

Vaccines and the Right of Conscience

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As a father of five, I have been confronted with the question of whether to vaccinate my children against rubella (“German measles”). As many now know, this vaccine is currently produced from a cell line that had its origin in abortion.¹ Two other vaccines are similarly implicated in the tragedy of abortion: the hepatitis A and the new varicella (“chicken pox”) vaccines. As unfortunate as these facts are, an analysis of the problem, using traditional Catholic moral principles, does not seem to indicate that there is any obligation on the part of parents to avoid the use of these products. For my own part, therefore, I have not hesitated to have my children protected against these diseases.

Nonetheless, there are many parents who have come to the opposite conclusion. They believe that it would be immoral to inoculate their children with these products. They hold that a vaccine with even the most remote connection to abortion is forbidden to them, and thus, they refuse immunization on the grounds of con-

¹The rubella vaccine, produced by the pharmaceutical manufacturer Merck & Co., Inc., uses WI-38 cells. There are two hepatitis A vaccines, one produced by Merck, the other by Glaxo SmithKline, both of which use MRC-5 cells. The varicella vaccine, again produced by Merck, uses both WI-38 and MRC-5 cells. For the scientific details on WI-38 cells, see L. Hayflick and P. Moorehead, “Serial Cultivation of Human Diploid Cell Strains,” *Experimental Cell Research* 25 (1961), 585–621. For MRC-5 cells, see J.P. Jacobs, C.M. Jones, and J.P. Baille, “Characteristics of a Human Diploid Cell Designated MRC-5,” *Nature* 227 (July 11, 1970): 168–170. Also of interest are L. Hayflick et al., “History of the Acceptance of Human Diploid Cell Strains as Substrates for Human Virus Vaccine Manufacture,” *Development of Specifications for Biotechnology Standards* 68 (1987): 9–17; and S.A. Plotkin et al., “Attenuation of RA27/3 Rubella Virus in WI-38 Human Diploid Cells,” *American Journal of Diseases of Children* 118 (1969): 178–185.

science. What is the status of this refusal? Can it be supported by Catholic teaching? We have a moral obligation to follow the light of conscience. Indeed, this duty is so fundamental that, even if one's judgment is in error, conscience must still remain the standard of our conduct. To argue otherwise would be to say that we should do what we personally judge to be immoral.

From a theoretical standpoint, therefore, the path would seem to be clear. Parents who reject all association with abortion should feel free to refuse vaccination for themselves and for their children. Nonetheless, when this approach is put into practice, many difficulties arise. For example, objectors often face a problem when they attempt to place their children into a school system, whether public or private. School administrators, who have both a moral and legal obligation to protect the health and well-being of their students (as well as their teachers, school administrators, and all who work there), routinely prohibit attendance by children who have not been vaccinated against rubella and other contagious diseases. Many states offer exemptions from immunization requirements; some do not or only for very specific reasons. Thus a state may accept a religious exemption, but may refuse one based on medical concerns if they are deemed unjustifiable. In cases where an exemption is denied, parents find themselves with very few options.

The difficulty is heightened for Catholics because there is no official teaching of the Church on the question of whether the use of these vaccines is permissible. There are, it is true, various "probable opinions" issued by respected Catholic theologians and Catholic organizations, but the Church itself has taken no position. Thus Catholic parents who object to immunization with vaccines implicated in abortion can make no appeal to official church teaching, and if they attempt to do so, they are likely to be shown a statement from some recognized Catholic authority that contradicts their views. Can an appeal to conscience serve as a ground for an exemption to vaccination when there is no Catholic teaching on this matter? To explore this question is the purpose of this essay.

The Danger of These Diseases

Let us first be clear about the seriousness of these diseases—because sometimes opponents to vaccination argue that these diseases are minor. Take rubella as an example. This disease is indeed usually mild in children, causing a rash on the face and neck that usually lasts two or three days. Teenagers and young adults may also experience swollen glands in the back of the neck and some swelling and stiffness in the joints. Most people recover quickly and without any after effects following infection. The primary danger of harm from this disease, however, is to unborn babies. A woman who contracts rubella in the early stages of pregnancy has a chance of giving birth to a deformed baby. This risk is estimated at twenty percent by the Centers for Disease Control.² Defects range from deafness, blindness (atrophic eyes, cataracts, chorioretinitis), and damaged hearts to unusually small brains. Mental retardation is a possibility. Miscarriages can also occur among pregnant women who contract rubella.

