DOLENTIUM HOMINUM

N. 72 – Year XXIV – No. 3, 2009

JOURNAL OF THE PONTIFICAL COUNCIL
FOR HEALTH CARE WORKERS
(FOR HEALTH PASTORAL CARE)

Editorial and Business Offices:
PONTIFICAL COUNCIL FOR HEALTH CARE WORKERS (FOR HEALTH PASTORAL CARE)
VATICAN CITY; Tel. 06-6988-3138, 06-6988-4720, 06-6988-4799, Fax: 06-6988-3139
www.healthpastoral.org - e-mail: **opersanit@hlthwork.va**

Published three times a year. Subscription rate: **€** 32 postage included

Printed by Editrice VELAR, Gorle (BG)

Cover: Glass window Rev. Costantino Ruggeri

Poste Italiane s.p.a. Spedizione in Abbonamento Postale - D.L. 353/2003 (conv. In L. 27/02/2004 n° 46) art. 1, comma 2, DCB Roma

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The illustrations in this edition are taken from the book:
L'amore di Dio per noi, il Vangelo
published by Editrice Velar, Gorle (BG)

The Church in the Service of Love for the Suffering

MESSAGE OF HIS HOLINESS BENEDICT XVI FOR THE EIGHTEENTH WORLD DAY OF THE SICK 11 FEBRUARY 2010

TWENTY-FIFTH ANNIVERSARY OF THE FOUNDATION OF THE PONTIFICAL COUNCIL FOR HEALTH CARE WORKERS (FOR HEALTH PASTORAL CARE)

Dear Brothers and Sisters!

On 11 February of next year, the liturgical memorial of the Blessed Virgin Mary of Lourdes, the XVIII World Day of the Sick will be celebrated in the Vatican Basilica. This happy coinciding with the twenty-fifth anniversary of the foundation of the Pontifical Council for Health Care Workers constitutes a further reason to thank God for the journey that has been made hitherto in the sector of pastoral care in health. With all my heart I hope that this anniversary will be an occasion for a more generous apostolic impetus to the service of the sick and those who care for them.

Indeed, by the annual World Day of the Sick the Church intends to sensitise the ecclesial community in a capillary way about the importance of pastoral service in the vast world of health, a service that is an integral part of its mission because it is written into the furrow of the very salvific mission of Christ. He, divine Physician, "went about doing good and curing all who had fallen into the power of the devil" (Acts 10:38). In the mystery of his passion, death and resurrection, human suffering attained meaning and fullness of light. In his apostolic letter *Salvifici doloris*, the Servant of God John Paul II has illuminating words on the subject: "Human suffering", he wrote, "has reached its culmination in the passion of Christ. And at the same time it has entered into a completely new dimension and a new order: *it has been linked to love*, to that love which creates good, drawing it out by means of suffering, just as the supreme good of the Redemption of the world was drawn from the Cross of Christ, and from that Cross constantly take its beginning. The Cross of Christ has become a source from which flow rivers of living water" (n. 18).

The Lord Jesus at the Last Supper, before returning to the Father, bent down to wash the feet of the Apostles, anticipating the supreme act of love of the Cross. By this gesture he invited his disciples to enter into the same logic of love that should be given in particular to the least and those most in need (cf. Jn 13:12-17). Following his example, every Christian is called to live anew, in different and always new contexts, the parable of the Good Samaritan, who, when passing a man left half dead by thieves at the side of the road, "went up to him and bandaged his wounds, pouring oil and wine on them. He then lifted him onto his own mount and took him to an inn and looked after him. Next day, he took out two denarii and handed them to the innkeeper and said, 'Look after him, and on my way back I will make good any extra expense you have'" (Lk 10:33-35).

At the end of this parable Jesus says: "Go, and do the same yourself" (Lk 10:37). He addresses us, as well, with these words. He exhorts us to bend down before the wounds of the body and of the spirit of so many of our brothers and sisters that we encounter on the roads of the world; he helps us to understand that with the grace of God received and lived in daily life, the experience of illness and suffering can become a school of hope. In truth, as I stated in my encyclical *Spe salvi*, "It is not by sidestepping or fleeing from suffering that we are healed, but rather by the capacity for accepting it, maturing through it and finding meaning through union with Christ, who suffered with infinite love" (n. 37).

The Ecumenical Second Vatican Council referred to the important task of the Church of caring for human suffering. In the dogmatic Constitution *Lumen gentium* we read that "Christ was sent by the Father 'to bring good news to the poor, to heal the contrite of heart' (Lk 4:18), 'to seek and to save what was lost' (Lk 19:10). Similarly, the Church encompasses with love all who are afflicted with human suffering and in the poor and afflicted sees the image of its poor and suffering Founder. It does all it can to relieve their need and in them it strives to serve Christ" (n. 8). Down the centuries, this humanitarian and spiritual action of the ecclesial community for the sick and the suffering has been expressed in multiple forms and health-care structures, of an institutional character as well. I would like to remember here those that are directly managed by dioceses and those that were created by the generosity of various religious institutes. This is a valuable "patrimony" that corresponds to the fact that "love thus needs to be organised if it is to be an ordered service to the community" (encyclical *Deus caritas est*, n. 20). The creation of the Pontifical Council for Health Care Workers, twenty-five years ago or thereabouts, belongs to this ecclesial solicitude for the world of health. And I would like to add that at the present historical-cultural moment one perceives even more the need for an attentive and ecclesial presence at the side of the sick and also for a presence within society that is able to transmit gospel values, in an effective way, in defence of life at all it stages, from its conception until its natural end.

I would like here to take up the *Message to the Poor, the Sick and the Suffering* which

the fathers of the Second Vatican Council addressed to the world at the end of that Council: "All of you who feel heavily the weight of the cross", they said, "you who weep… you the unknown victims of suffering, take courage. You are the preferred children of the kingdom of God, the kingdom of hope, happiness and life. You are the brothers of the suffering Christ, and with Him, if you wish, you are saving the world" (*Ench. Vat.*, I, n. 523*, [p. 313]). From my heart I thank those who every day "serve the sick and suffering" so that the "apostolate of mercy may ever more effectively respond to people's needs" (John Paul II, Apost. Const. *Pastor Bonus*, art. 152).

In this Year for Priests my thoughts are particularly addressed to you, dear priests, "ministers of the sick", a sign and instrument of the compassion of Christ which must reach all men who are marked by suffering. I invite you, dear presbyters, not to spare yourselves in giving them care and comfort. Time passed at the side of those in affliction reveals itself to be fertile in grace for all the other dimensions of pastoral care. Lastly, I address you, dear sick people, and I ask you to pray and to offer up your sufferings for priests so that they may remain faithful to their vocations and so that their ministries will be rich in spiritual fruits, to the benefit of the whole of the Church.

With these feelings I implore upon the sick, and also on those who take care of them, the maternal protection of Mary *Salus infirmorum*, and on them all, from my heart, I bestow my Apostolic Blessing,

From the Vatican, 22 November 2009, the Solemnity of Our Lord Jesus Christ, King of the Universe,

BENEDICT XVI

The Safety of the Medical Product: Ethics and Conscience for the Pharmacist

World Congress of the FIPC
International Federation
of Catholic Pharmacists
Poland, Poznan
11-14 September 2009

Report

The Holy Mass at 9.00 in the cathedral basilica of Poznan in Poland opened the twenty-sixth congress of the International Federation of Catholic Pharmacists

H.E. Msgr. Stanisław Gądecki, the Archbishop of Poznan, welcomed those taking part in the congress which witnessed the participation of more than a hundred people from seventeen countries. The homily of Archbishop Gądecki was on the subject of medicines and the pharmaceutical profession in the Bible. The Holy Mass ended with the awarding by the President of the Pontifical Council of a medal of merit to the prelate for his work on behalf of the sick in his Church of Poznan.

The deliberations of the congress began in the afternoon at the major seminary of Poznan. The organisers of the event pronounced words of welcome: Dr. Barbara Fiklewicz-Dreszczyk, the President of the Association of Polish Pharmacists; Dr. Piero Uroda, President of the International Federation of Catholic Pharmacists; and Prof. Alain Lejeune, former President of the International Federation of Catholic Pharmacists, the director of the planning committee and coordinator of the congress itself.

H.E. Msgr. Zygmunt Zimowski, President of the Pontifical Council for Health Care Workers, chaired the second day of the congress which began with the Sunday Eucharist during which the prelate spoke about the meaning of the Cross, basing himself on the words 'by his wounds we are all saved'. Afterwards, in the hall of the congress, the President of the Pontifical Council gave a paper on the subject 'the economic crisis and access to medicine for the poorest, especially children'. The paper was well received and applauded by those taking part and a lively discussion then followed. At the end of the discussion Archbishop Zimowski congratulated the organisers of this important event and thanked all the pharmacists who had taken part, and in particular its organisers. The President of the Pontifical Council awarded the medal of the Good Samaritan to all those who stood out for their contributions to the preparations for the Federal Days of Pharmacists in Poznan.

It should be stressed that the paper of the President-Archbishop, because of its forceful structure and contents, was taken up by various press agencies, especially in Italy, where a discussion on the right to conscientious objection for Catholic pharmacists is underway.

Msgr. DARIUSZ GIERS
Official of the Pontifical Council for Health Care Workers, the Holy See

There is no Medicine for Death

HOMILY OF H.E. MSGR. STANISŁAW GĄDECKI DURING THE CELEBRATION OF THE EUCHARIST AT THE CATHEDRAL OF POZNAN, 12 SEPTEMBER 2009

From 11 to 14 September 2009 we will take part in Poznan in the World Congress of the Federation of Catholic Pharmacists whose subject is: 'The Safety of the Medical Product, the Ethics and Conscience of the Pharmacist'. This is an important event for us. This congress has been organised for the first time in Poland and it even has the presence of His Excellency Msgr. Zygmunt Zimowski, President of the Pontifical Council for Health Care Workers.

On this occasion of the international meeting of the Catholic pharmacists I would like to dwell – in the light of the inspired Word – on this profession and noble calling. First of all, however, we must bear in mind that Holy Scripture is not a book of medicine. In addition it is not directly concerned with questions of health care. During the epochs of the Old Testament and the New Testament the opportunities for health care were scarce and there were few medicines. Amongst other things, olive oil, balsam and wine were used as disinfectants and tonics. Dialysis, transplants, the provision of oxygen, the saline drip or blood transfusions did not exist. The many signs of hope offered by modern medicine and pharmacy were not present. The topic of medicine concerns the Bible only in a marginal way inasmuch as it was used to explain theological-legal questions. It is from this point of view, therefore, that one must understand the sentences of the Bible on the fundamental subjects that I now want to address.

1. Pharmacy

First of all I will focus attention on the medical science known as pharmacy. We can find little information about it in the Bible. The only mention of it comes rather late in the Book of Sirach, that is to say during the second century before Christ (the Book of Sirach was written in Hebrew in about 180 BC and translated into Greek in Egypt in about 117 BC). The author of this book observes that: 'The Lord created medicines (φάρμακα) from the earth, and a sensible person (φρόνιμος) will not hesitate to use them… The druggist mixes these medicines , and the doctor will use them to cure diseases and ease pain. There is no end to the activities of our Lord, who gives health to the people of the world' (Sir 38:4, 7-8).

From this note it emerges that as is the case with the whole of the creation medicines are definitely a work of God ('When the Lord had made all this, he looked at the earth and filled it with good things' (Sir 16:29). This obviously does not exclude the participation of man in creating them. However, in creating everything that exists, it was God who was the Creator of the elements from which medicines are made.

Sirach states that medicines come 'from the earth'. This is probably an allusion to the material resemblance of medicines to man who was also created 'from the earth' ('Every human being was made from the earth, just as Adam was', Sir 33:10; see also Gen 2:7). He who cures and he who is cured come from the same matter. It is probably for this reason that medicines correspond so much to the nature of man. Medicines help man because from the outset they are 'good' ('Everything made by the Lord is good; he meets every need at the proper time. No one can claim that some things are worse than others, for everything is good in its proper place', Sir 39:33-34). In a certain sense one can even state – following the thinking of Sirach – that the goals of medicines, like the tasks of man, were created at the outset, before we ourselves existed ('In the beginning the Lord did his work of creation, and he gave everything a place of its own', Sir 16:26).

Not all of us can experience the advantage of using medicines because not all of us want to use them. The 'sensible' man will not hesitate to use them but the 'foolish' man will refuse them.

'The doctor will use them to cure diseases and ease pain' (38:7). From this comes the conclusion that the meaning of the existence of medicines and of pharmacists is to cure, that is to say to preserve life. Their task is not and cannot in any way be to make people die. In this light it is easy to understand the phrases of every kind of the codes of pharmaceutical ethics, according to which the purpose of the activity of pharmacists is to preserve life:

– Article 6. The professional action of a pharmacists cannot be conscious activity against human health.

– Article 4. A pharmacist, in carrying out his or her duties, must have freedom to behaviour according to his or her conscience and the autonomy of his or her own actions according to ethical norms, the present level of sciences and the juridical system of his or her State.

– Article 5. A pharmacist who has all the necessary professional authorisation, is always personally responsible for his or her work. He or she must refuse actions that do not correspond to ethical norms and to legal and scientific rules.

– Article 19. In order to protect the interests of the profes-

sion, a pharmacist must not do anything that would be to the advantage of men or organisations whose aims are contrary to the professional and moral bases of pharmacy. Pharmacists have the right to conscientious objection. This right allows them not to take part, either directly or indirectly, in the provision of those means which clearly have non-ethical goal, such as abortion or euthanasia (Code of Ethics of the Pharmacist of the Republic of Poland, issued during the Extraordinary National Conference of Pharmacists at Lublin, 25 April 1993).

The speech that the Holy Father Benedict XVI made to those taking part in the twenty-fifth international congress of Catholic pharmacists alluded to the same question: 'In this context, it is not possible to anaesthetize consciences, for example, concerning the effects of particles whose purpose is to prevent an embryo's implantation or to shorten a person's life. The pharmacist must invite each person to advance humanity, so that every being may be protected from the moment of conception until natural death, and that medicines may fulfil properly their therapeutic role' (29 Oct. 2007). This means that a pharmacist who is a believer must refuse to sell contraceptives, even condoms, because the Church believes that they, too, are an attack on life. There must be a conscience clause in the profession of the pharmacist: a Catholic cannot contribute to these things. The sale of these medicines is in a certain sense analogous to the sale of a pistol to someone who wants to kill himself.

Why were medicines created? The spontaneous answer is: they exist to cure. Sirach, instead, gives a more wide-ranging answer: 'There is no end to the activities of the Lord, who gives health to the people of the world' (Sir 38:8). The creation and distribution of medicines, therefore, are for him both an extension of the work of creation to the present time and a peacemaking activity – it is the bringing of peace to men. The observations of Sirach on pharmacology here suffice.

2. Farmakon

I will now address the second subject, *farmakon*, that is to say medicines. The Bible does not demonstrate much interest in this subject either. After a mention of embalming ('Two years later he died and was buried in the rock tomb which he had carved out for himself in David's City. They used spices and perfumed oils to prepare his body or burial, and they built a huge bonfire to mourn his death' (Ch 16:14), only once, in the Book of Tobit, is an illness and the use of a medicine described at length.

The author of this book begins from the genesis of the illness: 'Sparrows were on the wall right above me, but I did not know it. Their warm droppings fell into my eyes, causing a white film to form on them. I went to one doctor after another, but the more they treated me with their medicines, the worse my eyes became, until finally I was completely blind. For four years I could see nothing. My relations were deeply concerned about my condition' (Tb 2:10). After this he describes the ingredients used and the way in which the medicines were prepared: '"Cut the fish open," the angel instructed, and take out its gall-bladder, heart, and liver. Keep these with you, they can be used as medicine; but throw away the guts' (Tb 6:4). After the medicine has been prepared, there is an instruction on how it should be used: ' Just put the fish's gall-bladder on your eyes like a plaster. The medicine will make the white film shrivel up so that you can peel it off, and your father will then regain his eyesight' (Tb 11:8). At the end the author adds how long the medicine is applied for and the moment of the wished-for healing: 'Tobias went up to him, holding the fish's gall-bladder in his hand. He blew on his father's eyes and steadied him. Tobias then applied the gall, and beginning from the corners of Tobit's eyes, he peeled away the white film. Tobit threw his arms round Tobias's neck and wept for joy. Then he exclaimed, "I can see you! My son, the light of my eyes!"' (Tb 11:11-13).

Thus today does the process of healing end. This happens today but such was not the case at the time of Tobias. When his father had been healed he ended by praising God for the grace that had been received: '"Praise God. Praise him for his greatness. Praise all his holy angels. May he continue to bless us. Praise all his angels forever. He brought this illness upon me, but now I can see my son Tobias!" Then Tobias went happily into his house, praising God at the top of his voice' (Tb 11:14-15).

3. The Word and Medicine

The third subject that I would like to discuss is the therapeutic qualities of words. In addition to the literal meaning of this term, in the Bible we also encounter – as regards medicines – its metaphorical sense. The inspired author every now and then defines 'words' as 'medicine'.

'Kind words are like honey – sweet to the taste and good for your health' (Pr 16:24). This sentence could easily refer to the words used by a pharmacist which accompany a prescription for medicines. The words of a good pharmacist offer an explanation, comfort, they fill a person with hope. During the congress of 1998 Pope John Paul II met pharmacists and pronounced the following words: 'The Catholic pharmacist must be an attentive adviser for people who buy medicines. He or she must also be a moral support for all those who, in buying various medical products, need advice, words of hope, recommendations for the future' (Rome, 1988).

Each individual words cannot be seen automatically as a *farmakon*, only wise words can be this. The pharmacist who gives wise advice be-

comes a friend of the sick person (Sir 6:16). Those, instead, who use insipient words ruin the patient rather than helping the patient: 'Thoughtless words can wound as deeply as any sword, but wisely spoken words can heal' (Pr 12:18). 'Pay attention to what I say, my son. Listen to my words. Never let them get away from you. Remember them and keep them in your heart. They will give life and health to anyone who understands them (Pr 4:20-22).

The most important text in Holy Scripture, however, where *farmakon* has a metaphorical meaning, is the prophecy of Ezekiel at the river that rose in the temple of Jerusalem: 'The man led me back to the entrance of the

Temple. Water was coming out from under the entrance and flowing east… Then the man took me back to the bank of the river and when I got there I saw that there were very many trees on each bank. He said to me, "This water flows through the land to the east and down into the Jordan Valley and to the Dead Sea. ; it replaces the salt water of that sea with fresh water. Wherever the stream flows, there will be all kinds of animals and fish. The stream will make the water of the Dead Sea fresh, and wherever it flows , it will bring life… On each bank of the stream all kinds of trees will grow to provide food. Their leaves will never wither and they will never stop bearing fruit. They will have fresh fruit every month, because they are watered by the stream that flows from the Temple. The trees will provide food, and their leaves will be used for healing people' (Ez 47:1,6,7-9,12)

The vision of Ezekiel describes the blessings of the Messianic era when the river of the Law of the Lord will spring from the temple and irrigate the desert banks of the river, transforming the waters of death into waters of life. On the banks of this stream will grow trees, that is to say 'the righteous' who will bear fruit the whole year round: 'Happy are those who reject the advice of evil people, who do not follow the example of sinners or join those who have no use for God. Instead they find joy in obeying the Law of the Lord and they study it day and night. They are like trees that grow beside a stream that bear fruit at the right time and whose leaves do not dry up. They succeed in everything they do' (Ps 1:1-3).

In the Book of the Apocalypse the same image of a stream is employed to illustrate the great abundance of the Holy Spirit that will flow from the speared rib of Christ (Jn 4:10-14; 7:37-38). This is an image applied to Pentecost (Acts 2:16). 'The angel also showed me the river of thee water of life, sparkling like crystal, and coming from the throne of God and of the Lamb and flowing down the middle of the city's street. On each side of the river was the tree of life, which bears fruit twelve times a year, once each month; and its leaves are for the healing of the nations (Ap 22:1-2). 'I will give water to the thirsty land and make streams flow on the dry ground. I will pour out my spirit on your children and my blessing on your descendants. They will thrive like well watered grass, like willows by streams of running water' (Is 44:3-4).

Why do 'leaves' in this vision become an image for the blessing of God for the nations? Probably because in the Near East they were often used for therapeutic purposes. Bramble leaves, for example, were chewed to stop gums from bleeding. Olive tree leaves were an astringent. Sycamore leaves and walnut leaves were used as medications. Box leaves were used for hair. Righteous men will nourish the nations with the fruits of the wisdom of God and will cure with 'leaves' the wounds of the foolishness of the nations.

4. The Limits of Pharmacy

Lastly, it should be said that the Bible also looks at hopeless situations, that is to say those where no medicine can be of help. One can see this both with reference to entire nations ('There is no one to take care of you [Judah], no remedy for your sores, no hope of healing you' (Jer 30:13); 'There is no remedy for your injuries and your wounds cannot be healed. All those who hear the news of your destruction clap their hands for joy. Did anyone escape your endless cruelty?' (Nh 3:19; 'Go to Gilead and look for medicines! All your medicine has proved useless, nothing can heal you' Jer 46:11; 'But they prayed to their god and he sent disasters that left the Egyptians helpless. When the Egyptians drove them out of their country, their god dried up the Red

Sea in Front of them', Jud 5:12; 'Our enemies died from the bites of locusts and flies; no way was found to cure them, because they deserved to be punished by such creatures', Wis 16:9), and with reference to individuals.

An individual can also find himself or herself in an incurable situation. This happens with obstinate men ('If you get more stubborn (σκληροτραχήλου) every time you are corrupted, one day you will be crushed and never recover' (ἴασις)", Pr 29:1) and with proud men ('There is no cure for the troubles arrogant people have (υπερηφάνου), wickedness has taken deep root in them' (πονηρίας), Sir 3:28). The defects mentioned above, when they take place together, lead to contempt for the Law of God and even impede 'life' being obtained ('Every lawless act leaves am incurable wound, like one left by a double-edged sword', Sir 21:3).

Lastly, in conformity with a dualistic view of reality, the inspired author observes that the same reality, that is to say death itself, for some represents an insurmountable boundary ('Wicked people are wrong when they say to themselves "Our life is short and full of sorrow, and when the evil comes, there is no escape. No one has ever been known to come back from the world of the dead"', Wis 2:1) but for others it is only a threshold that leads on to eternity. Pharmacy does not manage to save the impious from eternal death but it does help the righteous.

Conclusions

Lastly, let us pray that you all faithfully fulfil your medical vocation: 'Lord Jesus Christ, you who called us to serve man, to care for his health, to bring relief to him in his illness. Ensure that the pharmaceutical instruments that you have placed in our hands are always used for the good of neighbour. Strengthen us in our resolve to always serve man and to open ourselves to his needs. Give us the strength to fulfil our vocation to that it injures no one but always serves life and health and obtains thereby salvation'.

H.E. Msgr.
STANISŁAW GĄDECKI,
Archbishop of Poznan, Poland

The World Economic Crisis and Access to Medical Products for the Poorest, Especially Children

PAPER BY THE PRESIDENT OF THE PONTIFICAL COUNCIL FOR HEALTH CARE WORKERS H.E. MSGR. ZYGMUNT ZIMOWSKI

Most Reverend Excellency,
Distinguished Pharmacists,
Dear Brothers in the Priesthood,
Reverend Fathers and Reverend Sisters,

I am happy to speak on the occasion of your meeting which has been organised within the framework of the Federal Days of Study which this year are taking place in the famous and beautiful city of Poznan on the subject: 'The Safety of the Medical Product: Ethics and Conscience for the Pharmacist'. This is a question of great relevance both for health care and for ethics since it directly bears upon the health and the life of each one of us, as well as upon the responsibility of pharmacists.

Before addressing the subject – which seems to me to be very important – of the world economic crisis and access to medical products for the poorest, especially children, I would like greet all those taking part in these Days, who have come to Poznan from many parts of the world, and I wish them fruitful deliberations during this congress as well as a happy stay in this wonderful Polish city.

A deferential greeting goes to Dr. Piero Uroda, President of the IFCP; to Rev. Pierre Jean Walsh, its International ecclesiastical assistant; and to the various delegations of the national associations of Catholic pharmacists, and in particular that of Poland, led by Dr. Barbara Fiklewicz-Dreszczyk who for some time has been involved in the preparations for this meeting, the organisation of which, as we can observe, is a demonstration of the great and generous commitment of all and sundry to the success of this event.

I also greet with affection the priests that are present. In particular, Rev. Adam Sikora, ecclesiastical assistant of the Polish pharmacists, as well as the men and women religious involved in pastoral care in health side by side and together with the Catholic pharmacists who are present at our meeting.

Last but not least, my fraternal and deferential greetings go to the Ordinary Bishop of this locality, H.E. Msgr. Stanisław Gądecki, without whom it would not have been possible to organise these Days. Thank you, Your Excellency, for your participation from the beginning of the preparations for this meeting and for the invitation that was extended to the Pontifical Council for Health Care Workers to be present at this important meeting.

Only a few months have passed since the Holy Father Benedict XVI called me from the diocese of Radom, specifically from this land of Poland, to head the Pontifical Council for Health Care Workers, a dicastery of the Roman Curia which was created by the Servant of God John Paul II on 11 February 1985 and which will attain the age of twenty-five in February 2010. The primary finality of this dicastery is specifically that of 'showing the solicitude of the Church for the sick by helping those who serve the sick and suffering, so that their apostolate of mercy may ever more effectively respond to people's needs'.[1]

The subject of my paper, as I have already observed, is on the world economic crisis and access to medical products for the poorest, especially children, and I intend to approach it in three stages:

– The economic crisis and its negative impact on conditions of health;

– the need to rediscover the ethical value of the profession of pharmacists;

– the contribution of Catholic pharmacists to identifying solutions to the problem of access to essential medical products.

1. The Economic Crisis and its Negative Impact on Conditions of Health

Our meeting is taking place at a time when the global economy is experiencing a sharp downturn and this is something that involves all parts of the world. Economic activity in industrialised countries is undergoing the most severe fall since the Second World War, and its effects are spreading to emerging markets as they are to developing countries.[2] The fiscal pressure on governments is leading to a reduction in services for the poor, above all in the fields of education and health care. Poor families are forced to use health-care services less, something that will have serious consequences in the long term in the form of worse conditions of health (for example an increase in levels of maternal and infant mortality, a worsening of nutrition and a deterioration of conditions of hygiene).

It is evident that the hardest hit are vulnerable people, amongst whom are children. Access to medical products, which was difficult for them previously, has grown even worse with the crisis. In addition to an absence of essential and quality medical products for children, the problem of their very high insecurity levels should also be condemned.[3]

When presenting his new encyclical *Caritas in veritate* on integral human development, Benedict XVI observed: 'The world situation, as the news in recent months amply demonstrates, continues to present serious problems and the "scandal" of glaring inequalities which have endured despite past efforts. On the one hand, there are signs of grave social and economic imbalances; on the other, reforms are being called for on various sides which can no longer be post-

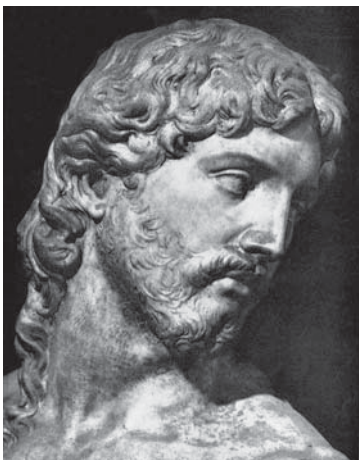
poned in order to narrow the gap in the development of peoples'.[4] A drama of these proportions should call on the conscience of every Christian and spur him or her to return to fundamental ethical values, to review his or her commitments made in the past, and, lastly, to work for the common good: 'Love – *caritas* – is an extraordinary force which leads people to opt for courageous and generous engagement in the field of justice and peace'.[5]

This exhortation of the Pope leads us to locate the subject of the safety of medical products in the context of the global economic crisis that we are now experiencing. Indeed, one perceives a divergence in this field: the problems of industrialised countries concerning the quality of pharmaceutical service are accompanied by health-care and ethical emergencies which are even more pressing in developing countries where a medical product 'for man' is a medical product 'for life'. In too many areas primary medical products are absent and the same may be said about basic services which assure a primary defence against illness.

