“The Demands of Human Dignity: Addressing Human Sexuality and Persons with Intellectual Disabilities within the Seminary Curriculum”

Introduction

Oliver Wendell Holmes is thought to be one of the most distinguished justices to serve on the United States Supreme Court, yet in the U.S. Supreme Court case Buck v. Bell\(^1\), he infamously concluded the ruling of the court with the words: “Three generations of imbeciles is enough!” In an 8-1 decision, with the dissenting vote coming from Justice Pierce Butler, a Catholic, the Supreme Court upheld a statute instituting compulsory sterilization of the “unfit”, including those with intellectual disabilities. Carrie Buck, a person with an intellectual disability, who had been a sexual abuse victim, was forcibly sterilized by the state of Virginia.\(^2\)

The case highlights the plight of persons with intellectual disabilities, particularly in the area of human sexuality. The whole issue of human sexuality and persons with intellectual or other developmental disabilities has largely been ignored by Catholic theologians and by seminaries. If such issues are treated, they are dealt with in moral theology and marriage canon law; in these cases, one is either considering the sterilization of persons with such disabilities or considering their capacity for entering into marriage. Largely the sexual issues of the person with intellectual disabilities are ignored by the public, by the Church, and by those involved with seminary formation.

In his message to the participants of the International Symposium on the Dignity and Rights of the Mentally Disabled Person, Pope John Paul II highlighted this neglect:

> In this regard, the care of the emotional and sexual dimensions of disabled persons deserves special attention. This aspect is often ignored, glossed over and reduced or even dealt with ideologically. Instead, the sexual dimension is a constitutive dimension of the human being as such, created in the image of the God of Love and called from the outset to find fulfillment in the encounter with others and in communion. The premise for the emotional-sexual education of disabled persons is inherent in the conviction that their need for love is at least as great as anyone else's. They too need to love and to be loved; they need tenderness, closeness and intimacy. Unfortunately, the fact is that disabled persons find themselves living these legitimate and natural needs in a disadvantaged situation that becomes more and more obvious as they grow from infancy to adulthood. Despite the damage to the mind and the interpersonal dimension, disabled people seek authentic relationships in which they can find appreciation and recognition as persons.\(^3\)

The claim of seminaries to be houses of formation in the Gospel of Life will have greater credibility, if the dignity of the human person is affirmed through some treatment of the issues of the disabled in seminary education. It would be particularly bold if seminaries were to address the area of human sexuality among those with intellectual disabilities. To this point, collectively, the Church has not dealt substantively with this issue, as witnessed by the paucity of theological literature on the subject and its absence in seminary curricula. Seminary academic deans and faculty will be reluctant to take on a new and challenging subject, particularly with the increasing

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\(^1\) *Buck v. Bell*, 274 U.S. 200 (1927)


mandates of the *Program for Priestly Formation*. This essay will argue that this *could* be done effectively within a current seminary curriculum. If the sexual dimension of the person is constitutive of the person and the disabled person’s need for love is as great as any other person’s, then not only *could* the subject be treated, it *should* be treated in light of the demands of equal and inherent human dignity.

**Human Dignity and Christian Anthropology**

In the teaching of moral theology and Catholic Social Doctrine, professors repeat the phrase like a mantra: “respect for the dignity of the human person”. If one understands that persons have equal, inherent dignity, then one can see *why* we must treat those with intellectual disabilities as persons, inclusive of the sexual dimension of their persons, granting them the same respect afforded to others.

What is dignity? Historically, the word “dignity” has been used in many confusing and contradictory ways. Some philosophers even question the usefulness of the term.4 Others such as Patrick Lee, Robert George, and Martha Nussbaum have defended the concept.5 Edmund Pellegrino contends that contemporary culture tends to favor a concept of dignity known as *attributed* dignity, in which the foundations of dignity depend on “the capacity for ‘meaningful relationships’, social worth, the quality of life, freedom from disability, satisfaction of aspirations, autonomy, and dozens of other capabilities as judged by humans to be important for human happiness.”6 Sometimes *attributed* dignity is called personal dignity. For example, disability or debilitating illness could be seen as robbing a person of his or her dignity. Problems arise when one ascribes the intrinsic value of a person to the perception of a person’s attributed dignity. The disabled person is particularly vulnerable when he or she is seen as having “less worth” because he or she does not “reason” at the same “high” level as other members of society. A person with intellectual disabilities may be subject to exploitation and discrimination.