²See the Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services website at <http://www.cdc.gov/nip/diseases/rubella/vac-chart.htm>.

The purpose of vaccinating young children, therefore, is not simply to protect them personally from the discomfort of a fairly mild disease, but also to prevent the unborn children of pregnant women from suffering through contact with infected children. Children who are immune to rubella cannot spread it to others. A girl who attains adulthood will also be protected against contracting this disease and transmitting it to her unborn child, though it is important to realize that it can still sometimes happen that one who is properly vaccinated is infected.³ This shows that the closer society comes to universal compliance against rubella, the smaller the danger will be of an outbreak of this disease. Thanks to the efforts of primary care physicians and public health officials, rubella has been nearly eradicated in the United States. The last large-scale outbreak occurred in 1964 when almost twenty thousand babies were born with severe birth defects. This is something we all hope will never happen again.

Thus the primary reason why we should use the rubella vaccine is to protect the unborn. The issue, in essence, is one of justice, which, as Catholic theologians have defined it, is the one virtue that is directed toward the good of others. Justice implies a type of equality among human beings, Thomas Aquinas says, and he states, by way of example, that “a man’s work is said to be just when it is related to some other by way of some kind of equality, for instance, the payment of the wage due for the service rendered.”⁴ In the present case, however, we have the equality of our common human nature, which obliges each of us to respect the right to life and health that belongs to every human being. We live in a world, of course, in which many claim that human beings are not equal by nature, but that some should be accorded greater value than others. The Catholic tradition sees this as a denial of our inherent human dignity, and if it recognizes any such distinction at all, it is that preference ought to be given to the weakest and most vulnerable among us. Those who are unborn and who are subject to the possibility of contracting a serious and debilitating disease within the womb are members of this class.

The Right of Conscience

Most people tend to think of conscience as a mental faculty, but for Aquinas conscience is the act of arriving at a correct moral conclusion about what is to be done and John Paul II says the same thing.⁵ The principles that ought to guide us in our conduct toward each other are not inborn, but are acquired over time through experience and education; hence, we must first acquire a moral code before we can

³Daniel A. Salmon et al., “Health Consequences of Religious and Philosophical Exemptions from Immunization Laws: Individual and Societal Risk of Measles,” *Journal of the American Medical Association* 282.1 (July 7, 1999): 47–53. This study indicates that as the number of exemptions to vaccination increases, the incidence of infection among those who have been properly vaccinated also increases.

⁴Thomas Aquinas, *Summa theologiae*, II-II, Q. 57.1. As he states at *ibid.*, Q. 58.2, “Since justice by its name implies equality, it denotes essentially a relation to another, for a thing is equal, not to itself, but to another.”

⁵“For conscience, according to the very nature of the word, implies the relation of knowledge to something: for conscience may be resolved into *cum alio scientia*, i.e., knowl-

exercise conscience.⁶ Once we have a grasp of the principles of morality, we can apply these to our daily life. One “sees” that doing such-and-such a thing would be good (or evil) and thus concludes that this ought (or ought not) to be done. This understanding of conscience is reflected in the *Catechism of the Catholic Church*.

The dignity of the human person implies and requires *uprightness of moral conscience*. Conscience includes the perception of the principles of morality (synderesis); their application in the given circumstances by practical discernment of reasons and goods; and finally, judgment about concrete acts yet to be performed or already performed. The truth about the moral good, stated in the law of reason, is recognized practically and concretely by the *prudent judgment* of conscience. We call that man prudent who chooses in conformity with this judgment.⁷

The exercise of conscience, therefore, is a type of rational decision-making. Given that no one else can carry out this task for me (another can offer me moral guidance, but I must accept or reject that advice according to the light of conscience), the Church recognizes that: “Man has the right to act in conscience and in freedom so as personally to make moral decisions.” Quoting Vatican Council II’s document, *Dignitatis humanae*, the *Catechism* adds: “He must not be forced to act contrary to his conscience. Nor must he be prevented from acting according to his conscience, especially in religious matters.”⁸

