that citizen underwent a modification of his body, in which the sexual organs that he had were removed and those of the opposite sex were constructed surgically as much as possible. By no means, however, does this mean that a true and ontological change of sex was brought about, although colloquially speaking it is said that that person changed his sex. Moreover, it cannot be admitted that one’s sex can be changed in that way, simply by the removal of the sexual organs and the insertion or modification of some flesh in place of them.

Before moving on to other topics, let us sum up the criteria that are usually examined in making a diagnosis of transsexualism:

- Fully determinate male or female sex (with respect to chromosomes, gonads, phenotype, and physiology), and therefore
- The absence of genetic anomalies or intersexual states
- Constant aversion and tension in the subject on account of his awareness that his psychological perception of his own sex does not correspond to the physical reality
- A persistent desire to eliminate the phenotypic characteristics of his own sex and to obtain the characteristics of the opposite sex
- A persistent desire to live according to the manner proper to the opposite sex (in his way of comporting himself with respect to profession, work, clothing, and activities that the cultural context attributes to that sex, etc.)
- A persistent desire of this sort continues for several years (at least two) after adolescence, whatever the case may have been in the time before adolescence
- The absence of general mental anomalies, for example schizophrenia

Distinguished from Other Sexual Anomalies

Transsexuality must be clearly distinguished from other sexual anomalies that seem to have something in common with it, chief among which is hermaphroditism.

Hermaphroditism. True hermaphroditism (Klinefelter syndrome) presupposes that masculine (Y) and feminine (X) sexual chromosomes converged in the same ovum at the same time in the initial genetic stage, and therefore there is an ambivalent \textit{bipollens} chromosomal formula, containing chromosomes of the same sex simultaneously (forty-four plus XXY). Given this ambivalent beginning, the following development too is ambivalent in the subsequent gonadal and phenotypic stages, in which those things that are proper to both sexes develop at the same time, more or less completely, even though each sex is not always expressed in the same way. Hence, there are various types:
• **Alternate hermaphroditism.** This is the most frequent form of all, in which one testicle is present on one side and one ovary on the other side, with their respective associated *[gonadophoris]* organs. Often both a uterus and external organs of either sex are present, although with different degrees of development, with the male sex more often prevalent.

• **Bilateral hermaphroditism.** Testicular and ovarian structures are present on either side, with prevalently female associated organs, while the external organs appear to be prevalently male.

• **Unilateral hermaphroditism:** Although there is great diversity, most often an ovarian and testicular structure is present on one side (*ovotestis*), while on the other side there is only either an ovarian structure or a testicular structure or nothing present.

A hermaphrodite is always sterile, because his gametogenesis, whether male or female, does not reach maturity. The sexual drive too, if any, is very weak.

The surgical operations that are usually performed to eliminate characteristics of one or the other sex cannot change the profound ambivalent *[bipollentem]* structure of the patient, resulting from the fact that in the genetic process itself both chromosomal formulas are found, male (forty-four plus XY) and female (forty-four plus XX).

Therefore a true hermaphrodite, even aside from the impediment of copulative impotence, which is almost always present, is radically incapable of Matrimony, on account of his lack of sexual oneness, since he is at the same time both male and female in more or less the same measure.

The true hermaphroditism that we have just described is different from so-called *pseudo-hermaphroditism,* which occurs when the subject, while possessing the gonadotype of one sex, which is in keeping with his chromosomal sex, nevertheless has at the same time some gonadal characteristics of the opposite sex on account of some natural error that prevented the correct development of the fetus from the initial embryonic stage on.

In the case of a pseudo-hermaphrodite, there is per se no radical incapacity for Matrimony. Incapacity depends on the seriousness of the natural error and on the outcome of surgical interventions to eliminate the defects, which usually are merely anatomical.

**Homosexuality.** A transsexual is different also from a homosexual, for homosexuality presupposes that the subject belongs without any doubt to one or the other sex; and therefore, unlike what happens in the case of hermaphroditism, the genetic, chromosomal, gonadal, and phenotypic constitution of a homosexual is normal, either male or female. Nevertheless, his sexual attraction is not heterosexual but homosexual.