In contrast, another understanding of dignity, which is compatible with Catholic thought, is that of *inherent* dignity, which is sometimes called basic dignity.7 Inherent dignity is a universal, inalienable moral quality, which the person does not earn and which cannot be taken from the person. It is not contingent upon a person’s physical or intellectual abilities. Inherent dignity provides a *prima facie* reason for not exploiting or discriminating against a vulnerable person.

Thomas Aquinas argued that “person” signifies what is most perfect in all nature—that is, a subsistent individual of a rational nature.8 However, a person’s experience of dignity is an

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8 Thomas Aquinas, *Summa Theologiae* I, q. 29, a. 3 co.
experience not simply of a “being with a rational capacity” but of the irreplaceable and utter uniqueness of this particular person in his or her complexity. John F. Crosby argues that there is a two-fold source of the dignity of persons. For Crosby, the dignity of the person arises not only from his or her rational nature but from a person’s “incommunicability”.

Dignity rests not only on what we have in common (for example, reason) but also on what is different about the person, our uniqueness, which is recognized, not in abstraction, but in encounter. Karol Wojtyła’s essay, “On the Dignity of the Human Person,” describes dignity as a natural greatness discovered by experiencing a person; the lived experience of this value is evident both on an individual level and communal level. Each person has a unique set of experiences which make us admire and love that person. A person’s absolute unrepeatability is revealed through free action, through the encounter with another. It is discovered through love, which reveals and confirms the value of a person who cannot be replaced.

The seminarian beginning theology might ask: What does Christianity contribute to the understanding of the person and human dignity? To answer, one must examine the hallmarks of a Christian anthropology, including the Christian understanding of the person as existing in relationship with God; as being made in God’s image; and as a unified totality.

The human person as a creature exists in relationship with God. This relationship is one of dependence but remains dialogical and participatory. From a theological perspective, the person is the “only creature on earth that God has willed for Himself.” This relationship is absolutely unique and special. The roots of the value and of the inviolability of every human life ultimately exist in God.

Human life has intrinsic value because of this relationship with God. Returning to the concept of inherent dignity, Pellegrino elaborates on the import of Christianity:

The Christian conception of dignity is centered in the unique worth of the human person, created in the image of God, the one species chosen by God for the Incarnation of His only Son. God’s only Son died that man might be redeemed. For this reason, dignity is the source and foundation of human worth…This inherent God-given dignity is radically different from the dignity we attribute to those we admire or respect because of certain external or acquired capabilities.

It is this relationship with God and our inherent God-given dignity which allows Christians to resist so-called “quality of life” arguments and thinking. Some argue that certain lives do not meet a minimum standard and therefore those lives are not considered to be lives of good quality. Those with intellectual disabilities are often counted among this number and are routinely denied basic rights, including the right to marry, without an evaluation of the particular person and his or her capacity.

Pellegrino’s reference to the image of God is important. The imago Dei gives a foundation and justification for those human rights which form the basis of bioethical discourse: the right to autonomy, to truth, to assistance, etc. Benedict Ashley and Kevin O’Rourke state:

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This indelible likeness to God constituted by the gifts of intelligence and freedom opens all human beings to God’s call to friendship. After we are reborn through grace, we are able to obey God not blindly, but intelligently and freely, recognizing that God has forbidden or commanded certain behavior. God’s will does remain a mystery but it is not arbitrary, and its reasons should be explored.\textsuperscript{13}

The person is a unified totality, a multi-dimensional creature with a body and an immortal soul. He or she is a corporeal being, an incarnated spirit. The body, including the mind, is integral to the person. It is not something simply to be utilized by the person like an instrument or tool. As such, the bodies of those with intellectual disabilities should not be objectified or treated as an instrument; rather, they should be understood as part of their whole person, worthy of respect. As the \textit{Catechism of the Catholic Church} (363) states: “The human body shares in the dignity of the “image of God”: it is a human body precisely because it is animated by a spiritual soul, and it is the whole human person that is intended to become, in the body of Christ, a temple of the Spirit.”

