Freedom, Authority, Community

John Courtney Murray, SJ.
FREEDOM, AUTHORITY, COMMUNITY

JOHN COURTNEY MURRAY, S.J.*

SOME PEOPLE TODAY speak of a "crisis of authority" in the Church; others speak of a "crisis of freedom." For my own part, I should prefer to speak of a "crisis of community." The reasons for this description of the situation will appear, I hope, in what follows.

Vatican Council II did not create the crisis; its roots are deep in the past. But the Council brought the crisis into the open. In the first place, the Declaration on Religious Freedom (Dignitatis Humanae) said, in effect, that in political society the human person is to live his relation with God, or even with his private idol, in freedom—within a zone of freedom juridically guaranteed against invasion by any form of coercion. This proposition, the Council added, is the product of a biblical insight, though centuries of secular and religious experience were needed in order to bring it to explicit conceptualization.

In the second place, the Constitution on the Church in the Modern World (Gaudium et Spes) affirmed, in effect, that the relation of the Church to the world and of the world to the Church is to be lived in freedom. Freedom, Paul VI said in his momentous address to statesmen on Dec. 8, 1965, is all that the Church asks of the political world—freedom for its apostolic ministry, freedom for the Christian life, freedom for spiritual and peaceful entrance into the political world, there to make moral judgments when political affairs raise moral issues. In turn, the constitution generously acknowledged that the world too has its rightful freedom to live its own life—or rather, its many lives: political, economic, social, cultural, scientific—in accordance with autonomous dynamisms and structures. These respective claims of freedom, the Council implied, are likewise rooted in a biblical insight—that the Church is of God, and so too, though in a different way, is the world.

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Having laid down these propositions bearing on freedom, the Council inevitably raised the next question, concerning freedom in the Church. Is not the Christian life within the Christian community to be lived in freedom? Even the essential Christian experience of obedience to the authority of the Church—is it not somehow to be an experience of Christian freedom in the evangelical sense? This is the question, not directly touched by the Council, which now commands serious theological consideration in the light of the doctrine of the Council and of its spirit—indeed, in the light of the Council itself as a splendid “event of freedom” in the ongoing life of the Church.

Classical Conception

From a historical point of view, the need for new reflection on the relation between authority and freedom in the Church derives from the fact that presently this relation exhibits an imbalance. In order to grasp this fact, it will be sufficient for the moment to go back only as far as Leo XIII and to consider three aspects of his thought.

First, there is his retrospective reading of history, visible, for instance, in the famous “Once upon a time” paragraph (Fuit aliquando tempus) in Immortale Dei. Once upon a time there was a Golden Age, the medieval period. It was the age of Christian unity, of the alliance of the Two Powers, of the obedience of both princes and peoples to the authority of the Church. Then came the Reformation. Essentially it was a revolt against the authority of the Church, and in reaction to it the Church laid heavy, almost exclusive emphasis, on its own authority. Later, by a sequence that was not only historical but also logical, there came the Revolution. It was essentially a revolt against the authority of God Himself, launched by the revolutionary slogan: “No one stands above man” (hominis antistare neminem). Again in polemic reaction, the Church rallied to the defense of the sovereignty of God, of the “rights of God,” of the doctrine that there is no true freedom except under the law of God.

Both of these reactions were historically inevitable and doctrinally justifiable. The Church fashions its doctrine under the signs of the times, and the Reformation and the Revolution were then the signs of the times. But the doctrine formed under them could not but exhibit a certain hypertrophy of the principle of authority, and a corresponding atrophy of the principle of freedom.

In the second place, there is Leo XIII’s conception of the political relationship between ruler and ruled in civil society. It is a simple vertical relationship within which the ruled are merely subjects, whose single duty is obedience to authority. Only in the most inchoative fashion does one find in Leo the notion of the “citizen,” who is equipped with political and civil rights and protected in their exercise. His emphasis falls on political authority, which is invested with a certain majesty as being from God, and which is to be exercised in paternal fashion in imitation of the divine sovereignty. In turn, the submission of the subject is to exhibit a certain filial quality. Moreover, society itself is to be built, as it were, from the top down.
The “prince” is the primary bearer and agent of the social process. *Qualis rex, talis grex.* The ruler is to be the tutor and guardian of virtue in the body politic; the whole of the common good is committed to his charge. The people are simply the object of rule. Leo XIII’s political doctrine was plainly authoritarian. It was fashioned under the political signs of the times — the laicism conception of the state and the Jacobin conception of the sovereignty of the people. In that moment in the history of continental Europe, Leo could not assume the patronage of political freedom.

