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One who cooperates immediately in the sinful action of another, meaning not remotely, not mediately, sins with the principle agent. Such is the teaching of the approved authors of my seminary teaching days. Let us hear them out. Noldin-Schmitt-Heinzel teach that, with the exception of doing damage to someone's property, "cooperatio materialis immediata illicita est."² So does Benedictus Henricus Merkelbach, O.P.: "cooperatio immediata etiam mere materialis est illicita."³ He adds that to cooperate immediately in an act which is itself intrinsically evil, is tainted with the same specific malice as that of the principle agent. Marcellinus Zalba, S.J., states that when in concrete circumstances one's action is necessarily one with that of the principle agent, then it is necessarily formal cooperation, always illicit.⁴ The authors would not have written so didactically had there been a controversy at their time.

Then what about the exception? Noldin explains as follows: immediate material cooperation is never licit, except in certain cases of *sins against justice*. In certain actions that are against justice, sometimes the nature of evil (*ratio mali*) ceases. So for a very serious reason it is permissible to cooperate immediately in bringing harm to a neighbor in regard to goods of fortune (*in bonis fortunae*). His example: cooperating in burning down the neighbor's house when he would lose his life lest he cooperate. The owner of the house is presumed to let the house burn to save the neighbor's life.

But a baby cannot be presumed to forfeit its life in order to save the life or job of a nurse. The nurse, then, who assists the abortionist commits the abortion with him and is guilty. There is no wiggle room.

If, in the Grisez case, the nurse had called in sick on those three mornings, the hospital

and the abortion doctor would be deeply inconvenienced. The operating room would be in turmoil; the doctor would sit and stew and swallow his bile. Maybe the abortion would even have to be called off. Would you be sorry?

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Using Condoms to Prevent HIV

The July 10th issue of *The Tablet* featured an essay, "The Truth about Condoms" by the noted moral philosopher Martin Rhonheimer. In it, Rhonheimer, a Catholic thinker for whom I have the greatest respect, argued that it is morally permissible for a married couple to use condoms in order to prevent the transmission of the human immunodeficiency virus (HIV) and that such use of condoms would not be contraceptive. The contraceptive effect would be *praeter intentionem* and this contraceptive side-effect would be justified by the principle of double effect.

Rhonheimer is not the first Catholic moral philosopher to point out that using condoms to prevent the spread of HIV/AIDS is not necessarily contraceptive. The contraceptive effect could indeed be "*praeter intentionem*." Several theologians in the 1980s, among them Rev. Norman Ford, S.D.B., argued in similar fashion that use of condoms to prevent the transmission of HIV/AIDS is not of itself contraceptive because the moral object of the act is *not* to contracept but to avoid transmitting a disease. The couple might even be infertile, and hence it would make no sense for them to contracept. I agreed in the 1980s with these theologian/philosophers that use of condoms in such circumstances did not necessarily involve a contraceptive intent. As an example, I am now seventy-six years old and my wife is seventy-two. If I were to become infected with HIV through a blood transfusion and were to use a condom in having sex with my wife, I would surely not be using it to impede procreation, i.e., to contracept (see *Humanae vitae*, n. 14).

²Ibid., n. 118.3.

³*Summa Theologiae Moralis* 9th ed., vol. I, "De principiis" (Declee de Brouwer et Cie, 1954), n. 489b.

⁴*Theologiae Moralis Compendium*, vol. II (n.p.: Madrid, 1958), nn. 249 and 244.

Nonetheless, as I argued in a brief essay published in the *Fellowship of Catholic Scholars Newsletter*, it would “be morally wrong to use condoms in this way. Using them would not violate some of the conditions of the principle of double effect . . . but it would violate the first condition of this principle, which requires that the act chosen, prescind from its evil effect, must either be morally good or at least morally indifferent. But condomistic intercourse is not morally good in itself, nor is it morally indifferent.”¹

Such intercourse, I went on to say, is “an ‘unnatural’ or perverted sexual act, and cannot be regarded as a true act of marriage.” The moral object here is “to have condomistic intercourse,” and this is a morally bad object specifying the act. “The Catholic tradition,” as I noted in my earlier 1988 essay, repudiated condomistic intercourse not only because it was usually chosen as a way of contracepting but also because it was ‘against nature.’ Older theologians judged that in such intercourse the male’s semen was deposited in a *vas indebitum* or ‘undue vessel.’ Although this language is not in favor today [and it may reflect an understanding of natural law I do not share] the judgment embodied in it, I am convinced, is true. When spouses choose to use condoms they change the act they perform from one of true marital union (the marriage act) into a different kind of act. The ‘language of the body’ [to use Pope John Paul II’s way of speaking] is changed. In the marital act their bodies speak the language of a mutual giving and receiving, the language of an unreserved and oblation gift. Condomistic intercourse does not speak this language; it mutilates the language of the body, and the act chosen is more similar to masturbation than it is to the true marital act.²

Such was the argument I gave in the late 1980s. Today I would add the following con-

siderations. Such a condomistic act would not, I believe, “consummate” the marriage. According to the 1983 revised *Code of Canon Law*, marriage is *not* consummated by any kind of sexual act. According to the new *Code*, a valid marriage between baptized persons is “consummated if the spouses have *in a human manner (humano modo)* engaged together in a conjugal act in itself apt for the generation of offspring” (c. 1061, par. 1).

Moreover, in his masterful October 29, 1951, “Address to the Italian Union of Midwives,” Pius XII gave us a very specific “rule” for the intentional exercise of our generative powers. He wrote as follows: “This, therefore, is the rule to be followed: the use of the natural, generative instinct and function is lawful in the married state only, *and in the service of the purposes for which marriage exists* [i.e., the procreative and unitive purposes]” (n. 60). Condomistic sex is *not unitive*. In and through it husband and wife do *not* become “one flesh.”

In addition, it is foolish for married couples to behave in this way because condoms in no way offer “safe sex” but only “less unsafe sex” and cannot be trusted to prevent a disease. We should put our trust in God and in the church, not in condoms.

When I wrote my essay in 1988 I consulted several theologians loyal to the magisterium. Some priest-theologians, because of misplaced “compassion,” I believe, thought that such use of condoms would be acceptable. I think Rhonheimer belongs here. However, *every married Catholic theologian* loyal to the magisterium whom I have consulted unananimously and immediately judged such behavior unworthy of marriage, and their spouses were in perfect agreement. Husbands and wives have a right to the *conjugal act*; they do not have a right to condomistic sex.

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¹*Fellowship of Catholic Scholars Newsletter*, 11.3 (June 1988): 1–2.

²*Ethics & Medics* 13.9 (September 1988): 3–4.