What are the consequences of this understanding of the person? First, every intervention on the body does not stop at the physical body but reaches the whole person. If I injure, mutilate, damage, manipulate, or kill the human body, I kill the person; I lack the respect for the person himself. This is seen in the principles utilized in medical ethics, namely the Principle of Totality and the Principle of Bodily Integrity. The human body, by the mere fact that it is human, is a carrier of meaning that points to the totality of the person. The point of reference for morality is the human person. Mons. Elio Sgreccia writes:

In front of any rational reflection, even lay or secular, the human person is presented as the point of reference, the end and not the means, the transcendent reality for economics, law, and history itself...From the moment of conception to death, in every situation of suffering or health, it is the human person who is the point of reference and measure between what is licit and what is not.”\textsuperscript{14}

Second, the human person is gifted by being made the “image of God”, but this gift implies a task. The person is a steward of his body. The most meaningful expression of this stewardship is his care for human life, inclusive of human sexuality. It is an integral part of the human vocation to desire to intervene on bodily dimensions of his person, but he or she must act, imitating the action of the divine model- with wisdom and love- responding with liberty and awareness of the dignity of human life. The concrete norms of action will be the result of a discernment that allows the moral agent to actualize in his concrete existence lasting values that define the ethical truth of the person. Benedict Ashley and Kevin O’Rourke write:

Morality, in the ultimate analysis, is not a problem of obedience of rules, but it is an intelligent search for appropriate and concrete behaviors through which personal and communal goals are reached.\textsuperscript{15}

Third, to the extent that the Christian has been incorporated into Christ in baptism, he or she must acknowledge the primacy of Christ over his or her own desires, including sexual desires. Christian life is governed and ordered according to the Divine Plan. The flesh is the salutis

cardo, the hinge of salvation, because making Himself flesh, the Son of God has united our flesh to his forever. Christ has redeemed the body, and He is Risen in the Flesh. The body is “a temple of the Holy Spirit” (Romans 6:19); it is the possession of the Lord and is part of the Lord. There is nothing further from the Christian faith than the disrespect for the body. Man and woman are called to respond to the evangelical call with their whole person in their bodies. This is particularly true for those with disabilities. During the celebration of the Jubilee of the Disabled, John Paul II preached:

In your bodies and in your lives, dear brothers and sisters, you express an intense hope of redemption. In all this is there not an implicit expectation of the ‘redemption’ that Christ won for us by his death and resurrection? Indeed, every person marked by a physical or mental difficulty lives a sort of existential “advent”, waiting for a “redemption” that will be fully manifest, for him as for everyone, only at the end of time. Without faith, this waiting can be tinged with disappointment, and discouragement; supported by Christ’s word, it becomes a living and active hope.  

The Implications of Human Dignity for Sexual Ethics and Persons with Intellectual Disabilities

As a community of believers, the truth of the dignity of persons makes demands upon us to work for justice for the vulnerable, and, in the specific case considered here, for those with intellectual disabilities. If the dignity of those with intellectual disabilities is equal to that of others, then society and the Church have an absolute obligation to address issues surrounding human dignity, including those surrounding human sexuality; if we do not, then society, and the Church with it, neglects the task associated with the gift of our dignity.

The subject of sexual ethics for those with intellectual disabilities is ignored in modern manuals of moral theology, although there are some exceptions. The only subject treated with any depth is the morality of the sterilization of disabled persons. A sexual ethic for persons with intellectual disabilities begins with the principle which has been outlined above: the dignity of the human person. Those with intellectual disabilities have inherent dignity and should be treated as persons just like others in society. The following observations wish to address ways in which workers and educators might confront issues of sexuality in bearers of disabilities.

