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MERCY MURDER

JOHN C. FORD, S.J.



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Rev. John C. Ford, S.J., born in 1902, entered the Society of Jesus in 1920. He took the M. A. degree at Boston College in 1927. In 1937 he took his doctorate in Sacred Theology at the Gregorian University, Rome. From 1937 to 1941, he was part-time lecturer in Moral Theology at Weston College, Weston, Mass., while studying for the degree of LL.B., which he received from Boston College in 1941.

In 1945-46 he was a professor of Moral Theology at the Gregorian. Since his return to the United States he has been professor of Moral Theology at Weston College and professor of Ethics at Boston College.

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MERCY MURDER

by

JOHN C. FORD, S.J.

*Nations die of softening of the brain,
which, for a long time, passes for
softening of the heart.*

Coventry Patmore

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1: The Background

ON DECEMBER 4, 1949, Dr. Hermann Sander stood by the bedside of a patient in the Hillsboro County Hospital, Goffstown, N. H. The patient, Mrs. Abbie Borroto, 59 years of age, was dying of cancer. Dr. Sander took a hypodermic and injected 10 cc. of air into her veins. Some minutes later, Mrs. Borroto was dead.

Dr. Sander had treated Mrs. Borroto throughout her illness. Before leaving the hospital that December 4, he dictated the final medical notes on her case, including mention of the air injection. On December 29, in a routine staff review of recent cases, the injection was challenged. Dr. Sander readily admitted it, saying he did so "as an act of mercy" and that he had no regrets about it.

He was arraigned before Municipal Court Judge Alfred Poor, charged with the wilful murder of Mrs. Borroto, and released on \$25,000 bail. Trial was set for late February, 1950.

On New Year's Day, Dr. Sander, who lives in Candia, N. H., attended services at the Candia Congregational Church. In the course of the sermon Rev. C. Leslie Curtis, the minister, said: "Let us have the courage to act if it benefits humanity." That evening, Rev. Mark B. Strickland, of the Manchester, N. H., First Congregational Church, said in a radio broadcast: "If this man is felonious, then so am I; for I have desired the time of suffering to be

short and I have wanted natural and unaided causes to bring relief in death.”

The Euthanasia Society of America, with headquarters in New York City, rallied to Dr. Sander's defense. Founded by Dr. Charles Francis Potter, the society claims that 3,272 physicians in New York State are on record in favor of legalizing euthanasia.

In an interview published in the Boston *Traveler* for January 6, Dr. Earnest A. Hooton of Harvard University said that Dr. Sander's deed “merits universal commendation.” “If ‘Thou shalt not kill’ is a ‘law of God’ that convicts Dr. Sander of murder, let us have done with such a savage and subhuman deity . . .” If human life, he added, is “ever to be held sacred, it should be only when that life is of value to its possessor and to society.”

In saying “and to society” rather than “or to society,” Dr. Hooton is going farther than the “voluntary” euthanasia advocated today. (What may be advocated tomorrow is quite another affair.) At present the euthanasians want a law that in the case of a painful and incurable disease will permit a doctor to administer, or the patient to take, a deadly drug. This would be done on the voluntary application of the patient, with certification by the doctor of the nature of the illness and, probably, after permission had been given by a court.

The moral implications of this proposal, and some of the practical questions it raises, are the theme of the following chapters.

II: Euthanasia and Christian Morals

THE ABSOLUTE OPPOSITION of Catholic moral teaching to mercy-murder is based on fundamental truths and laws which are known partly through human reason and partly through God's revelation. It is useless to try to join argument with those who deny these laws and do not believe these truths. There can be no debate where there is no common ground as to fundamentals.

Among the fundamentals that Catholics believe are the following: that there exists a personal, intelligent, infinite God who is the Creator of the visible world and of each individual human being; that man is made up of matter and spirit, of body and soul; that the material body is mortal, the spiritual soul immortal and destined to survive for all eternity either in heaven or in hell; that God, the Creator, has exclusive dominion over the human lives He has created, while man, the creature and servant of God, is not the owner of his own life, much less of anyone else's—he exercises mere stewardship; that every human being has an absolute inviolability and inherent dignity precisely because he is a son of God; that a direct attack on the life of any innocent person violates that dignity and is an invasion of that exclusive dominion of God's; that to take one's own life is to violate the essential terms of one's earthly existence, for one who is essentially a creature and a servant of God is not at liberty to terminate his servanthood at will. In other words:

God, not man, is the master of human life; man's service of God must begin with doing what is morally good and avoiding what is morally evil. Morality is fundamentally meaningless without accountability to the personal God who created man. A good end does not justify an immoral means; and fundamental moral values are absolute because based on the unchangeable nature and will of God. Man's life on earth is merely a period of probation for the vastly more important eternity which is to follow—a period in which through loving, worshiping and serving God he can attain to the perfect and eternal happiness of heaven.