Often, for economic reasons, the illnesses that are typical of developing countries are neglected because, although they strike and kill millions of people, they do not represent a sufficiently rich market.[6] Some of these medical products could be easily created on the basis of current scientific knowledge but they do not see the light of day for exclusively economic reasons. Hence the origin of a symptomatic term, 'orphan drugs', that is to say those drugs that are not studied, are not produced and are not distributed because the potential purchasers, of which there are millions, do not have the economic ability to buy them.[7]

It is evident that the development of drugs and medicines is by now no longer governed by the traditional ethics of medicine but by the logic of industry. The result of all this is that 'many millions of people in our world still experience insanitary living conditions and lack access to much-needed medical resources, often of the most basic kind, with the result that the number of human beings considered "incurable" is greatly increased'.[8]

At the last general assembly of the World Health Organisation, which was held in May in Geneva, in my capacity as President of the Pontifical Council I expressed in front of Ministers of Health from the whole world the concern of the Holy Father when pointing out the risk of a worldwide humanitarian and health-care disaster. I observed that 'the current economic crisis has raised the spectre of the elimination or the drastic reduction of external care programmes, above all in developing countries. All of this can dramatically threaten their health-care systems, which are already collapsing because of the strong impact of endemic, epidemic and viral diseases'.[9]



On this point, in his message to the G20 summit of 30 March of this year, Benedict XVI proposed a solution when he wrote: 'that the way out of the current global crisis can only be reached together, avoiding solutions marked by any nationalistic selfishness or protectionism'. The organisations of a religious matrix and thousands of health-care institutions managed by the Church, observed the Pope, have 'great importance and particular responsibility in providing support and care to people who live in poverty'.[10]

The health of children, and especially of children who live in poverty, must be an absolute priority for our Catholic associations and institutions. Throughout the world millions of young people do not achieve their full potential because of the great differences and injustices that exist in the health-care field. At the last (the twenty-third) international conference of the Pontifical Council for Health Care Workers, which was on pastoral care for sick children, Pope Benedict XVI stressed in this area the urgent need for a 'decisive action aimed at preventing illnesses as far as possible and, when they are present, at curing the small patients by means of the most modern discoveries of medical science as well as by promoting better standards of hygiene and sanitation, especially in the less fortunate countries'[11] 'There needs to be a strong sense of *global solidarity*', the Holy Father stressed on another occasion, 'between rich and poor countries, as well as within individual countries, including affluent ones. A "common code of ethics" is also needed, consisting of norms based not upon mere consensus, but rooted in the natural law inscribed by the Creator on the conscience of every human being (cf. *Rom* 2:14-15).[12]

A shared ethical code is indispensable in the production and distribution of medical products, especially those for children. With sadness one has to observe that the counterfeiting and falsification of medical products afflicts first and foremost individuals of the paediatric age band.[13] Fake antibiotics and fake vaccines have grave repercussions for their health. There have been many deaths caused by respiratory illnesses in African children which were certainly much higher than would otherwise have been the case given that they were treated with fake antibiotics which did not contain active ingredients and were thus bought at a low price. The use of antibiotics at an erroneous low dosage leads to phenomena involving the selection of resistant bacterial strains. As regards excipients, toxic substances are used which can lead children to die, as has happened in Haiti or Nigeria.

It should also be observed that in developing countries the level of counterfeiting is very high, principally because of insufficient human and financial resources and legislation that is

weak as regards the production, distribution and importation of medical products. This phenomenon concerns first and foremost 'life-saving' drugs and medicines. The statistics here are alarming. According to studies of the WHO, a fourth of the medical products purchased in poor countries are counterfeit. In many areas of sub-Sahara Africa, South East Asia and Latin America more than 30% of medical products are counterfeit. It is calculated that 50% of the anti-malaria products sold in Africa are imitations. Others argue that in some African States 60% of medical products are counterfeit (as high as 70% in the case of anti-malaria products).[14]

In the view of some analysts the economic crisis factor will further lead some people or institutes with few scruples to make easy gains to the detriment of the safety of medical products. In this situation, Catholic pharmacists are called upon to denounce with courage all forms of imitation or falsification of medical products and to oppose their distribution, above all when children are involved. This time of economic crisis which brings with it an increase in humanitarian and social difficulties and problems as well should spur us to reaffirm the dignity and the sacredness of human life as well as fairness and solidarity in access to medical products that are safe and accessible to everyone.

2. The Need to Rediscover the Ethical Value of the Profession of Pharmacists

The dignity of the pharmaceutical profession requires it being subordinated to the observance of a 'rigorous moral code'. This is especially important in the distribution, conception and use of drugs and medicines. 'Respect for this code of behaviour presupposes fidelity to certain intangible principles which the mission of the baptized and the duty of Christian witness make particularly timely'.[15] The neglect or even worse the violation of this code easily leads to all the dishonest practices that are the subject of our discussion over these days, such as: the production, the selling and illegal trafficking in medical products, their falsification and fraudulent use and also the massive and uncontrolled sale of medical products on the internet and in poor countries, on the street as well.

As regards the distribution of medical products, the deontological code of pharmacists lays down that 'the dispensing of a medical product is a health-care act, to protect the health and psycho-physical integrity of the patient'.[16] On the basis of this Code every person who belongs to your professional category has to work in full autonomy and conscience in conformity with ethical principles, always bearing in mind the rights of the sick and respect for life. The teaching of the Church is even more explicit on this point: 'In the distribution of medicines', observed John Paul II, 'a pharmacist cannot forgo the needs of his conscience in the name of the laws of the market or in the name of complacent legislation. Profit, which is legitimate and necessary, must always be subordinated to respect for the moral law and adherence to the Magisterium of the Church… For a Catholic pharmacist, the teaching of the Church about respect for the life and dignity of the human person, from conception until the last moments, is of an ethical and moral nature. It cannot be subjected to variations in opinions or applied according to fluctuating options. Aware of the novelty and the complexity of the problems raised by the progress of science and technology, the Church often makes her voice heard and gives clear recommendations to the personnel of health care, to which pharmacists belong. To adhere to this teaching certainly constitutes a difficult duty to perform at a practical level in your daily work but it involves for a Catholic pharmacist fundamental orientations which cannot be forgone'.[17]

Illuminated by the light of faith, the conscience of a Christian pharmacist is not only decidedly opposed to any type of violation of this deontological code but also looks for the profoundest of motivations; thus it leads him or her to reflect on the human, cultural, ethical and spiritual dimensions of his or her mission. 'Indeed', observed John Paul II, 'the relationship between a pharmacist and the person who asks for remedies from him goes far beyond its commercial aspects because it requires a profound perception of the personal problems of the person involved as well as the fundamental ethical aspects of the services rendered to the life and dignity of the human person'.[18] A Catholic pharmacist, like all other Catholic health-care workers, must act always with the awareness that he or she is a 'servant of life'.[19] 'Service to the integrity and the wellbeing of the person is the ideal that must constantly direct a Catholic pharmacist, who bases himself, in the practice of his profession, on the example of "Jesus of Nazareth, who 'passed by doing good and healing' (Acts 10:38) those who drew near to him'.[20]

Benedict XVI focuses on another great responsibility of pharmacists, namely to form the consciences of others. 'They have an educational role with patients to teach them the proper dosage of their medication and especially to acquaint them with the ethical implications of the use of certain drugs'.[21] In this area, the Pope continues, 'it is not possible to anaesthetize consciences, for example, concerning the effects of particles whose purpose is to prevent an embryo's implantation or to shorten a person's life. The pharmacist must invite each person to advance humanity, so that every being may be protected from the moment of conception until natural death, and that medicines may fulfil properly their therapeutic role'.[22]

3. The Contribution of Catholic Pharmacists in Identifying Solutions to the Problem of Access to Essential Medical Products

My personal belief is that Catholic pharmacists can make a valuable contribution to the grave problem of access to essential medical products, in particular by basing themselves on the teaching of Benedict XVI. I thus invite you to reserve some

space during your Federal Days to this problem and to make it an object of your deliberations. The appeal that the Pope made should not lead to nothing: 'The various pharmaceutical structures, from laboratories to hospital centres, and also all our contemporaries would do well to concern themselves with solidarity in the therapeutic field in order to allow access to treatment and primary drugs and medicines for all sections of the population and in all countries, in particular for the poorest people'.[23] 'Then we cannot forget the incalculable number of minors who die of thirst, hunger and the lack of medical help, as well as the small exiles and refugees who flee from their countries together with their parents in search of a better life. A silent cry of pain rises from all these children which questions our consciences as human beings and believers'.[24]

Conclusions

At a time when the Pontifical Council for Health Care Workers, your dicastery of reference, is about to reach the age of twenty-five (on 11 February 2010), *I would like:*

– *to invite you all*, associations and individuals, to revive your identity as Catholic pharmacists as well as your mission at the service of health and life, practising your profession always in science and conscience;

– *to encourage you* to bear witness, in good times and bad, even paying a personal price, to your adherence to Christ, the Physician of bodies and souls and Good Samaritan, on whom you should always base yourselves in the practice of your profession;

– *to call upon you* to engage in a practical commitment in favour of sick people in developing countries, in particular in favour of children, so that they can have access to the medical products that they need, above all as regards the fight against AIDS, malaria, and tuberculosis.

– *To thank you* for everything that you are doing in your various associations to be near to the needs of people who are sick and afflicted by this grave world crisis;

– *To exhort you* to ensure that new associations of Catholic pharmacists in dioceses and bishops' conference are created and always grow, in numerical terms as well.

On the four-hundredth anniversary of his death (9.10.1609), I invoke upon you the intercession of your patron saint, St. John Leonardi, who, as a pharmacist and priest, understood that the only safe medicine that cures and gives full health is Jesus Christ – Eucharist. With great vitality, this apothecary priest perceived specifically in the Eucharist the 'medicine of immortality' by which 'we are comforted, nourished, transformed into God and participants in the divine nature' (cf. 2 Pt 1:4).

H.E. Msgr.
ZYGMUNT ZIMOWSKI
President of the Pontifical Council for Health Care Workers, the Holy See.

Notes

[1] Apostolic Constitution *Pastor bonus* on the Roman Curia, art. 152

[2] Cf. A. KIKUCHI, 'The Possible Effects of the Economic and Financial Global Crisis on Low-income Countries', paper given to Caritas Roman., 30 April 2009, in Rome.

[3] On the occasion of the general assembly of the WHO, which took place in Geneva 16-25 May 2005, the association Doctors without Frontiers denounced the lack of commitment on the part of the top of the WHO to improving access to quality medical products for developing countries. In 2006 it expressed concern about the impossibility of making available on a large scale those antiviral pharmaceuticals which are essential to the expansion of AVR treatment of AIDS. See: www.medicisenzafrontiere.it

[4] BENEDICT XVI, address to the audience of 8 July 209 when the Holy Father presented the new encyclical.

[5] BENEDICT XVI, encyclical letter *Caritas in veritate*, 29 June 2009, n. 1 and also cf. n. 7.

[6] Cf. B., SILVESTRINI, 'Etica e profitto dei medicamenti', *Dolentium hominum* 1, 1986 p. 39.

[7] Cf. G.B., MARINI-BETTOLO, 'Farmaci orfani', *Dolentium hominum* 1, 1986, p. 43-45.

[8] BENEDICT XVI, Message for the Fifteenth World Day of the Sick', Seoul, Korea, 11 February 2007.

[9] Z. ZIMOWSKI, 'Intervention of the Holy See Delegation to the 62nd World Health Assembly', 18-27 May, Geneva.

[10] BENEDICT XVI, 'Letter to Mr. Gordon Brown ahead of the G20 Summit', 30 March 2009.

[11] BENEDICT XVI, 'Address to Those Taking Part in the International Conference of the Pontifical Council for Health Care Workers', 15 November 2008.

[12] BENEDICT XVI, 'Message for the World Day of Peace', 1 January 2009, n. 8.

[13] Cf. the report of the World Health Organisation of 21 September 2007 entitled 'Promoting Safety of Medicines for Children'. This study forms a part of a wider campaign that the WHO is beginning to extend access of children to medical products that are of high quality, safe and effective. Howard Zucker, the director of the Department for Health, Technology and Medicines of the WHO stated: 'we must improve our knowledge about the ways in which the organisms of children reacts to medicines in order to improve health in childhood at a global level. For this reason, it is of fundamental importance to study carefully the side effects of medicines on children. This knowledge will allow many lives to be saved'..

[14] Cf. L. VALVO, 'Dimensioni del fenomeno' in www.iss.it which has data taken from *The New Estimates on the Prevalence of Counterfeit Medicines,* IMPACT (2006) and *Matrix of Drug Quality Reports in USAID-assisted Countries by the U.S. Pharmacopeia Drug Quality and Information Program* of 2007.

[15] JOHN PAUL II, 'Address to the International Federation of Catholic Pharmacists, 3 November 1990'

[16] Deontological Code of the Pharmacist, art. 6.

[17] JOHN PAUL II, 'Address to the International Federation of Catholic Pharmacists, 3 November 1990', n. 4.

[18] Ibid. n. 2. Cf. also his speech to those taking part in the National Congress of the Catholic Union of Italian Pharmacists of 29 January 1994 where John Paul II stated that 'the moral and psychological comfort that you can offer to those who suffer, if it is the outcome *of human maturity and a richness of values derived from the immutable principles of natural and gospel ethics*' n. 3.

[19] *Charter for Health Care Workers*, Vatican City, n. 1..

[20] JOHN PAUL II, speech to those taking part in the National Congress, n. 2, where the words of Paul VI are quoted: 'The task of the pharmacist, therefore, is to 'contribute to the relief of suffering, to the well-being and to the healing of man', aware that where there is life there is the Spirit of God who is creator and comforter'. Cf. 'Discorso alla Federazione Internazionale Farmaceutica', 7 September 1974: *Insegnamenti di Paolo VI*, XII, pp. 798-801.

[21] BENEDICT XVI, 'Address to Members of the International Congress of Italian Pharmacists', 29 October 2007.

[22] *Ibid*.

[23] BENEDICT XVI, 'Address to those Taking Part in the International Congress of Catholic Pharmacists', 29 November 2007.

[24] BENEDICT XVI, 'Message for the Seventeenth World Day of the Sick, 11 February 2009'.

II Special Assembly for Africa of the Synod of Bishops

Vatican City
4-25 October 2009

Speech of H.E. Msgr. Zygmunt Zimowski, President of the Pontifical Council for Health Care Workers

1.

The Servant of God John Paul II, in his providential Apostolic Letter, *Salvifici doloris,* whose twenty-fifth anniversary falls this year, states: 'in Christ "every man becomes the way for the Church"... man in a special fashion becomes the way for the Church when suffering enters his life' (*SD*, n. 3).

This statement is written into the logic of the Encyclical *Redemptor hominis* and summarises in a pertinent way the indissoluble anthropological and pastoral link between theological truth about man and his condition of suffering and illness. Indeed, 'In her approach to the sick and to the mystery of suffering, the Church is guided by a precise concept of the human person and of his destiny in God's plan… In fact, illness and suffering are not experiences which concern only man's physical substance, but man in his entirety and in his somatic-spiritual unity' (John Paul II, *Dolentium Hominum,* n. 2).

2.

The istrumentum laboris that guides us in this Synodal Assembly brings out certain concerns and problems of the world of health and health care that have been the subject of study in the Pontifical Council for Health Care Workers to which I would now like to draw attention.

As regards:

a) the culture of, and respect for, the value of life

As the Holy Father Benedict XVI, in his homily during the Holy Mass to open this synod, observed: 'in Africa there are many and varied cultures, but they seem to all agree on this point: God is the Creator and the source of life'.[1] Life is therefore seen as an eminently positive value because it has a sacred origin and man is its custodian. He has the task of transmitting it from generation to generation. From the beginning until the end of human existence it is celebrated with rites and sacred demonstrations. But today it seems to sorely tested by the policies of reproductive health.

Bishops are exhorted:

To follow closely political initiatives and legislative proposals concerning health care so as to make the voice of the Church heard on subjects that could attack life and the dignity of the person, reaffirming the sacredness and the inviolability of life from conception until its natural end.

To commit themselves to forming Catholic health-care workers culturally, morally and spiritually, in particular in relation to bioethical questions and such questions, so as to be convinced and convincing witnesses and 'servants' to human life.[2]

b) inter-religious dialogue in health care

In Africa many religions coexist, from traditional African ones to the great monotheistic religions, which together all influence the cultures of Africa. A dialogue and a *de facto* cooperation exists which has its origin in kinship ties that exist within the same extended family between members of different religious faiths and confessions. The profuse choral commitment of recent decades of the various religious confessions to address together certain great questions of health such as HIV/AIDS, malaria and tuberculosis are testimony to an ecumenism of works which in health care is spiritually fertile.

From this point of view, a practice already underway is encouraged, namely that of the openness of our institutions to serving the sick and accepting health-care workers of all religions, a tangible sign of the dialogue that exists between them. In this way is actuated through health care a model of peacemaking and reconciliation that can set in motion and develop deeper relationships between the believers of different religions.

c) support for justice through Catholic health care

By their very nature as works of the Church, Catholic health-care institutions are involved in promoting health through respect for the right to its protection, a guarantee of justice and fairness[3] in access to health care, in particular for those with HIV/AIDS.

To strengthen this role, bishops are asked to promote Catholic associations of health-care institutions and forms of coordination at all levels, increasing initiatives in defence of justice and, at the same time, to establish within our institutions conditions of work, a distribution of roles, and salaries and wages that are based upon legality and justice.

To assure all of this there must be a planning of the formation of lay administrators and managers of Catholic structures and the promotion of faculties of medicine and pharmacology, with the creation of specific training pathways for pastoral care in health and bioethics.

d) spiritual healing and pastoral care in health

The populations of Africa accept spiritual care as a part of the process of healing. Unfortunately, taking advantage

of our lack of attention and this propensity in the popular soul, some sects offer actions which propose false and illusory healings.

Although it duly distances itself from such practices, the Church in Africa is called to rediscover the rich spiritual, doctrinal and sacramental heritage of the Church as regards spiritual healing which is based upon prayer and sacraments such as baptism, penitence and the anointing of the sick, which are effective instruments for the transmission of the life of Christ to the faithful.[4]

e) traditional medicine

Traditional medicine is one of the important inheritances of African cultures. It has a cost that is inferior to modern medicine and because it is near to the population it is frequently used. However, despite its pharmacological and therapeutic potentialities, it is not taken sufficiently into consideration by the approaches of Western modern medicine.

Thus bishops are asked to engage in discernment in order to distinguish the good practices of traditional medicine from the bad practices of traditional medicine. This discernment will also allow an encouragement of carrying out scientific studies within Catholic institutions in order to test the efficacy and safety of certain plants and even to cultivate them in order to guarantee their survival and assure their correct use.

f) concrete actions to promote the role of Catholic health-care institutions

The promotion of health, as a personal and social good, is essential for the common good of mankind and thus programmes for education in health and for the organisation of health services should be activated which are consistent with the values of our faith, and with the principles of the good governance of health-care institutions, of ethics and of the high quality of services.

Many of the health-care services of the Church in Africa are acknowledged as being important and are used because of their importance but they suffer from the ideological pressures of globalisation and secularisation,[5] with an evident fall-off in financial which aid which can expose them to the risk of going bankrupt.[6]

It would appear useful for the Church, in relation to its own health-care activities, to activate a contracting approach with States, maintaining the Catholic identity and assuring that the resources of the Church are used fairly. In this direction should be developed forms of partnership at every level of the Church in Africa and with the Universal Church, sharing information, relations of knowing each other, and the exchange of experiences, without being limited to financial aid alone.

3. Conclusion

I would like to end this brief speech of mine with words of the Holy Father Benedict XVI which capture the specificity of the service that the Church renders to the sick: 'The health of man, man in his entirety, has been the sign that Christ has chosen to express the nearness of God, His merciful love that heals the spirit, the soul and the body'. This must always be the fundamental reference point of every initiative of the Church in following Christ, whom the gospels present to us as the divine 'physician' (Benedict XVI, Address to the Participants at the Plenary Assembly of the Pontifical Council for Health Care Workers, 2007).

H.E. Msgr.
ZYGMUNT ZIMOWSKI,
President of the Pontifical Council for Health Care Workers, the Holy See

Notes

[1] Benedict XVI, 'Benedetto XVI apre nella basilica Vaticana la seconda Assemblea speciale per l'Africa del Sinodo dei vescovi', *L'Osservatore Romano*, Monday-Tuesday October 2009, p. 6.

[2] Cf. John Paul II, Encyclical Letter *Evangelium Vitae* (Libreria Editrice Vaticana, Vatican City, 1995, nn. 89, 99; Pontificio Consiglio della Pastorale per gli Operatori Sanitari, *Carta degli operatori sanitari* (Tipografia Vaticana, Vatican City, 1995) (first edition 1994), n. 1.

[3] Cf. World Health Organisation, *World Health Statistics 2009*, pp. 71-82.

[4] Cf. Congregation for the Doctrine of the Faith, *Instruction on Prayers for Healing*, 14 September 2000, part I, nn. 2,4-5.

[5] Cf. Benedict XVI, 'Address on the Occasion of the Meeting with Political and Civil Authorities and with the Diplomatic Core in the Hall of honour of the Presidential Palace of 20 March 2009'.

[6] Cf. Benedict XVI, 'Letter of Benedict XVI to British Prime Minister Gordon Brown, 30 March 200'; Benedict XVI, 'Letter to the Honourable Silvio Berlusconi, President of the Italian Council of Ministers, on the Occasion of the G8, L'Aquila, 8-10 July 2009'.

Proposals Relating to Pastoral Care in Health for the Synod Fathers[1]

1. Culture for Life and Respect for Life

Everyone agrees in affirming that life is seen as a value that is eminently positive in African cultures for which human life has a sacred origin and man is its steward. He has the task of transmitting it from one generation to another. From the beginning until the end of human existence, it is celebrated with rites and sacred events. But the social, cultural and economic changes imported from extraneous models constitute a severe test for these fundamental values. In particular, it is known that for years initiatives of international agencies have existed which aim to foster the creation of services of reproductive health of a Malthusian stamp involving population control and the ideology of gender. In this area political and legislative initiatives are underway in the continent of Africa in order to translate into laws and action-plans the so-called right to reproductive health,[2] and to the point of making acceptance of the ideology of reproductive health a condition for development aid, in flagrant violation of the rights of the population.

Thus it is recommended to bishops that they:

– Follow closely political initiatives and legislative proposals concerning health care so as to make the voice of the Church heard on subjects that could attack life and the dignity of the person, reaffirming the sacredness and the inviolability of life from conception until its natural end.

– Make the questions of gender and reproductive health – as well as the position that the Church should adopt at various levels and on various occasions on these questions – known about to priests, seminarians, men and women religious, catechists and members of the laity through seminars, courses and *ad hoc* meetings.

– Form Catholic health-care workers culturally, morally and spiritually, in particular in relation to bioethical questions and such questions, so as to be convinced and convincing witnesses and 'servants' to human life.[3]

– Stress in a suitable and repeated way the attempts of some UN agencies, NGOs and government, which ask poor or developing countries to accept their ideologies against life in exchange for aid connected with cooperation in development

2. Traditional Medicine and Inter-religious Dialogue

2.a Traditional medicine

Traditional medicine tends to treat someone in his or her overall self and this is one of the most important 'ancestral' inheritances of the cultures of Africa. Although it has extraordinary pharmacological and therapeutic potentialities, traditional medicine is not taken sufficiently into consideration by what is proposed by the modern Western medicine that is practised almost exclusively in Catholic institutions.

Thus it is recommended to bishops that they:

– Pay greater attention to traditional medicine which has lower costs than modern medicine and which, being near to the population, is frequently used.

– Engage in discernment in order to distinguish the good practices of traditional medicine from the bad practices of traditional medicine.

– Encourage the carrying out of scientific studies inside Catholic institutions in order to test the efficacy and safety of certain plants and even come to cultivate them in order to guarantee their survival and assure their correct use, appreciating the pharmacopeia involved and identifying good practices.

– Appreciate the advocacy of Bishops' Conferences with governments and relevant Ministries in order to create a culture that is open to traditional medicine, with *ad hoc* programmes in schools for training, in particular in the faculties of science, medicine and pharmacology.

2.b Inter-religious dialogue

In Africa many religions coexist, from traditional African ones to the great monotheistic religions, which together all influence the cultures of Africa. A dialogue and a *de facto* cooperation exists which has its origin in kinship ties that exist within the same extended family between members of different religious faiths and confessions. The profuse choral commitment of recent decades of the various religious confessions to address together certain great questions of health such as HIV/AIDS, malaria and tuberculosis, are testimony to an ecumenism of works which in health care is spiritually fertile. From this point of view, the openness of our institutions to serving the sick and receiving health-care workers of all religions is a tangible sign of the dialogue that exists between them, something that has been encouraged by the recent magisterium of John Paul II and Benedict XVI.[4]

Catholic health-care institutions are increasingly becoming privileged places for the proclaiming of the Gospel of Life through care for health in respect of life and the dignity of the human person.

Thus it is recommended to bishops that they:

– Strengthen and encourage inter-religious dialogue by finding a shared terrain for the proclaiming of the Gospel of Life, in order to foster experiences and initiatives of peacemaking and reconciliation.

– Actuate, through health care, a model of peacemaking and reconciliation that can set in motion and develop deep relationships between the believers of different religions.

– Represent with a single voice the needs of health-care institutions in relation to public administrations and obtain the resources that are needed for them to function.

3. The Role of Bishops and Church Communities in Support of Justice through Catholic Health Care

By their very nature as works of the Church, at times formally dependent on bishops or managed by the very many families of men and women religious who are present in health care in Africa,[5] Catholic health-care institutions are involved in promoting health through respect for the right to its protection, a guarantee of justice and fairness[6] in access to health care, in particular for those with HIV/AIDS.

Thus it is recommended to bishops that they:

– Request the relevant national and international authorities, taking into account that such institutions are present amongst the rural populations and the poorest people in cities, to obtain the resources that are needed to perform their service in defence of health as a fundamental human right – which is coherent with the Christian value itself of charity – in order to allow people who do not have financial coverage to receive care.

– Promote Catholic associations of health-care institutions and forms of coordination at all levels, increasing initiatives in defence of justice and, at the same time, establish within our institutions conditions of work, a distribution of roles, and salaries and wages that are based upon legality and justice.

– Plan at an institutional level the formation of lay administrators and managers of Catholic structures, promote faculties of medicine and pharmacology, and create specific training pathways of pastoral care in health and bioethics.

– Engage in dialogue with governments in order to work together in the creation of health-care plans suited to the needs of the populations of Africa.

4. Spiritual Healing, Pastoral Care in Health at the Service of Reconciliation

The populations of Africa accept spiritual care as a part of the process of healing, keeping a good distance from contestable and illusory magic-based practices of healing. In this context, we observe that sufficient attention is not paid to the spiritual formation of pastoral workers.

Taking advantage of this lack of attention and this propensity in the popular soul, the action of many sects finds space for itself in this field.

Thus it is recommended to bishops that they:

– Refound the ministry of pastoral care in health on spiritual healing, which is based upon prayer and sacraments such as baptism, penitence and anointing of the sick which are efficacious instruments for the transmission of the life of Christ to the faithful and constitute a central part of the doctrinal heritage of Christianity.[7] Resort to the teaching of the patristic tradition represents a element of equilibrium in actuating a pastoral care in health that is centred around conversion to Christ and the healing of hearts.

– Implement pastoral strategies for spiritual healing with suitable instruments and supports that clarify the distinction between the action of the Church and the action of certain sects which are particularly aggressive in this field.