At the outset, it must be emphasized that one must always maintain the clear distinction that is made in moral theology between the objective evaluation of the behaviors and the subjective responsibility of the individual involved. It is useful to recognize that each person is an individual and, therefore, it is difficult to develop specific guidelines that are valid for each and every person. This observation or premise is especially true when one speaks of issues of sexuality. For example, one person may be a paraplegic, and the physical, sexual issues may

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16 Tertullian, De carnis resurrectione, 8, PL 2, 809.
19 Janet E. Smith and Christopher Kaczor, Life Issues, Medical Choices (Cincinnati: Servant Books, 2007), 92-94. The specific question the authors take up is: “Would it be moral to put a mentally handicapped woman on a contraceptive or have her sterilized if she is at risk of being sexually abused?”
dominate. Another person may be blind; his disability does not affect his mental faculties, or the functioning of his sexual organs, but he will have to appreciate the beauty of another through different means. Still for another, it may be the case that he or she has an intellectual disability. The differing types and degrees of disability affect the approaches to addressing sexuality, without altering the objective standards of morality. There are differences that the pastoral minister must consider, including the differing environments (communal and familial) of those with intellectual abilities and the differing degrees of sexual maturation. Within a seminary curriculum these issues could be addressed within courses dealing with human development and pastoral counseling.

The Environment of the Person with Intellectual Disabilities

Though people have equal and inherent dignity, differences must be acknowledged. An important difference that cannot be neglected is the environment in which people with intellectual disabilities develop. The different levels of acceptance of persons with disabilities in communities will have some effect on a person’s psycho-sexual development. Although communities today are more accepting than in the past, many still have a pre-established model of life in which certain values are higher than others. Some communities, for example, highly value material success; others value athletics; others value academics. Very few “value” disabilities, even if persons with disabilities are tolerated. While one can appreciate a greater sense of welcome and of employment, this can also place those with mental disabilities at risk for manipulation, seduction and sexual abuse.

Specific consideration should be given to the family setting, which is decisive. The type of family, the attitudes, expectations, and, the amount of assistance available can influence, positively or negatively, the overall development of persons with disabilities. A person with a disability might be over-protected; might not be encouraged; or might be deemed totally incapable. Moreover, an unstable family environment can increase the difficulties for an adolescent or adult with disabilities to heal internally. Vanier reflects:

A wound in the body heals naturally if the body is healthy. But the heart cannot heal itself. It needs to be surrounded by others who can call the person out of the fears that paralyze the heart and into a world of trust and openness with others. In order to find an inner harmony and to be at ease with his masculinity, the adolescent or man with a disability will need the presence of men who are at ease with their own masculinity- this means those who are able to have simple, open, true and unifying relationships with women without dominating them or being dominated by them, who are able to recognize in women their gifts and qualities which are different from their own. The same, of course, holds true for women in order to be able to discover their own femininity.

One must also take into account the current cultural context. The state of mass media makes addressing sexual issues urgent. In developing a general orientation, one must account for the challenging media-dominated environment of the new millennium. Vanier describes this challenge:

Over the last twenty-five years, the media and internet have developed a great number of films and DVDs which portray sexuality in a superficial and sometimes pornographic

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way. Sexuality has not been portrayed as a gift that grows out of a permanent relationship and strengthens and defends the relationship. People with a learning disability can be confused by these films. They can be seduced into sexual relationships without an awareness of the consequences or the capacity to assume responsibility for a partner.24

Although this article cannot take into account all environmental variables, one final variable deserves attention. It is said that society is more accepting of people with disabilities, yet we must acknowledge that there still exists an attitude that views the sexual needs of persons with disabilities as a type of taboo or which refuses even to acknowledge that persons with disabilities have such needs.25 Zavalloni contends that the mass media’s constant emphasis on aesthetic beauty may contribute to society’s picture of the disabled person as a non-sexual person, which in turn leads to sexual repression.26 Sgreccia sees another possibility: the negative attitudes of the social context can be reflected upon the handicapped person and may create in some way a type of fragility and insecurity, which may then manifest itself even with compensatory (negative) behaviors.27

Either response may lead to the isolation of those with intellectual disabilities and may deprive them of the community which they need to support the development of healthy relationships. Imposed isolation and solitude is the end result. Vanier contends that what is necessary for proper psycho-sexual development in those with disabilities is community, the place of encounter and sexual integration.28 Consequently, one must support the possibility and the opportunity for the unassailable right to establish relationships of friendship and engagement for all the handicapped that are able to validly contract marriage.29

Reaching Maturation and Human Sexuality

A foundational issue for those with disabilities is that they must be helped to reach the maturation, in the areas of affectivity and sexuality, to which they have a right and of which they have a need, each within the limits of his or her capacity. For which, the scope of affective education needs to include developing the capacity of obblative love, which is proper to all men and women and which is also valid for the disabled.30

Recent Magisterial teaching in the area of human sexuality and marriage, especially after the Second Vatican Council, has rightly emphasized the role of conjugal love in marriage. This love is to be total, human, faithful, and fruitful. The Theology of the Body, in a particular way, emphasizes the necessity of the total gift of self. Love is the starting part of human growth but all love, especially obblative love, requires a pedagogy, which begins in childhood.