This would seem to indicate that those who sincerely believe that it would be wrong to vaccinate their children against rubella should be permitted to refuse immunization on the grounds of conscience. One might also appeal here to the priority of the family. The rights of parents in the care and education of their children should take precedence over any duty owed to the state. Under the principle of subsidiarity, decisions about the moral good should be left under the care of those who have the

edge applied to a particular case. But the application of knowledge to something is done by some act. Wherefore, from this explanation of the name, it is clear that conscience is an act.” Ibid, I, Q. 79.13. “The judgment of conscience is a *practical judgment*, a judgment which makes known what man must do or not do, or which assesses an act already performed by him.” John Paul II, *Veritatis splendor* (Boston: St. Paul Books & Media, 1993), n. 59.

⁶*Summa theologiae*, I, Q. 79.12. Aquinas follows Aristotle on this point. “Now, the first speculative principles bestowed on us by nature do not belong to a special power but to a special habit, which is called ‘the understanding of principles,’ as the Philosopher explains.” See Aristotle, *Nicomachean Ethics*, Bk. VI, ch. 6 (1140 b3–1141 a8). The same view is again present in John Paul II. “But whereas the natural law discloses the objective and universal demands of the moral good, conscience is the application of the law to a particular case; this application of the law thus becomes an inner dictate for the individual, a summons to do what is good in a particular situation. Conscience thus formulates *moral obligation* in the light of the natural law: it is the obligation to do what the individual, through the workings of conscience, *knows* to be a good he is called to do *here and now*. John Paul II, *Veritatis splendor*, n. 59.

⁷*Catechism of the Catholic Church*, 2nd ed., trans. United States Catholic Conference of Bishops (Vatican City: Libreria Editrice Vaticana, 1997), n. 1780.

⁸Ibid., n. 1782.

most immediate responsibility and not be usurped by higher authorities. Thus the decisions of the parents have priority over those made by the state.

But let us suppose that it should turn out that those who refuse vaccination are mistaken in their judgment. Let us say that the Church issues a directive stating that there is no illicit cooperation with abortion in the case of these vaccines. Nonetheless, the obligation to follow an erroneous conscience remains.⁹ We cannot oblige a person to violate his conscience, but we must respect that decision even if we ourselves are convinced that it is wrong. On all of these grounds, therefore, one can argue forcefully that parents who do not want to have any association with the practice of abortion, and who refuse to have their children vaccinated, should be free to do so.

Certainly, it would be wrong to force parents to vaccinate their children. We cannot compel anyone to act against his will except as punishment for a crime. Beyond this, however, it is difficult to know what more one can be said about the refusal to vaccinate on the basis of conscience. Catholic teaching holds that there is an objective moral order that ought to guide the activity of conscience. Obviously, we are not free to decide whatever we wish—every moral person will agree on this point. The moral order that ought to guide our conduct does not depend upon the judgment of Church officials, but exists independently of all human decision. The mind must conform to reality in order to know the truth, but in the absence of any announced position by the Church, one can only appeal to the authority of one's own conscience, which will hopefully be well-grounded in observation and sound thinking. The more our appeal takes its bearings from a knowledge of the facts and the true principles of morality, the more likely it will be that our exercise of conscience will successfully choose the good.

One of the facts of this case concerns whether we should identify the right not to violate one's own conscience with the demand for an exemption to a duly established public policy. One might easily argue that these two are not the same. Parents who refuse to vaccinate their children are not compelled to act contrary to their conscience under the law. If they are refused an exemption under some established public policy, then they will suffer the consequences of their refusal. Their children will not be permitted to enter into the local school system or some other public facility. This not a violation of conscience, but is a denial of an exemption. The case is not comparable to that of a Catholic health-care facility which is obliged by the state to dispense contraceptives because there is no compulsion to vaccinate one's children. If one wants to appeal to conscience in order to justify a decision not to vaccinate one's children, then the freedom not to violate one's own conscience is all that can rightly be expected by the parent. The further claim that the exercise of

⁹“A human being must always obey the certain judgment of his conscience. If he were deliberately to act against it, he would condemn himself. Yet it can happen that moral conscience remains in ignorance and makes erroneous judgments about acts to be performed or already committed.” *Ibid.*, n. 1790. Sometimes that ignorance is blameworthy, namely, when we are responsible for our own lack of knowledge. *Ibid.*, n. 1791. At other times that ignorance is not and “the evil committed by the person cannot be imputed to him. It remains no less an evil, a privation, a disorder. One must therefore work to correct the errors of moral conscience.” *Ibid.*, n. 1793.

conscience demands that the state must cede to the wishes of the parent for an exemption does not follow—at least, not as the right of conscience is understood by the Catholic Church.