– Support, in the face of the often attractive proposals of religious sects, schools of training for workers in pastoral care in health as an integral dimension of the specific mission of the Church.[8]

– Attend to the creation of chaplaincies that are devoted to care for the sick and their families and exercise through an assessment of the results the charism of authority at the service of the Gospel.

5. Concrete Actions to Promote Commitment in Catholic Health-Care to Reconciliation

Many of the health-care services of the Church in Africa are acknowledged as being important and are used because of their importance but they suffer from the ideological pressures of globalisation and secularisation,[9] with an evident fall-off in financial which aid which can expose them to the risk of going bankrupt.[10]

The promotion of health, as a personal and social good is essential for the common good of mankind.

Thus it is recommended to bishops that they:

– Activate programmes of education in health and the or-

ganisation of health-care services which are consistent with the values of our faith and with the principles of the good governance of health-care institutions, of ethics, and of the high quality of services.

– Actuate, in the present situation of financial and global crisis, for their own health-care activities, a contracting approach with States, maintaining the Catholic identity and assuring that the resources of the Church are used equitably. In this direction should also be developed forms of partnership at every level of the Church in Africa and with the universal Church, sharing information, relations of knowing each other, and the exchange of experiences, without being limited to financial aid.

– Ensure that, although remaining faithful to the specific mission of the Church, Africa itself is involved in determining the aid that it needs, in setting in motion processes of management, organisation and control, and in the development of leadership in health care.

– Support the health-care institutions of the Church in Africa through a greater awareness of the practices of management and administration and a renewed internal and external partnership that ensures the future of services and economic resources.

– Take advantage of the existence of a specific organised committee for pastoral care in health, with suitable positions and offices, in order to differentiate at the level of objectives and responsibilities the sector of health care from the sector that is concerned specifically with social care.

– Bishops are called above all else at this historical moment of crisis to involve their authority and their charisms, giving a full mandate to capable people (technical staff and respecting their capacities, in order to lead those negotiations that are needed to support Catholic health care, assuring true transparency and authentic faithfulness to the Magisterium of the Church.

The Pontifical Council for Health Care Workers
(for Health Pastoral Care)
the Holy See

Notes

[1] The proposals made here are the outcome of three days of reflection organised by the Pontifical Council for Health Care Workers (for Health Pastoral Care) through the International Association of Catholic Health-Care Institutions, in which took part people who work in Catholic health-care institutions in Africa and in other parts of the world.

[2] Cf. The Pontifical Council for Health Pastoral Care, the Pontifical Council for Pastoral Care of Migrants and Itinerant People, and the Pontifical Council for the Family, *The Reproductive Health of Refugees* (Tipografia Vaticana, Vatican City, 2001), p. 16.

[3] Cf. JOHN PAUL II, Encyclical Letter *Evangelium Vitae* (Libreria Editrice Vaticana, Vatican City, 1995), nn. 89, 99; the Pontifical Council for Pastoral Assistance to Health Care Workers, *Charter for Health Care Workers* (Tipografia Vaticana, Vatican City 1995 (I[a] 1994), n. 1.

[4] Cf. BENEDICT XVI, 'Greeting on the Occasion of the Meeting with Representatives of the Muslim Community of Cameroon at the Apostolic Nunciature of Yaoundé', Thursday19 March 2009.

[5] At the present time, there are 16,178 Catholic socio/health-care structures in Africa. Their breakdown is as follows: 1.074 hospitals; 5.373 dispensaries;186 leper hospitals; 753 old people's homes, the chronically ill, invalids and the handicapped; 979 orphanages; 1.997 nurseries; 1.590 consulting clinics; 2.947 centres for social education and re-education: cf. Secretaria Status *Annuarium Statisticum Ecclesiae 2007* (Libreria Editrice, Vatican City, 2007, pp. 355-357.

[6] Cf. World Health Organization, *World Health Statistics 2009*, pp. 71-82.

[7] Cf. Congregation for the Doctrine of the Faith, *Instruction on Prayers for Healing*, 14 September 2000, part I, nn. 2,4-5.

[8] Cf. JOHN PAUL II, Apostolic Letter Motu Proprio *Dolentium Hominum*, 11 February 1985, n. 1.

[9] Cf. BENEDICT XVI, 'Address on the Occasion of the Meeting with Political and Civil Authorities and with the Diplomatic Core in the Hall of honour of the Presidential Palace of 20 March 2009'.

[10] Cf. BENEDICT XVI, 'Letter of Benedict XVI to British Prime Minister Gordon Brown, 30 March 200'; Benedict XVI, 'Letter to the Honourable Silvio Berlusconi, President of the Italian Council of Ministers, on the Occasion of the G8, L'Aquila, 8-10 July 2009'.

Topics

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A High Level of Moral Values Rather than the Use of Condoms Helps Prevent HIV among the People of India

For centuries, religions, parents, teachers and community leaders in India have shared the goal of teaching values and character development to young people. Respect for elders, modesty and sexual morality have been taught to children in schools and religion classes including Sunday catechesis classes. Abstinence until marriage and sex only within the marital relationship are the expected standards of behavior for people across the board. With the advance of the mass media, adolescents and youth have been exposed to several images, in appropriate messages and dangerous advice, which are against human dignity and values.

We are living in a world of HIV/AIDS. All the adolescents and young people of today were born into a world of HIV/AIDS. HIV/AIDS therefore is not anything new for our young people. Recent developments in media technology continue to generate huge funds of knowledge on a variety of topics which are accessible to all who aspire to it. This depositary of knowledge can be meaningfully channeled to enable young people across the globe to exercise their choices for better and healthier lifestyles.

HIV/AIDS is a lifestyle disease. Most of the infected acquired the HIV virus through sex outside marriage and/or through the abuse of drugs: the injecting of drugs into the blood stream by sharing needles. These are lifestyles which lead young people to get infected with HIV. One of the best and surest ways to prevent and control the further spread of HIV is to abstain from sex outside marriage and to avoid drug abuse.

In India much has been done during the last two decades to contain the spread of HIV. However, the results are not encouraging. One of the primary reasons for the poor response is that adequate emphasis has never been given to preventing high risk behavior. In fact, most of the efforts have been to avoid HIV transmission while people have continued to engage in unhealthy and immoral activities. We still have time to make a meaningful intervention to educate young people in behavior modification and the promotion of healthy lifestyles.

Parents, teachers, religions, families, local communities, and governments (central and state) must work together to provide a conducive environment so as to enable our young people to grow and meet the variety of challenges before them. There is a need to realize that no time should be lost in addressing the multitude of problems that the young generation faces. In this country of over a billion people, about forty per cent are youngsters. That is a huge population which needs care and support. No amount of intervention to educate them on sensitive issues such as HIV/AIDS, lifestyles such as sex outside marriage and substance abuse, would be too much. It is therefore apt for every individual and every institution to expand their reach, to provide much needed and timely information and support to the younger generation and enable them to choose healthy lifestyles.

People in India live together in spite of the cultural diversity and the deepest religious differences. Positive values for human life and dignity are the most precious of all values. Until the 1980s, teachers in our educational institutions taught values, virtues and good character to our children. In fact, teachers had a responsibility to impart moral values, social values, family values, and religious values along with loyalty, compassion, courage, honesty, respect, self-discipline, justice, humility, responsibility, kindness, fairness and integrity. With the promotion of competition, consumerism, globalization, the market economy and the changes taking place in lifestyles there has been a decline in imparting character education in educational institutions.

The increasing involvement of young people in unapproved and unpleasant lifestyles such as sex outside marriage and substance abuse is a challenge to adolescents and young people, to the age-old value system of our people as well as to the very survival of humans. People do not develop a good character on their own. Responsible agents like schools, families, faith-based organizations, and the media must engage in collaborative and intentional initiatives to promote character development among young people.

As a result of social change and globalisation the survival of young people is increasingly being threatened. A large number of them continue to be exposed to health and development risks. They have a continuing vulnerability that requires the right to information and skills, access to education and youth-friendly health services and an environment that is free from exploitation and abuse. Poverty, war, natural calamities and violence force a large number of young people to live in unsafe and unsupportive environments. They become subjected to abuse and exploitation. Their right to participate and to express their views is almost always ignored.

Like little plants, young people go through a transitional period that is full of potential. They need nurturing and care.

They need a safe environment in order to grow into healthy, responsible and productive adults. They have plenty of energy, ideas, enthusiasm, ambition and potential. They also contribute to the health of their families, peers and communities. They are a strong force for change.

For over two decades we have fought a disease without addressing the core issue of molding young people to develop a good character and positive values for living in dignity. Instead of advocating the advantages of character formation and abstinence until marriage, many efforts are being made to fight for the rights of women to seek abortion, sexual freedom, divorce, euthanasia, and living in same-sex relationships and to redefine the concept of the family to include single parenthood, homosexual unions, living together without commitment, incest and extramarital relationships. The time has come when people are afraid to talk about moral and religious values; family values; the right of the unborn to be born and the fundamental rights of people living with HIV/AIDS.

Recent years have witnessed unexpected changes that have influenced our thinking in many ways. The world is fast moving from fragmented countries and cultures to becoming a global village. It is also urbanizing rapidly. The value systems are changing. No one has been left untouched by globalization, liberalization, the market economy, the media explosion and the technological advances that are taking place across the globe. The quality of our lives is affected by many factors: socio-economic conditions, the environment in which we live and develop, and even more infections and diseases. Caught in the web of transition from childhood to adulthood, young people are affected by unprecedented, and often unmanageable, changes. Fast-changing global conditions are placing a great strain on young people, modifying their behavior and relationships which aggravates their health problems.

It is a fact that not only adolescents' own lifestyles keep changing, but society's expectations of youth, too, keep changing. Often frustrated in their pursuit of better economic conditions by a lack of education and marketable skills, young people are becoming vulnerable to exploitation and may experience poverty and homelessness, besides being drawn into prostitution or carrying out unsafe activities under poor work conditions, drug abuse and illegal activities.

Studies have shown that young people are sexually active. They are highly influenced by the media. They are trafficked and become a part of the commercial sex market. They also form part of the population of migrant workers. They are vulnerable to HIV/AIDS/STDs and STIs. They are among the millions of injecting drug users and may have tried mood and mind altering chemicals.

The media has a profound influence on the way young people see themselves. For better or for worse, the values and lifestyles depicted in movies, on cable television, pornographic literature, internet and music videos have a powerful influence on the desires of young people.

Our youth faces the challenges of taking decisions about sex, alcohol use and smoking, though much more information than ever before to helps them to understand better the risks that are involved is also available. Still, they take risks. They face challenges never before faced with such intensity such as drugs, casual sex and the life-or-death choices imposed by HIV/AIDS. Young people need to be helped to make the right personal choices for better health and even for survival and to deal with the complex and conflicting pressures of modern life so as to empower them.

The challenges facing the new millennium include various problem such as teenage pregnancies, mental and emotional disorders, sexual violence, substance abuse including injecting drug use, suicides, rape, eve-teasing, family disorganization, divorce, single parenthood, child abuse including incest, spouse-abuse, wife-swapping, the unabated spread of sexual transmitted diseases (STDs) and the HIV/AIDS pandemic.

The silence or negative attitudes of adults do cause some young people to believe that there is something wrong, bad and sinful about sex. They develop negative emotions about it, leading to deeply rooted guilt feelings and loss of self-esteem. How many adolescents and young people are growing up with a poor self image, a wrong notion about relationships and an eroded value systems is anyone's guess.

Among the many issues our adolescents and young people face, making wise choices about sexuality is one of the most critical. More than ever before, adolescents and young people need their parents to help steer them through the sea of mixed messages that surrounds them. They also want reassurance that their parents understand what they are going through. It is therefore important for parents to communicate appropriate values to their children.

It is a known fact that an absence of good character give rise to destructive behavior such as violence, disobedience, drug abuse and sex outside marriage. Therefore there is now a need to re-invest time and expertise in teaching

young people true values which will re-affirm our human dignity and promote the wellbeing of all.

The young people of today need a realistic understanding of the purpose of sex in life; of the relationship between love and sex; men and women; the advantages of saving sex for marriage; the negative impact of sex outside marriage and drug abuse; the consequences of adopting unhealthy lifestyles which degrade human dignity and family life as well as the skills, strategies and good character to abstain from unhealthy lifestyles.

There is an urgent need for a kind of information sharing that is holistic. One that helps parents, teachers, family counselors, adolescents and young people. One that puts sex in the right perspective, that discusses sex within the context of the meaning and purpose of life. We are for an intervention that has a positive approach to healthy human life. We need a value-based intervention that specifically promotes abstinence and helps adolescents identify the problems and consequences associated with premarital sexual activity. The intervention we would like to promote is one whose primary goal is to communicate the what, why and how of HIV/AIDS; sex and sexuality; moral, social and family values: and the need to prevent and control problems associated with high risk behaviors.

Until recently, modesty and sexual morality were also included among the values that were widely taught to young people and abstinence until marriage was the expected standard of behavior. But the significant social and cultural upheaval of recent years has led to a widespread public questioning, if not an outright abandonment, of their values. Films, music, television, magazines, internet and other popular media openly promote the notion that sex with anybody – with or without commitment – is both normal and desirable, as long as there is mutual consent and no one becomes pregnant or infected by a sexually transmitted disease or HIV/AIDS.

Abstinence facilitates people with the freedom to grow and develop relationships without the union of sex. Sex is good, personal, private, pleasurable, powerful, intimate, bonding and creates new life. The most appropriate and only sanctioned medium for this deeply personal and profound involvement is within the framework of a committed and faithful marriage where life and love grow hand in hand.

Young people must be told that they are not the only ones who practice abstinence. In fact, abstinent young people are in the majority. It is perfectly alright to choose abstinence because it works and brings satisfaction and joy. By remaining abstinent, young people are able to achieve their goals and dreams.

Adolescents and young people who use alcohol and drugs are unlikely to be successful in remaining sexually abstinent until marriage. Apart from their role in causing death, injury and violence among young people and adolescents, alcohol consumption and drugs also impair their judgments and inhibitions. Abstinence is a physical, mental, emotional, social, spiritual and ethical decision which involves and affects the whole person. Abstinence requires a commitment which will depend on will power. Young people are urged to demonstrate their will power to remain chaste until marriage.

The advantages of abstinence:

Being free from guilt feelings, doubt, worry, and rejection.

Being free from pregnancy before one is mature enough for it.

Being free from the pain of having to give your baby up for adoption.

Being free from the physical and emotional problems associated with an abortion.

Being free from sexually transmitted diseases and HIV/AIDS.

Being free from the risks and side effects of contraceptives.

Being free to be independent and in control of one's life.

Being free to mix with others and communicate openly.

Being free from cheating a friend and causing pregnancy.

Being free from marrying too soon under pressure.

Being free from unintentional exploitation by others.

Being free to know you have not damaged your (or someone else's) reproductive health.

Being free to pursue life goals.

Being free to develop one's self respect.

Being free to respect yourself and others.

Being free to establish a greater trust in marriage.

Being free to plan for a successful married life.

Being free to enjoy being a teenager without pressure.

Being free from the loss of chastity.

Being free from social stigma.

A meaningful relationship of love between a young man and a young woman finds its fullness in marriage. Such a marital relationship is exclusive and complete. It must lead them to say to each other: "I love you completely without any reservations". That is the essence of a true love relationship which we may term a "successful marriage".

By divine law and natural law sex is exclusively reserved for marital partners – the husband and wife. It is an expression of love within the marriage bond. It is an art which grows and improves and helps the couple to become selfless. It is an act of losing oneself to the other; of expressing love and growing deeper in it; of giving and receiving pleasure; and conceiving a child.

Young people must understand that sex binds the union of husband and wife which is very intimate. It should not be seen as a mechanical act. It has very important long-lasting implications for the psychological life of the couple. Society, religion and the family approve of this love relationship which is free from guilt and all types of external restrictions. Therefore the couple make space and find time to be together in private to express and share themselves with each other. This is the most precious gift that God has given to humans. Playing with it by abusing sex through any kind of extra-marital relationship is totally unacceptable, immoral and sinful.

Outside marriage, sex provides temporary pleasure. It is a temporary relationship without commitment and responsibility. Society and most religions disapprove it. Sex could result in pregnancy and its effects are far reaching. The female partner can face disastrous emotional, psychological and spiritual consequences. She has to bear the burden of nursing a child within her. The male partner has to have full responsibility for raising a child outside wedlock.

Marriage brings security and support to a couple. Sex outside marriage cannot provide these essentials. In fact, it can bring mistrust. Some people argue that if a boy and a girl are sure to get married, there is nothing wrong if they engage in sex before marriage. One should also examine the other side of the coin: "If he/she could sleep with me before marriage, how serious is his/her fidelity in marriage? How can I be sure that he/she will not disregard our marriage promises?" Hundreds of marriages have broken down because of suspected infidelity. Therefore be careful: pre-marital sex and extra-marital sex should not become a way of life.

It is therefore apt that young people learn about values that enhance and promote respect, love, peace, justice, honesty, cleanliness, self-discipline, social concern, quest for truth, dutifulness, fidelity, integrity, commitment, kindness, compassion, humility, fairness and responsibility.

Adolescents are being bombarded with the message that sex is great whenever they are able to get it and that waiting for marriage is incredibly old-fashioned. This has tragically encouraged people to jump into bed together, minimizing or hiding the painful consequences of such a decision. The teachings of religions, teachers and parents:

– Urge the protection of young people against the threat of HIV/AIDS/STDs, many of which are not prevented by using contraceptives and several of which are incurable.

– Urge the protection of young people against the trauma of an unwanted pregnancy. No contraceptive is 100 per cent foolproof; only abstinence prevents pregnancy. Being conceived out of wedlock is a lifetime stigma and embarrassment and abortion is never an option, as it is the killing of innocent blood.

– Urge the protection of young people against getting involved in sex before marriage.

– Tell us that pre-marital sex can damage one's self-image and can produce tremendous emotional insecurity and feelings of guilt. It is much better to regard one's body as a savings account to be given to the marital partner as a wedding gift.

– Tell us that pre-marital sex robs a person of a clear conscience, producing haunting guilt that results in great emotional stress. This causes a person to associate sex with guilt, feeling dirty, resentment over being used, and the fear of getting caught.

– Tell us that pre-marital sex takes away lot of time that should be spent on developing a relationship through oral communication and the discussion of future plans. It cheapens the relationship by misusing it for selfish reasons.

– Tell us that pre-marital sex promotes careless attitudes about sexual purity that often result in later extra-marital affairs which can also lead to divorce.

Education for prevention is the only strategy that will help in controlling the further spread of HIV/AIDS. Proper education about HIV/AIDS will help people protect themselves and others from infection by the HIV virus. Since HIV/ AIDS is a disease largely dependent on human behavior, all preventive education programs should offer much more than just information and include the exploration of values and the practice of skills. The first step in educating people is to overcome denial and acknowledge the existence of the problem. Until then, changing the risk behavior of potential target groups will be very difficult.

Throughout the world, sexual exposure is the major route (over 75% of all transmissions) through which the HIV virus is transmitted. All sexual activities between two persons (heterosexual, bi-sexual and homosexual) with any type of contact with body fluids carries the risk of transmitting the virus.

The only safe sex practice is sex between a mutually faithful husband and wife. We should not be misled by phrases like "practice safer sex, use condoms" etc. The use of condoms is not a foolproof, safe, sexual practice.

Indian tradition, culture, religions and social norms resist the abuse of human beings. Men and women should not be considered as commodities that are available for sexual pleasure. Without a woman, a man is incomplete. Similarly, without a man, a woman is incomplete. Religious scriptures clearly state from the beginning of creation: "God made them male and female. For this reason, a man shall leave his father and mother and be joined to his wife, and the two shall become one flesh. So they are no longer two, but one flesh. Therefore what God has joined together, let no one separate." If we remain faithful to our spouse and avoid sex outside marriage, the transmission of HIV through heterosexual activities can be prevented.

Some people called homosexuals are involved in same-sex relationships. There are al-

so people who carry out sexual activities with animals. Such unhygienic activities are known to be very high-risk activities. They also downgrade the dignity of human beings. At the same time, we also know that they are psychological sicknesses. Such persons need understanding and help from every quarter – the family, friends, society, religion, as well as emotional and psychological support. The social environment should discourage such unhealthy practices.

Indian society permits sex only within marriage. Yet about 16 to 20 per cent of young people engage in premarital sexual activities, which includes a sizeable population of street children. This shows the extent of risk behavior that exists among young people.

The Prevention of HIV from Sexual Activities

The best ways of preventing the spread of HIV through sexual activities are:

– Practicing abstinence before marriage.

– Having sex only with your uninfected and faithful spouse.

– Educating yourself and your family members about HIV/AIDS; how it is spread and how to avoid it.

– Not engaging in sexual activities with homosexuals, strangers, prostitutes etc.

– Educating yourself about moral values and the teachings of your religion.

– Seeking guidance from your parents, teachers and elders in your family.

– Realizing that sex with anyone outside the marriage even once can infect you with HIV.

– Not believing blindly believe that the condom gives you full protection against HIV/AIDS. In fact, it has not demonstrated full reliability as regards birth control. We in India have very poor quality condoms which are very unreliable. Do not trust a condom and thus put your life in danger.

– Living with dignity. Have respect for the opposite sex. Nobody stops you from mingling with the opposite sex or making friends. However it is worth waiting until marriage to have sex.

– If you wish to have an uninfected virgin as your spouse, the same may be the desire of your spouse/would be spouse. Therefore, if you want someone to wait for you, you should also wait for someone to share all you have.

– Life will be thrilling, meaningful and joyful, if you can take care of yourself for some more time.

The only way to avoid contracting HIV through sexual activity is abstinence and for the married it is by remaining mutually faithful to your partner. There is no other way.

Abortion

The shift in values has been profoundly negative, both for individuals and the society as a whole. Escalating rates of abortion (some estimates put the figure at 150,000 a day), the increasing gap in the male-female ratio (national Census: 2001), single parent households, and an increase in suicide and divorce rates have become a matter of public record. The rising tide of STDs (14 million new cases in India alone every year according to government figures), including some that were unknown to previous generations, has reached epidemic proportions – often with permanent or even fatal consequences.

What kind of a world have we prepared for the young generation? We are now living in a world where a female child is not even safe in her mother's womb. There is massive female feticide being practiced across the country. Some of the latest research findings show that "more human lives are killed in abortion than in war all over the world".

In reality abortion has acted like a band aid to hide the fallout of our society's failed value system – a system whereby a pregnant women is seen as a problem if she conceives a female child and forced to abort her child instead of seeing her as a participant in the miracle of life.

The Physical Consequences of Abortion

Abortions are not simple. They have far reaching consequences for women. Some of their possible physical effects are : damage to cervical muscles; damage to the uterine wall; infections; hemorrhage; blood-clotting; sterility; ectopic pregnancies; still births; an almost 20 percent chance of miscarriages in the future; complications in future pregnancies; menstrual disturbances; fever and insomnia; loss of appetite; weight loss; exhaustion; decreased work capacity; vomiting; gastro-intestinal disturbances; and frigidity.

The Psychological Effects

Abortion also causes very serious psychological disturbances to the mother. Some of the common psychological effects observed in women who have undergone abortions are: a deep sense of shame; acute grief reaction (over 77%); suicidal impulses; withdrawal, nightmares; lowered self-esteem; stigma; guilt feelings; preoccupation with death; intensive interest in babies; hatred for abortionists and all those involved in the process; disinterest in sex; and an inability to forgive oneself;

Some women take years to recover from the psychological trauma that follows an abortion.

1) *The Hindu view*

According to the Hindu religion, a woman who undergoes an abortion in this life becomes barren in her subsequent lives. Hindu scriptures condemn abortion and consider it murder. According to Hindu Vedas, abortion is to be seen as a more serious sin than the killing of a Brahmin.

2) *The Islamic view*

The Holy Koran warns men not to interfere with the work of God. It is one of the basic teachings of Islam that life is a gift of God and, as such, no

man has any right to commit any kind of act that is detrimental to life or extinguishes life.

3) *The Christian view*

Christians in the first centuries after Christ forbade abortion under all conditions from the moment of conception and abortion at any time is considered a grave sin.

Views in Favor of and Against Abortion

1) *Views in favor of abortion*

Women should have the right to control their own bodies.

No unwanted child should be brought into the world.

Legal abortion should be conducted in authorized medical settings in which considerable care is taken to avoid harming the mother physically or psychologically.

Women must have the option of a safe , legal abortion if they so desire.

2) *Views against abortion*

A fetus is a living being and therefore its right to life must be respected – no one has the moral right to take that life.

Persons other than the mother have rights as far as the unborn child is concerned – the child itself and the father.

Because the fetus is unable to defend itself, opponents of abortion believe that others are obliged to defend the fetus against the efforts of those who want to kill it.

The most important opposition to abortion comes from organized religious groups who address abortion as an issue that involves questioning the ultimate authority of God the Almighty.

Many people and organizations have ignored or soft-pedaled the idea of remaining sexually abstinent until marriage because they feel that it is unrealistic. Another common objection to promoting abstinence is that it is too "directive". Some go so far as to advice students to "wait until you are ready" – a vague and ultimately meaningless guideline for such an important decision. These same programs are, in fact, extremely directive when it comes to promoting "safer sex" with contraceptives and condoms as well as abortions.

Human Life and Spiritual Values

Human life is no chance happening. It is a gift given once and given freely without a price. It is a primary and fundamental value. Thus everything done to enhance human life is of paramount importance.

The human person is a complex reality of body, mind and spirit. We also know that a relationship of love between a man and a woman by its very nature demands the integration of these three components. In most cultures and religions, this relationship, both at the stage of preparation for marriage and at the stage of its fulfillment in marriage, is regulated by spiritual values, religious rules and traditions.

True religion is a matter of the heart and it is in one's family that the religion of the heart develops. Hence we need to see "preparation for a life of family love" as being of primary concern.

Prof. GRACIOUS THOMAS
Director, School of Social Work, The Indira Gandhi National Open University, New Delhi, India.

Gender: the Concept and its Consequences
A Critical Dialogue

Then God said "And now we will make human beings; they will be like us and resemble us … He created them male and female' (Gen 1:26-27). Thus created together, man and women are willed by God for each other. This is what the Word of God allows us to understand through various passages of Holy Scripture. 'It is not good for the man to live alone. I will make a suitable companion to help him' (Gen 2:18). None of the animals can be this for man (cf. Gen 2:19-20). The woman that God 'formed' from the rib taken from the man and which He takes to the man brings forth from the man a cry of admiration, an exclamation of love and of communion: 'At last, here is one of my kind – Bone taken from my bone, and flesh from my flesh' (Gen 2: 23). The man discovers the woman as another 'I' of the same humanity.[1] Here, as clear as daylight, is the fact that man and woman are made 'for each other' and that God did not create them 'halfway' and 'incomplete; He created them for a communion of persons in which each one can be a 'help' for the other because they are at one and the same time equal as persons ('bone of my bones') and complementary as male and female.[2] But, and this is what of interest, this biblical conception of the sexed person, conceived on the basis of the difference *of the* bisexual human nature – male and female – is *no* longer the ontological criterion of contemporary thought and no longer has its traditional impact at a personal, but above all, at a social level. Sexual difference is said no longer to be an intrinsic datum of the human nature that emerged from the creative hands of God but an extrinsic phenomenon that should be understood within the context of socio-cultural structures in which man himself is said to construct his sexuality. This new way of conceiving the difference of sexed man is based upon the so-called philosophy of 'gender'. This is a new sexual revolution which, because of disastrous consequences at a European and international level, requires a rigorously critical dialogue, and to such an extent that *Caritas Internationalis* has published a debatable *Guide* on the subject.

In order to organise my critical analysis in a way that is more connected to the way things are, I will begin with the concept of 'gender' and its consequences.