Many with intellectual disabilities are wounded and experience anxiety and rejection, whether by family members or by society. These wounds can be healed by the experience of love in relationships. Some may wonder whether such love is possible. For this reason, at an early age, inasmuch as possible, children with disabilities must be assured of God’s absolute love. Though they may not be able to enter into relationships deeply with others at a high cognitive level, they

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24 Ibid., 2.
26 Zavalloni, “Il problema dell’amore umano negli handicappati,” 228.
30 Ibid.
can be reminded of the covenantal and absolute love of God, who is faithful; who is forgiving; and who comes to us even when we have difficulty striving for Him. By experiencing this relationship with God, a child realizes that covenantal love is possible with parents and others. Relationship is not based on intellectual ability but upon covenantal encounter. Where there is a relationship with God, it is easier for the child to live in relationships with others. It is for this reason that Baptism and Eucharist are so significant in the lives of those with intellectual disabilities; they establish and nurture loving relationships with God and the Church.

The first step in educating those with intellectual disabilities for marriage and a possible sexual relationship is to educate for friendship, with God and others. This education requires time and patience. It demands love, forgiveness, and affirmation of those with disabilities. At the same time, it requires the exercise of authority by parents and educators; it demands knowing how and when to forbid or permit and action, with the goal being freedom from behaviors that enslave or that are merely instinctual. Sometimes this growth requires very directive action—telling someone that this action or that action is wrong and attempting to explain why it is wrong. Love demands truthfulness. Other times, those with authority need to recognize when it is appropriate to step back and allow the individual to exercise his or her freedom within a safe environment.

The foundation of sexual education cannot be the physical components of genital sexuality. Biological facts are important, and these should be taught to those with intellectual disabilities inasmuch as they are able to understand— for their good and for their safety. Nevertheless, authentic sexual education needs the foundational context of a covenantal relationship. Learning how to give and receive love through affective friendship is a pre-requisite for considering marriage and genital, sexual activity. A healthy marriage, rooted first in friendship, requires knowledge of oneself and of an openness to be enriched by knowledge of another. Thomas Aquinas saw marriage as the “greatest friendship.” Nevertheless, mere friendship is different from marriage and the exercise of sexuality within marriage.

Marriage for those with Intellectual Disabilities?

Time and space do not permit a thorough discussion of particular sexual behaviors among those with intellectual disabilities; nevertheless, the teaching of the Scriptures and the Church is that marriage is the locus for the exercise of genital, sexual activity and that the exercise of such activity outside of the marital covenant is not permitted. Again, it is important to distinguish between objective moral standards and subjective culpability for those with intellectual disabilities.

In discussing the possibility of marriage for those with intellectual disabilities one must consider whether they have the sexual, affective, and intellective capacities, and, therefore, whether they are able to contract marriage validly and licitly like all other persons, having attention to the seriousness and consistency of the bond between the two future spouses.

In examining whether those with intellectual disabilities can validly and licitly marry, canon law must be considered. The U.S. Supreme Court recognized (albeit indirectly) the right of persons

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to marry and have children in *Skinner v. Oklahoma* (1942). The Code of Canon Law recognizes the right to marry and to receive the sacraments. Canon 213 deals with the right of the Faithful to receive assistance from their pastors from the spiritual goods of the Church, especially the word of God and the sacraments. Canon 843§1 strengthens this by stating that ministers may not deny the sacraments to those who opportunely ask for them, are properly disposed and are not prohibited by law from receiving them; however, this right does have certain obligations or duties associated with it, namely being properly disposed and not prohibited by law.