The subject belongs to a determinate sex, experiences himself as belonging to that sex, and feels no aversion to the fact that he belongs to that sex; all this notwithstanding, his sexual attraction is not to the opposite sex but to his own, either male or female (lesbianism). The intensity of an abnormal attraction of this sort can cause any degree of aversion to the opposite sex or even complete loathing, which may render the subject incapable of engaging in heterosexual relations.
The differences between a homosexual and a transsexual are obvious. For the homosexual, unlike the transsexual, perceives himself as belonging to the sex indicated by the phenotypic attributes, and does not experience any aversion to the fact that he belongs to that sex, and so neither does he feel any impulse to change the phenotypic characteristics of his own sex.

The difference with respect to the capacity for Matrimony is obvious too. For the capacity of a homosexual person for Matrimony depends on the degree of intensity of his sexual deviation: If the intensity is such that it prevents the patient from achieving heterosexual copulation, it is considered copulative impotence, provided that the deviation is perpetual, according to the norm of canon 1084 §1. However, if the intensity does not prevent heterosexual copulation, yet is such that the patient cannot help having homosexual relations, then he is incapable of assuming the obligations of Matrimony, especially the duty of fidelity. If, however, the intensity is such that it renders impossible neither heterosexual copulation nor the observance of marital fidelity, the subject is to be deemed capable of Matrimony notwithstanding his homosexual tendency.

Transvestism. Transsexuality differs also from mere transvestism and other deviations of that sort. A person is said to be a transvestite when he belongs to one fully determinate sex in his entire genetic structure (chromosomal, gonadal, and phenotypic) and tends to comport himself, especially with regard to his clothing, as though he were of the opposite sex. A transvestite moreover, unlike a transsexual, does not experience disgust or displeasure with his own sex, nor an urge to change his sex, nor any internal tension because he belongs to that sex. A transsexual, if he wears clothing of the opposite sex, does so because it is consistent with his own conscious experience of sex. A homosexual, however, does so as a means of seducing more easily. A transvestite, in contrast, does so for the sake of the sexual pleasure that he experiences, which is diffuse and not so much localized in his genitals, because of a sort of fetish that is centered on clothing. On the other hand, unlike the homosexual, he does not experience a prevailing tendency to engage in sexual activity with persons of his own sex. He is indeed heterosexual. It should be noted, however, that transvestism is often a symptom of a deeper anomaly, as may be the case also with homosexuality and transsexualism.

As for the capacity of a transvestite for Matrimony, it depends on the degree of the intensity of the anomaly. If it stops at a mere tendency and can usually be restrained, it does not constitute incapacity. However, if this tendency is habitually accompanied by such anomalous behavior as to be a real obstacle to living a regular conjugal life, then without a doubt a person afflicted by a tendency of this sort is not capable of fulfilling the essential obligations of marriage.

Transsexuality and Matrimony

Transsexuality can have importance in the canonical field, especially in three areas, namely, in Matrimony, in Holy Orders, and in consecrated life, which will be discussed presently.

A particular difficulty arises with regard to Matrimony, because the right to marriage is one of the fundamental human rights. Therefore, someone cannot be prevented from exercising it unless it is certain that he is incapable of exercising that right.
Canonical questions may concern either the admission of a transsexual to Matrimony or the declaration of nullity of a marriage already celebrated. For the sake of argument in either matter, it is necessary to distinguish cases in which no surgical operation to change the phenotypic sexual characteristics takes place from cases in which an operation of this sort is performed.

Admission to Matrimony

As for admission to Matrimony, there is no difficulty if the transsexual has already undergone sex-change operations, because no doubt can be raised that a person of this sort is incapable of Matrimony, for several reasons, as we will see further on. Moreover, this sort of so-called sex change is public and proved by certifying documents, and therefore, so is the incapacity to enter marriage.