In the third place, there is Leo XIII’s ecclesiology, as summed up, for instance, in the encyclical *Satis Cognitum* (1896) in which he says: “We have faithfully depicted the image and figure (*imaginem atque formam*) of the Church as divinely established.” The encyclical is, in effect, a lengthy, profound, magisterial commentary on the Vatican I constitution *Pastor Aeternus,* which was the splendid sign of the theological times. The portrait of the Church that emerges is really a portrait of the role of the apostolic office, and in particular the Petrine office, in the Church. In consequence, the ecclesial relationship — to call it such, on the analogy of the political relationship — is the simple vertical relationship between ruler and ruled. The function of the faithful appears simply as obedience to the doctrinal and jurisdictional authority of the Church.

It was within these perspectives that the classical doctrine on the relation of freedom and authority in the Church was fashioned. Those who hold office make the decisions, doctrinal and pastoral. The faithful in the ranks submit to the decisions and execute the orders. The concept of obedience is likewise simple. To obey is to do the will of the superior; that is the essence of obedience. And the perfection of obedience is to make the will of the superior one’s own will. In both instances the motive is the vision of God in the superior, who is the mediator of the divine will and the agent of divine providence in regard of his subjects, in such wise that union with his will means union with the will of God. The further motive, to be adduced when obedience means self-sacrifice, is the vision of Christ, who made Himself obedient even unto death.

**New Signs of the Times**

The trouble is that this classical concept of the ecclesiastical relationship is today experienced as being true indeed, but not the whole truth — as being good indeed, but not good enough to meet the needs of the moment. The signs of the times are new. The age of anti-Reform polemic has gone over into the age of ecumenism. The will of the Church to break with the world of Revolution has given way to a new will to effect that “compenetration” between the Church of today and the world of today in which *Gaudium et Spes* has spoken. The perspectives in which history is now viewed open out not from a supposed Golden Age in the past (whose luster is now seen to be dulled with the tarnish of much immaturity), but from the present moment. They are set not by nostalgia for the past, visible even in Leo XIII’s *Satis Cognitum,* but by the solid doctrine of the eschatological character of the
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Christian existence, which requires it to look resolutely to the future—to the coming-to-be of the Kingdom.

New signs of the times have become visible and were fully recognized at Vatican Council II. The first is man's growing consciousness of his dignity as a person, which requires that he act on his own responsibility and therefore in freedom. The second is man's growing consciousness of community, of that being with the others and for the others which is revealed, for instance, in the phenomenon of "socialization" in the sense of Mater et Magistra. The Church in Council assembled clearly assumed the patronage—though in no patronizing sense—of these two related ongoing movements in the growth of human consciousness. The Council further undertook the renewal and reform of Christian doctrine and life in the light of these new signs of the times. In particular, the times demand a reconsideration of the classical concept of the ecclesial relationship—a new development, doctrinal and practical, in the relation between authority and freedom in the Church.

The difficulty with the classical conception, as experienced at the moment, is clear enough. It is sometimes stated by saying that obedience is a bar to the self-fulfillment of the individual. The statement may contain a fallacy—an individualistic concept of self-fulfilment, and a failure to realize that self-fulfillment is not simply an affair of freedom but also an affair of community. Briefly, self-fulfillment is the achievement of freedom for communion with the others. Therefore it is also somehow an affair of obedience to authority; for in every kind of community there is always some kind of authority.

The fallacy aside, it must be said that the contemporary difficulty with the classical conception is rooted in a truth—in an experience of the truth that the signs of the times reveal. What is really being said is that sheer submission to the will of the superior and mere execution of his orders do not satisfy the exigencies of the dignity of the person. They do not call into play the freedom of the person at its deepest point, where freedom appears as love. Still less do they exhaust the responsibilities of the person, which are to participate fully in community, and to contribute actively to community. Thus stated, the contemporary difficulty is seen to be entirely valid. It is not to be solved by methods of repression of the principle of authority: that authority is to be obeyed simply because it is authority.