These religious fundamentals—which are almost all conclusions not merely of revelation but of human reason, and none of which is distinctively Christian doctrine—would, I feel sure, be called “superstitions” in the derogatory vocabulary of Dr. Hooton. One who believes these fundamentals has no common ground with the materialist, or the atheist, or with those who believe that they can discard the God who is, on the grounds that He is a savage, and replace Him with a god of their own making whose morality is less demanding. One who holds “the medical profession . . . to be the noblest and most useful of human pursuits — not excluding religion” simply does not know what the word religion means. Religion either transcends all human values and professions or it is not religion. And so it is impossible to discuss mercy-murder with Dr. Hooton. He has no ground in common with religious-minded men.

On the other hand, Dr. Hooton has a great deal of ground in common with the materialistic philo-

sophers of communism, legal realism, and nazism. He could share with Lenin, no doubt, the idea that religion is the opiate of the people. He could share with our own Justice Holmes (a great admirer of the German philosophers) the idea that there is "no reason for attributing to man a significance different in kind from that which belongs to a baboon or a grain of sand." He could share with many a pre-war Nazi philosopher the idea that mercy murder of the unfit was permissible in the interests of the state. Or if he disagreed with these ideas, he could at least debate them from the common ground of a crudely materialistic outlook.

THE MINISTERS VS. CHRISTIAN DOCTRINE

It is more difficult for me to understand the viewpoint of professed exponents of the Christian religion who defend mercy-murder. For in addition to practically all the religious fundamentals outlined above, one would expect them to take for granted certain Christian fundamentals: for instance, that man has a supernatural destiny; that physical evil, mental and physical pain, are in the world as a result of sin; that Christ's death on the Cross not only redeemed mankind from sin, and made every human life supernaturally precious, but also gave to human pain and suffering a supernatural value; that physical pain, patiently endured in imitation of the passion of Christ, becomes a spiritual benefit and a source of supernatural merit to the afflicted person; that physical suffering is far from being the worst of evils—the worst of evils is sin; that God's supernatural Providence, permitting physical pain and drawing good out of evil, watches

over each of us, and especially the incurably afflicted; that no disease is incurable to God, and that His miraculous power is no less today than in ages past.

One would expect Christian ministers to believe many of these religious fundamentals and Christian truths—or at least to give some minimum content to the absolute, revealed command of God: "Thou shalt not kill." If this command does not forbid the direct taking of innocent life, then it is emptied of definite content, everything depends on circumstance and motive, and the end (alleviation of suffering) justifies the means (mercy-murder).

But instead we see certain clergymen aligning themselves with the exponents of pagan materialism. Their viewpoint seems to me to be naturalistic, secularist, sentimental, temporizing — in short, this-worldly instead of other-worldly. I think the type of Christianity with which mercy-murder is compatible is so watered-down as to be almost unrecognizable. It is a form of religion in which moral values have become subjective and sentimental, and religion itself largely humanitarian. Some of the same people who are horrified at the vivisection of a dog now hasten to justify the deliberate murder of a human being. I can only explain it on the theory that they think temporal, physical pain is the greatest evil there is.

I trust, however, that in the discussion of these matters religious animosity will not be aroused, nor uncharitable judgments expressed.

Some years ago Dr. Alexis Carrel was quoted in the press as saying: "Sentimental prejudice should not stand in the way of civilization. It is my opinion

that not only incurables, but kidnapers [he was a friend of Lindbergh], murderers, habitual criminals of all kinds, as well as the hopelessly insane, should be quietly and painlessly disposed of." Note how the innocent and guilty are all lumped together, and the question of consent is not even touched. It is no idle suspicion that euthanasians ultimately aim at much more than voluntary mercy-murders. In *Merciful Release*, published by the Euthanasia Society of America, Inc., the question is asked: "Why not legalize euthanasia for all who are a burden to themselves and the community (including mental defectives and others incapable of consent) rather than merely for sufferers who themselves ask for euthanasia?" The Society's pamphlet replies:

The American and English Euthanasia Societies, after careful consideration, have decided that more will be accomplished by devoting their *present* efforts to the measure which will probably encounter the least opposition, namely, voluntary euthanasia. The public is readier to recognize the right to *die* than the right to *kill*, even though the latter be in mercy

No one can read this, or listen to the ecstatic exclamations over the case of Dr. Sander, without realizing that their profession of seeking only a very restricted voluntary mercy-murder is highly suspect. If I were a euthanasian I would no doubt sympathize with Dr. Sander's plight, but I would not give the show away by rushing to his defense.

