

THE MORALITY OF PRESERVING HUMAN EMBRYOS

I

The *Congregation for the Doctrine of the Faith* issued the Instruction *Donum Vitae* on 22nd February, 1987 to respond to questions raised by various episcopal conferences, bishops, theologians, doctors and scientists concerning the morality of biomedical techniques intervening in human procreation and the initial phases of human life.¹ This paper concerns one of the issues the Instruction addressed, a critical one, the morality of preserving living human embryos.

The *Congregation* said this—

“From the moment of conception, the life of every human being is to be respected in an absolute way because man is the only creature on earth that God has ‘wished for himself’ and the spiritual soul of each man is ‘immediately created’ by God; his whole being bears the image of the Creator... God alone is the Lord of life from its beginning until its end: no one can, in any circumstance, claim for himself the right to destroy directly an innocent human being. Human procreation requires on the part of the spouses responsible collaboration with the fruitful love of God; the gift of human life must be actualised in marriage through the specific and exclusive acts of husband and wife in accordance with the laws inscribed in their persons and in their union.”²

And this—

The human being must be respected—as a person—from the very first instant of his existence. The implementation of procedures of artificial fertilisation has made possible various interventions upon embryos and human foetuses. The aims pursued are of various kinds: diagnostic and therapeutic, scientific and commercial. From all of this serious problems can arise...³

And, a little later, this—

“Human embryos obtained *in vitro* are human beings and subjects with rights: their dignity and right to life must be respected from the first moment of their existence. *It is immoral to produce human embryos destined to be exploited as disposable “biological material”.* In the usual practice of *in vitro* fertilization, not all of the embryos are transferred to the woman’s body; some are destroyed. Just as the Church condemns induced abortion, so does she forbid acts against the life of these human beings. *There is a duty to condemn the particular gravity of the voluntary destruction of human embryos obtained ‘in vitro’ for the sole purpose of research, either by means of artificial insemination or by means of “twin fission”.* By acting in this way the researcher usurps the place of God; and, even though he may be unaware of this, he sets himself up as the master of the destiny of others inasmuch as he arbitrarily chooses whom he will allow to live and whom he will send to death...

¹ *Instruction on Respect for Human Life in its Origin and on the Dignity of Procreation.* Emphasis in original. The correct title of the *Congregation* at the time was *Sacred Congregation for the Doctrine of the Faith*. This document may be viewed on the Vatican website at the internet reference—
http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19870222_respect-for-human-life_en.html

² *Ibid.* Introduction, n. 5.

³ *Ibid.* I, 1. Emphasis in original.

"Methods of observation or experimentation which damage, or impose grave and disproportionate risks upon, embryos obtained *in vitro* are morally illicit for the same reasons. Every human being is to be respected for himself, and cannot be reduced in worth to a pure and simple instrument for the advantage of others. *It is therefore not in conformity with the moral law deliberately to expose to death human embryos obtained 'in vitro'*. In consequence of the fact that they have been produced *in vitro*, those embryos which are not transferred into the body of the mother and are called 'spare' are exposed to an absurd fate, with no possibility of their being offered safe means of survival which can be licitly pursued..."⁴

Notwithstanding the deference owed to the *Congregation* and to its rulings, we must point out that there is a fundamental defect in its approach here, a failure to deal with the threshold issue—primary and critical—that the very contrivance of the existence of human embryos artificially is a breach of the laws of nature, and intrinsically evil. The *Congregation's* claim—*It is immoral to produce human embryos destined to be exploited as disposable "biological material"*—expresses less than half the truth. It is immoral to produce human embryos *simpliciter*. The medical scientist "usurps the place of God and... sets himself up as the master of the destiny of others" not merely in the end for which he produces them, but in their very production. The *Congregation's* claim that those embryos "not transferred into the body of the mother and... called 'spare' are exposed to an absurd fate," understates the reality radically: *every embryo* so produced is exposed to an absurd fate.

This gives rise to a further failure of attention. The fundamental breach of the natural order entailed—which goes not merely to the liceity (lawfulness) of the production of these embryos, but to its validity—affects the operation of the rights of the embryos involved. The *Congregation* does not see that these rights cannot be treated convertibly with the rights of embryos conceived naturally in the wombs of their mothers: the breach of the natural order entailed precludes it. This leads to another failure, one involving scandal, for the *Congregation* declines to offer a solution to the great evil of the continued existence of the multitude of human embryos kept in suspended animation.