In the Service of the Community

There is a need, therefore, to view the issue of freedom and authority in the new perspectives created by the signs of the times—that is, to view the issue within the context of community, which is the milieu wherein the dignity of the person is realized. Community is the context both of command and of obedience. Community is also the finality both of command and obedience. Authority is indeed from God, but it is exercised in community over human persons. The freedom of the human person is also from God, and it is to be used in community for the benefit of the others. Moreover, since both au-
authority and freedom stand in the service of the community, they must be related not only vertically but also horizontally, as we shall see.

The Church, A Unique Community

It may be well to remark here that there is no unequivocal definition of the ruler-ruled relationship because there is no unequivocal definition of community. This latter term is analogous. The realities it designates—the family, political society, voluntary associations, the Church—are somewhat the same and entirely different, one from another. In the case of the Church, which is at once a family and a society and a form of voluntary association, the essential thing is to attend to the maior dissimilitudo. Within the uniqueness of the Church as a community, the uniqueness of the relation of Christian freedom to ecclesiastical authority comes to view. Happily, Vatican Council II, which raised the issue of freedom and authority in the Church, also created the perspectives within which its resolution becomes newly possible. Four aspects of conciliar ecclesiology are pertinent here.

The Church Is the People of God

In the first place, the Constitution on the Church (Lumen Gentium) presents the Church in the first instance as the People of God. The first characteristic of the People is that it “has for its condition the dignity and the freedom of the children of God, in whose hearts the Holy Spirit dwells as in a temple.” The basic condition of the People is therefore one of equality in dignity and freedom, established by the common possession of the Spirit. A consequent characteristic of the People is its charismatic quality as a prophetic, royal and priestly People. The Spirit “distributes special graces among the faithful of every rank, and by these gifts he makes them able and ready to undertake the various tasks and offices useful for the renewal and upbuilding of the Church, according to the Apostle: ‘To each is given the manifestation of the Spirit for the common good’ (1 Cor. 12-7).” In particular, as the Constitution on Divine Revelation (Dei Verbum) says, God through the Spirit “uninterruptibly converses with the Bride of his beloved Son,” and the Spirit continually “leads unto all truth those who believe and makes the word of Christ dwell abundantly in them.” The dignity of the People and its common endowment of Christian freedom importantly consists in the charismatic quality of its members.

The Church Is a Communion

In the second place, the Council presents the Church as a communion (koinonia). Its infinite inner form is the Holy Spirit Himself, the subsistent love of Father and Son, who is the presence of God in the midst of His People. In consequence, the Church is in the first instance an interpersonal community, whose members are united in love of the Father through Christ and in the Spirit, and also united with one another by the Spirit of Christ, through whom they have access not only to the Father but to one another. The consequence here is one of immense importance, namely, that as an interpersonal community the Church is
an end in itself, an ultimate reality, as eschatological reality in a temporal realization thereof. As a communion sui generis, the Church has for its primary purpose simply to be a communion. As such it will endure beyond time, forever, in what is called the communion of saints.

The Church Is a Witness to the World

In the third place, precisely as an interpersonal communion of love, the Church has a service (diakonia) to perform toward all humanity. That is to say, the divine love that is the form of the People, in witness (martyrion), to draw all men into the communion of love, so that they may participate in the response of faith and love to the love whereby the Father loves His own People, purchased by the blood of His Son. In other words, precisely as an interpersonal community sui generis, the Church is also a functional community, that is, a community with a work to do, an action to perform, the action of God in history, which is to “gather into one the children of God who are scattered abroad” (John 11:52). Moreover, the work of the community, which is a work of love, is not extrinsic to the thematic of the community; it is woven, as it were, into this thematic as an essential element of it. That is to say, the interpersonal community, united in love, is also united by the missionary work of love to which it is called by its very nature.

Regarded as a functional community, however, the Church is not an end in itself but a means to a higher end, its own growing self-realization and perfection as an interpersonal community. There will come a day when the Messianic function of the Church will have been finished, the Day of the Lord, when the gathering of the People will be complete and the reign of Christ definitively established: “Then comes the end, when he delivers the kingdom to God the Father” (1 Cor. 15:24).