1. The Ideological Concept and the Consequences of 'Gender'

The philosophy of gender dates from 1950 when feminists wanted to justify at an intellectual level the fact that they were lesbians. Simone de Beauvoir invited women to reject marriage so as not to be subordinated to men. This intellectual current of 'gender' and 'constructivism' was taken up by homosexual movements in order to demonstrate that the idea of sexuality is not a fact of nature but a cultural phenomenon that is constructed. The term 'gender' seeks to conceive of man as a being produced by culture which democratic laws should accept. Homosexuality is said not to be a sexual deviation of a man or a woman but a phenomenon of their sexual orientation. Masculinity and femininity are solely self-constructions in various socio-cultural contexts and thus there is no place for a natural heterosexual conception with a corresponding conjugal symbolism. Thus on the basis of this new ideology of gender we must redefine from the sexual point of view all the spheres of the personal existence of women and men in society as a whole. Association between men and women is not determining: what is of priority importance is, first and foremost and above all else, respect for the identity of women. In many occupations and professions the phenomenon of progressive 'feminisation' is underway and this will bear upon the social ties of women, producing, for example, fear of getting married and procreating. For this reason, when speaking about reproductive health, men are excluded from procreation because women want to live alone with their children. A one-parent family is preferred, that is to say a single mother, because this is said to mean not only a promotion of lesbianism but is also said to be a sign of the freedom of women. The disastrous consequence of this is evident inasmuch as the theory of 'gender' has been broadly adopted by the European Parliament and is translated into political programmes on which the member countries should base themselves. The European Commission even obliges its new members to modify their legislation in favour of contraception, abortion and the claims of homosexuals. For this reason, even though in the approach of 'gender' the bisexual human nature of man – male and female – is accepted according to its individualist and subjectivist philosophies, every human person can, indeed must, direct himself or herself towards that sexuality that he or she wishes to construct. This ideology, and this is its first false consequence, seeks the right to the legalisation of equality between all forms of sexuality. This is because there is no difference between heterosexuality and any other form of sexuality. To summarise: although one is dealing with sexual realities that are truly different, the concept of 'gender' implies, in practical terms, the denial of the natural sexual identity of each person. And all of this takes place, in a deaf way, with the compliance of the mass media through a masked

use of new terms which are increasingly open and tolerant. As regards this 'constructivism' of one's own sexual identity, one can already express as a criticism the following: one does not construct a person as one would construct a house. At this point I would like to point out that beginning with 'gender' it is said that one needs within the Church, as well, publicity in favour of the concept and new definition of ministries. 'Gender', it is said, should open to women access to all forms of power, even more if the relationship with Christ is based upon female values which in their turn are factors that specify the identity of Christianity. Here it is very important to know the critical reaction of the Magisterium of the Church because it is the foundation of my critical analysis.

2. The Prompt Negative Reaction of the Church

On the eve of the Conference of Peking (October 1995), Pope John Paul II said: 'No answer to the questions that concern women can be given without taking into account the place of women in the family. In order to respect this natural order it is necessary to oppose the erroneous idea according to which the function of motherhood is an oppression of women'. The Church thus made it be immediately understood that it could not accept and even less did accept this anthropological ideology. In order to avoid any misunderstanding I would like to make clear that one is not dealing with opposition to those who campaign for the dignity, the equality and the freedom of humans and in particular women – indeed the contrary is the case. However, this militancy cannot in any way be based upon a philosophy that is not in agreement with the intrinsic significance of dual sexuality and thus of conjugal and family life. Moreover, it cannot even mutate the corresponding social cooperation of men and women. Whatever the case, the Church cannot accept answers that do not take into account the place of a man and a woman in marriage and the family. 'Gender', by introducing into the heart of law the denial of a specific sexual difference, is an anthropological heresy that understands *natural* sexual identity as *cultural* sexual self-construction. The term 'gender' thus contradicts in a radical way certain fundamental and specific realities of mankind. There is, therefore, no legal claim to be respected. Unfortunately, this rapid negative reaction to the philosophy of sexual *constructivism* remains a cry in the desert. For this reason it is necessary to continue a critical dialogue with the philosophy of 'gender' as regards human sexuality.

3. Critical Dialogue and the Philosophy of 'Constructed' Sexuality

I will begin my criticism of 'gender' with the socio-cultural concepts of fatherhood and motherhood. Fatherhood is said not to be a male identity because masculinity would then denote a sexual inequality inasmuch as no woman can be a father. Not even motherhood is said to be a sexual identity but is, rather, a certain social function which can allow '*des mères porteuses*', inasmuch as motherhood cannot, in the name of its natural duty to care for a child, deprive a woman of the right to her socio-cultural employment. For the theory of 'gender', it is not the differentiated nature of the human being – male and female – that determines the specificity of a role. It is, rather, the construction of one's sexuality in the various socio-cultural contexts. Now, a society that is no long able to understand the natural difference of human sexuality progressively loses its sense of the truth of things and thus fosters a profound feeling of insecurity. Calling into question diverse personalised sexual identity, the theory of 'gender' dissociates, in fact, the biological from the psychological of human sexuality. The ideology of gender neutralises the sexual identity – which by its nature is structural – of male and female on the basis of the functionality of socio-cultural roles. Given that each human being is no longer a sexed individual with his or her own connatural and unrepeatable personality, the Christian vision of marriage and the family thus becomes left behind. Obviously, as has already been said in this paper, the Church cannot in any way support this ideology of gender but, and this is what is of interest, what should be said about the recommendations of the *Guide* of Caritas Internationalis?

4. The Guide of Caritas and the Strategies of 'Gender'

It appears that this *Guide* did not understand the ambiguity of the possible and justified changes in the roles, entrusted to men and women, and their natural and thus immutable – identity of male and female.

'Gender', indeed, connotes the differences between men and women, human beings, inasmuch as they are constructed socially. Learning the forms of behaviour, aptitudes and activities that are seen as being appropriate to their age, race, religion and upbringing, women and men constructed the sexuality that they wished for and chose their roles. Sexuality and roles are thus the principal factors in defining and determining access to power and resources both for men and or women. And all of this then establishes, and this is decisive, the identities of 'gender' and determines the roles and relationships between them. The philosophy of 'gender', therefore, does not conceive sexuality as being determining as regards natural differences between women and men which are a part of their reproductive role. For 'gender' what is determining are the forms of behaviour and activities of men and women inasmuch as they are 'sexually' constructed and have created distinct roles which are marked by the norms and the values of the societies in which they live. In other words, the term 'gender role' includes productive roles, community roles and political roles which vary according to time or society.

4.1. *The dialogue within the Church*

In order to contribute to a better consideration of the questions of 'gender' at all levels, the *Guide* seeks to promote a dialogue within the Church and with the actors of society.

Referring to the functions and the responsibilities attributed to women, to men, to girls and to boys, it is said that social constructions denote not so much a differentiated treatment as a discriminatory treatment of women and men, founded, indeed, on their differences at the biological level of sex, that is to say being male or female. It should be observed that by sex at a biological level is meant that every person is born sexed as a result of which there exist physical differences between men and women and also different ways of thinking, feeling and acting. But, and this is the point that should be made, the equality of the genders implies, instead, that men and women have the same status, the same rights and the same responsibilities to participate at all levels in various social roles. This participatory equality is based on recognition of the fact that despite biological differences, women and men are equal in dignity, intelligence and value. 'Gender' thus places the similarities and the differences between men and women in their functions in terms of equality. By this, it should be made clear, it is not denied that sexual and biological differences between women and men exist. But analysis has demonstrated that society has determined, specifically on the basis of these biological differences, the roles of women and men and then attributed certain values to these roles. Thus, although admitting the natural fact of biological sexual difference, Caritas seeks to fight against forms of discrimination that injure women and to develop a strategy in favour of their participation for their development within society. For this reason, one must foster the autonomy of women in a process that allows a *de iure* transformation of the relationships of power between women and men which *de facto* are not equal. Thus the Church is also called upon to accompany this new way of thinking about men and women in order to establish new relations based on 'gender'. 'Gender' is said to assure the reciprocity of contributions and to promote their development. Thus it is proposed to redefine the 'gender' of men and women, no longer beginning with the diversity of their roles but with a common pole, that is to say with their identity of being Christians. In order to demonstrate that Jesus himself proclaimed the theory of 'gender' in the Kingdom of God this document quotes St. Paul: 'You were baptised into union with Christ, and now you are clothed, so to speak, with the life of Christ himself. So there is no difference between Jews and Gentiles; between slaves and free people; between men and women; you are all one in union with Christ Jesus' (Gal 3:27-28). This passage from the Apostle involves the question of whether the spiritual unity of all the baptised in Christ implies, in their historical lives, the denial of their sexual, national and cultural identities. Whatever the case, the strategy of 'gender' requires a political wish and commitment on the part of those who, organised at a national level, have to take decisions. This strategy should above all else impose transversal lines of action and establish mechanisms of animation and support for people of influence. Thus this *Guide* also wants a greater participation of women in the exercise of ministry so that they can control their own lives. The Church, therefore, should contribute to a publicising of these 'gender' questions internally.

4.2. *A critical analysis of the document*

To fight against injustices, above all against women, the *Guide* bases itself, or at least this is the case in its preface, on the principles and values of the Gospel, of Traditions and of the teaching of the Church. Indeed, every question is begun with a text from the Magisterium. For example, as regards the number one problem of poverty the appeal to conscience and solidarity is cited. This fight is presented as a sign of our time when 'women are increasingly aware of their human dignity'. It is emphasised that inequality between women and men is contrary to the will of God, which is very true when we think of the fact that women were present in the community of the disciples and played an active role in the lives of the first communities, at the level of ministry as well. All of this is very true but, and this is where the criticism lies, this document addresses the fight more on the basis of the contextual philosophy of 'gender'. This was already evident at the Fourteenth General Assembly of 1991 when it was decided to increase the representation of women and at the Forum of 1999 which allowed an increase in the presence of women from 13% to 29%. Since then, and this should be carefully taken note of, a Work Group has been created specifically on 'gender' with the intention not only of supporting and advising the Confederation but also of sensitising women in Caritas Internationalis through a series of articles. It is known that this Group stigmatises the conception of any difference between one sex and another willed by the bisexuality of human nature, male and female. One can, therefore, see that the composition of the *Guide* on 'gender' strategy appears not to be extraneous to the influence of this Group. Whatever the case, the *Guide* imposes a fight against the historical, cultural and structural causes of inequalities and disparities, consequences that are linked, it is said, to the biological sex difference. For this reason, a contextual analysis is required that takes on the constitutive elements of a 'gender' strategy in order to ensure, with a view to their participation in decision-making processes, that the first step of reaction must be the struggle for an 'autonomisation' of women. The intention of this autonomy concerns above all else the transformation of power relations between men and women, beginning specifically in the context of inequalities in marriage and the family. A reflection on the role of men – as husbands and fathers – is said to emphasise, indeed, how culture determines the identity of males. This is why their dignity should no longer be conceived with reference to their capacity to meet the needs of their families but with reference to their ties with the 'female' values: love, joy, peace, patience and kindness. And since this Christian identity is also the human identity, it follows, and this confirms my criticism, that sexed identity is independent of the biological fact of being created, by God, male and female. However, it is said that in order to understand the role of 'post-modern man' one should study the role of 'post-modern woman'. For this reason, in contemporary society, a development of complementariness also requires the philosophy of 'gender' on the basis of justice and solidarity. Passing to actions to be placed in programmes, resort is made only to 'external' interventions, that is to say, ones of a juridical character, whereas no intervention of an ethical and pedagogic character is to be found. Here once again is a more incisive example of a lack of the ethical realm. The *Guide* uses the terminology of 'reproductive health',[3] but everyone knows that this terminology is unacceptable because it implies an explicit reference to contraceptive and abortifacient means. Whatever the case, in the process of relational transformations between men and women questions of 'gender' concern all aspects of life. Thus it is increasingly imperative to bring into all programmes and all activities this 'notion' as a strategy by which to transform structures. In other terms, planned tenets and specific measures are wanted in all those projects and programmes that foster the strategy of 'gender'. An impact on structures, systems and institutions that maintain inequalities between the sexes requires an analysis of 'gender' in order to stigmatise the socio-cultural, political, legislative and economic realities of society because of natural dual sexuality. In order to develop the participation of women in ministries the *Guide* proposes an analysis of 'gender' in the Church as well. The Catholic Church and its organisations that are mandated to express themselves on social injustices should commit themselves to a social transformation as regards the specific problems denounced by 'gender'. To justify this statement *Gaudium et Spes* n. 29 is quoted: 'Since all men possess a rational soul and are created in God's likeness, since they have the same nature and origin, have been redeemed by Christ and enjoy the same divine calling and destiny, the basic equality of all must receive increasingly greater recognition'. True, very true, but what does this human and Christian equality have in common with the philosophy of gender? Nothing! Indeed, the Second Vatican Council contradicts it! For that matter, how can a Catholic vision be in agreement with questions proposed 'by gender' and solved 'by gender', which is in contrast with the traditional doctrine of the Church? And this is even more the case given that the various recommendations in favour of the struggle are truly incompatible with the common good of humanity represented by the meaning of the couple, of marriage and of the family. Here we come to the basic criticism.

4.3. *The basic criticism*

That man, male and female, is created in the image of God means, precisely, to bring out the reason for the natural difference of sex from a biological point of view. With reference to man, created 'in the image of God', John Paul II teaches: 'God is love (1Jn 4:8) and in

Himself He lives a mystery of personal loving communion. Creating the human race in His own image and continually keeping it in being, God inscribed in the humanity of man and woman the vocation, and thus the capacity and responsibility, of love and communion.[4] Love is therefore the fundamental and innate vocation of every human being'.[5] Now, and this should be strongly stressed, specifically because it involves the most fundamental criticism of the philosophy of 'gender', this fundamental and native, that is to say natural, vocation finds first and foremost and above all else in marriage – which is communion of life and love between a woman and a man – its meaningful expression. Pope Wojtyla confirms this criticism when he teaches: 'The communion of love between God and people, a fundamental part of the Revelation and faith experience of Israel, finds a meaningful expression in the marriage covenant which is established between a man and a woman'.[6] The traditional difference of biological sex means that men and women are created to *be* a spousal communion of life and fertile love. It should be further observed that this 'spousal' meaning of being male and female, created in the image of God, refers us specifically to the universal redemption worked by Christ. This reference is very important because it demonstrates the contrary of the argument of the *Guide* in favour of 'gender'. The universal redemption worked by Christ reveals, to the utmost, specifically the spousal nature of man, male and female. John Paul II teaches: 'The communion between God and His people finds its definitive fulfillment in Jesus Christ, the Bridegroom who loves and gives Himself as the Savior of humanity, uniting it to Himself as His body. He reveals the original truth of marriage, the truth of the "beginning," (cf. Gen 2:24; Mt 19:5) and, freeing man from his hardness of heart, He makes man capable of realizing this truth in its entirety'.[7] It should be made clear that 'in the gift of love which the Word of God makes to humanity in assuming a human nature, and in the sacrifice which Jesus Christ makes of Himself on the Cross for His bride, the Church. In this sacrifice there is entirely revealed that plan which God has imprinted on the humanity of man and woman since their creation (cf. Eph 5:32 s.); the marriage of baptized persons thus becomes a real symbol of that new and eternal covenant sanctioned in the blood of Christ. The Spirit which the Lord pours forth gives a new heart, and renders man and woman capable of loving one another as Christ has loved us. Conjugal love reaches that fullness to which it is interiorly ordained, conjugal charity, which is the proper and specific way in which the spouses participate in and are called to live the very charity of Christ who gave Himself on the Cross'.[8] Thus the spouses are a permanent reminder for the Church of what happened on the Cross: they are for each other, and for children, witnesses to salvation, in which the sacrament makes them participants.[9] Thus it is clear how the universal redemption of Christ does not seek to be at the basis of the struggle of 'gender' in favour of the rights of women. In the analysis of *Familiaris Consortio*, the quotation from *Gaudium et spes* becomes, rather, the incontestable foundation of why God created man, male and female, in His image. For this reason, not the orientation of one's own sex, as proposed by the philosophy of 'gender', but biological sex, male and female, willed by the design of the Creator, is and remains the constitutive criterion of man both at a personal level and at a social level.

4.4. *Final criticism: 'become what you are'*

In order to finish this critical dialogue I will now explore the design of God as regards creation and redemption. God created man in His image, male and female, so that everyone could recognise, in marriage and in the family, the constitutive complex of interpersonal relations – nuptiality, father-hood-motherhood, filiation, brotherhoods – through which every human person is introduced into the 'human family' and into the 'family of God', that is to say the Church. Indeed, the human person is generated and steadily introduced, through upbringing, into the human community. Christian spouses and their children become, through the regeneration of baptism and education in the faith, participants in the saving efficacy of the death and resurrection of Christ, and are introduced into the family of God, that is to say the Church. The mandate to grow and to multiply, addressed in the beginning to man and woman, reaches in this way its entire truth and its full realisation. What has been said, and this is decisive for a critical dialogue, brings out how not only the Church finds in the family, born from the sacrament of marriage, its cradle and the location in which it can actuate its own insertion into the human generations, and these, reciprocally, into the Church, but also how the family itself finds there its own identity.[10] 'The family finds in the plan of God the Creator and Redeemer not only its identity, what it is, but also its mission, what it can and should do. The role that God calls the family to perform in history derives from what the family is; its role represents the dynamic and existential development of what it is. Each family finds within itself a summons that cannot be ignored, and that specifies both its dignity and its responsibility: family, become what you are'.[11] What is even clearer than daylight is that the philosophy of gender cannot stand up to this critical dialogue: not only because it fails to understand the natural ontological meanings of marriage and the family but also because it does not take into account the corresponding deontological consequences. In exclusively concentrating its attention on the discriminatory socio-cultural juridical strictures both of marriage and of the family, the struggle for the 'autonomisation' of women, based upon the constructivism of 'gender' forgets the ontological values of

bisexuality and its both conjugal and family deontological requirements. In the place of the natural rights and obligations of marriage and the family, cultural rights alone are proclaimed and not only of male and female homosexuality, of marriage of people of the same sex, of their adoption of children and the single-parent family. But in this way the criterion of the ethical order is overturned: '*agere sequitur esse*', expressed by Pope Wojtyla in the axiom 'become' what 'you are'! To avoid all misunderstandings, it should be made clear that this criticism does not mean that the Church is not concerned about domestic violence committed by husbands against their wives, about sexual abuse and aggression towards their sons and daughters, about the mutilation of genitals, about early marriages, about prostitution and about adultery. It is right to stress the difference of factors to which women are more vulnerable than men, above all from a socio-cultural point of view. Equally right are programmes intended to improve conditions of life, beginning with food, the environment, and participation in small companies. In addition, what is said about the phenomenon of international migration and the treatment of human beings is very good.[12] It is only, and here we again engage in our criticism, in all of this the criterion is not the design of God but the concept of 'gender'. In order to promote its national strategy it resorts to the analysis of traditional social and cultural factors and the data of contemporary family structures in order to point out their differences: urbanisation, strikes, migration, armed conflicts, HIV/AIDS. Once again are added the attitudes of society towards non-traditional family structures such as divorce, single mothers or women, homosexual fathers or homosexual singles, and homosexual couples. By now it is *luce clarius* that the omnipresence of the term *cultural* 'gender' not only grants to those who are in a different psychosomatic sexual configuration the right to marriage and the adoption of children but also modifies the *natural* meaning of the couple, of marriage and of the family. For this reason I invite the exponents of the philosophy of 'gender' to reflect upon what I have said because it corresponds to the full to Revelation. 'Sacred Scripture begins with the creation of man and woman in the image and likeness of God and concludes with a vision of 'the wedding-fast of the Lamb' (Ap 19:7,9). Scripture speaks throughout of marriage and its 'mystery', its institution and the meaning God has given to it, its origin and its end, its various realizations throughout the history o salvation, the difficulties arising from sin and its renewal 'in the Lord' (1 Cor 7:39) in the New Covenant of Christ and the Church'.[13] The Code of Canon Law authoritatively makes clear that 'The matrimonial pact by which a man and a woman establish between them a community for the whole of life by its nature orders the good of the spouses and the procreation and upbringing of children, amongst the baptised it was raised by Christ the Lord to the dignity of sacrament'.[14] Now, and this is very important, this raising to being a sacrament was possible because the concept of marriage in the order of the creation reads 'The intimate partnership of married life and love has been established by the Creator and qualified by His laws, and is rooted in the jugal covenant of irrevocable personal consent… God Himself is the author of matrimony'.[15] Thus the vocation to marriage is written into the very nature of a man and a woman, who came from the hand of the Creator. This means that marriage and the family are not purely human institutions, despite the numerous changes that they have undergone down the centuries, in various cultures, social structures and spiritual attitudes. These diversities should not make us forget the common and permanent features. Although the dignity of these institutions does not emerge everywhere with the same clarity, there exists, however, in all cultures a certain sense of the greatness of the marriage union since the salvation of the person and of human and Christian society is closely connected with a happy situation for the conjugal and family community.[16] To summarise, a *clear no* to the philosophy of 'gender' but a *benevolent yes* to critical dialogue with Caritas Internationalis as regards the struggle in favour of women, as stated in the preface in the light of holy Scripture, Tradition and the Magisterium of the Church.

Post scriptum

To justify my categorical no to the philosophy of gender I refer the reader to *Critique de la problématique du genre* (15 pages). From the notes (see p. 16) it is clear that these are the observations of various authors

but ones made in order to defend the ideology of 'gender'. The former MP Bella Abzug very strongly defends the concept of 'gender' in its difference from 'sex' and wanted it to be included at Peking (1995), (see attached pp.1-3). Some feminists of 'gender' will not surrender. For the feminists Shulamith, O'Leary, Ann Ferguson and Nancy Folbre, nature is not necessarily a 'human' value, as a result of which class divisions on the basis of sexuality have been superseded. In fact, the concept of 'nature' should be ditched and emphasis should be placed upon 'socially constructed gender roles' (see pp. 4-8). Alison Jagger is very clear: in suppressing the biological family one will also make disappear the obligation to proceed to sexual repression. Male and female homosexuality and extramarital sexual relations are no longer alternative opinions. Indeed, the categories homosexuality and heterosexuality should be abandoned. The very institution of 'sexual relations' where men and women play a well determined part will disappear. Mankind will finally be able to return to its polymorphous natural perverse sexuality. To summarise, the concept of class must be made to disappear (the idea of Marx) and deconstruct society (see pp.8-11; see notes 19, 20, 21 p. 16)

At this point one understands that feminists, in order to speak about abortion and the rights of lesbian women, want the promotion of 'free choice' for every woman as regards the question of 'reproduction' (see pp. 12-13, notes 22-24). For all of this the 'break-up of the family, of upbringing and of culture' is not enough: above all the 'defeat of religion' is required, the principal cause of the oppression of women (see pp. 13-15; see notes 27-32).

Conclusion of the 'Gender' Feminists

'Gender feminism' is a system that does not allow contrary arguments. In the USA and the universities this cultural current is openly propagated. TV channels transmit the following messages: one can 'deconstruct' sexual identity and masculinity and femininity are nothing else but 'socially constricted gender roles'. Unfortunately these messages reach developing countries as well, every day, and affect the whole world. From what has been said in this paper, a concerted mobilisaton is required, not only of the Catholic Church and all the religions but also of every man of common sense!!!

Rev. BONIFACIO HONINGS OCD
Professor Emeritus of Moral Theology of the Pontifical Lateran University and the Pontifical Urbanian University Rome.
Consultor of the Congregation for the Doctrine of the Faith, Consultor of the Pontifical Council for Health Care Workers, Ordinary Member ad vitam of the Pontifical Academy for Life, the Holy See.

Notes

[1] Cf. *Catechism of the Catholic Church* (*CCC*), n. 371.
[2] Cf. *CCC*, n. 372.
[3] Cf. *Guida*, pp. 9-10,
[4] Cf. Ecumenical Second Vatican Council, Pastoral Constitution on the Church in the Comtemporary World *Gaudium et spes* (*GS*) , n. 12.
[5] John Paul II, apostolic Exhortation *Familiaris Consortio* (*FC*), n. 11.
[6] *FC*, n. 12.
[7] *Ibidem*.
[8] *FC*, n. 13.
[9] Cf. *ibidem*.
[10] Cf. *FC*, n. 15.
[11] *FC*, n. 17.
[12] Cfr. *Guide*, pp. 30-39.
[13] *CCC*, n. 1602.
[14] *CIC*, 1055,1.
[15] *GS*, n. 48.
[16] Cf. *GS*, n. 47

Ethics and the Spirituality of Health

AN INVITATION-ONLY SEMINAR HELD AT THE PALAZZO DELLA CANCELLERIA, ROME, UNDER THE PATRONAGE OF THE PONTIFICAL COUNCIL FOR HEALTH CARE WORKERS OCTOBER 19 – 21, 2009

Our concern for health is as old as mankind and in ancient civilisations it was always linked to the multiple relationship that human beings have with their society and their environment. As such, health is a complex issue, deeply rooted in every single individual and involving at the same time his or her body, mind and soul, something that is distant from the reductionist definition of the World Health Organisation: 'A state of complete physical, mental and social well-being and not only the absence of disease or infirmity', a statement which totally neglects the fundamental emotional, psychological and spiritual requirements of every human creature. In this context, the duty of medicine is not only to 'cure' and restore the sick person to his or her previous health but also to secure that this 'healing process' brings him or her hope and serenity and takes care of his or her overall needs as a living, responsible and sensitive creature. Both His Eminence Cardinal Poupard and His Excellency Archbishop Zimowski stressed this major issue in their opening statements and showed that 'the health of the organism' cannot be severed from its ethical and spiritual context. It is the responsibility of man to respect the wellbeing of his brothers as well as to safeguard the balance of his own body which he has received as a gift from God and which he has the duty to maintain for himself and also for those who gave it to him and those to whom he will transfer the mysterious spark of life. To that end, medicine will give him support but as long as it is not restricted to the eradication of physical illness itself but also addresses the patient in a overall way giving him or her relief and serving at one and the same time his or her basic fundamentals – his or her body, mind and soul. This is precisely the focus of this seminar: to try to understand what health means on an individual and collective basis, to explore its basic requirements in the light of traditions and cultures, and to see how different therapeutic strategies may combine together in a holistic way. In that process, pure 'hard' rationalistic enterprises should merge harmoniously with more 'soft' subtle therapies in a complementary process which pools together their intrinsic powers, acknowledging sometimes the undefined strength of traditional practices whose efficacy has been demonstrated by long-term clinical experience. In other terms, our purpose has been to address complementary therapeutic modes and not to weigh the merits and risks of alternative routes.

What Does Health Mean in the Human Brain?

How can a philosopher understand health as a universal concept? On the outer reaches of this seminar, Professor Jean Burgos questioned our views on *The Imagination of Health*.

In our modern societies, health is perceived, first, as a negative concept, indeed, a state of non-somatic or psychological imbalance, a non-illness status. However, in many different mythologies, health appears as a positive issue, a natural component of the harmonious order of the original world. In several archaic societies, illness is understood as a fracture of a pristine harmony that has to be restored. Moreover, in some of them, health is not only a mark of the 'vital force' but surges up from the depths of the human being to enter into an intimate relationship with the outside world.

The potentials of health, indeed, the virtual power it has to develop by itself before being challenged by illness, seem to invite us to consider health through the very routes these potentials follow: the imagination.

The imagination, this crossroad of individual pulses and outside pressures, which is always under constant renewal, provides us, at all times, with information on what is bound to come, giving us the choice to make use of it or not. It plays there a role of equilibrium between the living creature and its environment; hence a harmonisation of what, indeed, supports health.

The routes of the imagination do not drive us far away from those of Hippocrates who claimed that health rested on balance and harmony, both of which derived from a continuous adaptation of man to his surroundings on the basis of what was going to occur. Hence, health is not only a state of equilibrium within a given environment but the implementation by every individual of his or her human nature which is always in motion within the surroundings that he or she has to deal with.