There can be difficulty, and even serious difficulty, if the transsexual does not undergo surgical operations and, therefore, the person who asks to celebrate marriage appears to be normal, belonging to the sex indicated by the phenotypic attributes as well as by official documents, whether civil or ecclesiastical. Furthermore, it is plain that such a person, if he seeks to marry, asks to contract Matrimony with a person of the opposite sex.

Then, even if it is common knowledge that that person is transsexual, the pastor has no right to demand a medical examination, nor can he deny admission to Matrimony. The right of the lay faithful to Matrimony prevails, and this right must be protected until it has been proved with convincing arguments that the faithful layperson is not capable of exercising that right. Besides, in this case, the layperson will most probably not say anything about this matter, even if questioned discreetly during the prenuptial examination. Therefore, the pastor most often cannot refuse to proceed to celebrate the marriage, especially because, as we will see presently, before surgical operations, it is very difficult to prove whether or not some person actually is capable of entering into marriage. The pastor, therefore, has to comply with the general rule that he must assist at a marriage unless, having completed the prescribed investigations and other procedures that seem appropriate in the case, it is established certainly and with convincing arguments in the external forum that the marriage about to be celebrated will be null (canon 1066).

Declaration of Nullity

It is necessary to distinguish clearly two fundamental scenarios, namely (1) when the marriage was celebrated after surgical sex-change operations were performed and (2) when it was celebrated by a person who had not undergone surgical interventions before the wedding ceremony.

Marriage celebrated after surgical operations were performed. It is absolutely clear that a transsexual person is radically incapable of Matrimony if he undergoes surgical sex-change operations. Therefore, there is no difficulty in declaring nullity if the marriage was attempted after such operations were performed.

There are at least three reasons for the incapacity for marriage of a person of this sort.
First reason for incapacity: There is a lack of the psychological equilibrium required in order to give matrimonial consent validly. For it is established that a person of this sort suffered from an obsession and internal impulses that were so vehement that he submitted to serious surgical operations in order to free himself from those impulses by obtaining a sex change. Now, indeed, it is plain that this person was afflicted with a profound psychological disturbance, whatever the etiology of that disturbance may have been.

Second reason for incapacity: By the very nature of things, Matrimony is a partnership between a man and a woman with the specific gifts of either sex, and therefore can only be entered into by [two] persons of different sex. In the marriage of a transsexual person, though, this sexual complementarity [alteritas sexus] is missing, since the surgical operations did not change his ontological sexual identity. Therefore, if a man who has apparently changed into a woman attempts Matrimony with another man, as seems fitting, in actual fact, marriage is being attempted between two men; whereas if a woman who has apparently changed into a man attempts Matrimony with a woman, marriage is in fact being attempted between two women.

It is helpful to recall here what we said earlier, namely, that surgical operations do not change the genetic, chromosomal, or gonadal structure of the individual; as far as the phenotypic attributes are concerned, the changes are nonessential and merely accessory, with a genuinely monstrous outcome. Therefore, the person remains the same sex as he was in fact before the surgical operations. I mean the sex indicated by the phenotypic attributes since, at least in the field of canon law and morality, there can be no criteria for determining sex other than those based on phenotypic attributes, which can be established easily and unambiguously.

Third reason for incapacity: A transsexual person after surgical operations becomes incapable of Matrimony because of copulative impotence, for if a woman tried to change into a man, the flesh that is constructed in the form of a penis is not a member suited for copulation; whereas if a man tried to change into a woman, what has the appearance of a vagina is nothing but a cavity artificially constructed in the male body to resemble a vagina, which, nevertheless, is not a vagina. Therefore, in either case, the person becomes copulatively impotent, in the sense of canon 1084 §1.

It makes no difference that they can obtain some sexual satisfaction with one another, since this occurs even through masturbation. Moreover, orgasm in both “partners” will be of the same sort, either both male or both female, since a transsexual has a physiological process according to the sex indicated by the phenotypic attributes before the surgical procedures and operations of this sort do not change physiological processes.