The Church Is a Visible Society

In the fourth place, the Church is not only a community of faith and love but also a visible society; it therefore exhibits a structure of authority and a juridical order. Moreover, the Church is an organized society precisely as a community of faith and love with a function to perform in history. The societal aspect of the Church is not alien or extrinsic to its communal and functional aspects, but essential to both of them and inherent in each of them. That is to say, the organization of the society is required by the purposes of the community, both for the sake of its own unity as an interpersonal communion and also for the sake of its action in history. The hierarchically ordered society — its structure of authority and its juridical order — stands in the service of the community, to assist in perfecting its unity and in performing its function.

The structure of authority in the Church is unique, as the community it structures is likewise unique. It is both doctrinal and jurisdictional, a power of authoritative teaching and of imperative rule. Moreover, the structure is not merely a matter of political and sociological necessity, as in the case of the civil community. This latter is simply a
functional community, which is therefore organized only in order to get its work done—its work being what is called the common good. Here the *maior dissimilitudo* appears. The Church is organized as a society *sui generis*, an interpersonal, eschatological communion of faith and love and a historical, missionary community whose work in history expresses its own inner reality.

**Functions of Authority in the Church**

These four themes in the ecclesiology of Vatican II are, of course, entirely traditional. The order of their arrangement, however, is distinctive; so too is the weight of emphasis distributed among them. For Leo XIII, for instance, the Church was both community and society, indissolubly; so it is presented in *Satis Cognitum*. But the weight of his emphasis falls heavily on the societal aspect and on the structure of authority in the Church. It may be fairly, if rather broadly, said that Leo XIII comes to the notion of the Church as community through the notion of the Church as society. And in his construction, the functions of Christian freedom are not readily apparent; they are, in fact, obscured. Authority seems, as it were, to stand over the community as a power to decide and command. In contrast, Vatican II comes to the notion of the Church as society through the notion of the Church as community. Authority therefore stands, as it were, within the community, as a ministry to be performed in the service of the community. Within the perspectives created by this newly accented construction of traditional doctrine, the ecclesial relationship can be more adequately understood and therefore stated with a new nicety of balance. In particular, the functions of Christian freedom emerge into new clarity, in themselves and in their relation to the correspondent functions of authority. The new clarity radiates from the notion of the Church as community, now made newly luminous.

The functions of authority appear to be three in hierarchical order. And each of them is a function of service to the community.

**Unitive Function**

The first function is unitive. Authority is to be and do what God Himself, through Christ and in the Spirit, is and does. He gathers, unites, establishes communion. This too is the primary function of authority. Moreover, God gathers His Church by initiating and sustaining with men the "dialogue of salvation," brilliantly described by Paul VI in *Ecclesiam Suam*. God communicates with His People, eliciting from them the response of faith and love. His call to them is an imperative laid upon them, but it is, in the words of Paul VI, a "demand of love" (*domanda di amore*), to which the response must be free. So, too, authority performs its unitive function through dialogue with the charismatic body of the faithful. The purpose of the ecclesiastical dialogue, as of the divine dialogue, is to build and strengthen the community; to guide it, under the guidance of the Spirit, toward the full truth. About what? About itself, in the first instance. The dialogue is to deepen that "self-awareness" on the part of the community which was a major theme,
and also a major achievement, of Vatican II.

Authority therefore elicits from the charismatic community of Christian faith the insights of each into the faith, for the enlightenment of all. (This function receives new emphasis in the new charter of the reformed Congregation on the Doctrine of Faith; it was also strongly advanced in the discourse of Paul VI on Oct. 1, 1966, to the International Congress on the Theology of Vatican Council II, when he spoke of the reciprocal dependency of the magistery upon the theologian and of the theologian upon the magistery.) Moreover, authority stirs the love of the charismatic members of the community for the community to be shown in service of the community. Finally, authority solicits the informed concern of the community for the work of the community — its relations with the world, its mission of salvation and its spiritual mission in the temporal order. (This function is broadly emphasized all through the Constitution on the Church in the Modern World, as well as in almost all the other conciliar documents.)

The primacy of this unitive function of authority, to be discharged through dialogue, results from the primacy of the notion of the Church as an interpersonal community whose conscious unity is an end in itself. This primary dialogic function also depends for its performance on the reality of the People of God as a charismatic body, whose basic condition is one of equality in Christian dignity and freedom. It follows therefore that the unitive function of authority is to be carried out under respect for this basic condition. *Lumen Gentium* is care-ful to provide room in the Church for all manner of legitimate diversities and pluralisms — in rites, theologies, spiritualities, apostolates, etc. — which, so far from damaging the unity of the community, constitute an enrichment of it. The principle of the Declaration on Religious Freedom — that there should be in society as much freedom as possible and only as much restriction as necessary — applies analogously in the Church. Only "in necessary things" is unity itself necessary.