This shows that health is not a neutral state but one which has to be continuously conquered and controlled, a baseline pattern that must always be reinvented. This means that since man is not constrained within a given physical and psychological organism he must not only secure his own status but be ready to challenge what is occurring and constantly develop new hierarchal operating modes. Thanks to health, we meet the world of values that man, whoever he is, is compelled to

overcome, one way or another, to secure his future. We meet again, there, the imagination, this permanently new driving force which pushes us ahead and constantly offers some additional features to our being human that we have to capture in order to make the best use of them.

The significance of health is, then, an assessment of values, all in direct connection with our human needs: the somatic, the psychological but also the spiritual. Therefore, it appears that the imagination has the power to experience these issues in a privileged way since it always drives us to challenge new values in their very process of implementation.

Health as a Duty to Care: its Moral and Political Implications

In the next section of the meeting, *Professor de Broucker and Director Bouvier* discussed the different sensibilities of health in terms of its moral and socio-political implications.

Let us consider, first, what is really meant by the 'World Health Organisation' when it states that health is a state of wellbeing. This is certainly an ambiguous issue since it implies at one and the same time physical, psychological and social values which, obviously, are interacting and evolved in historical time. Social precariousness, for instance, has a major impact and may induce many adverse reactions. Thus, all the structures of the 'medical chain' are involved: physicians, nurses, supporting staff … and they need to be trained accordingly in order to respect the infirm person, to try to eradicate fear and to give hope, irrespective of religious and political diversities or economical constraints. A careful handling of man's intrinsic frailty is here the central issue and it should not be addressed only in a legislative way but should be part of a previously established educational programme. This, indeed, is relevant to bioethics and underlines our individual and collective responsibility towards all humanity from conception to the grave.

In this context, *Professor de Broucker* considers six different fields: medical assistance and procreation; the status of the embryo; predictive medicine; organ and tissue grafts; biomedical research; and the end of life.

Procreation by artificial insemination is a routine practice but it should follow a certain number of moral rules and, in particular, secure that the resulting child obtains a stable place within a respectable family made up of a father and a mother.

Along those lines, the 'legal' and moral status of embryos is equally of the utmost importance. They are living organisms, God's creatures, who should not fall into irrelevant scientific programmes or just be eradicated because they are supernumerary.

Closely linked to the above, predictive medicine should not turn into an eugenic issue which eliminates 'imperfect' embryos and ends up as a wild selection of would-be ideal human beings.

The same duty to care applies to tissue and organ banks as well as to the removal of organs from fresh cadavers and even from living donors. This is a highly sensitive case in which the unbiased agreement of the donor should be formally given and where no financial dimension can be considered.

Biomedical research is equally a matter of vigilance and concern if it does not respect four basic ethical principles: autonomy, dignity, integrity and the understanding of potential vulnerability.

Palliative care is also discussed by Professor de Broucker as a most important duty of our society towards those who are coming to the end of their lives in dependency and often in pain and distress. In this particular case it is an absolute ethical prerequisite that the whole supporting team helps and fosters a dignified relationship with patients even if all communications are severed.

In conclusion, in our ethical approach towards health we meet four major challenging issues: maintaining humility and vigilance in the face of the obvious shortcomings of our present medical knowledge; understanding the limits and constraints of physical, psychological, moral and spiritual suffering; respecting every human being whatever his or her condition may be; and taking care of other people and being receptive to their requests and needs.

Humanitarian Action in Medical Care

As a representative of the International Red Cross Committee, *Dr. Paul Bouvier* then addressed humanitarian duties and related humanitarian medical action.

In June 1859 a young citizen of Geneva, Henry Dunant, discovered the horrors of the Battle of Solferino: 6,000 dead but also 40,000 injured soldiers to whom he tried to bring relief and help. This dramatic event led him to create the 'International Red Cross' which was the origin, in 1864, of the 'Geneva Convention for the improvement of the fate of injured and ill members of armed forces during the course of war', a Convention which received its final statutes in 1949 when it also protected prisoners and civilians during armed conflicts.

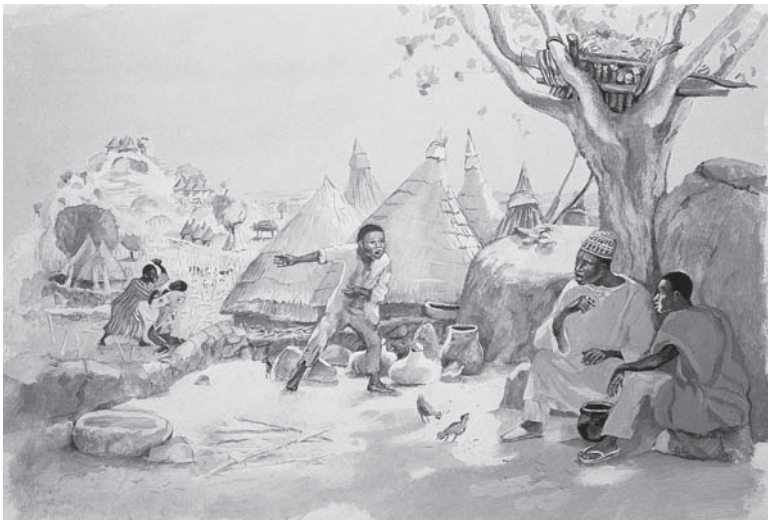
In this enterprise, Dunant based his action on 'humanitarian duty', a moral obligation which goes beyond nations, religions and cultures. Today, this is part of international law and the International Red Cross Committee is accountable for its implementation. In this context, the CICR is involved in the field that has just been addressed above, namely bioethics, and thus follows the same rules: autonomy, benevolence, not doing harm and justice. As such, it becomes clear that when a human being is in urgent need a physician or medical assistant has the moral duty to become involved and assist that person to the best of his or her capac-

ities if he or she is not himself or herself at risk. This is, indeed, the very basis of what we can call humanitarian duty which, in turn, sets in motion humanitarian action. This is not a mere demonstration of altruism, which is more something that characterises the so-termed humanitarian organisations. Unfortunately, their actions may sometimes be counterproductive since they come to be involved in contestable political choices.

This raises the question of the limits which can be given to this Samaritanism. How far can our moral duty lead us? Can we speak of a minimalist ethic based upon three principles: no personal interest, not doing harm to others and equal care for all? Or do we have, indeed, a duty to help which whatever the case is mitigated by the fact that we have no right to interfere if we are not requested to do so?

From here Dr. Bouvier analyses the concept of altruism and discusses the positions of some major writers and philosophers on this issue. From the Chinese philosopher of the fourth century BC, Mencius, to Jean-Jacques Rousseau, to be 'human' is nothing else but a natural attitude. Immanuel Kant challenged that idea and felt that the universal rule is to base every moral move on reason and not on compassion. For Levinas we have a responsibility towards the 'other' who 'captures' our liberty and Ricoeur, going somewhat further, believes that the horizon of ethics is sociality and that our moral rules apply globally to our society. Terestchenko himself does not consider altruism as a heroic or sacrificial move but just a normal human reaction: 'I do what I have to do'.

Since Henry Dunant it has become clear that humanitarian action is a compulsory move which is in fact realistic human behaviour in the face of violence and should receive acknowledgement. Along these lines, the humanitarian action of assistance and protection is an integral part of our own humanity.



Health Care in Traditions and Cultures

In history, health care has been of concern for human societies and their strategies in this field have substantially varied from one continent to the other. Quite often, as *Professor Moha Jana* explains, shamans held the 'secrets' to healing injuries or curing illnesses and their 'therapies' were a mixture of witchcraft and the administration of natural products in which herbs and animal extracts played a dominant role.

In Muslim North Africa illness has always been seen as both a spiritual and physical disorder and the intake of remedies should be accompanied by chanting and prayers under the guidance of experienced traditional healers. The same situation prevails in Black Africa where ethnomedicine plays a central role in the everyday lives of traditional populations, even in our time. Through dialogue, gestures, dance and ritual songs, it addresses more the patient himself or herself than his or her illness, since he or she is considered, first and foremost, as a social case linked to the life of the whole community which is in partnership with him or her. Most remedies are of plant origin, sometimes fungi, but their 'efficacy' depends entirely on the way they are administrated and on the involvement of the relatives and friends of the patient under the strict control of the witchdoctor.

An almost identical situation can be found in Central Asia and in the Pacific except that here religious beliefs do not belong to animism but are essentially derived from Buddhism or Hinduism. However, the same 'approach' can be found: illness is a mark of disharmony, a failure of the mind and soul which impacts on the body as a whole and which can be identified by a careful analysis of the 'body's energy fields' as is done with acupuncture.

For a long time these traditional medicines have been studied by renowned scientists and philosophers. Magendie, Claude Bernard, Louis Pasteur, and more recently Louis de Braghiaffine, Prigogine and Raymond Ruyer, *inter alia*, have tried to understand the mechanisms which support these therapies. It has been suggested that human health and behaviour could be triggered by the evolution of the universe itself which could be seen as the bearer of a cosmic consciousness of a spiritual nature through quantum physics… However, for the practitioners of traditional medicine, the fate of the patient is in the hands of 'God' or of an undefined pantheon of divinities, who are the only ones who know the past, the present and the future, and who hold sway over the Living, the Real and the Absolute.

Ayurveda: an Ultimate Gift to Health Care beyond Medicine

Amongst the diversified traditions which support ancient therapies a special place should be given to *Ayurveda*, a 4,000 year-old Indian philosophy and culture which proposes another way of understanding and implementing life. For *Professor Dwivedi Manjari* from the holy City of Bénarès, *Ayurveda* is, indeed, an ultimate gift to health care which goes far beyond medicine.

In the Hindu perspective a holistic vision of health care implies a thorough involvement in the realm of spirituality, man's ultimate nature and meaning not only as an earthly biological organism but as an immaterial entity, beyond time, a part of a macrocosm-microcosm continuum. Actually, every individual is an epitome of the universe and shares the same components, as is stated in the theory of Pancha Mahabhoota. Each man is spread within the entire universe and the entire universe is equally spread within him, giving him both a transcendental and a worldly vision. Thus, to understand life, health and illness we must accept that our own body is not a static finished product but is in a continuous state of dynamic balance. *Ayurveda* holds that there are four interactive compounds in man: a structural basis; the body (*Shareera*), the sensory organs, including the regulatory components (*Indriya*); the intellect, including the cellular intellect (*Sava*); and the soul, with its little known 'biological expression' (*Atma*).

Whilst the gross body disintegrates at death, the 'subtle body' (or seed) persists and becomes the accession for the sprouting of a new gross body. The soul, for Hindus, is eternal and may live many lifetimes, sometimes as a human, sometimes as an animal, sometimes as a plant, all seeds having the chance to experience life in different forms until they reach emancipation (*moksha*) when they are no longer accountable for their karma. Then they realise their oneness with the Absolute and merge with God. To quote the *Katha Upanishad* : 'The wise one is not born, neither does he die; he came not from anywhere, neither is he anyone. He is unborn, everlasting, ancient and semi-eternal, he is not slain in the slaying of the body'.

To study the shared laws which govern the universe, *Ayurveda* postulates the theory of primordial elements and identifies the three *Doshas* which protect the body when they are normal and make it sick or dead when they are vitiated. *Vitta*, *Pitta* and *Kapha* are responsible for our relationship with the cosmos and ensure that our physical and mental status is brought into complete harmony with the cosmic rhythm, involving our four basic elements: the body, the senses, the mind and the soul. In doing this our life should be beneficial to society and help bring good health to a large number of people for a long time as an ultimate gift. To that end, we should take advantage of the development of science and with the weapon of science and spirituality we should help all human beings to become and stay healthy and happy thanks to our knowledge (*veda*) of the four pillars of life: the body, the senses, the mind and the soul (*Ayur*).

Homeopathy: a Therapy that has Existed for Two Centuries

The subsequent section of the seminar was devoted to a comprehensive analysis of a therapy that has existed for two centuries, namely homeopathy, which provides a good example of the way scientific basic and clinical research can be associated with a global assessment of the physical, psychological and spiritual balance of the patient. In a way, homeopathy is customised medicine based upon a holistic approach to the ill person and, as such, it shares much in common with *Ayurveda* and the traditional ethno-medicines following, however, a rational route.

Its foundation

It was at the end of the eighteenth century that the fundamentals of homeopathy were established by the German physician, Samuel Hahnemann. In her paper *Dr. Corine Mure* showed that the official medicine of the time, though still in line with basic Hippocratic principles, which had been re-activated by Paracelsus, was still dependent upon conventional practices which had not evolved substantially since the Middle Ages. However, in the early eighteenth century, at the peak of the 'Enlightenment', central European universities began to be concerned with two major issues: what does the word 'illness' really mean? What could the properties of the different remedies and their mode of action on human beings be? Dr. Van Swieten, in Vienna, leaving pure theoretical considerations to one side, fostered direct studies at the patient's bedside, and was followed by Antoine Stoerck and Von Quarin. As a young pupil at that medical school, Samuel Hahnemann privileged a thorough experimental approach to understanding the behaviour of remedies.

While translating *A Treatise of Materia Medica* by Dr. William Cullen, Hahnemann doubted Cullen's assertions that chewing Peruvian bark (quinine, *cinchona pubescens*; previously called 'china') cured malaria because of its astringent (bitter) properties.

Hahnemann, not accepting this explanation, decided to take small doses of china over several days to observe its effects. In this first 'proving' experiment, Hahnemann detected symptoms broadly similar to those of malaria, including spasms and fever. He thus established anew the validity of an old therapeutic maxim: 'like cures like' or 'let likes cure likes' ('*similia similibus curentur*'). This 'law of similars' is the substantial characteristic of homeopathy. Hahnemann reasoned that healing proceeds through similarity and that treatment must be able to produce symptoms in healthy individuals similar to those of the illness being treated. In addition, he presumed that by inducing an illness through the use of drugs, the artificially induced symptoms empowered the so-called vital force to neutralise and expel the original malady. Furthermore, he detected that the reaction of the illness was stronger but shorter than the original ailment. This was his first documented proof. He then undertook further drug tests with his family and friends using plants, minerals and animal products. 'Day after day, he tested medicines on himself and others. He collected histories of cases of poisoning. His purpose was to establish a physiological doctrine of medical remedies, free from all suppositions, and based solely on experiments'.

Later on Hahnemann named his method 'homeopathy' (from the Greek *hómoios* ὅμοιος 'like' and pathos *πάθος* 'suffering'). Homeopathy is defined by the 'law of similars'; by tests on healthy people; by the administration of single remedies; and is defined as a pharmaceutical method.

In order to conserve pharmaceutical properties while removing toxic properties simultaneously, Hahnemann developed a process called 'dynamisation' or 'potentisation', whereby the remedy is diluted with alcohol or distilled water and then vigorously shaken by ten hard blows against an elastic body (Hahnemann shook against the leather binding of a Bible) in a process called 'succussion'. While Hahnemann recommended remedies which produce symptoms similar to those of the illness being treated, he believed that concentrated doses would intensify the symptoms and exacerbate the condition. Therefore, he defined the dilution of remedies. Hahnemann believed that the process of succussion activated the vital energy of the diluted substance. Insoluble solids, such as quartz or oyster shell, were diluted by grinding them with lactose ('trituration'), a new method developed by Hahnemann and unknown to chemistry up to that point.

What is the outstanding feature of homeopathy? The first paragraph 'The physician's high and only mission is to restore the sick to health, to cure, as it is termed' in Hahnemann's *Organon*, the book establishing the principles of homeopathy, describes the healing of sick humans as being at the centre of attention of a homeopathic physician as opposed to the treatment of a diagnosed illness in mainstream medicine. While this difference appears to be negligible at first sight, its significance becomes clear when the illness appears: when becoming sick, the whole body can be affected even when the symptom is localised. Homeopathy acts to restore physical health. The work of a homeopath is comparable to an art restorer: a restorer is obliged to restore a painting or sculpture to its original state as far as possible; in a similar way, a homeopath is bound to restore the patient's original condition.

Homeopathy: a holistic concept

This 'holistic' approach is one of the most interesting features of homeopathy and *Dr. Michel Van Wassenhoven* developed this concept which has been labelled in the USA as 'Mind-Body Medicine' or 'Mind-Body Connection'. Basically, it rests on three principles which cannot be severed: fostering a multidisciplinary approach; giving educated and unbiased information to the patient; and integrating his or her 'philosophy' into the selection of the therapy. Whilst the first two requirements look rather easy to fulfil, it is far more difficult to deal with the expectations, hopes, and social and philosophical feelings of the patient to choose the therapeutic line. This implies that an open and free discussion should be held between the patient and his or her physician. It also requires that the doctor has a global view of the evolution of his or her patient and takes due account of the totality of symptoms as well as of the universality of clinical signs. For Hahnemann, this was no more than a permanent assessment of what he called the 'vital energy' which drives the unity between body and mind. There is no doubt that this thinking is in line with the teaching of St. Thomas Aquinas for whom man is a body and the soul is his vital principle. Whilst the body is a material individual entity, the soul can be divided into three different parts: the negative, the sensitive and the intellectual, while remaining a unique feature. Here we meet Aristotle and *Ayurveda*.

Under these conditions health cannot be conceived unless it includes social well-being, positive development and the possibility of attaining happiness. It is definitely from this angle that current homeopathic classic practice should be conceived and assessed. We enter here the proof of what has been called 'evidence-based homeopathy'. Dr. Van Wassenhoven cites the different standards of evidence in decreasing order: the existence of meta-analyses and/or systematic positive reviews in the literature in the field; several controlled randomised positive clinical trials; one controlled randomised positive clinical trial; multiple positive cohort studies; a single positive cohort study; and expert opinions, most of them applied to 'tests' carried out on healthy volunteers.

On this basis it appears today that there are enough coherent reports, both in fundamental and in clinical research, to promote the use of homeopathy in public health, and this is precisely what was addressed by the seminar in the subsequent sections.

Scientific evidence

A redundant issue in the assessment of homeopathy by classic academics, especially in the field of the so-called 'hard sciences', is the fact that in high and ultra-high dilutions there are no longer traces of the original chemical. Hence they claim that these different solutions are, indeed, all the same and no more than the mere solvent itself. Actually, this radical assumption has proved to be wrong, at least at the light of two centuries of careful clinical observations which have demonstrated that high dilutions are not only active in therapeutics but also that they have distinct personalities, properties which could not be found in the solvent used for their preparation. Quite obviously, this problem has been a clear challenge to all those researchers in physics, chemistry and the material sciences who have attempted to demonstrate the specificity of homeopathic preparations and to understand on which criteria homeopathy could be based.

Water: a strange abnormal chemical

The whole story starts with water, a universal chemical with a most simple formula but also one that has abnormal properties. In the liquid state, water molecules attract each other and erect all kinds of 3-D structures: dimers, oligomers and even very complex polymers, because of their ability to build strong links between the tip of their two hydrogen arms and the oxygen nucleus of their neighbours, thanks to what has been called 'hydrogen bonds'. However, these connections are in permanent motion and last sometimes for no more than a few tens of pico-seconds although they are permanently renewed. In other words, water, in the liquid state, is not a homogeneous fluid but a dynamic assemblage of different interactive oligomers, polymers and clusters in permanent motion and in full dependence upon temperature, pressure, and magnetic and electric fields.

The introduction of quantum mechanics into research on the liquid state even led some scientists (Preparata, Del Giudice…) to claim that water contains 'coherent ordered domains', displaying an almost perfect diamagnetism, whilst the whole mass could still be criss-crossed by magnetic flux tubes. According to *Professor Resch* most of these odd properties can be derived from mere observation.

The first observation is that water is the only known substance that is permanently in circulation.

The second observation concerns the fact that there is no known substance in which no traces of water can be found.

The third observation is the fact that in so-called non-aqueous solutions water can never be completely got rid of: a minimum concentration of water in the order 10-6 mol/L is always maintained.

The fourth observation is that water is a '*condition sine qua non*' of life.

A fifth observation that must be made here is the undeniable fact that water is the most diversely structured and the most many-side reacting liquid.

A sixth observation concerns the fact that we can never get 100 per cent pure water since we can never get rid of dissolved substances.

Actually, there are almost no limits to the potential structural features which can result from water-molecule association. There is, however, a major constraint: they live for a very short time, some tens of pico-seconds and cannot be seen as permanent elements, unless on a purely statistical basis, as has already been mentioned.

The different physical methods by which to assess high dilutions

According to *Professor Rey* the assessment of water structures by physical means is, obviously, of concern for both homeopaths and hard-line scientists who try to demonstrate that ultra-dilute (ultra-molecular) solutions do have their own personality. Indeed, the main points which needed to be addressed are: is an ultra-molecular dilution (over the Avogadro number: CH 12 or more) different from the solvent with which it has been prepared?; are two different high dilutions made out of different source material susceptible to be discriminated between themselves?; and are the successive dilutions, in a rising order, of the same material, susceptible to identification even when they are in the range of high potencies ?

To this end, the main techniques of physical-chemical analysis have been applied, understanding that this could only be done if there is a strict and standardised control of their application. Besides the obvious role of contaminants of all kinds (solids, liquids, atmospheric, mineral, organic or even living organisms…), great care has to be paid to the operating conditions: temperature, light, hygrometry, pressure, interfering strong ambient electric or magnetic fields, the proximity of radiation sources…) since all techniques which could be applied are really working at the limits, on the knife's edge!… Moreover, it has also been shown that most dilutions are ageing and that their 'structure' and biological performances evolve with storage time even if they are kept under strict stable conditions.

For this reason, unfortunately, many valuable experimental attempts had to be disregarded because they were not carried out under reliable, reproducible conditions. This is why, in the following listing, we have only considered that research work which did fulfil these stringent requirements:

– Nuclear Paramagnetic Resonance – NMR.

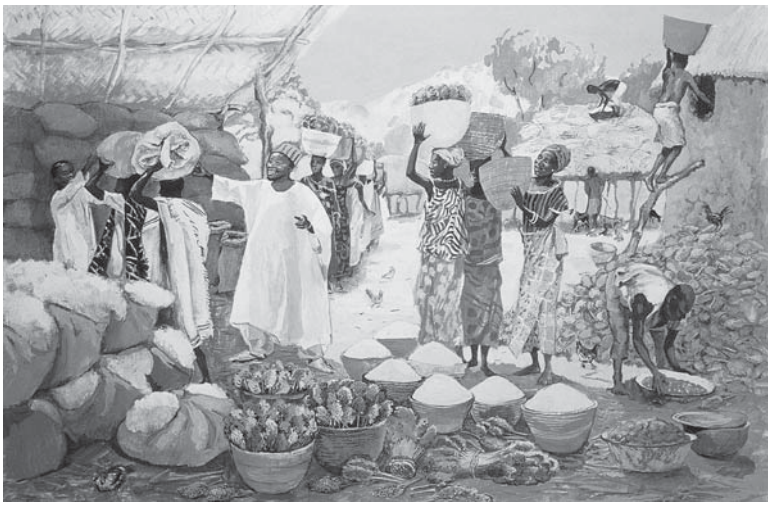
– Fourier Transform Infra-Red Spectroscopy – FTIR.
– UV visible Spectrometry.
– Raman Spectroscopy.
– Dynamic Electrophotonic Capture.
– Calorimetric and Electric Measurement.
– Optical Methods.

All these techniques give interesting results but sometimes at the limit of sensitivity. This is why Professor Rey developed a rather new investigation method in this field: thermoluminescence.

The basic idea is to try to avoid dealing directly with ever-moving liquid solutions by turning them into a stable solid thanks to low-temperature freezing, the working hypothesis being that, should a given structural heterogeneity be present in the initial liquid state, it would be transferred to a corresponding set of 'defects' within the resulting solid. To investigate, in turn, this heterogeneous solid matrix we achieve its activation by irradiation at liquid nitrogen temperature (77K) inducing there the formation, within the solid matrix, of metastable radicals, electrons and holes positioned at different energy levels, referred to as 'traps', and where the 'defects' in the ice crystalline network play a dominant role. In this state the traps remain stable at 77K but, if thermal energy is progressively fed in by controlled rewarming, these traps empty, one after the other, as a result of successive recombinations, and release their stored energy in the form of light, hence the name of low-temperature thermoluminescence. It was hoped, therefore, that the resulting glow would be representative of the structure of the irradiated frozen matrix, which, in turn, should be a mirror image, or at least be closely related to, the initial structural state of the original liquid.

A great number of successive experiments showed, indeed, that the different dilutions presented specific glow curves which were not similar to those of the solvent alone.

On the other hand it was shown that these glow curves were of a complex nature and could be 'decomposed' into a set of different individual units with well defined thermodynamic parameters. In other words, each thermoluminescence recording gave rise to a specific finger-print which could be correlated to the initial starting dilution. This confirms that investigations performed on ultra-molecular dilutions even beyond the Avogadro number by different physical methods demonstrate that they are different from the pure solvent and specific to the precise chemicals dissolved at the initial state of their preparation. Indeed, each dilution has its own personality and can be identified by its own 'finger-print'.



The biological evidence

Research in homeopathy has not been restricted to the physical-chemical fields and a large number of interesting studies have been carried out in the biological field. *Professor Paolo Bellavite* presented some of the main developments in this area.

Homeopathy was born as an experimental discipline, as can be seen from the enormous amount of clinical data collected over more than two centuries. However, the medical tradition of homeopathy has been separated from that of conventional science for a long time. Today, an osmotic process between disciplines, previously seen as in conflict, is facilitated because over the last few decades homeopathy has started to use the methods of current medical science and a substantial number of studies – at molecular, cellular and clinical levels – are available. An experimental approach may help to test under controlled conditions the main principles of homeopathy such as the 'similarity' of drug action and the mechanisms of action of diluted/succussed ('dynamised') drug solutions. A search of the scientific literature shows that there are a number of cellular and animal models of, in particular, 'in vitro' studies carried out on basophils, lymphocytes, granulocytes and fibroblasts. The most consistent body of evidence concerns some fifteen scientific papers, published by independent laboratories, describing the statistically significant effect of ultra-high dilutions of histamine on human basophils. In experimental animals, most results relate to immunostimulation by ultra-low doses of antigens, the regulation of acute or chronic inflammatory processes, and behavioural changes (decrease of anxiety-like symptoms) induced by homeopathic treatment. The models utilised by different research groups are heterogeneous and differ as far as the test medicines, the dilutions and the outcomes are concerned. The evidence that emerges from animal models supports the traditional 'similar' rule according to which

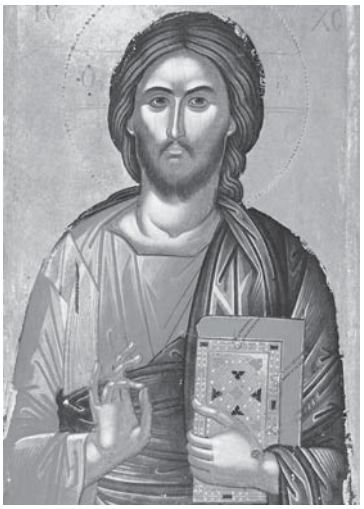
ultra-low doses of compounds, which in high doses are pathogenic, may have paradoxically a protective or curative effect. Thanks to its ancient tradition and holistic approach, coupled with these advancements in basic science and the development of rigorous clinical studies, homeopathy is actively participating in the integration of the systemic, humanistic and scientific aspects of medicine.

The clinical evidence Hormesis

Obviously for public health the most important experimental results are those that deal with clinical testing and one of the first issues to be addressed was the curious two stage behaviour of remedies according to their concentration, the so-termed 'hormesis', which was explained by *Dr. Simonetta Bernardini* and could be a central concept in homeopathy.

In Western medical thought therapeutic models may use either low-dose or high dose drug prescriptions. The alternative choice finds its roots in the feeling of the physician about the possibility of the self-healing of a sick organism. If a positive feeling exists, the therapy is addressed to inducing and to favouring an endogenous healing process by using some subtle interferences (e.g. homeopathy). In contrast, if the self-healing process is believed not to be sufficient, the adopted therapeutic model may ignore it and then, in principle, the appropriate therapy is aimed at independently removing the illness (e.g. allopathy). High-dose drugs are then used which act as inhibitors (antibiotic, anti-inflammatory, antifever etc.). In this case the therapeutic action often involves strong perturbations.