Note the difference with a true hermaphrodite: a transsexual, after the so-called sex change, is incapable of Matrimony because, among other things, he lacks the sexual identity necessary to fulfill the essential roles of either one of the two sexes and properly speaking of the sex to which he belongs. Therefore, in a marriage with a transsexual, the heterosexual character essential to a conjugal covenant is not present because after the operations are performed, the transsexual enters marriage with a person of the same sex to which he himself belongs. A true hermaphrodite, on the
contrary, lacks the sexual oneness that is essential in both contracting parties if they are to be able to enter a conjugal covenant. For by definition a true hermaphrodite is both man and woman in his genetic, chromosomal, gonadal, and phenotypic structure, even though one or the other sex is somehow more prevalent than the other.

Marriage celebrated before surgical sex-change operations. It poses a problem if marriage was celebrated by a person who at the time of the ceremony experienced no symptoms or only slight symptoms that, nevertheless, did not prevent him from freely choosing marriage with a person of the opposite sex. Later, however, perhaps after several years of marriage, that person clearly proves to be in fact transsexual, whether or not he actually underwent surgical sex-change operations. There is one case on record in which a man had fathered four children before he made an attempt to change his sex surgically.³

I would say that no certain and universal criterion can be applied in deciding cases of this sort because in these, as in all psychological anomalies, many degrees of seriousness can be observed. It will be up to the judges in individual cases both to see whether or not the infirmity existed at the time of the wedding ceremony, even though it may have been hidden, and to determine what stage that seriousness had reached.

The fact that that patient was affected so seriously by this disturbance that, prompted by it, he submitted to surgical operations, albeit a long time after the wedding ceremony, in order to free himself from that internal tension may perhaps be taken as a kind of indication. For a person who reaches that state of internal anxiety no doubt is suffering from an extremely serious psychological infirmity, which was rather probably already present in the subject, albeit latent, at the time of the wedding ceremony. Therefore, that person probably should be considered incapable of giving valid matrimonial consent at the time when the conjugal covenant was celebrated.

More difficult, however, is the case in which no surgical operation was performed. For then it is by no means easy to determine that the psychological disturbance was so serious as to render the subject incapable of giving matrimonial consent. In this case, it is more probably a question not of true transsexualism but of transvestism or something of that sort. Therefore, the judge must proceed carefully both in procuring a precise diagnosis and also in evaluating the evidence that is adduced. If there is doubt, then obviously the validity of the marriage must be upheld until the contrary is proved (canon 1060).

Transsexualism and Holy Orders

Another very delicate area in which transsexualism has canonical importance is suitability for receiving or exercising Holy Orders. Nevertheless, the question is not as serious as in the field of marriage law, since in order to receive or exercise Holy Orders capacity is not enough, but rather suitability also is required according to the norms established by the competent ecclesiastical authority. No Catholic layman

per se has the right to receive Holy Orders; nor to exercise them, except within the order established by the Church.

Transsexualism and the Reception of Holy Orders

A problem may be posed by a male transsexual, that is, someone who anatomically and physiologically is a man but experiences himself as a woman, whether or not he has undergone surgical sex-change operations.

The question arises either as to the subject’s capacity to receive Holy Orders or as to the liceity of his reception of the sacrament.

In my judgment, no reasonable doubt can be advanced concerning the subject’s capacity to receive Holy Orders when in fact he is a baptized male (canon 1024). Yet the question in practice does not matter and can remain undecided.

I said that the question about capacity does not matter, as far as praxis is concerned, because most certainly a transsexual person is not suitable and, therefore, should be barred from receiving Holy Orders.