It may be remarked here that the modes and manners in which authority is to perform its unitive function through dialogue are still problematical today, in this area of *assestamento* (adjustment). New structures of communication need to be created (for instance, the Synod which meet in 1967). Older structures need reformation, as in the case of the Roman dicasteries. Experiments are called for that will yield the necessary experience. The problem is not simply to conceptualize in theological terms the relation between authority and freedom in the Christian community, as it appears in new perspectives; this relation must be lived, in all concreteness and practicality. Thus the experience of life will give vitality to the theology.

Decisive or Directive Function

The second function of authority may be called decisive or directive. It hardly needs lengthy description, since it already is a familiar thing, prominent perhaps to the point of undue emphasis in the classical conception of an older day. The decisive function is necessary because the Church is a community of faith, and it
was to the magistry that the guardianship of the deposit of the faith was committed. The directive function is needed because the Church is a functional community organized for action in history. It is to be noted, however, that the necessity of the function is not merely a matter of efficiency, to insure that the work of the Church gets done. The necessity is grounded in the very nature of the community. The point is to insure that the work done is the work of the Church which it is when it is done under direction. The even more important point is to insure that the Body acts as one in the action of its members, singly and collectively.

Thus the decisive and directive function of authority is in a true sense a modality of its unitive function. Moreover, the performance of this secondary function supposes that the primary function has already been performed; that the dialogue, whether doctrinal or pastoral, has been afoot between the community and its teachers and pastors; that therefore the decisions and directives, without ceasing to derive their force from apostolic authority, are also the decisions and directives of the community, whose common good they serve.

Corrective or Punitive Function

The third function of authority is corrective or punitive. It is an accidental function, in the sense that it is necessary only because the People of God, on its pilgrim way through history is a sinful People. It is also a function of service to the community, which needs to be protected against the egoisms — whether of thought or of action — that would destroy its unity or damage its work. Again, therefore, this function of correction appears as a modality of the unitive function of authority. What comes to the fore today is the need that the corrective or punitive function of authority should be performed under regard for what is called, in the common-law tradition, “due process.” The demand for due process of law is an exigence of Christian dignity and freedom. It is to be satisfied as exactly in the Church as in civil society (one might indeed say, more exactly).

Functions of Christian Freedom in the Church

Three functions of Christian freedom in the Church correspond to the three functions of ecclesiastical authority. They are likewise functions of service to the community.

Charismatic Function

The primary function may be called, for the sake of a name, charismatic. It is the free response of the community and all its members to the unitive function of authority, whose initial act is the invitation to dialogue (on which the Council more than once laid emphasis). The Spirit is given to the Christian not only for his own sanctification and enjoyment, but also for the growth of the community in conscious self-awareness and for the fuller development of its action in history. Concretely, the community uses the gift of the Spirit by sustaining its part in the dialogue with authority, in that confidence of utterance that reveals — in our times, as in those of the Acts of the Apostles — the presence of the Spirit.
The primary function of Christian freedom corresponds therefore to the nature of freedom in its most profound sense — to the nature of freedom as love, as the capacity for self-communication, as the spontaneous impulse to minister and not be ministered to, as the outgoing will to communion with the others. "For you were called to freedom, brethren," St. Paul proclaims (Gal. 5:13). Whatever else the call may imply, it is a call to love: "... through love to be servants of one another" (loc. cit.). The forms of service within the community are manifold, but the primary service to the community is to participate in the dialogue of salvation that is continually going on in the community. This participation is the first exercise of Christian freedom. It is also an exercise in obedience, in the horizontal dimension that obedience assumes when it is situated, with authority, within community, and therefore in dialogic relation to authority, united to authority in a ministry of love toward the community.