II

Twenty years after *Donum Vitae*, the *Congregation* issued a further Instruction On Certain Bioethical Questions, *Dignitas Personae* (8.9.2008). This document sought "to bring ...up to date", and to provide "added clarification" to, the teaching in *Donum Vitae* which it asserted "remains completely valid". The *Congregation* said this—

"Cryopreservation is *incompatible with the respect owed to human embryos*; it presupposes their production *in vitro*; it exposes them to the serious risk of death or physical harm, since a high percentage do not survive the process of freezing and thawing; it deprives them at least temporarily of maternal reception and gestation; it places them in a situation in which they are susceptible to further offence and manipulation.

⁴ Ibid. I, 5. Emphasis in original.

“The majority of the embryos not so used remain ‘orphans’. Their parents do not ask for them and at times all trace of the parents is lost. Thus, there are thousands upon thousands of frozen embryos in almost all countries where *in vitro* fertilisation takes place.

“With regard to the large number of *frozen embryos already in existence* the question becomes: what to do with them? Some who pose this question do not grasp its ethical nature, motivated as they are by laws in some countries that require cryopreservation centres to empty their storage tanks periodically. Others, however, are aware that a grave injustice has been perpetrated and wonder how best to respond to the duty of resolving it.

“Proposals to *use these embryos for research or for the treatment of disease* are obviously unacceptable because they treat the embryos as mere ‘biological material’ and result in their destruction. The proposal to thaw such embryos without reactivating them and use them for research, as if they were normal cadavers, is also unacceptable.

“The proposal that these embryos could be put at the disposal of infertile couples as a *treatment for infertility* is not ethically acceptable for the same reasons which make artificial heterologous procreation illicit as well as any form of surrogate motherhood; this practice would also lead to other problems of a medical, psychological and legal nature.

“It has also been proposed, solely in order to allow human beings to be born who are otherwise condemned to destruction, that there could be a form of ‘*prenatal adoption*’. This proposal, praiseworthy in its intention of respecting and defending human life, presents however various problems not dissimilar to those mentioned above.

“All things considered, it needs to be recognised that the thousands of abandoned embryos represent a *situation of injustice which in fact cannot be resolved*. Therefore John Paul II made an ‘appeal to the conscience of the world’s scientific authorities and in particular to doctors, that the production of human embryos be halted, taking into account that there seems to be no morally licit solution regarding the human destiny of the thousands and thousands of ‘frozen’ embryos which are and remain the subjects of essential rights and should therefore be protected by law as human persons’...”⁵

Again in *Dignitas Personae* the *Congregation* fails *in limine* to provide a systematic condemnation of the interference in the natural order entailed in the *in vitro* process in favour of a reiteration of focus on the rights of the embryos produced. The failure is manifest in its assertion that the action of placing these embryos in suspended animation “deprives them at least temporarily of maternal reception and gestation”. This assessment is defective because—

- a. it focuses on the secondary (and ancillary) evil of their *retention* instead of on the primary (and essential) evil of their *production*;
- b. it overlooks the radical interference with the natural order the process entails; and,
- c. it leaves the reader with the impression that the artificial implantation of such an embryo involves an accidental rather than an essential departure from the order established by Almighty God.

⁵ At nn. 18, 19: emphasis in original. This document may be viewed at the internet reference—
http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20081208_dignitas-personae_en.html

Moreover it betrays the admirable statement of principle in *Donum Vitae*—

“[T]he gift of human life must be actualised in marriage through the specific and exclusive acts of husband and wife in accordance with the laws inscribed in their persons and in their union.”

The *Congregation* adds to the scandal in *Donum Vitae* by making explicit the denial implicit there that the injustice to the multitude of human embryos kept in suspended animation can ever be resolved.

III

That the *Congregation* is in error on this issue is manifest in the following syllogism.

Principle: It is false to assert that there exists an evil which is impossible of resolution—for such an evil would be objectively infinite and this is impossible, as St Thomas teaches.⁶

Fact: But to assert that the artificial maintenance in existence of embryos contrived *in vitro* is morally insuperable (that is, incapable of resolution without the commission of further evil) reduces to this, that there exists an evil which is impossible of resolution.

Conclusion: Therefore the assertion (that the evil of the artificial maintenance in existence of embryos contrived *in vitro* is morally insuperable) is false.

Against this opinion *it is to be insisted* that there is no evil committed by men which falls outside the comprehension of Almighty God; no evil which He has not foreseen, or for which He has not provided a moral solution.