Why There Is No Illicit Cooperation

As a Church which professes a definite body of doctrine, the appeal to conscience is not enough to satisfy the demand for an exemption from the law. There must also be a teaching to which the Catholic can appeal as evidence that he is being deprived of some good on the basis of his religious beliefs. For example, in the case of Catholic hospitals which are being compelled by state law to provide contraception and abortion, the administrators can appeal to the *Ethical and Religious Directives for Catholic Health Care Services*. The states that are forcing Catholic facilities to violate their own conscience do not care about these teachings; in fact, it is precisely because of these teachings that these states wish to harm Catholic health-care facilities. This is a violation of conscience not merely on the subjective grounds of personal belief, but on the objective grounds of doctrinal teaching. In the case of these implicated vaccines, however, there is no teaching. Nor is it at all clear that the Church will agree with those who claim that they should be exempt from state laws mandating vaccinations because of a perceived association between present use and the original abortions.

My own views on the question of whether there is any inappropriate association have been expressed elsewhere.¹⁰ There certainly seems to be abundant evidence to suggest that there was a high degree of cooperation between those who began the cell lines WI-38 and MRC-5 and those who carried out the abortions.¹¹ Regardless of what kind of cooperation it was, it was profoundly wrong. Aborted

¹⁰See my “Levels of Moral Complicity in the Act of Human Embryo Destruction,” in *Stem Cell Research: New Frontiers in Science and Ethics*, ed. Nancy E. Snow (Notre Dame, IN: University of Notre Dame Press, 2003), 100–120. The article applies my earlier reasoning on vaccines grown in the descendant cells of an abortion [“Vaccines Originating in Abortion,” *Ethics & Medics* 24.3 (March 1999): 3–4] to products that might arise from research on embryonic stem cells taken from destroyed human embryos. Similar, though not identical, views are expressed by the Secretariat for Pro-Life Activities, United States Catholic Conference, “Embryonic Stem Cell Research and Vaccines Using Fetal Tissue,” June 3, 2003, at <http://www.usccb.org/prolife/issues/bioethic/vaccfac2.htm>; Dan Maher, “Vaccines, Abortion, and Moral Coherence,” *National Catholic Bioethics Center* 2.1 (Spring 2002): 51–67; and John D. Grabenstein, “The Social Benefits of Vaccination,” *Ethics & Medics* 25.8 (August 2000): 1–3, among others.

¹¹I had previously said in my writings (see the preceding note) that the activity of the tissue researchers who produced WI-38 and MRC-5 was wrong because it constituted immediate material cooperation in the intrinsically evil action of abortion. A more detailed review of the evidence (see note 1 above) suggests that the tissue researchers played a much more direct role in the culture of abortion than I had realized. Hence, I revise my view to say that those tissue researchers were engaged in immoral formal cooperation with abortion. The activity of those who established these cell strains should be distinguished from that of the researchers who used them to invent the new vaccines. The latter, I continue to hold, were engaged at the level of immoral proximate material cooperation.

fetuses do not form a proper subject matter for use in scientific research.¹² Once these cell strains were established, however, a new question arose concerning whether scientific researchers (e.g., vaccine researchers) might work with these cells in the hopes of finding cures for serious diseases. Clearly these researchers did not intend that abortions take place, and given the fact that they would be working with descendant cells, we cannot say that their actions would involve any intrinsically evil activity. The cells found in WI-38 and MRC-5, for example, are not those of the deceased child, but have an independent existence. There is, nonetheless, some reason to think that even this type of research would be too closely associated with the evil of abortion, for it is possible that, supposing that the research is successful, others would be led to believe that the use of aborted fetuses is justifiable in view of the good that it can produce. Although the researchers would have no intention of cooperating with abortion, their work could still encourage the practice of using aborted fetuses in research programs.¹³