Executive Function

The second function of Christian freedom may be called, again for the sake of a name, executive. It corresponds to the decisive and directive functions of authority. It also corresponds to the formal notion of freedom as duty — the freedom whereby one does what one ought to do. Here, of course, obedience may occasionally appear as self-sacrifice. The act of obedience is not, of course,  per se  an act of sacrifice; it is simply an act of Christian freedom. Obedience assumes a sacrificial quality only when Christian freedom meets the resistance of what Paul calls "the flesh." And the premise of obedience as sacrifice is always the profound nature of freedom as love — the love whereby one freely engages oneself in the paschal mystery. Hence obedience, as an act of Christian freedom, even when it is sacrificial — especially when it is sacrificial — is always the act of self-fulfillment. It is the expression of one's self-awareness that one is called to be in the image of the Son Incarnate, who freely gave His life for the many and thus "went His way" to the self-fulfillment that was His resurrection. Finally, whether sacrificial or not, the executive function of Christian freedom, which consists in acceptance of the decisions and directives of authority, is always performed within the community, in and for which He works. Therefore this secondary function of freedom is related to the primary function, the charismatic function of love whereby I contribute through dialogue to the unity of the communion that is the Church. The dialogue is not an end in itself; it looks towards decisions and directives. In their issuance and acceptance, the community comes together in a new way.

Self-corrective Function

The third function of Christian freedom may have to go without a name, unless one calls it self-corrective, in order to mark its correspondence to the corrective function of authority. It is the free act of Christian refusal to "submit again to a yoke of slavery" (Gal. 5:1). More broadly, it is the Christian rejection of the temptation, inherent in the psychological notion of freedom as choice, to
“use your freedom as an opportunity for the flesh” (Gal. 5:13). One might call it the “mortifying” act of Christian freedom; the word may not be popular today, but the notion is still Pauline (cf. Rom. 8:13). In any event, it is the act whereby Christian freedom stands forth in all its evangelical newness, unique among all the modalities of freedom that men have claimed or hoped for or dreamed of. “It was that we might be free” in this new way, says St. Paul, “that Christ has freed us” (Gal. 5:1)

Conclusion

The aim of this brief essay has been simply to suggest how the rather fleshless skeleton of the classical conception of the ecclesial relation may be clothed with flesh and animated with blood. The skeleton remains the classical conception of the vertical relationship of authority and freedom. But it needs to assume a more Christian and therefore more human form by standing forth in the living flesh and blood that is the Christian community. More abstractly, the vertical relationship of command-obedience needs to be completed by the horizontal relationship of dialogue between authority and the free Christian community. The two relationships do not cancel but reciprocally support each other.

This more adequate understanding of the ecclesial relationship does not indeed dissolve the inevitable tension between freedom and authority. But by situating this perennial polarity within the living context of community, it can serve to make the tension healthy and creative, releasing the energies radiant from both poles for their one common task, which is to build the beloved community.

TRANSPLANTS

(Continued)

abreast, as it were, of the biological and chemical sciences. I imagine this will involve a reallocation of research funds and personnel and, more importantly, a reorientation of thinking on the part of legislative bodies, government agencies, foundations and others concerned with the appropriation and expenditure of such funds. In brief, we must become more concerned with the why of scientific advance and less, relatively speaking, with the how.

Or as Senator Mondale says “Are we wise enough to be so smart?”

We must heed St. Paul’s warning to the Corinthians, “And if I have all knowledge but not have love, I am nothing.”
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APPENDIX B
UNIFORM ANATOMICAL GIFT ACT
Final Draft

An act authorizing the gift of all or part of a human body after death for specified purposes.

SECTION 1 [Definitions]
(a) "Bank or storage facility" means a facility licensed, accredited or approved under the laws of any state for storage of human bodies or parts thereof.
(b) "Decedent" means a deceased individual and includes a still-born infant or fetus.
(c) "Donor" means an individual who makes a gift of all or part of his body.
(d) "Hospital" means a hospital licensed, accredited or approved under the laws of any state and includes a hospital operated by the United States government, a state, or a subdivision thereof, although not required to be licensed under state laws.
(e) "Part" includes organs, tissues, eyes, bones, arteries, blood, other fluids and other portions of a human body, and "part" includes "parts."
(f) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.
(g) "Physician" or "surgeon" means a physician or surgeon licensed or authorized to practice under the laws of any state.
(h) "State" includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.