Embryos produced *in vitro* are real human beings, but human beings whose natural development and elaboration is impossible without the doing of further evil. It follows as night follows day *that the exercise of those rights is morally impossible.*⁷

How do you solve a dilemma? First, you must accept, in their generality, each of the elements of which the dilemma is comprised. Next, you must look for a distinction in one element; or in the other; or in both.

The Solution

The dilemma is solved through analysis of the essential issue which the *Congregation* has overlooked, the natural order which the *in vitro* process attacks.

⁶ “There cannot be a supreme evil because, as was shown (in I, 48, a.4), while evil always lessens good, it never wholly consumes it. Thus, whenever good remains, nothing can be wholly and perfectly bad. Therefore, as the Philosopher says (*Ethic.* iv. 5), *if the wholly evil could be, it would destroy itself*, because all good being destroyed, (which must needs be the case for something to be wholly evil), evil itself would be removed since it requires a good subject.” *Summa Theologiae* I, 49, a. 3

⁷ Nor is this principle disturbed by a successful impregnation of a zygote resulting in a resumption of its growth cycle in the womb, and the birth thereafter of a child. The event simply illustrates the truth that Almighty God can draw good out of the gravest of evils. The child does not share in the wrongdoing of his parents, as the *Congregation* has pointed out. But neither does his birth redeem *ex post facto* the evil of the process.

There are *two* principal evils in the artificial fusion of gametes that result in a human embryo outside the mother's womb.⁸ Each corresponds with a mode of interference with the natural order. The first occurs on the fertilisation of the ovum *in vitro* rather than *in utero*.⁹ The second occurs upon the suspension of the embryo's living operations. These two evils work in concert to deprive the human being so conceived of the possibility or the opportunity to grow to the maturity which is his due.¹⁰

Now the first of these evils *is complete at* the instant of fertilisation. Taken globally, it consists in the conception of the embryo artificially rather than naturally. Considered with particularity, the evil consists in its conception in a foreign rather than its natural environment, an environment devoid of the metaphysical accidents nature ordains as its due (those of *relation, when, where, habitus, and situs*, at least).

The second evil, a species of tyranny, *endures whilever the agents involved keep the embryo alive artificially*. In the natural course, shortly after its conception the simple cell of the zygote divides, the resulting cells each divide, and these in their turn divide and subdivide in a geometric progression as the living organism elaborates with expedition the extraordinarily intricate structure of the embryonic body. The cryogenic interruption of the natural process is evil in its formal elements:

- i. its *finis operis* continues the deprivation of the metaphysical accidents due to the embryo in its development and interferes with the course of that development. The process is *contra naturam et intrinsice malum*.
- ii. its *finis operantis*, the eventual transmission artificially of the embryo into the mother's womb (or its abuse in experimentation; or some other artificial end) is (in every case) morally illicit.

Consistent with the moral law, it is imperative that this second, and ongoing, evil be brought to an end. This can only be achieved by removing the artificial conditions that serve to keep the human embryo so contrived in such a state. The dilemma involved—the removal of the evil tyranny, but at the cost of the life of the embryo—is resolved through the *Principle of the Double Effect*.

It is not licit to do an act wherefrom flow two effects, one good, the other evil, unless four conditions are fulfilled—

1. The act itself is good, or at least morally neutral;

⁸ There are also evils subsidiary and ancillary to these principal evils without which they could not occur. These subsidiary evils, which the *Congregation* has addressed in both *Instructions*, are not to be ignored, but for the purposes of this paper are subsumed to these principal evils which they serve.

⁹ The expression *in utero* is used comprehensively. Conception takes place in the fallopian tube of the mother whereupon the fertilised ovum migrates with the assistance of the surface structure of the fallopian tube to the womb, or uterus, of the mother where it implants in the endometrium, or wall.

¹⁰ It is not to the point that the possibility or opportunity of growth to maturity might be accorded some embryo through a further immoral act. Since it is not licit to do evil that good may come of it, even so great a good as its growth to maturity could never justify the evil act of artificial transmission into the womb of its mother, let alone the still greater moral evil of its transmission into the womb of a surrogate mother.

2. The good effect alone is intended;
3. The good lost by the evil effect does not outweigh that of the good effect; and,
4. The good and evil effects flow at least with equal immediacy from the act, and not the evil effect prior to the good.¹¹

1. The act is the removal of the artificial conditions which serve to keep the embryo in its unnatural state of suspended animation. The act—taken not in respect of its consequences, but as *act* only—is morally neutral. This condition is satisfied.