These two therapeutic approaches are basically different, since they find their roots in two different paradigms, i.e. biological recovery and pharmacologic recovery, respectively. Notwithstanding this consideration, they are not mutually exclusive from the perspective of the development of so-called 'integrated medicine', which is represented in Italy by the SIOMI scientific society and by the health-care model of the Italian Hospital of Integrated Medicine in Pitigliano. It is here stressed that the exaggerated defence of the two different classes of therapeutic model by the respective supporters slows down the achievement of a desirable symbiosis between the two different paradigms.



This cultural attitude is patently in contrast with natural phenomenology which shows the existence of two or more different responses of the living organism in the interaction with different amounts of the same xenobiotic (hormesis or enantiodromy). In fact, it is well ascertained that living organisms always experience benefits from interactions with low-dose xenobiotics. This can be the result of different mechanisms, but in any case it is a response of a system which wants to safeguard its own identity. On the other hand, the interaction with a large amount of the same substance may involve the inhibition of one or more biological mechanisms. The latter behaviour is commonly exploited in Western academic medicine which, in fact, seeks to utilise drugs that act as inhibitors.

It should be mentioned that the discovery of hormesis stands on a par with the discoveries of modern conventional pharmacology. Here it is argued that contemporary realities have blocked scientific research into hormesis. Following Calabrese, the discoveries of high dosage pharmacology and consequent financial investments supported by the industry, together with the agreement of the leaders of the pharmacology (first of all Clark), overshadowed the importance of low-dosage pharmacology. Antibiotics, anaesthetics and chemotherapics proved to have such a high effectiveness that the aim of pharmacology came down to the discovery of new therapeutic agents with the same effectiveness and lower side effects, rather than the investigation of the effects of low doses as well.

There exists, however, a large amount of medical literature that investigates hormesis as a therapeutic tool. The treatment of Alzheimer's, bone remineralisation, cancer, viral infections, hair growth, autoimmune illnesses such as like Lupus, and acute respiratory diseases are examples where the application of hormesis has been found to be particularly effective.

Rationalism and empiricism in homeopathic clinical research

Another interesting approach in the search for clinical evidence is to consider the relative place that rationalism and empiricism may have in medical research and how this evolved with time. For *Professor Menachem Oberbaum*, classic homeopathy bases diagnosis upon the emotional, mental, 'general' and 'local' symptoms of the patient. Conventional medical diagnosis is of secondary importance. A single dose of precisely individualised medicine is very highly diluted and taken infrequently.

Clinical, or 'modern', homeopathy may be seen as a derivative of classic homeopathy and gives priority to conventional medical diagnosis while adhering to the basic

tenets of homeopathy. Emphasis is placed on symptoms related to the pathology, with a consideration of mental and general symptoms, particularly as they relate to the main complaint. Singleton remedies are employed in precontrived sequence. These remedies are less diluted (more concentrated), and administered at frequent intervals.

'Complex' homeopathy developed as a further attempt to adapt homeopathy to the conventional medical paradigm. Several remedies, each covering a different aspect of the conventional diagnosis, are mixed and administered in low dilution, with the expectation that at least one of these remedies will cover the case homeopathically. It is assumed that this type of homeopathy acts at a more superficial level than classic or clinical homeopathy.

Homeopathy was born at the turn of the eighteenth century as a minor but controversial actor upon the medical stage and at a time of unprecedented philosophical and intellectual upheaval: the Enlightenment. The 'Age of the Enlightenment', as the seventeenth and eighteenth centuries are known, emerged in reaction to absolutism and was characterised by an intellectual enterprise dedicated to enriching ethics, morality and knowledge, as well as the employment of the concepts of rationality and logocentricity. This period was characterised by secularisation, liberality, and the notion of human and citizens' rights. This movement gave a philosophical base to the American and French revolutions, the inception of democracy, and the rise of capitalism.

Two main epistemological movements characterised the Age of the Enlightenment: empiricism and rationalism. Empiricism is based on the premiss that the source of the human knowledge is the senses and that reason alone cannot be regarded as the source of knowledge. Knowledge is therefore *a posteriori* knowledge (originating in experience) making *a priori* knowledge (not based on experience, i.e. stemming only from reasoning) impossible. Any and all knowledge stems either from experience or an inductive inference. The main empiricist thinkers were all British: John Locke, George Berkley and David Hume.

The 'competing' movement to empiricism was rationalism, according to which reason is the source of all knowledge. Rationalism sets out cognitively consistent premisses and attempts, by a logical sequence of steps, to deduce every possible object of knowledge. Descartes, the ultimate rationalist, strongly influenced three of the leading rationalist minds of the Enlightenment era: Baruch Spinoza, Gottfried Leibniz and Christian Wolff.

It was within this new world of burgeoning rationality that Hahnemann created a new branch of empirical medicine – homeopathy – which was based upon four main observations:

Substances that were creative would induce the symptoms of illness in healthy human subjects. This method was called a 'proving' and is the essence of homeopathic pharmacology.

Toxic substances such as mercury or snake venoms could be serially diluted, thereby reducing toxicity, and would maintain efficacy if the serial dilutions were accompanied by a process called 'succussion'. Higher dilutions were more effective, with fewer side effects.

All substances have an emotional impact (today this is recognised as the psychological 'side effects' of drugs). The emotional impact can be discovered in a way similar to physical effects through application to healthy subjects (a method called a 'proving') or based on toxicology.

There is an intimate relationship between the emotional state of the patient and his or her pathology. This is an empiric experience related to the 'vitality' of the patient and reflected in his or her understanding of his or her life and his or her coping strategies. This empirical experience can be addressed by remedies which have both a physical and an emotional impact.

Hahnemann spent two decades developing a pharmaco-therapeutic system which he considered safer and more effective than the medicine practised by his colleagues, but although his method was not considered harmful Hahnemann sustained disproportionate attacks on his ideas, attacks not viewed as *argumentum ad personam* but rather as the battle lines of a rationalistic medicine that was fending off a new, empirical, interloper.

Hahnemann, indeed, was a pure empiricist, and advocated the prescription of individually tailored remedies, rejecting the organ-based pathological classification of illness as the guideline in diagnosis. Actually, conventional medicine sees each illness as the sum of the symptoms common to all pathological conditions bearing that illness's name. Homeopathy takes a different approach, viewing illness as a pathological condition specific to the individual and as an 'internal' illness manifested by the sum of the patient's symptoms, whether they be mental or physical, uniquely exhibited and experienced by the patient. Indeed, the mental and emotional states of the patient are important components in deciding which homeopathic remedy to use.

Individualisation is one of the most important principles of therapy in classic homeopathy. Each patient is characterised by individual attributes and symptoms which are unique to him or her, differing significantly from the superficially similar symptoms experienced by other patients. Idiosyncrasy, which is marginalised by conventional medicine, is a central element in homeopathy, and refers to the complex of mental, emotional and physical 'peculiar' properties which make each patient unique. Unlike conventional medicine, there is no specific remedy for a medical condition but, rather, a remedy which covers the sum of

unique symptoms accumulated from an in-depth interview of the patient. Extracting the unique and important symptoms from the large combination of symptoms collated from the patient's history, and then reconstructing from them a structured analysis, requires an experienced, highly-skilled, knowledgeable and broad-minded homeopath. Whereas a conventional general physician, even if not highly experienced or trained, may be able to adequately treat the majority of his or her patients, a mediocre homeopath will have significantly less success.

The clinical assessment of homeopathy

The clinical assessment of homeopathy has been carried out since its origins and offers, today, more than two centuries of records. However, as was explained by *Dr. Peter Fisher*, homeopathy is still one of the most controversial forms of complementary and alternative medicine. Throughout its history it has been the focus of controversy. Nevertheless, there is a significant and growing body of scientific evidence derived from clinical trials, systematic reviews and meta-analyses of such trials and biological experiments.

There are several distinct types of homeopathy. The main types are 'individualised' or 'classic' homeopathy, 'clinical' homeopathy, and isopathy. In individualised homeopathy typically a single homeopathic medicine is selected on the basis of the total symptom picture of a patient, including his or her mental, general and constitutional features. In clinical homeopathy, one or more homeopathic medicines are administered for standard clinical situations or conventional diagnoses; sometimes several homeopathic medicines are combined in a fixed ('complex') formulation. Isopathy is the use of homeopathic dilutions of allergens or causative infectious or toxic agents. Related medical systems which use homeopathic medicines include homotoxicology, which was founded by H.H. Reckeweg and is based on interpreting illness as an expression of the defensive effort of the organism against pathogenic toxins and detoxification with homeopathic medicines, and anthroposophic medicine, an approach founded by R. Steiner and I. Wegman which integrated conventional medicine with the influence of the soul and the spirit.

To summarise: reviews of randomised clinical trial (RCT) conditions are broadly positive: childhood diarrhoea, influenza (treatment of), osteoarthritis, post-operative illus, seasonal allergic rhinitis, and rheumatic diseases. There is replicated RCT evidence that homeopathy may be effective in childhood diarrhoea, fibromyalgia, influenza, migraine, osteoarthritis, otitis media, vertigo and seasonal allergic rhinitis. There is also evidence from individual RCTs that homeopathy may be effective in chronic fatigue syndrome, premenstrual syndrome, post-partum bleeding, sepsis, stomatitis, symptoms related to cancer treatment, and ADHD (attention deficit hyperactivity disorder).

A review of clinical trials in homeopathy reported from 1975 to 2002 found 93 studies comparing homeopathy with placebo or other treatment. Positive effects of homeopathy were found in 50. The evidence favoured a positive treatment effect of homeopathy in: allergic rhinitis, childhood diarrhoea, fibromyalgia, influenza, pain, the side effects of radio-/chemotherapy, sprains, and upper respiratory tract infection. Analysing 12 systematic reviews of homeopathy for specific medical conditions, Jonas *et al.* reached similar conclusions: homeopathy may be effective for allergies, childhood diarrhoea, influenza and postoperative illus, but not for treatment of migraine or delayed-onset muscle soreness..

Single randomised clinical trials of homeopathy have been conducted in clinical areas including asthma, life-threatening sepsis, and stomatitis induced by cancer chemotherapy, fibromyalgia, chronic fatigue syndrome, premenstrual syndrome, post-partum bleeding, and arnica in various clinical conditions. Most of these have yielded positive results.

In some clinical situations, both RCTs and clinical observational studies have been conducted, providing a fuller picture of the possible role of homeopathy. Such areas include upper respiratory tract and ear infections in children, attention deficit hyperactivity disorder, and homeopathy for symptoms related to cancer treatment.

On the other hand, the available evidence suggests that patients' confidence in the safety of homeopathy is justified: the hazards from homeopathic products are modest in comparison with those of conventional medicine. A systematic review of the safety of homeopathy between 1970 and 1995 came to the following conclusions: homeopathic medicines may provoke adverse effects but these are generally mild and transient; adverse effects of homeopathy are under-reported; and there are cases of 'mistaken identity' where herbal medicines were described as homeopathic. The main risks associated with homeopathy are indirect and relate to the prescriber rather than the medicine. In two studies, adverse reactions were observed in approximately 2.7 per cent of the patients; in a third study, 7.8 per cent of homeopathy patients had adverse reactions, compared to 22.3 per cent in the corresponding group receiving conventional treatment.

The main barrier to the scientific acceptance of homeopathy is its use of very high 'ultra-molecular' dilutions. The leading hypothesis to explain the effects of such dilutions centres on the storage of information by aqueous solutions: there is some evidence from physical science of specific structural modifications in water, induced by the homeopathic preparation process, which might be capable of

storing information, as was explained earlier by Professor Rey . A number of biological models of high-dilutions effects are reproducible.

Healing and wholeness

For *Rev. Dr. Jeremy Swayne*, men and women work on both sides of an unfortunate intellectual and metaphysical divide. We have a foot in two camps; the representatives of two frequently but quite unnecessarily competing paradigms. One is the reductionist and mechanistic paradigm of modern science which has produced the biomedical model with its wonderful and welcome power to control the processes of illness and physical functions. The other is usually described as the 'holistic' paradigm; the paradigm that recognises the importance of the subtle interplay of the many dimensions of human nature and human experience in determining individual well-being, and in predisposing to illness. And this recognises the importance of using subtle means to stimulate healing and self-regulating processes within the human body, mind and spirit.

It is important to state, however, that these two paradigms are entirely compatible. The holistic perspective is common to all health care practitioners who really care about their patients, whatever the biomedical focus of their therapeutic repertoire, and who wish to stress the importance of the concept of healing because it occupies the common ground between science and theology. Healing provides a connecting thread present throughout the history of evolution since no organism would have survived without the capacity to resist and to recover from the hostile influence of its environment and its competitors, and from disorder within itself. Preserving health, whether by protective and prophylactic means or by healing processes, is an evolutionary imperative.

The striving for integrity and wholeness on this level is an inherent instinct comparable to the body's instinct for self-regulation and repair in the face of physical damage and illness.

The most essential characteristic of healing is that it is creative and not just remedial. It is fundamentally similar at whatever level of our being it operates, cannot be achieved without some degree of suffering, and involves us in changing our attitudes and new responsibilities.

Wound healing provides a simple example. It requires our body 'understanding' what has happened; recognising and responding to the effects of trauma. It requires the physiological resources of immunity to infection and tissue repair being effectively mobilised. There will be new tissue growth, which may even be stronger than the original tissue. And if the damage is sufficient, it will require 'reconciliation', some adjustment to compensate for any loss of function. These examples can readily be extended to the healing of psychological and spiritual wounds.

Healing also involves some degree of suffering. Suffering is not only the consequence of illness and trauma: it is inherent in the healing process. This truth is vividly expressed in Christian theology in the Passion and Crucifixion of Jesus.

Finally, healing always involves reconciliation and change. More broadly, any illness, injury or disability affects our relationships with others, and with ourselves – as a person as well as a body; whether temporarily or longer term – through the limitations it imposes, because of its implications for our activities and prospects: lifestyle, occupation and so on. Illness affects other people's responsibilities towards us, and ours towards them.

Mental and emotional illness, the colloquially called 'nervous breakdown', is often an essential prelude to the development of new psychological insights and strengths and the healing of old wounds; breaking down is a necessary condition for rebuilding and new growth.

The idea that illness is the agent of healing is also reflected in the proposition that symptoms are the expression of the organism to disorder, its coping mechanism, rather than its failure to cope.

Another paradox is that rather than suffering from an illness we are often suffering from a 'wellness'. The pain caused by a physical injury is the response of a healthy nervous system to trauma. The pain of rejection, abuse, the denial of love and of self-worth, is the healthy response of our wounded humanity.

A third paradox is that healing does not necessarily involve cure, and cure does not necessarily involve healing. Indeed, the pursuit of cure may allow destructive influences that produced the disorder to

persist. And within the constraints of an incurable illness, an individual may achieve the personal and spiritual growth, the integration and reconciliation, that amount to healing in the fullest sense.

The goal of healing is wholeness. It is the fulfilment, as far as is possible in our lifetime, of the unique potential of each individual. It is the fulfilment of our unique vocation and has to do with integration – the bringing together into a balanced and interactive whole of all our faculties, attributes and characteristics, the physical, emotional and intellectual, psychic and spiritual. However, wholeness does not mean perfection. Indeed, the pursuit of perfection may only be achieved at the cost of our true humanity, our capacity for wholeness. The wonderful thing about becoming a whole, well-integrated, person is that flaws and imperfections, the vulnerable, disordered and ugly parts, are transcended by the value of the whole. Our only guide, then, is our instinct to wholeness, the vocation to be uniquely ourselves and to be able to grow in relation to the respect and love shown to them by others. And the healing and integrative process made possible in even the most disordered lives is healing and integrative not just for individuals but for the community of which they are a part.

This is why a homeopathic consultation is a whole-making experience. It may be the first time a patient has been encouraged to think of himself or herself as a whole becoming aware of himself or herself in a new way, which can be quite daunting but is also liberating and affirming. Secondly, homeopathy provides an emphatic demonstration of the capacity of the body and mind for self-regulation and self-healing. This is a remarkable experience. The realisation by patients that it is their own natural capacity to heal that is at work is hugely encouraging and affirming. A third principle of healing that the homeopathic approach facilitates is reconciliation. This often, of course, requires forgiveness, of others or of ourselves; and the manner in which a patient's history emerges sometimes has a confessional quality.

Finally, to promote healing in the fullest sense we must help the patient to arrive at the heart of the matter and to come to an understanding with himself.

Homeopathy as complementary integrated medicine

One of the major issues which has been addressed by this seminar is the place of non-conventional therapies within an overall public health programme. On the basis of both scientific and clinical data, as well as of historical accounts and socio-cultural experience, it has been clearly stated that these therapies are not alternative but complementary. In other words, they are not designed to substitute classic allopathy but should preferably be associated with conventional remedies whenever needed. In some instances, however, when conventional therapies fail or when they are not specifically required, homeopathy can be used on its own.

This is, precisely, what was introduced into the Emergency Centre of the Vienna Hospital by *Professor Michael Frass* who presented at the seminar different clinical observations where homeopathy gave remarkable results in association with classic chemical therapy in dramatic medical cases and acute poisoning. This is, indeed, both a matter of efficiency and reason, and is attested to by the fact that over the last decades the use of homeopathy has dramatically increased within the population at large in most countries, including the USA, which had been rather reluctant for several decades. This is highly significant since in many countries, very unfortunately, homeopathic therapy is not covered by the national insurance system although citizens adjudge its benefits to outweigh its cost.

In Professor Frass' view, the professional combination of conventional medicine and homeopathy is the perfect method by which to support patients on their way to health. Any fanatical approach in either direction should be avoided. The diagnostic merits of conventional medicine are indisputable; however, the therapeutic approach may be different in these two methods. What we try to demonstrate is that homeopathy is not an alternative but a complementary medicine and that, accordingly, it does not replace classic therapy. It adds something different – and often more efficient – to routine practices. It is quite clear that in critically ill patients, e.g. patients poisoned by Amanita phalloides, classic emergency treatment is mandatory, otherwise the patient would die before any attempt with homeopathy was possible. But when focusing on milder illnesses, especially infectious and rheumatic disorders, homeopathy can often help the patient without additional conventional treatment being required.

Whatever the case, experience and objective judgement are the solid basis for treatment and use of different methods. Therefore, the dialogue between conventional medicine and homeopathy is mandatory and should be taught during medical studies at universities.

What are we fighting for?

This is the destiny of modern times: we are compelled to fight, in life, on sports grounds, against competition, unemployment, stupidity and death. For *Christian Boiron* we are, unfortunately, committed to doing this and health does not escape this battle!

Nevertheless, the tracking of drugs has not erased the drug market; it might even have made this practice more attractive!

The fight against unemployment has not eradicated this cancer and the social treatment of this dramatic issue very often delays its resolution.

Thanks to the spreading of democracy we have almost succeeded in eradicating war but, at the same time, we are more and more concerned about, if not involved in, violent political conflicts far from our own lands!

The rocketing development of medicine certainly helped to get rid of many devastating diseases but, today, thousands of people die in hospitals from illnesses acquired within them and the over-prescription of antibiotics, vaccines, anti-inflammatory products etc. has given new strength to micro-organisms which adapt themselves to increasingly aggressive environments. Faced with this situation, the major companies are not always guided by ethical considerations – they are merely driven by the financial interests of their shareholders over whom their bureaucratic management has little control!

In the fierce war against infectious diseases it is not always understood that many 'potent' remedies may turn into toxic products if they are not used in a sensible way! Governments and international agencies, afraid of the potential negative consequences of their policies, very often unduly dramatise the issues!

How can we find peace again within our own bodies, within our own minds, unless we take into account the formidable healing capacity of our organism? Should we not remember that we are God's creatures and that Hippocrates himself said that the first duty of the physician was not to harm the patient? *Primum non nocere!*

As we have seen throughout this seminar man should be understood as a global entity with his physical, psychological and spiritual potentialities. In many cases, the simple stimulation of our internal defence is enough to combat illness. There come in the complementary therapies, there comes homeopathy and, altogether, there is quite another approach to health care, which is no larger exclusively dependent upon medical care.

There are preventive strategies, 'soft' therapies, osteopathy, chiropractics, kinesitherapy, thermalism… and many other ways of addressing the mind, from meditation to art, always in search of happiness.

It is crystal clear that our medical teaching today is incomplete and completely misses these goals. It is quite true, in this perspective, that though science is an unavoidable element in our concern for health, all the other elements, the sensorial, affective, emotional, and spiritual, should be involved.

It is up to our modern physicians to understand these basic requirements and to adapt their therapies to each individual person, taking care of his or her uniqueness and intrinsic frailty.

Professor LOUIS REY
Ph.D.
Losanna, Switzerland

The Right to Health in International Law on Human Rights *

1. The right to health is amongst those fundamental rights of the human person that both the juridical systems of individual States and the international juridical system are called upon to protect with an attention that has become increasingly marked and attentive with the emergence of new needs and situations. This does not mean that we are in the presence of a 'new' human right but more that its contents and its range are to be explained according to the dynamism of 'times and forms', as for that matter takes place with every fundamental right. This explains why today it is referred to with ever greater emphasis, it being connected, from the point of view of its real recognition and protection, with more 'recent' rights – the environment, peace, humanitarian aid…[1]

Following the pathway offered by the pronouncements of international measures, the right to health has come to be defined as one of the core rights to be listed – in terms of its category – amongst economic and social rights. Thus these core rights belong amongst those rights that require by their nature the 'positive' approach of being implemented by public powers: this fact is something that may explain the gradual emergence (actual implementation) of this right.

There can be no doubt about its direct link with the right to life – a basis for every other right – is evident, even though its autonomy both from a directly normative point of view and in terms of international practice in the field of human rights is equally clear.[2] A conclusion can emerge about it when it is considered as a fact demonstrated by the convergences of the various sources of international contemporary law which allows us to refer within the context of human rights to a subsequent stratification as regards contents, implementation, and being actionable.[3]

Indeed, the system of fundamental rights was the outcome of a subsequent expansion which brought together policies and approaches that moved from the level of values to be then gradually inserted into the political level and then into the level of juridical systems with their connected domestic and international laws.

In the specific case of the right to health, international law tends primarily to specify the various spheres that work together – or potentially can work together – to provide those elements that are constitutive as regards this right, specifically in order to achieve its adequate protection and its capacity to be implemented by the courts as consequences of its proclamation.

Whatever the case, in this perspective a notion of 'health' remains a point of reference, a notion understood in modern terns: on the one hand as a situation that involves a holistic conception of the person and his or her rights, and on the other hand as a situation which makes concrete – and thus actionable from this point of view as well – the fundamental right to life. Indeed, the right to health emerges at an international level as an instrument that broadens the right to life itself, placing it beyond the simple aspect of existence.[4]

A particular reference in this sense is to be found in the creation in 1948 of the World Health Organisation (WHO) which in the preamble to its Constitution offered a definition of the concept of health which became an essential reference points for all subsequent activity, including that of a normative character, of the international community: 'Health is a state of complete physical, mental and social wellbeing and not only the absence of illness or infirmity'.

2. If these are the premises for an upholding of the protection of the right to health – albeit rather late in the day compared to other rights or freedoms – it should not be forgotten that as in the case with other areas that belong to the broader panorama of international law and human rights, the approach followed appears to ne somewhat complex – and not least 'problematic' – and above all it is not uniform. Indeed, when analysing the possible perspectives the following emerges with great emphasis:

– in some cases the inclination to retrieve what are defined in juridical terms as *interests* and to propose them as rights. One may think here for example of the so-called rights of the sick, of patients, of organ donors or of health-care workers, which have by now come to form a part of current language, just as they also increasingly bear upon the strictly juridical dimension, of an international character as well, even though they are still held to be *de lege lata*.[5]

– In the proclamation of rights 'connected' with the right to health, but without a definition being made clear, that is to say without a definition of its contents. An evident example of this is given by the debate which was opened at an international level on the occasion of the World Conference of the United Nations on Population and Development (Cairo, 5-16 September 1994) with the proclamation of reproductive rights or the concept of sexual and reproductive health.[6]

– Lastly, there are cases in which there emerges a resolute denial of aspects and rights which may be seen as substantially a part – or at least connected with – the right to health. One need only refer here to the debate about the juridical status of the human embryo and to the question of genetic experimentation and manipulation. Or to the question of conscientious objection for health-care workers which at an international level still encounters an insurmountable obstacle in the interpretation of the very concept of conscientious objection on the grounds of religion or creed, as envisaged by article 18 of the International Pact on Civil and Political Rights (1966).[7]

3. At the level of domestic juridical systems, as is well known, the right to protection of

* Paper given at the day of study on *Ethics and Religiosity in the Profession* organised by the International Religious Foundation

health became established during the present century, as a result as well of the phenomenon of constitutionalism, connected, essentially, with the idea of the primacy of law and the juridical system and the consequent attention paid to assuring fundamental human rights and not only civil and political rights but also rights of an economic and social character.[8]

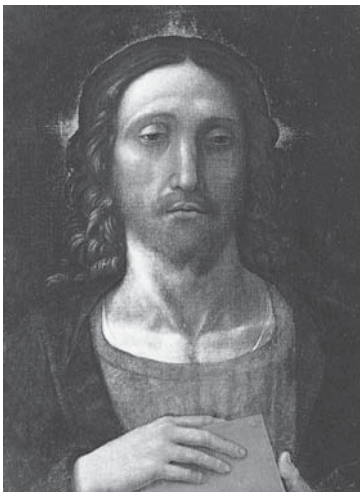
At an international level it was with the maturation of international law that took place within the framework of the United Nations that there emerged a whole series of elements that led to attention being paid to the right to health. The Charter of the United Nations of 1945, in pointing out the principal spheres of action of the UN, gives emphasis to the promotion of action designed to solve 'international health-care problems' (art. 55). This field thus began to be considered in autonomous terms and to be separated from:

– the question of work and the protection of the health of workers, as it had been during the previous stage. Using this approach, in fact, the International Labour Organisation (ILO) had worked since 1921 with its conventions and recommendations.[9]

– From the questions of public health connected with the phenomena of illness and transmissible illnesses which had been followed from the nineteenth century by the Health-Care Conferences and then by the International Office for Public Health

The Universal Declaration of Human Rights of 1948 at article 25 speaks, instead, of the right of every person to 'medical care', thereby supporting an approach apparently limited to an aspect of health.

Between these two measures – The Charter and the Declaration – should however be considered the formulation of the Constitution of the WHO which was drawn up in 1946[10] and which in its preamble, among other things, states that 'Enjoying the best conditions of health that can be achieved constitutes one of the fundamental rights of every human being, whatever his race, his religion, his political opinions, his economic and social condition'. In this sentence, indeed, in addition to encountering again a direct reference to 'state of health' (=health) as a human right, reference is made to and there are inserted those fundamental clauses connected with the concept of non-discrimination which constitute one of the essential principles of the entire construction of human rights, their recognition and protection. Indeed, from a not only textual but also a contextual analysis, the approach that emerges from the Universal Declaration of Human Rights involves the 'right to medical care' being inserted into the 'communitarian' dimension of rights and connected with the broader chapter of 'social security' which also includes or should also include measures of health-care protection and thus policies, laws and programmes in this sphere.



From the point of view of the formulations employed, it is interesting to observe that only in 1965 with the Convention on the Elimination of All Forms of Racial Discrimination that the phrase 'right to health care' was used for the first time.[11]

A broader consideration of the various aspects that attain to the right to health is that outlined in article 12 of the International Pact on Economic, Social and Cultural Rights of 1966 which may be seen from many points of view as a summary of a journey initiated before the United Nations. Indeed, this article takes up the above-mentioned appeal of the preamble to the Constitution of the WHO on the relationship between health and human rights and then points out a whole series of measures that are necessary for it to be fully respected, both ones that are directly political in character (from epidemiology to health-care controls and on to health-care services and medical care) and ones that are technical in character (health care at places of work, occupational illnesses)

The situation in which specific considerations emerge today for the right to health is that connected with legislation produced both within individual countries – with truly pluridisciplinary characteristics – and within the international context: this last, for that matter, is the approach supported by the Declaration on Health for All which was adopted by the WHO in 1978 at Alma-Ata.