Incidentally, if I were a euthanasian I would not appeal to the authority of Saint Thomas More, a

Catholic saint, to bolster up a shaky argument for mercy-murder. In St. Thomas More's *Utopia* (which means No Place, and is a work of fiction, fantasy, satire and philosophy all inextricably and puzzlingly mixed together) the Utopians are described as permitting mercy-suicides and mercy-murders under the strict regulation of the priests and the magistrates. But the Utopians also condemn all bodily austerities as "a point of extreme madness." And yet St. Thomas, as R. W. Chambers, his non-Catholic biographer, points out, was accustomed to wear a hair shirt, and practised other mortifications all during his life when he was writing *Utopia*. The Utopians also permit divorce. But St. Thomas went to a martyr's death rather than approve the divorce of King Henry. St. Thomas explicitly says toward the end of *Utopia* that he does not agree with or consent to all that was related of this land of No Place. It is foolish and unfair to claim him as an advocate of mercy-murder, as it is to claim he was the first Marxist (as some have done), or that he was an advocate of divorce. He often talked and wrote with his tongue in his cheek. Modern Church law does not permit the canonization of anyone unless his writings have been subjected to severe scrutiny as to orthodoxy in faith and morals.

St. Thomas More expressed his own real thoughts, not in *Utopia* but in real life, when he told his wife and children: "We may not look to go to heaven at our pleasure in feather beds. For Our Lord Himself went thither with great pain, by many tribulations, which is the path wherein He walked thither, and the servant may not expect to be in a better condition than his Master."

III: Practical Thoughts

THE CATHOLIC VIEWPOINT is that mercy-murder is always intrinsically immoral. It is contrary to the clear dictates of reason and revelation, and irreconcilable with the whole structure of Christian theology as to the nature of man and his relation to God and the next world. If I were not a Catholic and Christian believer, and certainly if I did not believe in a personal God, I could have no opinion as to the absolute immorality of mercy-murder. I would have to judge it in the light of policy and merely human considerations. But even so I think there are many aspects of it that would make me hesitate long before approving its legalization.

A DANGER TO POOR AND RICH

If I were a charity patient in a hospital I would certainly have grounds to fear what might happen to me if mercy-murder were legalized. As it is, Dr. Hooton assures us the practice is going on surreptitiously. Dr. Charles Francis Potter of the Euthanasia Society of America (a doctor of literature, not of medicine) has also testified in the press to the frequency of these secret crimes. What security would the friendless pauper have?

If I were a rich old man with a disease diagnosed as incurable, I would not want my relatives to have it in their power to say the word that meant life or death in case I went into my dotage.

If I were a sinner, facing the unknown judgment of God, I would not want any man to decide to launch me "before my time" into an eternity whose punishments might be far more severe than the sufferings from which I was being relieved on earth.

If I were an average incurable, I would not want to die anyway. The great majority of incurables cling to life. To legalize murder for the sake of the few who would really ask for it in their right minds would be a rash and imprudent thing.

If I were in the life insurance business, I would regard with peculiar jealousy any change in the law which so vitally affected my business.

If I were a euthanasian, I would pause and consider before dashing to the defense of Dr. Sander. After all, euthasians in this country profess that they favor mercy-murder only under the strictest legal safeguards, with the consent of the patient, and with consultation and consent of other doctors, and even of a magistrate. But Dr. Sander, as far as appears, has confessed that he acted without any consultation, and there is no mention of consent on the part of the patient, or of any representative of hers. The haste and unanimity with which the euthasians have rushed to Dr. Sander's side may well make us doubt the sincerity of their protestations that they favor only voluntary mercy-murder—that is, with the consent of the patient.

If I were a lawyer I would protest against a legal innovation which would allow government to usurp natural rights and abrogate natural law. The passage of a bill legalizing mercy-murder would be an attack on the theory of inalienable rights, which

is essential to our American institutions, and would be an implicit adoption of the principle that man-made law takes precedence over the natural law.