The specific canon dealing with the right to marry is canon 1058 which says that all those not prohibited by law may contract marriage, which implies that people have a right to marry; the marriages of those who do so are presumed to be valid unless the contrary is proven (c. 1060). Consent, which is an act of the will, makes a marriage, and those giving consent are consenting to giving and receiving each other (c. 1057). They enter into a life-long covenant, which involves a deep sharing in the whole lot of life and love and which is directed toward the good of the spouses and the procreation and education of children (c. 1055).

Do those with intellectual disabilities have the capacity to give consent and to assume the responsibilities and duties of marriage? One canon which is especially relevant to the capacity to marry is canon 1095. Canon 1095§1 addresses lack of due reason. A person must possess sufficient reason, beyond simple reason, to contract marriage; nevertheless, the canon requires a basic understanding of marriage as articulated in canons 1055 and 1057. Canon 1095§2 addresses the possible lack of due discretion required for marriage. Here the person must possess the intellectual capacity to make a mature evaluation and the will to make a free choice to enter into marriage. Does the person possess a critical faculty to enter into marriage? People may have difficulty making an informed and free judgment, but difficulty is not the same as incapacity. Finally, canon 1095§3 deals with psychic incapacity, sometimes (erroneously) called lack of due competence. Does the person lack the capacity for assuming the essential obligations (procreational and personalist) of marriage due to causes of a psychic nature? These canonical standards apply to all the faithful.

In a seminary curriculum, attention to these canons in courses on canon law and marriage preparation is essential. The minister who is familiar with these canons and the surrounding jurisprudence will better be able to assist a person with an intellectual disability to discern the vocational call. Sometimes, the minister may face the situation in which those who are married or are thinking of marriage are desirous of having children; sometimes it will be the parents of these individuals who will seek pastoral advice as to whether to encourage or discourage...
marriage and children. How will the pastoral minister respond? Some will also be found incapable of contracting marriage; they will also need pastoral assistance to live the virtue of chastity and be given a constructive direction, a social and oblative task in the measure in which it is possible for them.

**Human Dignity and an Objective Sexual Morality**

Since sexuality has meaning in the order of marriage, one may not legitimize absolutely, or worse, encourage casual and libertine exercise of sexuality. This permissiveness would not be within the lens of the authentic good of the person and one would not be speaking of an authentic love. To suggest that an intellectually disabled person could never control his or her sexual urges is to assault the dignity of the person by comparing the person to an instinct-driven beast. The fundamental equality of persons, rooted in each person’s inherent dignity, means that the values that preside over the sexuality of a healthy person are the same as those that guide and govern the sexuality of a disabled person. The Italian moralist Lino Ciccone writes:

> There does not exist, nor could there a sexual morality of the handicapped different from that of the healthy. This is one of the logical consequences of the affirmation that the handicapped are human persons like all others. To configure for the handicapped a different morality, would be to say once again that they are “different”, and really in a fundamental aspect of human existence such as human sexuality. This position rejects not only of every form of libertinism but also of every arbitrary restriction.

**Sterilization of Persons with Intellectual Disabilities**

The question of human sexuality for those with intellectual disabilities that is most often discussed is that of sterilization. Usually, it is handled within a course in medical or sexual ethics. Typically, there are two versions of this question. The first considers whether it is morally licit to put an intellectually disabled person on some form of contraception or to have him or her sterilized to prevent a person from having children; typically, the motivation for doing so is that those in authority do not want to “pass on” the “defect” to subsequent generations and/or because it is thought that the parents of the child would not have the ability or resources to care for and nurture this child, particularly when they struggle to care for and to make good decisions for themselves. The second version asks whether it is licit to place a woman with intellectual disabilities on a contraceptive or to have her sterilized if she is at risk of being sexually abused.

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36 A full treatment of this issue is not possible here. See Vanier, *Man and Woman God Made Them*, 144-147. The pastoral issues could include the following: If one is encouraged within marriage to have intercourse, how does one meet a paternal or maternal desire if prevented from having a child?; Is it prudent to have a child who might have a severe disability or who might not be loved and cared for properly?; If individuals with intellectual disabilities have difficulty caring for themselves, how will they be able to care for a small, dependent child?; If an intellectually disabled person is seduced by another and conceives or is strongly discouraged from having a child, conceived within or outside marriage, is there a danger of abortion?; How does a couple who cannot have children or who has been discouraged from having children due to parenting issues avoid becoming a “closed community”?; How can the Church assist such couples to have a common life that is open to others, including God?


