Sex and Trisomy 21 – Part Two

(Part I of this article describes some of the challenges to the sociosexual development of persons with Down syndrome as a consequence of their optimum integration into a normal life in our heterosexual society. The first of three possible practical questions following from this normalization process—whether it is morally acceptable from a Catholic perspective to seek a hysterectomy on a female with Trisomy 21 who suffers major physical and psychoemotional upset because of menstruation—was discussed. Based on the therapeutic and indirect nature of the resulting sterilization, it was concluded that a hysterectomy under these circumstances is morally acceptable.)

Question #2: Is it morally permissible to give contraceptives to a female with Down syndrome after onset of menses in order to prevent a pregnancy resulting from sexual abuse?

This question becomes especially worrisome in the following scenario: a 16 year-old Down's syndrome female is attending special education classes at a normal public high school. Typically, she is extremely affectionate and trusting. Because their daughter is fertile and supervision at school is not rigorous, the parents are concerned that she might be sexually abused or raped.

Reflection: One could make a case for the moral use of contraceptives in the circumstances just described. Using the principle of double effect, one could describe the action of taking or prescribing the contraceptives as a defense against possible rape. The good effect, that which is intended, is the prevention of a possible violently-induced pregnancy resulting from a sexual union deprived of the proper personal commitment of marital love, the meaning of which the coerced person does not understand and, therefore, to which she could not truly consent. The evil effect of temporary sterilization—the suppression of the procreative good—is only permitted for a proportionately grave reason: the prevention of procreation within a sexual union lacking sufficient knowledge, free choice, and genuine marital love. In other words, the use of contraceptives in this case would not be the sterilization of *freely chosen* acts of sexual intercourse, that is, the contraceptive behavior destructive of the basic good of human procreation within marriage (cf. *Humanae Vitae, #11*), but as a defense against rape.

Having said this, however, ancillary considerations present moral and prudential "second thoughts." If oral contraceptives are in question, one has to deal with the fact that they are not strictly anovulants; most, if not all, oral contraceptives are abortifacients as well. The parent or guardian prescribing the contraceptives must also take responsibility for the possibility of the abortive effects of the pill if, in the 5% chance of contraceptive failure, fertilization takes place. Furthermore, both oral contraceptives and the IUD are associated with deleterious physical side-effects. In the case under discussion, those factors must also be assessed when deciding whether to prescribe or proscribe their use.

If the intellectual capacity and moral maturity of the Down syndrome sufferer relegates against education in chastity and mainstreaming places the individual in a setting which presents challenges beyond her psychoemotional and moral maturity, then perhaps the more prudential solution would be to move the child into a more supervised setting where the danger of rape or sexual abuse can be considerably abated. It should be noted that this solution to the problem is not a matter of treating persons with Down's syndrome as eternal children who must never be challenged or allowed to grow up; it is, rather, a case of doing for them what we would do for ourselves, namely, withdrawing from situations which predictably place us in positions of moral or physical danger with which we cannot cope.

Question #3: Can marriage, as it is understood in the Catholic tradition, be an option for persons with Down syndrome who are mildly to moderately retarded?

(continued on page 2)

IN THIS ISSUE

(continued from page 1)

A 26 year-old male with Trisomy 21 (IQ of 70) has developed a close personal relationship with a mentally handicapped 25 year-old female (IQ of 60). Both have approached their parents about getting married. The young woman is fertile; the young man is neither impotent nor known to be infertile. The parents of both young people want to give their son or daughter every opportunity to develop as persons, but they do not want to do that at the expense of a disastrous experience in marriage. They also look to the Church for counsel about the advisability and validity of the marriage.

Reflection: If we are to come to a generally applicable resolution to this question, we need to examine what the Church expects of those who wish to marry. The 1983 Code of Canon Law summarizes the Church's theology of marriage and its concomitant responsibilities. The Code stipulates that matrimonial consent is valid when those consenting have sufficient use of reason and discretion of judgment to understand marriage as a permanent union ordered to children by means of sexual cooperation (see 1983 CIC, #1096.1). Consenting to marriage thus defined is primary. It implies the capacity to assume the obligations arising from children, fidelity, and permanence. Consequently, the consent of anyone who cannot critically evaluate his decision to marry in respect to the responsibilities and obligations that automatically follow from marriage is considered invalid.

Before we apply the salient features of a Catholic understanding of marital consent and responsibility to the request of a Down syndrome couple for marriage, it is well to note the requirements, from a practical standpoint, that some of the secular literature sets down for a successful marriage between mentally handicapped persons. The list of contingent circumstances for a workable marriage is indeed formidable. If the mentally handicapped person was generally well-adjusted before marriage, had a good experience of marital relationship in his own family, had a good income, understood his strengths as well as his weaknesses, was married to someone whose strengths compensated for some of his weaknesses, lived in a relatively sheltered setting where help in dealing with marital difficulties as well as the basic daily demands of life in our complex society was available, *then* the chances for a successful marriage are good. Even from a merely practical perspective, the parent or counselor has to ask whether enough of these contingencies are typical of the *sitz im leben* of the particular mentally handicapped couple he is advising.

Other authors point out that, while they agree that some mentally handicapped couples have the capability to enter into successful marriages, they also believe that the couple should be given contraceptive assistance either to relieve them of the added responsibility of children or, in the case of a Catholic couple, as a substitute for the natural family planning (NFP) methods which the retarded couple would have difficulty understanding or practicing.

As indicated in the directives from Canon Law, the inability to assume responsibility for children is considered an impediment to marriage. It would seem that part of the responsibility of a Catholic couple for the responsible procreation of children, if taken seriously, does necessitate the ability to understand and use one of the NFP methods. If that is not possible, then there seems to be reason to doubt whether assumption of the obligation of children is feasible from a moral standpoint. Furthermore, whether or not the couple could assume the responsibilities of permanence and fidelity would depend on their ability to understand these realities and on the presence of the support links referred to in the secular literature.

Because of the degrees of variation from case to case, the circumstances of each mentally handicapped couple seeking marriage in the Catholic Church must be judged on its own merits. But if marriage is ruled out, then the understandable disappointment of the couple must be appreciated and dealt with compassionately. One must explain that their ineligibility for marriage does not mean that they cannot love and be loved. Their desire for friendship and intimacy is a valid human desire, and even if it cannot be pursued in the context of marital intimacy, it can be rechannelled and fulfilled within other appropriate interpersonal relationships. In all of this, education in chastity should be presented for what it is: a positive way—the only way—of pursuing human sexual fulfillment and the demands of a genuine love of God and neighbor.

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