Today, health-care legislation tends to take the form of an expression and practical implementation of health-care policies and it is directed to fostering not only the protection of health and the prevention of illness but also the healthiness of the environment and a fair access to medical care in a way that respect basic ethical principles.

In this context the references to the right to life emerge through certain elements that are held to be of determining importance: biological factors or factors of human biology; forms of behaviour and lifestyles; health-care systems; the environment and the protection of the various ecosystems; the socio-economic situation; socio-cultural factors; the ageing of the population; the results of scientific and technological processes and those connected with information and communications; sexual specificity; and, lastly, fairness and social justice. The factor held to be of primary importance is that connected with human rights because these last, because of the principle of indissolubility and interdependence, determine – in a relationship of reciprocity – respect for and the protection of the right to health.[12]

4. Following the approach of the international law on human rights and having as a reference point the Magisterium of the Church, one can say of the right to health, in a summarising fashion, the following:

a. *it comes from the right to life* not only as a consequence but as a foundation. All of the activity involved in the protection of health, in fact, concerns

the human person from conception until the end of earthly existence: 'Every human life is sacred because every human person is sacred. It is in the light of this fundamental truth that the Church constantly proclaims and defends the dignity of human life from the moment of conception until the moment of natural death'.[13]

b. *It is connected to respect for the person* in his or her wholeness: 'to make health care more human and more adequate it is, however, fundamental to be able to refer to a transcendent vision of man'[14] since 'as a human person he or she is a single entity, a unity of spirit and matter, of soul and body made in the image of God and destined to love for ever'.

c. *It is synonymous with civilisation* and the maturation of the social conscience of a country: the quality of a society and a civilisation is measured by the respect it shows for the weakest of its members.[15]

d. *It imposes a commitment on the part of States without any pre-conditions*: 'since the demand for health and life is common to all men, no political calculation should disrupt the commitment of States'.[16]

e. *It requires the employment of human and economic resources* to be supported so that illness avoids being assessed 'in terms of productivity, leaving aside other considerations'.[17]

f. It requires efforts involving solidarity between rich countries and emerging countries: 'about two-thirds of humanity still lack essential health care, and the resources employed in this sector are too often insufficient'.[18]

g. It is the product of medical science as well, which, however, cannot depart from a constant ethical-moral reference point: 'as scientific knowledge, certainly, it has its own laws which must be obeyed'[19] but it should be borne in mind that 'science is not the highest value to which all others must be subordinated. Higher on the scale is the personal right of the individual to physical and spiritual life, to his or her mental and functional integrity'.[20] It is in fact the human person who becomes the 'measure and criterion of goodness or sin in every human expression'.[21] In this approach is to be placed the denunciation of a medical science that fosters 'a dangerous and discriminatory concept of health and its promotion, which opens up the road to temptations and even to laws against life and the dignity of the person'.[22]

This right can thus be seen as the set of potentialities and guarantees which every person can benefit from, without any kind of discrimination, in order to achieve completely not only his or her physical wellbeing but also his or her human dignity. This last is an element that goes beyond the limits of dialogue with the legislation of States or international law in order to open up to considerations of a philosophical, ethical, moral and religious character.

Prof. VINCENZO BUONOMO
Full Professor of International Law and International Organisations, the Faculty of Law, the Pontifical Lateran University, Rome.

Notes

[1] This does not appear the place to enter into discussion about the existence or otherwise of the so-called 'third generation' rights given the insufficient stability of this doctrinal approach and taking into account the reading of human rights engaged in by the Magisterium of the Church with its reference to the unity of the person and his or her rights: the foundation of human dignity – for that matter present as a reference in all the international measures – which is realises in relation to the historical and concrete situations to which a person belongs does not appear to leave room for a their of human rights in terms of 'generations of rights'…

[2] Two references are sufficient: the consolidated praxis of jurisprudence within the organs of the European Court of Human Rights (cf. B. MAURER, *Le principe de respect de la dignité humaine et la Convention européenne des droits de l'homme*, Paris 1999, pp. 406-407) and the 'para-judging' praxis – initial bit constant – of the Committee for Economic, Social and Cultural Rights (CESCR) created by ECOSOC within the framework of the Pact on economic, Social and Cultural Rights of the UN, which has been affirmed in particular when subjected to examination by periodic reports of the signatory States.

[3] The reference is to the collection of measures that range from declarations to conventions, from resolutions to sentences and on to general observations or general comments by th various organs and structures of the international community.

[4] In this sense see P. A. MOLINARI, 'Le droit à la santé: de la solennité des enoncés aux enjeux de l'exercise', in *Recueil international de Législation sanitaire*, 49, n.1 (1998), p. 42.

[5] Cf. as an example the contents of the Declaration on the Promotion of the Rights of the Patient in Europe which was adopted in 1994 within the framework of the consultation between the European members of the WHO (OMS, Doc. ICP/HLE/121, 28 November 1994).

[6] Cf. the Programme of Action of the conference (Chapter VII, sections. 7.2. and 7.3.).

[7] Indeed recently as well at the level of practical interpretation of this article conscientious objection remains limited to the question of military service: cf. f. NATIONS UNIES-Comité des Droits de l'Homme, *Observation* générale *No. 22 (48) (art. 18)*, Doc. CCPR/C/21/Rev.1/Add. 4, 27 September 1993, section 11.

[8] See for example the Italian Constitution, art. 32, which envisages: 'The Republic protects health as a fundamental right of the individual and interest of society and guarantees free care to the indigent'.

[9] Cf. BIT, *Compendio di norme internazionali del lavoro* (Geneva, 1990), pp. 61-74. In addition, the ILO created its own internal International Occupational Safety and Health Information Centre, known as the CIS, with the aim of gathering data and providing standards in the specific sector of occupational health. See here: ILO, *Encyclopaedia of Occupational Health and Safety*, 2 vols. (Geneva, 1989), third edition.

[10] This came into force on 7 April 1948, a few months before the Universal Declaration of Human Rights.

[11] Cf. art.5.: 'droit a la santé-right to health'. Evident here is the dynamic to which reference was made above: a measure in the field of human rights which has as its goal different aims – racial discrimination in this case – can also allow the upholding of right, in our case the right to health.

[12] Cf. G. PINET, 'Les défis de la santé au XXIe siècle: approche législative des déterminants de la santé', in *Recueil international de Législation sanitaire*, 49, N.1. (1998), pp. 129-175.

[13] GIOVANNI PAOLO II, 'Discorso ai Dirigenti della Catholic Association for Health Assistance', Phoenix (USA), 14 September 1987, (in *Insegnamenti*, vol. X,3 (1987), Vatican City 1988, p. 504). Cf. also *Christifideles Laici*, n. 38.

[14] IBID., *Messaggio per la I° Giornata Mondiale del Malato 1993*, 21 October 1992 (in *L'Osservatore Romano*, 22 October 1992).

[15] IBID., 'Messagio all'ONU per l'Anno Internazionale dei Disabili 1981'.

[16] IBID., *Discorso alla Conferenza Internazionale sull'AIDS promossa dal Pontificio Consiglio per la Pastorale degli Operatori Sanitari*, 15 November 1989 (in *Insegnamenti*, vol XII, 2 (1989), Vatican City 1990, p. 1275)

[17] IBID., 'Discorso ai partecipanti al Congresso Nazionale degli Operatori Sanitari Cattolici', 24 October 1986 (in *L'Osservatore Romano*, 25 October 1986).

[18] IBID., 'Messaggio per la II° Giornata Mondiale del Malato 1994', 8 December 1993 (in *L'Osservatore Romano*, 9 December 1993).

[19] IBID.,' Discorso dell'8 maggio 1993' (in *L'Osservatore Romano*, 9 May 1993).

[20] IBID., 'Discorso del 27 Ottobre 1980' (in *Insegnamenti*, III, 2 (1980), Vatican City 1981, pp. 1007-1008).

[21] *Ibidem*, p. 1008.

[22] IBID., 'Discorso dell'8 maggio 1993'.

The So-Called Right to Reproductive Health*

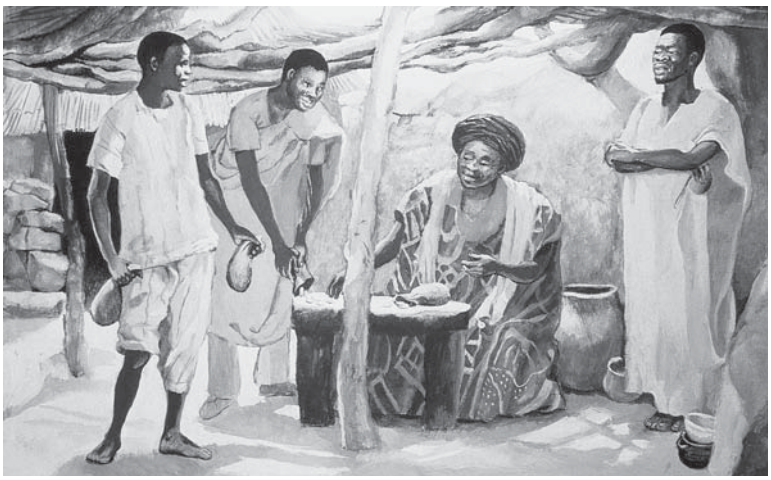
1. By the phrase 'right to reproductive health' a certain international language seeks to refer to an authentic concept of reproductive health which is accompanied by a series of related rights. Everything is artificially defined as a 'new' aspect of the scenario of fundamental human rights and in particular of the dimension of human health and the rights correlated with it. Indeed, in the international context reproductive health is connected with procreation,[1] as well as other keenly debated subjects such as gender perspective or sexual orientation.

The field of reproductive health is marked by particularly controversial concepts because they concern some of the most intimate and private spheres of the person, such as sexuality, sexual relations and procreation (increasingly – reproduction). As is also the case with those questions which by their very nature are of determining importance for relationships between the members of a family. In this sense, reproductive health is connected with the horizon of the equality and de-marginalisation of women and is connected with aspects connected with the upbringing of young people and teenagers and the increase in conflict in intergenerational relationships (the rights/duties of parents v. the rights of teenagers).

Last, but not least, at the pure level of the general theory of human rights, the difficulties of this field are added to by the fact that as a concept and with related rights, reproductive health has emerged within the context of demographic policies and not specifically from that of juridical production (of international law and human rights).

2. If we want to understand the 'evolution' of this right, we may observe that a first step was the recognition of a right of reproductive choice based upon the statements of certain international documents that proclaimed the fundamental right of couples and individuals to freely and responsibly decide on the number of their children and on the spacing of births. The reference here is to resolution 2211 (XXII) of the General Assembly of the UN of 1966 on population growth and economic development; to section 16 of the Tehran Proclamation of 1968; and to section 14(f) of the Plan of Action of the World Conference on Population of 1974. As regards the obligatory character of the right to reproductive health, one can argue that it became obligatory with article 16 (e) of the Convention on the Elimination of all Forms of Discrimination Against Women of 1979.[2]

A second period can be connected with the debate and the general norms of the Conference on Population and Development (Cairo 1994) and the Fourth Conference on Women (Peking) 1995) when there emerged a direct reference to reproductive health under the impetus of the WHO and the UNICPD. On the basis of the formulations of the Programme of Action of Cairo, the concept of reproductive health – paraphrasing the definition of health contained in the preamble of the Constitution of the WHO – was to be understood in the following way: 'Reproductive health is a state of complete physical, mental and social well- being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. Implicit in this last condition are the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant'.[3]



According to this definition the right to reproductive health is presented with an all-embracing approach designed, indeed, to include numerous contexts, different subjects and a multiplicity of juridical situations, but it clearly lacks that substantial juridical coherence that is needed for it to be written into international law and human rights. Indeed, situations are outlined that refer to couples, to women and to unborn children, but these are in-

* Paper given at the day of study on *Ethics and Religiosity in the Profession* organised by the International Religious Foundation

corporated into the same case, that of the right to reproductive health. In this sense, the position expressed by the WHO in August 1994 prior to the Cairo Conference remains emblematic when the need to state this 'right' was expressed, leaving to subsequent practice the task of defining its contents and its limits, that is to say its juridical range.[4]

3. In particular the attempts to settle the range – one should speak rather of the nature and the foundation – of this right led to identifying the various aspects and interests that are in some way connected with reproductive health, to the point of going on –above all in Peking – to define some of them as human rights. Certain spheres and locations have been pointed to at a practical level as regards its contents:[5] *access to the fertile age*, understood amongst other things as the right of adolescents to know about their own sexual and reproductive growth and the elimination of certain traditional practices; *procreative behaviour* linked both to the indices of the growth of a population and the index of fertility, with a direct appeal to the education of the young generations about procreative behaviour and its repercussions for individuals – first and foremost women – families and society; *contraception* understood as behaviour that takes the place of family planning and which is directed towards the practice of so-called modern methods; the *voluntary interruption of pregnancy* with questions concerning both its use as a means of population control and its safety; maternal illness and mortality as situations that are linked essentially to levels of development, structures and health-care services and to the complications that bear upon pregnancy and provoke problems both for the mother and the unborn child, but which through the phrase 'safe motherhood' tends also to define resort to the voluntary interruption of pregnancy; *sexually transmissible diseases*, amongst which stand out both infection by the human immunodeficiency virus (HIV) and the acquired immunodeficiency syndrome (AIDS); and *information, education and communication* about the various questions connected with reproductive health, with special reference to 'needs' in the field of data, indicators and research, the formation of adolescents, equality and equity between the sexes, and the training of specialised personnel.

Lastly, the move towards the recognition of a right to reproductive health finds an indirect reference in the activities of control exercised by the Committee on the Elimination of Every Form of Discrimination Against Women (CEDAW) over the action of States which derives from the Convention of the same name, as is demonstrated by the interpretation of article 16 (e)[6] which in addition to upholding the so-called right to reproductive health supports the right of women to have or not to have children 'preferably consulting their spouse or partner', but without being subject to any limitations or conditioning on the part of their spouse, parent, partner or government (section 22). Then the right to receive accurate and safe information about contraceptive measures, their use and guaranteed access to sexual education and services of family planning (section 22). Lastly, emphasis is placed on assuring that women can exercise their right to freely dispose of measures that are appropriate for a voluntary regulation of their fertility and health (section 23).

4. The exclusion of the juridical dimension or of juridical coherence to be seen in connection with the so-called right to reproductive health is anyway accompanied by the tendency to extrapolate such a 'right' from a holistic conception of health which embraces the human person in his or her spiritual and material unity. This unity, in fact, is able to foster not only a maturity at the level of sexuality but to characterise procreation as an expression of reciprocal conjugal love and relations of the couple that correspond to moral norms and profound values. This naturally leads to the exclusion of all forms of violation of other rights or of the rights of other people.

Such is the case with abortion and the rights of the unborn child or the denial of real human freedom through methods and instruments which are only apparently linked to 'health' or the right to health, and such is also the case with co-called 'modern' methods of planning or the questions connected with sexual education for adolescents, because they are contrary to human dignity which is the principle, foundation, limit and purpose of every right.

Prof. VINCENZO BUONOMO
Full Professor of International Law and International Organisations, the Faculty of Law, the Pontifical Lateran University, Rome.

Notes

[1] Cf. in this sense UNITED NATIONS, *Population and Human Rights*, New York, 1990, Doc ST/ESA/SER.R/107, p. 10ss

[2] On the whole question up to the Cairo Conference see N. FINCANCIOGLU, 'Contraception, Family Planning and Human Rights', in UNITED NATIONS, *Population and Human Rights*, pp. 87-103.

[3] Programme of Action, chapter VII, section 7.2.

[4] Cf. the *Summary* of the *Position Paper* of the WHO at the Cairo Conference: WHO, *Health Population and Development*, Geneva 1994, Doc. WHO/FHE/94.2, P. 8ss

[5] Cf. Nations UNIES, *Droit liés à la procreation et santé génésique*, New York 1996, Doc. ST/ESA/SER.A/157.

[6] This is the General Recommendation n.. 21: *Eguaglianza nel matrimonio e nelle relazioni familiari* of 1994 (Doc. HRI/GEN/1/Rev.3).

The Juridical Protection of the Right to Health and the Duty to Defend Health at an Individual and Social Level *

1. Awareness of numerous and multiform threats to the psycho-physical integrity of man in contemporary societies has activated, above all in recent decades, in the international national and local spheres, a very keenly-felt debate in order to study, from the normative point of view, forms and mechanisms of effective, general (and generalised) and sectorial intervention both for individual social aggregates and for types of illness, as well as, lastly, for specific geographical areas. This is a question that is limitless and involves every kind of society, from the most advanced to those still at the first stage of development. Indeed, the threats to the normal biological course of human life have multiplied and have even grown worse because of disasters and episodes of major importance, which are no longer only of a natural kind but are also caused wholly or in part by the unknowing or irresponsible activities of governments or economic groups. And without taking into account the fact that the advances of biological and medical science have set in motion processes that tend to go beyond, without any rules and without any preventive or suitable research protocol, the boundaries of nature through genetic manipulation.

In this context, enunciations of principle, which for that matter are accepted by everyone, are no longer sufficient. In fact, they are interpreted in an exploitative fashion and in practice they are not implemented and are systematically violated. One should not be surprised, therefore, if jurists themselves see the political and legislative use of the phrase 'right to health' as in some respects out of place, an illusory appearance of the defence of an essential good which is in fact not actuated or is insufficient or is manipulated and even systematically misunderstood and denied. This mystification is contributed to by the generalisation (not to say generic character) of the analyses, of the debates, of the procedural mechanisms and interventions, often including those of a legislative kind, which are behind the times in their summarising or approximate assessments, most of the time using juridical figures and applying normative criteria and solutions which are not very consistent and erroneous, and whatever the case reductive. Despite this fact, one can perceive an increasing sensitivity to the questions and issues of health and health care and we are witnessing a going beyond of the pure enunciation of the principle of the right to health with a testing of the actual implementation of it. This awareness is not, however, limited to the so-called advanced societies, and does not concern only going on endlessly (and this is an authentic illness of a Western kind created by the culture of prosperity) about fitness and the cult of the body, lived selfishly in the form of paroxysm, the basis and foundation of a society without a memory and without a future which tends towards the atheistic.

2. From the drawing up of the Constitutional Charter until today, in Italy the principle of the protection of health contained in article 32 of the Constitution has gradually changed its value and its meaning because of a change in perspective that has taken place, and is no longer limited to the sphere of welfare but coordinated by articles 2 and 3, section 3, of the Constitution. In this way the reductive approach and inadequate methods which exclusively secured action of an interventionist kind have been definitively abandoned. For that matter, this system of a rigorously statist character was able to actuate interventions which were completely unsystematic and almost always instrumental, in terms not of the protection of health but of solving the phenomena of illnesses, which were assessed as obstacles to the productive efficiency derived from the full performance of each member of society. The relationship between the state and society was expressed (and is today still in part expressed) in the actuation of a public order generally correlated with the so-called 'society of the healthy', which had made necessary policies towards weak – and therefore useless – individuals but only in various hypotheses which involved the point of view of the recovery, where possible, of health, or isolation in chronic cases, or abandonment where the contrary was the case. Lastly, the intervention of the state had been for the most part of a 'possessive' kind, in the sense that the individual was seen as a necessarily active element in development, ignoring any intervention for the protection of the human person, seen in the full psycho-physical integrity of his or her expressions.

3. Article 3 of the Constitution, therefore, represented a break with the previous idealistic system of a nineteenth-century kind whereby the state recognised the right to health as a social right, as a fundamental authentic right[1] which the Supreme Court of appeal, twenty years ago,[2] classified as a subjective right that was actionable as regards the individuals involved in relation to the public administration, as well as private parties.[3] But what are the aspects in the juridical-social approach that make the right to health an effectively protected right?

a) *The Right to Health as an Individual Right and a 'Social' Right*

The individual right to heath without doubt belongs to the inviolable rights of man according to article 2 of the Constitution (with reference to the same

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article 32 of the Constitution) inasmuch as it constitutes, according to the Constitutional Court, 'a value which, protected by the Constitution as a fundamental right of the individual and interest of society (article 32), has been constantly recognised as being of primary importance both because it is inherent to the human person and because of its value as a social right which characterises the form of social state designated by the Constitution'.[4] The Court was even more explicit[5] and laid down as a premiss that 'the protection of health includes the general and connected claim of the individual to conditions of life, of the environment and of work which do not endanger his essential good' and clarified that such protection 'does not end, however, with these active situations involving claims. It implies and includes the right of the individual not to cede or to endanger through his own behaviour the health of other people, in observance of the general principle that sees the right of every person as having a limit in the mutual recognition and equal protection of the coexistent right of others. The symmetrical positions of individuals coincide with the essential interests of the community which can require the subjection of a person to obligatory health-care treatment effected in the interests of that person himself or can envisage the subjection of the person to special obligations'.

b) *The Individual Right to Health as an 'Absolute' Subjective Right*

The innovation, therefore, fostered by constitutional jurisprudence in the field of the right to health, lies in its dignity as an effective right which is directly actionable and defendable as an absolute individual subjective right.[6] No longer a mere ethical enunciation or a petition of political assessment, the right to health is not, therefore, only referable to the principle of a planned nature expressed in article 32 of the Constitution which identifies only a legitimate interest defendable in relation to a authoritarian act of the public administration. Indeed, the fact remains that this right is actionable before an ordinary judge and from its violation springs a hypothesis of an injury that can be immediately compensated by damages – such as biological injury – and an executive intervention (sentence of being found guilty, even to *un lacere)* for whom the public or private subject responsible for the violation is answerable, independently of any other injurious consequence, which can be seen juridically,[7]and which can be seen as primary constitutional value. This right, because it is fundamental, is not based and is not justified because of a real relationship or *an* obligatory relationship, because it refers to the psychophysical integrity of the person, and it is no longer confined to merely instrumental functions as a social right to health-care services. The consequences are relevant: for example freedom of care and services, enjoyed in centres and structures of a private character as well, abroad as well, which can all be reimbursed by the National Heath Service. It is equally relevant that to the value of health are directly connected all the statements listed in article 32 of the Constitution such as the refusal of health-care treatment not imposed by the law or the prohibition of what is called exaggerated treatment, also in terms of effective and immediate defence, and above all free access to care, the right to enter all health-care structures, and the direct relationship between a patient and a health-care worker, who is called to full professional responsibility, and so forth. To this value, lastly, are connected and connectable as well principles not directly connected to article 32 of the Constitution: the privileged protection of workers both from a health-care point of view and from the economic point of view in terms of ensuring means that are suited to the needs of life in the case of accidents, illness or invalidity (article 38 of the Constitution), that is to say the hygiene and the safety of work environments ((art. 20 and ss. L. 833/78), and so forth.

An indissoluble connection thus comes to exist between the value of health and the equally primary values of safety and dignity which form an inseparable whole inasmuch as this threesome can be deduced from the 'absolute value of the human person upheld by article 2 of the Constitution'.[8]

4. Thus the right to health is no longer a chimera but the substance of a protection that is directly actionable and effective which invokes the duty of those who are involved on the fronts of both need and request, on the one hand, and of obligation and supply, on the other. But the idea of health has itself changed, coming to be identified as a situation directed towards the development of the personality of the individual and extended from a terminological point of view beyond the field of the absence of illness to be identified with a state of complete physical, mental and social wellbeing.[9] This has fostered the overcoming of the traditional approach of the questions of the limits on the power of disposing of his own body by the subject'.[10]

Another consequence, which is even more relevant, is that the defence of human life also relates to the unborn child and no longer those who are already born. For that matter, article 32, section 1, of the Constitution, in terms of the way the text is formulated, locates health as a fundamental right of the 'individual'.

The use of the term 'individual' (specific to the language of biological sciences) ontologically understood in the place of the term of person, man or citizen, constitutes an exception in the context of the constitutional text and seems to be able to be justified only by a wish to extend the protection of health to an unborn child as well. It should be observed that the second section of the same article 32 employs the term 'person'. This was stressed by the legislature in the law of 23 December 1978 n. 833 which created the National Health Service.[11]

5. Of necessity the right to health affects health-care workers in a totally new way. It is known that the fundamental shift in the history of medicine took place when through a con-

ceptualisation of illness based upon the subjective set of symptoms of the patient a theoretical picture was achieved where illness became an individual and specific identity: the patient was the mere bearer of it. The medical knowledge of the old regime, which was speculative and based upon the analysis of symptoms, was transformed into scientific knowledge based upon the study of an illness and its therapy.

This was a consequence both of scientific progress, which linked diagnosis and treatment directly to the instrument that was employed and of the irreversible trend towards increasingly more sophisticated treatment and the contemporary specialisation on the part of health-care workers, and to the change in the social approach of medicine. The more medical science advanced, the more the area of the ineluctable increased. For

that matter, this involved a shift in power: the power of medical doctors shifted to medical science, which in many cases was able to assure the healing of the patient in line with its state of development. A consequence of this change was the acquisition by sick people of the awareness that they were able to expect from medical doctors those results in terms of healing and improvement and condition of health which medical science allowed to be achieved with increasing approximation. This involved the disappearance or reduction of the discretionary role which had always been the most significant characteristic of professional activity. On the one hand, constant updating, and, on the other, the humanisation of relationships, are today two inseparable correlated aspects of the medical profession and all health-care workers. One may consider, for example, how much importance has been acquired by the obligation of the medical doctor to provide information in the relationship between the medical doctor and the patient and the health-care structure and the patient.

6. A required correlate of the right to health is the duty to defend it which is achieved in an autonomous way and which involves both public and private law. A few days ago the episode of the minor removed from his parents' custody and entrusted by a judge to the social services because he suffered from malnutrition caused a sensation. Malnutrition and a grave state of anaemia had been caused by the decision of the parents to subject their son to a vegetarian diet because they themselves were vegetarians. Another duty of a great juridical importance is that of the defence of health in the work environment. This is a defence of health adopted as an autonomous value which is immediately relevant in relations between private parties.

In this way the damages to a person are no longer assessed according to the parameter of productive efficiency but from the point of view of biological damage. There also exist public duties of great importance connected with what are termed widespread interests, for example that of not living in polluted environments, that of not consuming injurious products; or ones connected with prevention which involves the intervention of a remedy, of an injunction, in relation to illicit behaviour by other people as well. Even more significant are the defence, the treatment of, and care for, subjects at risk, in relation to whom exist precise duties to intervene which can be subjected to penalty as well as all the activities connected with subjects with conditions of precarious life or who are affected by handicap. These are sectors in which is involved and legislatively regulated – as regards the aspects of an economic character and which are to do with support – family and social solidarity, without which the management of the subjects involved would become impossible. It should also be borne in mind that in these cases a duty is exercised, which to all effects is public in character although not necessarily of the state, which involves associations and voluntary workers in the duty of solidarity.

To end this paper, the right to health is nothing else but the a making extrinsic of the right to life, where the relational character of the concept of health is located not only in the wellbeing or the elimination of malaise through care and treatment but also in the very dignity of each person in relation to other people.

Prof. GIOVANNI DIURNI
Associate Professor of the History of Medieval and Modern Law, The Department of the History and Theory of Law, Faculty of Law, The University of Rome, Tor Vergata, Rome, Italy

Notes

[1] GROSSI, *Introduzione ad uno studio sui diritti inviolabili nella Costituzione italiana* (Padua, 1972), p. 176 4.

[2] 'Cass., Sezioni Unite, 6 ottobre 1979 n. 5172', in *Giur. It*., 1981, I, 1, c. 464.

[3] This sentence was concerned with the environment law.

[4] Constitutional Court sent. 37/91(cf. sent. 218/94 and 258/94)

[5] Constitutional Court, sent. 218/94

[6] The term absolute right is directly correlated with the placing of the right to health amongst the rights of freedom which are constitutional guaranteed and this 'perfect'..