The same concern would seem to apply to those pharmaceutical firms who use these established human cell lines to manufacture vaccines. This concern is heightened by the fact that, even though there are some very specific requirements necessary for the growth of particular vaccines, other media have been successfully used in this process.¹⁴ Once a particular method of manufacture has been set up, however, it is very expensive and time-consuming to alter it. Thus the executives at these companies did not act prudently when they originally approved the manufacturing process. Other media should have been used, but were not. The companies who made use of the WI-38 and MRC-5 human cells should have known of their association with abortion. As with any individual who finds himself in a compromising situation but who has obligations that must be fulfilled to others, I do not think that these pharmaceutical companies should immediately cease to produce these products. These vaccines are needed to protect society against serious diseases. These companies should, however, begin to explore other possible avenues of production for existing implicated vaccines and certainly for novel vaccines that may be developed in the future. The larger scientific community should also begin to consider

¹²An exception to this rule would be the use of fetal material from indirect or spontaneous abortions, such as that recommended by Maria Michejda, M.D., in "Spontaneous Miscarriages as Source of Fetal Stem Cells" *National Catholic Bioethics Quarterly*, 2.3 (Autumn 2002): 401–411.

¹³Moral theologians generally recognize that illicit material cooperation occurs not only when one cooperates with an intrinsically evil act, but also "according to its circumstances ... if by reason of its adjuncts, it is wrong, as when it signifies approval of evil, gives scandal to others, or violates a law of the Church." John A. McHugh, O.P., and Charles J. Callan, O.P., *Moral Theology: A Complete Course Based on St. Thomas Aquinas and the Best Modern Authorities*, vol. I (New York: Joseph F. Wagner, Inc., 1929/1958), n. 1517.

¹⁴Thus, in the case of rubella, there is a Japanese product, not approved for use by the U.S. Food and Drug Administration, that is grown in rabbit kidney cells. The Chiron Corporation is currently exploring the possibility of licensing and marketing this vaccine in the United States.

what it will do when the current batches of WI-38 and MRC-5 are exhausted. Though these lines replenish themselves in culture, they are not immortal. What is to replace them in the future? Will new human cell strains be started that once again have their origin in aborted fetal material?¹⁵

A Proxy Right of Conscience?

Having considered the previous cases, we arrive at the question of what kind of cooperation with abortion obtains when a parent decides to immunize a child against rubella. The parent has no intention of participating in abortion and, living in the present, has no connection whatsoever to the abortions performed in the past. Neither does the parent make use of the cells taken from an abortion, but makes use of a vaccine that was grown in descendant cells. The capacity of these cells to duplicate in culture shows that their use applies little to no pressure on others to perform abortions. There is an abundant supply. If there were some remaining level of cooperation here, it could only be remote. This cooperation would be completely permissible because 1) parents have no choice but to use these products if they wish to protect their children and society from these serious diseases; and 2) the good that parents are seeking to secure through vaccination exceeds any harm that might be caused by that use.¹⁶ Thus it would represent a very harsh judgment, in my opinion, if someone were to say that unborn children must face the risks of serious birth defects or even death because others feel an obligation to make a strong statement against the evil of abortion. The fault surely lies with the original tissue researchers and, less directly, with the pharmaceutical companies or those who made imprudent decisions at the time these products were first manufactured. The fault does not lie with the parents and surely not with the children who suffer the risk.¹⁷

If the above reasoning is correct, and there is no immoral cooperation with abortion in the use of these vaccines, then we are led back to the problem of conscience from an entirely new perspective. One who properly exercises conscience

¹⁵Prospects do not look good. The biotechnology company Crucell N.V. and Aventis Pasteur S.A. are seeking approval from the U.S. Food and Drug Administration to introduce PER-C6, a cell strain made from a fetus aborted at eighteen weeks. Even more disconcerting are the efforts of biotechnology companies to produce new drugs and therapies from embryonic stem cells. Some U.S. states have recently passed laws encouraging this research. Any new products made from these strains will be even more controversial than the implicated vaccines.