The matter is so obvious that it seems superfluous to dwell on it. One thing should be said, it seems: namely, that with regard to the seriousness of the matter, in order for a man to be barred from receiving Orders, certitude about the future development of the anomaly to the point of extreme seriousness is not required; it is enough that the subject display certain signs of an anomaly of this sort, even though it may be in the initial stage and a serious development is not foreseen. Indeed, in order for there to be an obligation to prevent a man from receiving Orders, it is not necessary to establish a clear diagnosis of the anomaly of transsexuality since any anomaly or deviation whatsoever in the area of sexuality is a clear sign that the subject is not suited to celibacy and the sacred ministry, even if the anomaly in question is not as serious as transsexualism, for example, homosexuality or transvestism. In these cases and others of this sort, the subject must be barred from receiving Holy Orders, according to the norm spelled out in canons 1025, 1029, and 1030. Indeed, true transsexuals seem to be included among those who are irregular because of a defect, according to the norm of canon 1041, 1o: “one who suffers from any form of insanity, or from any other psychological infirmity, because of which he is, after experts have been consulted, judged incapable of being able to fulfill the ministry” (emphasis added).

Transsexualism after Having Received Holy Orders

The scenario appears to be more difficult if the anomaly manifests itself after the reception of Holy Orders. What is to be done then?

First of all, it must be stated that this is a matter of true infirmity, and therefore in whatever circumstances and degree of infirmity the patient may find himself, he is to be treated as a sick person who requires care and the utmost charity. Having noted that, it remains to be seen in individual cases what can and should be done to avoid or at least to minimize the harm either to the sick man or to the ecclesial community.

One thing, moreover, is to be kept firmly in mind: namely that Holy Orders, once received, remain indelibly, whatever the psychological development of the subject may be and whatever changes may be made in the body of that subject to
change the phenotypic characteristics of his sex. The doctrinal principle expressly set forth in canon 290 is to be applied here also: “Sacred ordination, once validly received, never becomes invalid.”

That being said, if the patient has not attempted to submit to surgical operations and has not given scandal by his manner of behaving, he can continue to exercise the sacred ministry. For the patient’s interior persuasion that he is not a man but a woman in no way changes the objective reality. Therefore, no difficulty per se appears, unless perhaps the persuasion is such that it keeps him from forming the intention that is necessary in administering the sacraments. A serious difficulty may arise if the patient has made known within the ecclesial community his persuasion that he belongs to the female sex. Then the utmost prudence will be needed to discern what should be done. No doubt it will be necessary to bar him from the exercise of the priestly ministry, at least in that place, so as to avoid scandal. If the priest in question is a pastor and he is unwilling to renounce his office, he can be removed since without doubt there is sufficient cause for removal according to the norm of canons 1740–1741.

In these cases, spiritual direction, priestly charity, and medical assistance will be able to help the patient a great deal to overcome his difficulties, so that he will not have to be barred definitively from the priestly ministry, if he avoids scandal.

It is a more serious case if the matter has reached the point where the patient submitted to surgical operations in order to change his sexual characteristics, as happened in a certain case in Italy.

The question cannot be considered from a penal perspective, because a man in Holy Orders who submitted to surgical interventions of this sort in order to change his sexual characteristics without a doubt is suffering from a psychological illness that renders him incapable of an offense [delictum] and, therefore, of ecclesiastical penalties, at least in this province. Therefore, in particular he does not incur excommunication, interdict, or suspension, with the effects thereof listed in canons 1331–1335. For the same reason, neither does he incur by his offense the irregularity contracted by “one who has gravely and maliciously mutilated himself or another” (canon 1041, 5o). On the contrary, the case seems to fall under the norm of canon 1044 §2, 2o: “The following are impeded from the exercise of orders: …. 2o one who suffers from insanity or from some other psychological infirmity mentioned in can. 1041, n. 1, until such time as the Ordinary, having consulted an expert, has allowed the exercise of the order in question.”

Nevertheless, he has not lost the clerical state, even if after surgical operations he comports himself as a woman. Indeed, according to the code of canon law currently in force, neither can he be dismissed from the clerical state. For indeed, according to the norm of canon 290, the clerical state is lost only: “1o by a judgment of a court or an administrative decree, declaring the ordination invalid; 2o by the penalty of dismissal lawfully imposed; 3o by a rescript of the Apostolic See; this rescript, however, is granted to deacons only for grave reasons and to priests only for the gravest of reasons.”