[7] Cass., Sezioni Unite, NN. 1463 and 5172/79

[8] Cf. Constitutional Court, sent. N. 479/87. On this subject see F. Modugno, *I "nuovi diritti" nella giurisprudenza costituzionale* (Turin, 1995), p. 48s.

[9] Cf. PEZZINI, 'Il diritto alla salute: profili costituzionali', *Dir. E soc*., 1983, p. 21 ss.

[10] In this sense cf. A. DIURNI, *Contratto e procreazione*, about to be published and the literature cited in it..

[11] *Ibidem*.

The Protection of the Right to Health in the International Juridical System*

1. Whereas at a national level the right to health has been for some time recognised and defended within the framework of the fundamental rights of human beings, the recognition of this right in the international juridical system has been more recent.

The upholding of the right to health in the international juridical system took place gradually through a series of measures of both a universal and a regional character.

To the first category belongs the Universal Declaration of Human Rights which was adopted by the United Nations on 10 December 1948 and constitutes the first international instrument for the defence of the person. This document states that each individual has the right to a standard of living that is sufficient to guarantee his or her health and wellbeing and that of his or her family as regards necessary food, clothing, housing, medical care and social services (art. 25,1). Paying especial attention to the condition of women and minors, this document states that mothers and children have the right to *special* care and help (art. 25,2).

The same recognition of the right to health is to be found in the Pact on Economic, Social and Cultural Rights of 1966 which in article 12 upholds the right of every individual to enjoy the best possible conditions of physical and mental health and also envisages a series of measures that States are obliged to adopt in order to ensure its full implementation.[1] This document in article 10 also envisages the obligation of States to assure special protection for mothers, before and after childbirth, and young people, especially if they are involved in work activity, and in article 11 it defines a series of rights which are strictly correlated to the right to health, that is to say the right to adequate food, clothing and housing, as well as the fundamental right of every individual to freedom from hunger.

The right to health was the subject of a wide ranging debate during the course of the World Conference on Food of 1974. On that occasion the Universal Declaration on the Final Elimination of Hunger and Malnutrition, which was adopted by the General Assembly of the United Nations by the resolution of 7.12.1974, came into existence.

This Declaration, beginning with the observation that the wellbeing of peoples and of the world depend in large measure on the adequate production and distribution of food, identified in food security an indispensable factor in assuring that all States have permanent access to basic foodstuffs necessary to the survival of all individuals. On this point this document proclaims that 'every man, woman and child has the inalienable right to be freed from hunger and malnutrition in order to develop fully and to safeguard their own physical and mental faculties' (art. I). in addition, this Declaration affirmed the responsibility of governments to promote a greater production and distribution of food through the drawing up of appropriate domestic policies aimed at economic/social development and which respected the potential resources of each State (art. 2).[2]

The right to health was also recognised in the Declaration on Primary Health-Care Needs signed at Alma-Ata in 1978 by 134 countries. By this Declaration, which defined the right to health as a fundamental human right, the signatory States established as an objective health for all by the year 2000. The Declaration of Alma-Ata, although it belonged to the measures of soft law like the other declaration of principle of the General Assembly of the United Nations which preceded it, has great relevance in the context of the instruments of international law as regards the right to health, firstly because it elevates it to being a fundamental right of the individual and secondly because, in defining health as a 'state of complete physical, social and mental wellbeing', it allowed problems inherent in health to be placed within a more general social context.

If one reflects upon the acceleration experienced in recent years by international law as regards the environment, one can understand how such a context has been further enlarged through reference as well to the increasingly close relationship between the right to health and the right to a healthy environment, which was strongly emphasised by the Declaration of Rio de Janeiro of 1992. In particular, this Declaration, which states that 'all human beings have the right to a health and productive life in harmony with nature', recognised the priority importance of effective action at an international level to defend the life and health of man and of the planet.

Worthy of mention is the Conference of Vienna of 1993 on human rights. The final declaration of this conference, even though it did not specifically concern the right to health, offered an opportunity to engage in an overall analysis of the international system of human rights and the mechanisms for their protection. In addition, in upholding the need to promote a greater respect for these rights, it laid primary stress on an effective upholding of the right to health.[3]

2. Within the context of the measures of international law of a general character which recognise and defend the right to health are also to be located those measures which concern specific categories of people such as women and minors.

Of fundamental importance

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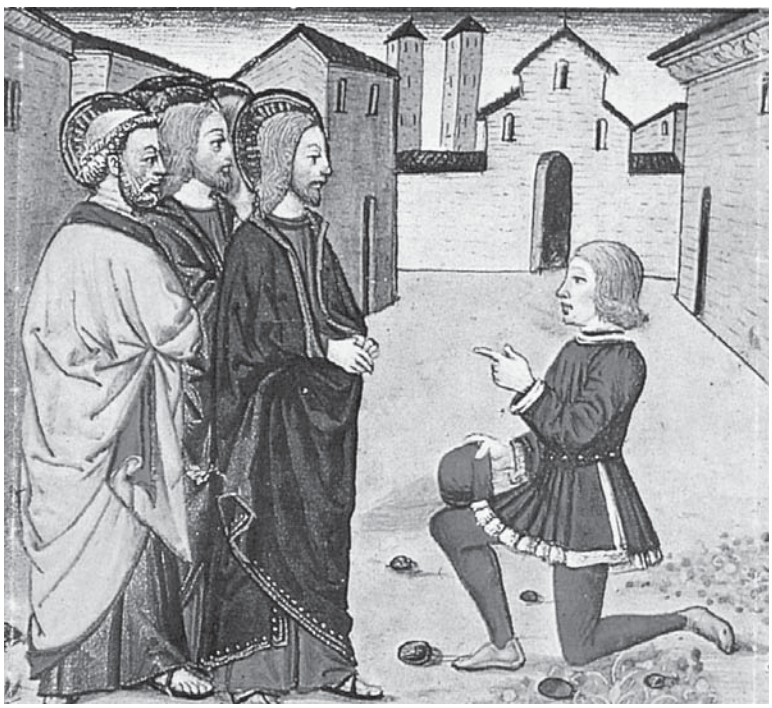
as regards the right to health of women is the Convention of the United Nations of 1979 on the Elimination of all Forms of Discrimination Against Women which was adopted by the General Assembly in December 1979 and came into force in 1981. This constitutes an international charter on the rights of women. Article 10 of this Convention upholds the right of women to health-care education[4] and article 11 imposes on the signatory States the obligation to guarantee their defence and to assure special protection for expectant women. Strictly correlated with the previous provisions is article 12 which envisaged for the signatory States the obligation to adopt measures designed to eliminate forms of discrimination against women in the field of health care in order to assure that they have, on a par with men, the means by which to accede to health-care services. The right to health of women was upheld again at the Fourth World Conference on Women which was held in Peking in the year 1995.

The Declaration of Peking and the Programme of Action that followed it stressed that the defence of health of women and girls is fundamental for their process of cultural and intellectual growth and recognised and emphasised again the right of women to control all the aspects of their health.[5]

As regards the defence of the health of children, the Convention on the Rights of the Child, which was signed in New York on 20 November 1989, is of fundamental importance. Article 24 contains a solemn affirmation of the right to health of children, at the same time laying down a series of provisions concerning the various aspects connected with the real enjoyment of this right. Article 24, in fact, not only recognises the right of children to enjoy the best possible state of health and to benefit from medical services and rehabilitation ((art. 24>1) but also imposes on States its implementation through reducing child mortality rates, assuring that all minors have necessary medical care and treatment, fighting against illness and malnutrition, assuring that mothers have adequate prenatal and postnatal care, providing all groups with information on the health and nutrition of children, and developing preventive health care (art. 24,2).



Side by side with this provision, reference should be made to article 25 which recognises that a child has 'the right to a periodic check on the administration of care by the relevant authorities to which the child has been entrusted', and to article 27 which recognises that a child has the right to adequate food, clothing and housing. From this set of norms it is clear that this Convention paid especial attention to the right of health, imposing on the signatory States the obligation to assure its effective and overall implementation.

Within the field of international action of a general character to defend health one must recognise the important contribution which for many years certain specialised organisations of the United Nations such as the World Health Organisation (WHO), the Food and Agriculture Organisation (FAO) have made by involving themselves actively in the fight against hunger and malnutrition.

In particular, the WHO, which was established with the aim of coordinating the action of States in the fight against illnesses and the unification of methods to indicate illness and diagnostic procedures, has played a primary role in this sector. In its report of 1999 the WHO stressed that still today millions of people suffer because of illnesses and malnutrition, above all in the third world. In addition, identifying as a principal objective a greater efficiency in world health-care systems, the WHO attributes to public intervention the task of assuring a better distribution of health-care services not only within national territories but also between States with different levels of development, by bilateral and trilateral agreements.

Recently, the WHO announced for 2000 a plan for the extension of its programme for food security to the new challenges produced by problems of a food and environmental character. In particular, this organisation, in cooperation with FAO, seeks to study the effects on health of the consumption of genetically modified products.[6]

Side by side with the WHO, of relevance is the work of FAO. Created with the aim of improving the nutritional level

and the standard of living of populations, FAO has worked above all through action programmes designed to reduce poverty and hunger through the promotion of agricultural development and food security. The most recent of these programmes is the Special Programme for Food Security for the period 1994-1999 which was intended to improve national food security through the drawing up of programmes based upon economically and ecologically sustainable criteria.

In cooperation with the WHO, FAO organised the international conference on food which was held in Rome in December 1992. During the course of this conference a World Declaration and a Plan for Action were approved with the task of improving the nutrition of all human beings with the ultimate goal of eliminating hunger and malnutrition.

3. Moving to measures of international law of a regional character, at a European level stands out first of all the European Convention on Human Rights which was signed in Rome in 1950, even though it recognised the right to health only indirectly. This Convention, in fact, allowed States to apply limits and restrictions to the exercise of such essential rights as respect for private and family life (art. 8,2); the right to express one's own religion (art. 9,2); the right to freedom of expression (art.10,2) and the right to assemble and to associate (art. 11,2), when such restrictions are indispensable for the protection of public health.[7]

A further contribution to the upholding of the right to health is to be found in the European Social Charter which was adopted in Turin in 1961. In this Charter it was stated that to assure the real exercise of the right to health the contracting parties committed themselves to adopting both directly and in cooperation with public and private organisations adequate measures designed to eliminate the causes of imperfect health; to envisaging services involving consultation and education for the improvement of health; and to preventing epidemic and endemic diseases and other kinds of diseases as well (art. 11).

Only recently was the defence of the right to health placed amongst the goals of the European Union. The founding treaties of the European Community, in fact, do not contain any express reference to fundamental rights in general and to the right to health in particular. This omission had its origins in the essentially economic character of those treaties and in the fact that the subject of public health care constituted a section that was always reserved to the exclusive responsibilities of the member States.

The concern of the institutions of the EC in the health-care field was in principle only to assure that the goods and services that enjoyed free circulation within the context of the single market did not represent any danger for the consumer.

This orientation was institutionalised by the Single European Act which introduced article 100 into the Treaty of Rome. In section 3 it is asserted that as regards health care, safety, and the protection of the environment and consumers the proposals presented by the Commission for the achievement of the single market should be based on a high level of protection. By the Treaty of Maastrich of 1992 the subject of health care was placed amongst the matters that were of concurrent competence and regulated by an *ad hoc* provision (art. 129 of heading X).

At the present time the action of the European Community in this sector is directed first and foremost to the prevention of illness, in particular major epidemics, by fostering research into their causes and their propagation, as well as information and education in relation to health-care questions. In truth, the action of the European Union in this field essentially has the aim of increasing the efficacy of the action of the member States without wanting to replace them in the adoption of more opportune health-care policies. This is in line with the spirit of the principle of subsidiarity which was specifically upheld in the Treaty of Maastricht.

Also to be placed in the sphere of measures of international law of a regional character which contain provisions relevant to the subject of the right to health is the Inter-American Convention on Human Rights of 22 November 1969 where in article 5 it is stated that every person has the right to respect for his or her own physical, mental and moral integrity, and the Charter of the Rights of Man and of Peoples that was drawn up by the Organisation for African Unity in 1981. This latter document upheld in article 16 the right of every individual to reach the best possible state of physical and mental health, which had already been upheld in the Universal Declaration on Human Rights, and also envisaged that the signatory States had the obligation to adopt all those measures that were necessary for the defence of the health of their own peoples and to ensure that they received the best possible medical care and treatment in the case of illness.

4. From the complex of laws that has been outlined in this paper, the first point to emerge is that the right to health certainly found recognition in the international juridical system within the framework of the progressive establishment of fundamental human rights which are today seen by the universal conscience as protected by laws that cannot be derogated (so-called *jus coqens)*.

In addition, as regards its contents the right to health today has the particular connotation of being a right of two velocities in the sense that for some (few) peoples it takes the substantial form of a right to be safeguarded from illnesses connected with technological progress and for other peoples, most of them, it involves the right to development and essential needs – in a word, the right to life.

As regards, lastly, the aspect of its protection, this has different levels of efficacy. Indeed, one is dealing with a more in-

direct protection in the case of international measures of a general character on human rights which envisage organs of control made up of committees of experts who are entrusted with examining the governmental reports presented by the signatory States on the status of the application of an international measure within domestic law.[8] One encounters, instead, real jurisdictional protection in the case of international measures of a regional character. At a European level, in fact, the already cited European Convention on Human Rights envisages the possibility of a physical person, a non-governmental organisation or a group of individuals appealing to the Court that it established, even after making the appeals envisaged by the legal system of the country to which they belong (the so-termed rule of prior use of domestic appeals).[9]

Prof. TALITHA VASSALLI DI DACHENHAUSEN
Director of the Department of International Sciences and Studies of the European Political and Institutional System
The Frederick II University
Naples, Italy

Notes

[1] These are measures designed to assure the reduction of child mortality rates, the improvement of all the aspects of environmental and industrial hygiene, the treatment and control of endemic and epidemic diseases and the creation of conditions that will assure that everyone has medical services and medical care in times of illness (see art. 12,2). It should be observed that the International Pact on Civil and Political Rights, of the same year, does not refer to the right to health but confines itself to the recognition of rights which are anyway connected with it such as the right to life (see art. 6,1) and the prohibition of subjecting people to torture (see art. 7).

[2] Especial attention is paid to the action of the international community which is called upon to cooperate in the creation of an effective system of world food security (see art. 12)

[3] Only if indirectly, this Declaration touches upon the subject of the right to health when addressing questions and issues that are closely correlated with it. In it torture is defined as one of the most atrocious violations of human dignity that can destroy the individual and diminish the ability of its victims to carry on with their lives and their activities (section 2 point 5). At the same time the Declaration addresses the subject of scientific and technological progress by expressing the hope that everyone can enjoy the benefits derived from such a process and its applications (section 2 point II).

[4] More specifically in conformity with art. 10, letter H 'States should take all adequate measures… to guarantee… access to specific information of an educational character aimed at guaranteeing family health and wellbeing, including information and advice connected with family planning'.

[5] In conformity with what is stated in the Programme of Action, the health of women and girls has become a central objective of the plans of the organisations of the United Nations involved in the defence of women and minors. In particular the United Nations Fund for Children in its 'Report on the Strategies of the UNICEF for Life' of 1995 recommended the promotion of an integrated approach to health-care services for women that included education in health, family planning and prenatal and postnatal services'.

[6] On 30 January of this year a protocol of understanding was signed in Montreal on 'biosecurity' which authorises countries that are opposed to the importation of transgenic foods to close their frontiers to genetically modified products held to be dangerous for health and the environment.

[7] The European Court of Human Rights (ECHR) expressed itself in favour of a restrictive interpretation of such limitations (cf. sent. GOLDER of 21 February 1975; KLASS and others of 6 September 1978 recommend States to adhere to the principle of proportionality on the basis of which the limitations allowed cannot exceed what is adequate and necessary to to obtain the goal pursued, in the case in hand the defence of public health (cf. sent. AHINGDANE of 28 May 1985; sent. LITHGOW and others of 8 July 1986).

[8] Cf. The Committee for Economic, Social and Cultural Rights (art. 10 and ss., part IV of the Pact on Economic, Social and Cultural Rights); the Committee for the Elimination of Discrimination Against Women (art. 17,1 of the Convention on the Elimination of Every Form of Discrimination Against Women) and the Committee on the Rights of the Child (art. 43 of the Convention on the Rights of the Child).

[9] For a similar jurisdictional defence see the Inter-American Court for the Defence of Human Rights (cf. art.52 and ss. of the Inter-American Convention on Human Rights).

The Juridical Status of the Human Body and the Transplant of Organs *

1. The need to draw up a new juridical status for the human body seems by now to impose itself with extreme clarity. It is a widespread opinion that traditional juridical rules are by now completely inadequate in the context of the advances of biomedicine, which are said to have ineluctably altered the very subject of these rules (the body should be resolutely seen as being an authentic *new juridical subject*). In addition, from some quarters it is added that intervention as regards these rules is fully justified inasmuch as they are said to contain closure clauses that are too generic and elastic and thus dangerously exposed to an unacceptably paternalistic interpretation. One may consider here, for example, article 5 of the Italian Civil Code which prohibits acts involving the disposal of one's own body not only 'when they involve a permanent diminution of physical integrity' (a principle which as we well know has been limited by certain significant exceptions by special legislation on transplants from living people) but also 'when they are equally contrary to the law, to public order or to public decency'. These formulations – which were held traditionally to be so reasonable as to a appear at one time almost incontestable – are held by many, in the current context, to be too generic and thus, in the absence of radical clarifications that the legislature should introduce into the positive juridical system, unacceptable at the level of principle.

2. It is evident that one cannot but see as not only useful but also incumbent a thought-through and innovative intervention by the legislature in such a difficult and complex field: the juridical relevance of the human body thus extends to fields which were at one time unthinkable and the jurist, perhaps, has still to become aware of how relevant their importance is. An acute jurist, conceding perhaps too much to a taste for analysis, but with undoubted acuteness, has presented to his readers a very detailed fan of the 'juridified body', distinguishing not only the healthy body from the sick body, the living body from the dead body, but also the male body from the female body, the body of the capable and the young from the body of the incapable and the elderly; the body of family members from the body of outsiders; the body before birth and the body after birth; the terminal body from the body that can be saved; the body of tissues that can be regenerated from the body with tissues that cannot be regenerated; the body of somatic cells from the body of germinal cells; the body with individual organs from the body of dual organs[1]...and I believe that if one wanted to, one could add many other distinctions to all these that have just been listed (one may think here only of a bioethical problem which is not one of the most tragic but one which is certainly subtle such as that of the manipulation of the bodies of athletes or of all those questions that generate practices such as those – which are constantly on the increase – of piercing). The newness of these problems is, to sum up, beyond discussion, in the same way as the need – in many of the cases to which reference was made above – for the intervention of law is also beyond discussion. The essential question is not, therefore, that of *how much law* is required by the newness of the situation (also those who are in general favourable to *soft* law certainly do not deny that whatever the case a juridical intervention is in the majority of cases necessary) – the question is *what law*. In other words, what should be the juridical principles that will allow us to manage in a coherent way this multiplicity of complex and inevitably controversial hypotheses?

3. Some principles seem to be widely agreed upon. One may consider, for example, the principle that the human body cannot be bought and sold. This is a very noble traditional principle to which new vigour was given by the clear declaration of article 21 of the Convention on Human Rights and Biomedicine which was approved in Strasbourg in November 1996 by the Committee of Ministers of the Council of Europe: *the human body and its parts as such cannot be a source of profit*. In this way there appears to have been overcome the temptation, which is recurrent in Anglo-Saxon bioethical and juridical culture, and in particular in the United States of America, to open up spaces for the justification and legitimisation of the reduction of the body to a commodity.[2] Once the principle that the body is an *extra commercium* entity has been established, to the daily work of jurists is entrusted the theorisation of how this inability to be bought and sold should not coincide with, and should not be confused with, its not being disposable and how the juridical system should prevent subtle mixings of one logic with another.

4. Is what has been said hitherto sufficient to sustain that we are on the pathway towards an adequate and satisfactory construction of a new juridical status for the human body? Unfortunately, we are not. On the one hand, the complexity of the new problems opened up by biomedicine require a joint effort by jurists which will inevitably require time (preparation, dialogue and discussion) and the time needed cannot be unduly shortened, something, indeed, that would allow the banalisation of juridical thought on the matter. But the real problem is probably another one:

* Intervento nella giornata di studio su *Etica e religiosità nelle professioni* organizzata dalla International Religious Foundation

the greatest difficulty in the construction of an adequate juridical status for the human body probably lies in the difficulty, which is specific to a large part of contemporary juridical thought, in constructing its concepts beginning with unitary and unifying theorisations about the human body itself. It is significant that those who argue that it is by now impossible to have 'a unitary view of the body', because this would inevitably be 'founded on an impossible reconstitution of a unity entrusted to "nature", seek an answer to the innumerable problems raised by the "juridified body" by resorting to the fundamental principles of the system: from that of equality to that of the dignity of the person.[3] This is a suggestive pathway and can guarantee very good results at the level of case studies. However it has the defect not only of escaping the fundamental juridical question which is anyway inevitable and which the jurist continues to ask himself (*what is the body for law?*) but even of emptying it. To summarise: the jurist should reflect upon the body without being able as a jurist to define it in a proper way. This is a paradox that has to be dealt with. The jurist must define the body (in all its epiphanies and in all its antinomies) not out of a purported respect for 'nature' and its laws (according to the venerable but certainly today unacceptable and anyway unaccepted opinion of Savigny) but because it is not possible to talk about man, about his dignity, and about what is due to him if one does not speak (at least implicitly) about his body. Forgoing a 'unitary view of the body' cannot imply – without falling into deplorable idealistic forms – that the body-subject goes beyond the reflections of a jurist. The way in which, instead, it forms a part of these reflections constitutes our problem.

5. Traditional juridical doctrine has always considered it impossible to see the body as being on the same level as a thing, a mere *res,* in relation to which man can have that special form of dominion which law calls 'property'. The explanation given of this by Kant remains unsurpassed.[4] Man cannot dispose of himself because he cannot be at one and the same time a person and a thing, a proprietor and property, because this would be an insoluble contradiction. If one admitted the possibility that a man can be his own property, by law he would acquire, contextually, the quality of a thing (and he could therefore fall not only under the power – something which can always easily happen – of other people but also fall into being the *property* of other people – something which could not be considered without engaging in an aberration of law, producing nothing less than a recognition of the licit character of slavery in juridical terms). Hence a series of typically Kantian exemplifications – that, for example, which argues that man is not even allowed to sell one of his teeth: these may make us laugh but it is impossible no to grasp their extreme rigour.

Nineteenth-century juridical doctrine perceived that in this way it could become extremely difficult to justify traditional institutes, such as wet nursing or the sale – something that was equally traditional – of renewable parts of the human body such as hair. For this reason it addressed at a deep level the problem of how to justify a *disposability* of the body which did not imply *property*, of how to allow a *Gehòren* that was not reduced to an *Eigentum*.[5] This is not the place to go into subtle questions of the theory of law or to test concepts that have an exclusive value for juridical dogma. What emerges from traditional doctrine – which it is indispensable to save – is that the body is inseparable from the person and that the rights of the body are at one with the rights of the person, or – if one prefers – that the language of the body is one of the forms of the linguistic expressions of the person. And since the person is a relationship, every juridical question connected with the corporeal cannot but be translated into the forms of a juridical question of a relational character.

6. We are thus in possession not of a key by which to solve all our problems but only of a criterion, for that matter extremely valuable, for the construction of an adequate bio-juridical approach.[6] Since it is not bodies that enter into relationships but, instead, persons with their bodies, the criterion of relationality will be called upon to save not bodies but the possibilities of the relationship by which they are activated. In reciprocal interpersonal interrelating, the body can enter the picture according to extremely diversified logics which it is almost impossible to describe fully *a priori*. Law will be called to protect them and according to the case in hand also to promote them, as long as none of them ever implies the denial itself of the juridical principle of relationality.

Thus, for example, if law is called upon to protect the exercise of sexuality, in marriage or anyway in the free interplay of the couple, or to apply sanctions to it, as in the case of rape, this is because only in the first case, that is to say in the free and aware exercise of sexuality, does the body come into play according to a logic of reciprocal and symmetrical giving.

Instead, relationality can in other cases acquire modalities that are characteristically asymmetrical, as in the hypothesis of an *organ transplant*. But this asymmetry at a material level – because the person who receives the gift of an organ can never repay his or her debt fully at a material level to the donor – does not remove a juridical

character from the relationship itself which finds its deepest reason for existence in the interpersonal solidarity between the donor and the recipient. To summarise: what is relevant for law is not the modality of the donation but its compatibility with the universal system of relationality. It is at this level, and not at others, that law is called upon to intervene. It is thus that one explains the institutional limits that law can be called upon to impose on ethics. For example, a donation that reaches the point of the total sacrifice of the person can also generate a notable admiration at the ethical level or the level of custom but it can never be accepted and institutionalised by law which is the extreme guardian of the possibility itself of a relationship and its duration.

With respect to what concerns in particular the donation of organs, the law is called upon to engage in detailed and complex interventions. It must in the first place *guarantee* that the bases for the donation of organs from a cadaver (in first place – obviously enough – a very rigorous ascertainment of the death of the donor, then that consent has been given to donation and its free character, then the correctness of the allocation of the organ that has been donated, according to criteria that are transparent and publicly controllable) all exist, beyond any doubt, which would be ruinous, at least psychologically, for the very credibility of transplantology. It must, secondly, *foster* the practice of transplants, given its very high therapeutic and ethical value (for example by legitimising so-called silence-assent: holding, that is to say, that the lack of an explicit expression of the wishes of an individual who has been addressed by a public party and thus with a legitimation of the request to be listed amongst potential donors is on a par with positive consent). And it must, thirdly, wisely manage the innumerable possibilities of an arbitrary use of this practice: possibilities that range from the odious trade in organs to the much more extreme, but not extremely rare, possibilities of authentic murder for the purposes of removing organs. *Good law*, aware of its intrinsic ethical character and its social utility, must never allow itself to be paralysed by the difficulties of its correct application, even though, as in this case, they are truly relevant.

7. It is now possible to return at the end of this paper to the fundamental question of these pages: according to which modalities should the jurist today feel provoked to define the human body? If the approach that underlies the above observations is correct, the new theorisation of the body will imply for the jurist the theorisation not of new objects (organs, tissues, cells, etc.) but of new relational possibilities which were never perceived in the past because until the very recent past they were not only not practicable but often not even imaginable. What with a rapid formula we call the juridical status of the human body and what today's jurist is called to create is, to understand the matter well, a new dimension of the status of the human person, given that the body that calls on the renewed interest of jurists can be understood in no other way than the place where new forms of interpersonal encounter take place.

Prof. FRANCESCO D'AGOSTINO
Full Professor of the Philosophy of Law, The Faculty of Law, Tor Vergata University, Rome, Member of the Pontifical Academy for Life, Italy

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[1] Cf. S. RODOTÀ, 'Ipotesi sul corpo "giuridificato"', in RODOTÀ, *Tecnologie e diritti* (Il Mulino, Bologna, 1995), p. 191

[2] A very recent summary of the debate on the subject is offered in two articles published in *LE SCIENZE*, n. 88 (February 1996): the first by J. HARRIS, 'Un mercato per gli organi' (pp. 81-83) was effectively rebutted by G. BERLINGUER, 'Contro il mercato degli organi' (pp. 84-85) On BERLINGUER and V. GARRAFA see also *La merce finale, Saggio sulla compravendita di parti del corpo umano* (Baldini & Castoldi, Milan, 1996)

[3] RODOTÀ, op.cit., pp. 191-192.

[4] *Lezioni di etica*, Italian edition Laterza, Bari, 1971, p. 189.

[5] There is a great deal of material in X. DIJON, *Le sujet de droit en son corps*, (Larcier, Brussels, 1982).

[6] For a more detailed examination of this point see D'AGOSTINO, *Bioetica, nella prospettiva della filosofia del diritto* (Giappichelli, Turin, 1996).