Supreme Court Justice Robert Jackson, who tried the Nazi criminals, addressing members of the American Society of International Law in Washington, D. C., in April, 1945, said:

Of course there is a school of cynics in the law schools, at the bar, and on the bench who will disagree, and many thoughtless people will see no reason why courts, just like other agencies, should not be weapons of policy. It is a current philosophy, with adherents and practitioners in this country, that law is anything that can muster the votes to put in legislation, or directive, or decision and be backed up with a policeman's club. Law to those of this school has no foundation in nature, no necessary harmony with the higher principles of right and wrong. They hold that authority is all that makes law, and power is all that is necessary to authority. It is charitable to assume that such advocates of power as the sole source of law do not recognize the identity of their incipient authoritarianism with that which has reached its awful climax in Europe.

The awful climax in Europe included mass murders, many of them mercy-murders, carried out by the medical profession under the legal protection of a regime where natural law was abandoned and the organized physical power of the community was taken as the ultimate realistic basis of both law and morality.

Monsignor Robert E. McCormick, Presiding Judge of the New York Archdiocesan Ecclesiastical Tribunal, asks:

What about the fate of minority groups in this country if the complete program should be legalized? One need but to look to Germany for the answer. The Nazi doctors who carried out Hitler's euthanasia program have recently been brought to trial on the charge of murder by the United States Army courts in the very courtroom in which the Nazi leaders themselves were condemned to death. The passage of voluntary euthanasia will tend to justify, in the minds of some legislators, the further and final step of legalizing involuntary "mercy-killing"—the very crime for which these Nazi doctors are now on trial.

Let us not forget that Dr. Sander's act, as far as appears, was involuntary mercy-murder.

A SETBACK TO MEDICAL SCIENCE

If I were a doctor, I would hesitate long before abandoning my Hippocratic Oath in which I had sworn that "to please no one will I prescribe a deadly drug nor give advice which may cause his death." This oath has been the ethical guide of the medical profession since the fifth century before Christ. It has inculcated in countless generations of doctors that their profession is to cure, not to kill. "Neither the physician nor the state may kill the sick" is such an axiom that the necessity of defending it is a shocking commentary on the low level to which morals and common humanity have fallen.

If I were a doctor, I would reflect on the innumerable instances in which doctors have been wrong in declaring patients incurable. I would reflect that, once the law put the power of life and death in my hands, the confidence of the little man, especially the charity patient and the inmate of the public institution, would be increasingly undermined. He would find himself thinking: "I'll never go to that hospital, where some doctor will get me to sign something when my mind is not clear."

If I were a doctor, I would reflect that the cause of medicine itself would be retarded and not advanced by legalizing the killing of the patient. The late Father Paul Blakely, S.J., tells us:

No advance can ever be registered by the methods which the propagandists of euthanasia propose. No unsolved problem in medicine or surgery is solved by killing the patient. To kill the sick man is the refuge of the lazy, the incompetent, the unscrupulous, who meet the problems by asserting that no problem exists. Such malpractice makes progress in medicine impossible. If literally dozens of ailments which a century, or even a quarter of a century, ago meant death can today be cured, the reason is that men of vision, skill and self-sacrifice, patiently investigated, tested, checked results, and at last won through to another victory over death, sometimes, as with Walter Reed, at the cost of their own lives. (*America*, 11-4-39, p. 90.)

If I were a doctor, I would ponder long the fact that it was the medical profession in Germany, imbued with materialistic principles, who carried out

the mass-extirmination of Jews, political opponents of nazism, and many others on a wholesale basis, covering up many of their atrocities as mercy-killings. It is interesting to read in the *Boston Traveler* of January 6, 1950, that Dr. Sander "had studied in pre-war Germany, where euthanasia had received wide support." If I were a doctor, I would be afraid to expose the American medical profession to the ignominious stigma which the profession in Germany will always bear. I would be literally afraid of the egotistic urge to play God with the lives of my patients.

If I were an historian of civilization, I would have pointed out to Dr. Hooton that the present laws which protect human life and make it a crime for the individual doctor to murder his patient are not the laws of savages or of barbarians. It is the savage who kills his old and his sick that they may no longer burden him. It is the Communist savage who deals as he will with human life in the slave camps of Siberia. It was the Nazi savage who did it in Germany. Our emergence from barbarism in the past and our preservation from a new decline into savagery depend on the Judaeo-Christian principle that human life is sacred and untouchable. The civilization that gives up this inviolable ideal is on the way to decay. It was not materialism but Christianity that taught us practical compassion for the sick. It was not materialism but Christianity that destroyed slavery and despotism, and took the power of life and death out of the hands of arbitrary master and arbitrary ruler alike. Today it is Christianity that is called on to defend civilization itself from the aberration of the mercy-murderer.

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