Church teaching on sterilization is well known: contraceptive or direct sterilization is intrinsically immoral; no good intention can ever make the act good.\footnote{Catechism of the Catholic Church, 2nd edition, English translation for the United States of America (Washington, D.C.: United States Catholic Conference, 1997), n. 2399; Paul VI, Encyclical letter Humanae Vitae (25 July 1968) in Acta Apostolicae Sedis 60: 481-503; ET: Boston: St. Paul Editions, 1968, n. 14; United States Conference of Catholic Bishops, Ethical and Religious Directives for Catholic Health Care Services, 5th edition (Washington, DC: USCCB Publishing, 2009), 53.} In the first form of the sterilization question, as in the case of Buck v. Bell, there is often an underlying eugenic mentality. “Three generations of imbeciles” was enough for Justice Holmes. The mentality was that for the good of public health and to “purify” the gene pool, certain members of society should be forcibly sterilized. This would have the additional effect of saving the state resources for caring for adults and children with intellectual disabilities. Some theologians, using the faulty theory of proportionalism, argue that preventing such births would be a greater good for the individual and society than the evil of sterilization. Others attempt to argue that the principle of totality can be utilized to justify direct sterilization as much as the pregnancy may be hazardous to the health of the mother or may result in the birth of a child who will suffer from a disability, possibly severe; thus, sterilization comes to be seen as something good for the person’s well-being and for that of his or her family. Such thinking must be rejected; the price to be paid for such well-being for the person with the disability is his or her fertility. He or she is made in God’s image and that creation is good; the body cannot be arbitrarily mutilated; rather, according to the proper interpretation of the principle of totality, such an intervention could only be permitted if the operation was necessary to protect the life and health of the person.\footnote{John Haas, “The Totality and Integrity of the Body,” Ethics and Medics 20/2 (February 1995):1-2.}

Sometimes it is not a question of voluntary sterilization, which though immoral, is legally permitted; it is a question of “forced” sterilization, through coercion and manipulation by those with authority. Consider another Supreme Court case Stump v. Sparkman.\footnote{425 U.S. 349 (1978).} This was a judicial immunity case in which Judge Stump granted a mother’s petition to have her fifteen year old daughter subjected to a tubal ligation, solely on the mother’s testimony that the girl was “somewhat retarded” and associated “with older youth and younger men”. The daughter, Linda Spitler, was told that she was having her appendix removed; therefore, she was neither informed, nor did she ever give informed consent. Later when she married Leo Sparkman and could not conceive, it was discovered that she had been sterilized. She and her husband attempted to sue the judge, but eventually, the Supreme Court ruled that judicial immunity applied. Judge Stump was immune. Linda Spitler Sparkman was left without a judicial remedy and was deprived of her fertility.

The Stump v. Sparkman case illustrates the gross violation of human dignity to which those with intellectual disabilities may be subjected. It demonstrates how vulnerable those with even perceived intellectual abilities are in society; on the mere suspicion (not proof) of being “somewhat retarded”, Linda Spitler Sparkman was sterilized. Her dignity was violated in numerous ways. She was not granted due process under the law; she was not seen as having equal human dignity. In violation of the First Principle of the Nuremberg Code she was not afforded the opportunity for informed consent, reasonably free and adequately informed consent. Her bodily integrity was violated, which is a further violation of her human dignity. Her dignity was further violated and that she was denied the opportunity to become a mother through sexual intercourse with her husband, who was also denied the opportunity to become father through
intercourse with his wife. All of this occurred because those with authority, a judge and her mother, deemed that they had the right to decide what was best for a person with perceived intellectual disabilities.