¹⁶Thus McHugh and Callan argue that “a grave reason for cooperation exists when, if one refuses it, a great good will be lost or a great evil incurred. A day’s wages or income is generally a great good; a severe or long-continued pain, great anger of an employer or other superior, things that bring on notable annoyance, shame, repugnance, etc., are examples of great evils.” McHugh and Callan, *Moral Theology*, n. 1520. Serious disease justifies this use.

¹⁷No one should suppose that the position advanced lends any support to the claim that scientists should be free to work with fetal tissue in research. It should be obvious that those who set up arrangements with Planned Parenthood or other abortion facilities to receive the remains of aborted children, so that they can be used in programs of experimental research, are doing something that cannot be justified under any principle of Catholic

will recognize that he has a moral obligation to protect the life and health of his neighbors and that he must therefore ensure that he and his children are vaccinated as a correct means to that end. He will recognize that there is a moral question at issue in the use of vaccines, but he will also see that there can be no justification for risking the health and life of unborn children who have had absolutely no hand in the original wrongdoing. He will bear in mind that his own children will learn from his decision and that the occasion presents him with an opportunity to explain to them how to think about difficult moral problems. The formation of conscience is a responsibility that a parent has toward his child throughout his time in the home.¹⁸ What will the child learn from a parent who refuses to vaccinate him out of an exaggerated concern that the use of these vaccines is immoral? Hopefully, the entire event will pass without his notice.

Let us suppose that the child who is not vaccinated contracts rubella while his mother is pregnant. Let us also suppose that this unborn child is then infected and born with birth defects. This is not an unreasonable scenario, especially for those who tend to have larger families. The most likely transmission is from a born child to one who is unborn. What will be the lesson that the child learns as he sees his brother or sister born with such defects? Will he say to himself, “Yes, we must suffer even this, in order to show our strong opposition to abortion”? Or will he say, “No, this cannot be right. How does the suffering of my brother or sister advance the cause of abolishing abortion?” This question would be especially troubling for a child who realizes that his sibling has suffered this calamity because he himself has contracted the disease and passed it on. The child should understand, of course, that what has happened was not his fault, but it may not prove easy for him to distinguish between his role as the source of the disease and his innocence of any moral responsibility. And if he is not to blame, who will the child hold responsible for this tragedy?

There is an even more fundamental question at stake. Can a parent exercise a right of conscience for a child? How can *I* risk *your* health in order that I might make a strong stand against abortion? This, in fact, is impossible because it is contrary to the very nature of conscience, which is always the personal act of a particular individual¹⁹ I cannot carry out an act of conscience for you. Only you can do that for yourself. But someone will say, “In this case the child is not old enough to decide for himself; therefore, the parent must decide on his behalf.” Exactly, and that is all the

teaching. The direct cooperation between the parties in this matter sullies the hands of those who receive the fetal materials and makes them cooperators in the evil of abortion. In the case at hand, I am talking about the use of the *cells* that descend from an abortion, cells which replicate themselves in culture, from which vaccines are made. That product is then made available for use by physicians. The level of cooperation in the two cases is radically different, as the above brief rehearsal should make plain.

¹⁸“The education of conscience is a lifelong task. From the earliest years, it awakens the child to the knowledge and practice of the interior law recognized by conscience.” *Catechism of the Catholic Church*, n. 1784.

¹⁹“Conscience makes its witness known only to the person himself. And, in turn, only the person himself knows what his own response is to the voice of conscience.” John Paul II, *Veritatis splendor*, n. 58.

more reason to act for the sake of the child's health. That is the moral principle that ought to govern all decisions in this area. Just as the demand for an exemption to a law mandating vaccination seems unjustifiable, so does the appeal to the right of conscience. No one can exercise the right of conscience for someone else—not even for one's own child. All one can do is act for the sake of child's life and health. Hence, an adult is free to appeal to the right of conscience in order to justify his own refusal to vaccinate himself, but he cannot appeal to the right of conscience in order to justify his decision not to vaccinate those who are under his supervision and who rely upon him for their medical care. We should not allow the one who carried out an abortion in the past to hold our children hostage in the present.