SECTION 2 [Persons Who May Execute an Anatomical Gift]
(a) Any individual of sound mind and 18 years of age or more may give all or any part of his body for any purposes specified in Section 3, the gift to take effect upon death.
(b) Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent, or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purposes specified in Section 3:
   (1) the spouse,
   (2) an adult son or daughter,
   (3) either parent,
   (4) an adult brother or sister,
   (5) a guardian of the person of the decedent at the time of his death,
   (6) any other person authorized or under obligation to dispose of the body.
(c) If the donee has actual notice of contrary indications by the decedent, or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The persons authorized by subsection (b) may make the gift after death or immediately before death.

(d) A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

(e) The rights of the donee created by the gift are paramount to the rights of others except as provided by Section 7 (d).

SECTION 3 [Persons Who May Become Donees, and Purposes for Which Anatomical Gifts May be Made] The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:

1. any hospital, surgeon, or physician, for medical or dental education, research, advancement of medical or dental science, therapy or transplantation; or
2. any accredited medical or dental school, college or university for education, research, advancement of medical or dental science or therapy; or
3. any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy or transplantation; or
4. any specified individual for therapy or transplantation needed by him.

SECTION 4 [Manner of Executing Anatomical Gifts]

(a) A gift of all or part of the body under Section 2 (a) may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(b) A gift of all or part of the body under Section 2 (a) may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor, in the presence of 2 witnesses who must sign the document in his presence. If the donor cannot sign, the document may be signed for him at his direction and in his presence, and in the presence of 2 witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(c) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired
otherwise, may accept the gift as donee. The physician who becomes
a donee under this subsection shall not participate in the procedures
for removing or transplanting a part.

(d) Notwithstanding Section 7 (b), the donor may designate
in his will, card or other document of gift the surgeon or physician
to carry out the appropriate procedures. In the absence of a designation,
or if the designee is not available, the donee or other person authorized
to accept the gift may employ or authorize any surgeon or physician
for the purpose.

(e) Any gift by a person designated in Section 2 (b) shall be made
by a document signed by him, or made by his telegraphic, recorded
telephonic or other recorded message.

SECTION 5 [Delivery of Document of Gift] If the gift is made
by the donor to a specified donee, the will, card or other document,
or an executed copy thereof, may be delivered to the donee to expedite
the appropriate procedures immediately after death, but delivery is not
necessary to the validity of the gift. The will, card or other document,
or an executed copy thereof, may be deposited in any hospital, bank
or storage facility or registry office that accepts them for safekeeping
or for facilitation of procedures after death. On request of any
interested party upon or after the donor's death, the person in possession
shall produce the document for examination.

SECTION 6 [Amendment or Revocation of the Gift]

(a) If the will, card or other document or executed copy thereof,
has been delivered to a specified donee, the donor may amend or revoke
the gift by:

(1) the execution and delivery to the donee of a signed
statement, or

(2) an oral statement made in the presence of 2 persons
and communicated to the donee, or

(3) a statement during a terminal illness or injury addressed
to an attending physician and communicated to the
donee, or

(4) a signed card or document found on his person or in
his effects.

(b) Any document of gift which has not been delivered to the
donee may be revoked by the donor in the manner set out in sub-
section (a) or by destruction, cancellation, or mutilation of the document
and all executed copies thereof.

(c) Any gift made by a will may also be amended or revoked in
the manner provided for amendment or revocation of wills, or as provided
in subsection (a).

SECTION 7 [Rights and Duties at Death]

(a) The donee may accept or reject the gift. If the donee
accepts a gift of the entire body, he may, subject to the terms of the
gift, authorize embalming and the use of the body in funeral services.
If the gift is of a part of the body, the donee, upon the death of the
donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next-of-kin or other persons under obligation to dispose of the body.

(b) The time of death shall be determined by a physician who attends the donor at his death, or, if none, the physician who certifies the death. This physician shall not participate in the procedures for removing or transplanting a part.

(c) A person who acts in good faith in accord with the terms of this Act, or under the anatomical gift laws of another state [or a foreign country] is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his act.

(d) The provisions of this Act are subject to the laws of this state prescribing powers and duties with respect to autopsies.

SECTION 8 [Uniformity of Interpretation] This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

SECTION 9 [Short Title] This Act may be cited as the Uniform Anatomical Gift Act.

SECTION 10 [Repeal] The following acts and parts of acts are repealed:

(1) . . .
(2) . . .
(3) . . .

SECTION 11 [Time of Taking Effect] This Act shall take effect. . . .
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