

Published on *National Catholic Reporter* (<https://www.ncronline.org>)

July 6, 2010 at 10:35am

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## The Phoenix case

by Richard McBrien

Essays in Theology

Arizona has been in the news lately because of the passage of an immigration law that many accuse of fostering racial profiling.

However, there is another Arizona case that has gained national attention, especially in Catholic circles. And that is the excommunication of Mercy Sr. Margaret Mary McBride, vice president of mission integration at St. Joseph's Hospital and Medical Center in Phoenix.

McBride was declared excommunicated by Phoenix Bishop Thomas Olmsted for her part in approving an abortion in 2009. She had served on a hospital ethics committee that had considered the case of a pregnant woman who, without an abortion, would die alongside the fetus.

The bishop cited Directive 45 of the fifth edition of the "Ethical and Religious Directives for Catholic Health-care Services," approved by the U.S. Catholic bishops late in 2009.

Directive 45 states: "Abortion (that is, the directly intended termination of pregnancy before viability or the directly intended destruction of a viable fetus) is never permitted. Every procedure whose sole immediate effect is the termination of a pregnancy before viability is an abortion ..."

The directive repeats the teaching of Pope John Paul II in his 1995 encyclical *Evangelium vitae* ("The Gospel of Life"): "I declare that direct abortion, that is abortion intended as an end or as a means, always constitutes a grave moral disorder since it is the deliberate killing of an innocent human being."

"This teaching is clear," writes Fr. Charles Curran, the leading Catholic moral theologian in the United States and one of the church's most distinguished moral theologians worldwide.

"A direct abortion is always wrong, whereas an indirect abortion," he adds, "can be permitted for a proportionate reason." Curran's commentary appears in the June 5 issue of *The Tablet*, published in London.

In the Phoenix case, both mother and fetus would have died if nothing had been done to save the life of the mother. "According to the hierarchical Catholic teaching," Curran acknowledges, "you can never directly take one life in order to save another. You can never do a moral evil in order to achieve a good end. Catholics are not utilitarians."

And yet *indirect* abortions are permitted under particular circumstances, for example, in the removal of a pregnant, cancerous uterus. The action is aimed at the removal of the uterus, not the killing of the fetus which happens to be inside the uterus.

Curran reports that he is often asked if there is anything new that might lead to a different response in circumstances such as the Phoenix case. His answer is in the affirmative. There are some new developments, but also historical realities that are pertinent to the discussion.

"The conflict between the life of the mother and the life of the fetus," Curran writes, "was even more common in the late nineteenth century than today." At that time, "important and quite traditional Catholic moral theologians" proposed different approaches that were later deemed unacceptable by the Vatican.

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Two respected Italian moralists went so far as to argue in favor of a fatal craniotomy performed on the fetus to save the life of the mother. At first, the Vatican said that "the approved authors should be followed." In 1883 the Holy Office (the forerunner of the Congregation for the Doctrine of Faith) responded that it was still studying the issue. In 1884 and again in 1889 the Holy Office rejected the craniotomy option.

A famous German moralist proposed that a doctor could accelerate the birth of a non-viable fetus, but the Holy Office also decided that such a teaching could not safely be followed.

"These cases," Curran writes, "show how recent the teaching on direct abortion found in the U.S. ethical directives is, and they also indicate that such a position cannot claim a high degree of certitude."

Just as killing is sometimes accepted in the Catholic tradition if there is a proportionate reason, such as in war and self-defense, so saving the life of the mother is "a proportionate reason justifying an abortion."

"In my judgment," Curran concludes, "the strong reaction by many Catholics to the action taken by the Bishop of Phoenix could well indicate the *sensus fidelium* ["sense of the faithful"]. At the very minimum ... the church should study again the history and reasons proposed in this case.

"It is clear that many theologians and some bishops have come to the conclusion that an abortion to save the life of the mother is a morally good act."

This conclusion will stun and upset many Catholics, but the issue, as Curran has shown, is more complex than it might at first appear.

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