Whether it is appropriate to persuade him to ask the Supreme Pontiff to return to the lay state, so that he remains free of all obligations of the clerical state, must be determined in individual cases. Since this is an altogether special case, it will
be necessary to proceed in an extraordinary way, avoiding the formalities that are to be observed in other cases. This does not rule out the possibility that the Roman Pontiff, in an extraordinary way, considering both the common good and that of the patient, may grant, even without the priest’s request, his return to the lay state, while dispensing him from all clerical obligations. It will always have to be determined what is best for the priest’s health and peace of mind. For in order to preserve the good of the ecclesiastical community, it is enough that he be prohibited from celebrating Mass and from any exercise of Orders.

Care should always be taken, nevertheless, to provide the priest with suitable support, even if he has been rendered incapable of performing any work.

**Transsexualism and Consecrated Life**

The problems caused by transsexualism with respect to consecrated life are not as serious as those that it causes with regard to Matrimony or Holy Orders, because the natural law is not involved in consecrated life and there is no question of sacramental validity. Nevertheless, questions are raised that cannot be disregarded. First, we must recall the rule that is stated in canon 219: “All Christ’s faithful have the right to immunity from any kind of coercion in choosing a state in life.” This right, nevertheless, by no means implies a right to embrace any state of Christian life whatsoever. For plainly each and every state requires, besides natural ability and juridical capacity, the suitability prescribed by law, the existence of which in individual cases (if it is a question of consecrated life) is determined by the authorities competent to admit candidates.

Now no one can fail to see that true transsexuals are not suited to consecrated life because in the first place they lack the degree of psychological equilibrium that is required in order to lead that kind of life. But there is a deeper reason why a transsexual is not suited to and perhaps not capable of consecrated life: namely, the disconnect that the transsexual suffers between his psychological perception of his own sex and his phenotypic sex makes it impossible for him to dedicate himself within the special structure of consecrated life either in a male institute or in a female institute.

Nevertheless, as in the discussion of Holy Orders, it is necessary to distinguish various possible scenarios, depending on whether it is a question of admitting a transsexual to the novitiate or of keeping a transsexual in consecrated life after perpetual profession, whether or not the transsexual has also undergone surgical operations.

If a candidate who has not undergone surgical operations to change his sexual characteristics reveals his anomaly, plainly he cannot be admitted to the novitiate since it is certain that he is not suited to consecrated life. However, if he knows of his anomaly but has not revealed it, his admission will be invalid by reason of deceit, according to the norm of canon 643 §1, 4°. Finally, if the anomaly manifests itself during the period of probation, before final profession, plainly he must not be admitted to profession because of a lack of suitability and also for the personal welfare of the patient.

A particular difficulty arises if the serious anomaly becomes manifest after final profession, especially if its seriousness reaches the point where the patient wants to undergo a surgical operation and demands it as though it were a necessary means of
caring for his health. Certainly, though, his Superiors cannot approve of a request of this sort. They themselves will see what ought to be done, prompted by great charity and prudence, and considering the patient’s age, character, general health, and so forth. Probably they will counsel him, if he is not in Holy Orders, to request an indult to leave the institute, while still showing equity and evangelical charity with regard to his support (canon 702 §2). If he is a cleric, unless there was a previous papal indult depriving him of the clerical state according to the norm of canon 290, 3º, he can scarcely leave the institute because he will not find a benevolent bishop. Moreover, it will be easier to cope with the peculiar requirements of the case within the structure of consecrated life than in diocesan life.

If, however, the patient disregards every form of obedience and proceeds to consult physicians and actually undergoes surgical operations, he cannot be dismissed from the institute on account of it. It must be determined to what extent the illness diminished his ability to make a responsible decision.

There is one thing I would like to say before concluding this report: When it is a question of cases that are altogether extraordinary and not foreseen by the law, juridical norms that were legislated for common contingencies cannot be applied to these cases that depart so radically from the norm. Therefore, it must be determined what path should be taken in order to find a solution that salvages, as much as possible, everything that is to be salvaged: namely the good both of the patient and of the community in which he is incorporated and also of the Church.