2. The effect which alone is intended is the cessation of the evil tyranny exercised over the embryo by the relevant medical scientists with the connivance, whether explicit or implicit, of the parents.¹² This condition also is satisfied.

3. The good *lost by* the act is the life of the human embryo, a good which is objectively infinite. The good *achieved by* the act is the removal of the tyranny over the life of the embryo. This tyranny is not to be equated merely with the power of enslavement: it exceeds that power in the degree that the power over the life and death of a man exceeds a power over his services. As the *Congregation* itself noted in *Donum Vitae*, one who exercises it—

“usurps the place of God... sets himself up as the master of the destiny of others... as he arbitrarily chooses whom he will allow to live and whom he will send to death...”

This tyranny equates with the Divine power and is, therefore, also objectively infinite. Hence, the good lost by the act does not outweigh the good of the good effect. This condition, the most critical of the four, is also satisfied.

4. The good effect (the cessation of the tyranny) and the evil effect (the loss of the life of the embryo) flow with equal immediacy. The final condition is, likewise, satisfied.

It follows that, provided it is done *and done only* for the sake of terminating this tyranny¹³, the act of removing the artificial environment which holds the embryo in an unnatural state of suspended animation is licit.¹⁴

In the light of this analysis, the *Congregation for the Doctrine of the Faith* should revise and clarify its teaching for the instruction and edification of Catholic and non-Catholic alike. Moreover, it should qualify appropriately the statement in *Donum Vitae*—“It is... not in conformity with the moral law deliberately to expose to death human embryos obtained ‘in vitro’”.

¹¹ Astute followers of this website will see that we have here altered the order of the 3rd and 4th conditions from that observed in earlier papers. This has been done to address in better order the peculiar difficulties presented by the present case.

¹² Since the willing cooperation of each is required, their cooperation in the two principal moral evils occurs with their consent to the artificial interference in the operations of their bodies.

¹³ Every act is specified by its end. What matters is not so much *what* is done, but *why* it is done.

¹⁴ It is appropriate that steps be laid down for the proper interment of the tiny bodies so resulting.

IV

In the last paragraph of the material in *Dignitas Personae* quoted above, the *Congregation* cites in support of its position words of Pope John Paul II taken from an address he gave on 24th May 1996 to a symposium on *Evangelium vitae* and the law at the *Eleventh International Colloquium on Roman and Canon Law*.¹⁵ The late Pope appears to have shared the view of the members of the *Congregation* that there is no solution to the dilemma posed by the holding in suspended animation of the multitude of human embryos artificially contrived.

There is not, in the view of this commentator, a competent pre-second world war moral theologian who could not after careful consideration have stated and applied the relevant principles to solve the dilemma. Pius XII, the last moral theologian Pope, could have solved it within the hour of its arising. Why is it that modern moral theologians, indeed modern popes, cannot do the same? Why is their understanding of being and its perfections, their grasp of basic ontology, so weak?

The reason lies in the deficiency of their philosophical formation, an inevitable consequence of the abandonment in seminaries and houses of formation over a period of some fifty years of the Church's philosophy, the metaphysics of the *Angelic Doctor*, St Thomas Aquinas. The principal cause of the *Congregation's* failure to deal with the issue here is the lack of a metaphysical grasp of reality; the instrumental cause, a failure to appreciate the distinction between *finis operis* and *finis operantis*. The philosophy in which the *Congregation's* members have been formed (modern philosophy in any of its various guises) is rooted in the material and the subjective, instead of the immaterial and the objective.¹⁶ That philosophy is incapable of reflecting adequately the terms of reality, or of doing justice to its exigencies.

A small mistake in the beginning becomes a big mistake in the end. Their philosophy being defective, it is inevitable that modern moral theologians will err on critical issues.¹⁷ Until such time as the philosophy of the Church is restored to its rightful place in her seats of learning, students for the priesthood will be ill equipped to distinguish error from right thinking, and a priest so formed who is elevated to the position of bishop, cardinal or even the eminence of the papacy, will be liable to commit errors of judgement in difficult moral matters.

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¹⁵ The citation is 6: AAS 88 (1996), 943-4.

¹⁶ And, indeed, the mode of expression in each of the two Instructions frequently gives cause for concern over its preoccupation with the subjective.

¹⁷ As to the errors of current moral theologians in other matters see the author's paper *The Pope and the Question of Condoms, Part Two* at http://www.superflumina.org/PDF_files/pope_and_condoms_pt_2.pdf