In the second version of the sterilization question, one examines whether it is licit to place a woman with intellectual disabilities on a contraceptive or to have her sterilized if she is at risk of being sexually abused. The risk of sexual abuse of those with intellectual abilities is high. There are some, like Carrie Bell, who are victims of violence within foster families. There others who are susceptible to sexual violence in a residential facility, from other residents or employees. There are still others who dream of marriage and children and, due to their intellectual capacities, are easily seduced and violated. Could someone with an intellectual disability, who is a likely victim of sexual abuse, be placed on contraceptives or be sterilized as a means of self-defense against acts of violence and sexual aggression? Although it is a disputed question, there is historical precedent within Catholic theological reflection to act in this way in the context of sexual oppression, even within marriage, precisely because the victim or potential victim is not intending a venereal or contraceptive act, nor is she giving consent to a sexual act. The object of her choice is not to contracept, nor to sterilize; she does not wish to engage in a sexual act. She is considered to be defending herself against (possible) violence and against the perpetuation of an act of aggression. Again, the distinction must be remembered between objective morality and subjective culpability, for in such cases the amount of freedom involved in the action may be severely limited or even absent. One must examine whether this course of action (sterilization as self-defense) is prudent and necessary. The problem of sexual abuse of those with intellectual disabilities highlights the need to give further consideration to protocols that ensure the safety and protection of those with intellectual disabilities.

**Practical Directives for those involved with Seminary Education and Formation**

How might this subject be addressed practically in seminaries? The following are a few suggestions as to how to approach this subject within an existing seminary curriculum, without adding new courses. First, within a pre-theology or philosophy program, emphasis can be given

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to the foundation concept of the dignity of the human person. Students take philosophy courses in anthropology and philosophy of human nature. These would be natural subject areas in which the issue of human dignity might be addressed.

Second, within theology, an inter-disciplinary approach can be taken. The issue could be addressed in Christian anthropology; sexual and medical ethics; sacramental theology, especially marriage; human development and pastoral counseling courses; and canon law. The use of case studies, like those of *Buck v. Bell* or *Stump v. Sparkman*, might be particularly effective, to illustrate principles from sexual and medical ethics and to apply those principles to this specific issue. The mere use of such a case might at least raise the level of awareness of a future minister of the Church and might reduce fears about even discussing the issue.

Third, seminaries could hold “seminar” days in which this topic is addressed. For example, at Mount Saint Mary’s Seminary of the West in Cincinnati, periodic seminars have been given by the University of Dayton’s Institute for Pastoral Initiatives to address issues of Inclusion. In those seminaries and dioceses which require seminarians to participate in a Parish Internship year, a seminar could be given on this particular issue. In all seminaries, seminar educators could collaborate more with those in the fields of medicine, law, and social work, and especially with those who work with the intellectually disabled to develop strategies to not only protect the disabled from abuse but to help them to grow toward sexual maturation. Medical schools already employ this strategy to educate future doctors about these issues, often including personal testimony from those with intellectual disabilities.

Fourth, seminarians could be given literature on the subject. The book that I would recommend is Jean Vanier’s *Man and Woman God Made Them*. It is one of the few books available in English. It is accessible and easy to read. The book provides many anecdotes and testimony of those with intellectual disabilities. It raises awareness of the issue, while demonstrating the challenges faced not only by those with a disability but by those who care for them. Furthermore, the book faithfully conveys Church teaching about human sexuality and marriage and can in that regard have a much broader use than simply addressing the issue of human sexuality for those with disabilities. The book represents a good start.

The subject of human sexuality and those with intellectual disabilities has long been neglected. The Church has a duty to reflect theologically and to act in light of that theological reflection to affirm and protect the dignity of persons with intellectual disabilities. There is much to be learned about this issue. Much too can be learned from those with intellectual disabilities. In his concluding remarks to those gathered for the International Symposium on the Dignity and Rights of the Mentally Disabled Person, the late-Pope John Paul II eloquently stated:

> Disabled people are living icons of the crucified Son. They reveal the mysterious beauty of the One who emptied himself for our sake and made himself obedient unto death. They show us, over and above all appearances, that the ultimate foundation of human existence is Jesus Christ. It is said, justifiably so, that disabled people are humanity's privileged witnesses. They can teach everyone about the love that saves us; they can become heralds of a new world, no longer dominated by force, violence and aggression, but by love, solidarity and acceptance, a new world transfigured by the light of Christ, the Son of God who became incarnate, who was crucified and rose for us.\(^{45}\)

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