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A Catholic Approach to the Ethics of Embryo Adoption

*What Current Church Teachings on Sexuality, Reproduction
and Adoption reveal about the Morality of Embryo Adoption*

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An abstract of a thesis submitted to the Faculty of the James T. Laney School of Graduate
Studies and the Faculty of the Candler School of Theology of Emory University in partial
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Abstract

A Catholic Approach to the Ethics of Embryo Adoption: *What Current Church Teachings on Sexuality, Reproduction and Adoption reveal about the Morality of Embryo Adoption*

By Kevin Joseph Wack

Assisted reproductive technologies, such as *in vitro* fertilization, sometimes include the process of freezing and storing unused embryos. Over the past several decades, the number of frozen embryos in storage has grown to roughly 500,000. These embryos are typically used in future attempts at pregnancy, for scientific research, or else discarded. Recently, however, it has become more popular for people to donate these embryos to others who desire to raise children: a practice often called embryo adoption.

The primary objective of this thesis is to examine the ethical challenges of embryo adoption through the lens of those who assert that personhood begins at fertilization, namely the Catholic Church, and explore whether embryo adoption may be a morally permissible practice. The Catholic Church's teachings about embryo adoption are particularly interesting because on one hand it asserts that embryos should be treated as persons with a right to life, while on the other hand it opposes the fertilization techniques that led to their existence. Official writings by Catholic hierarchy have tended to discourage embryo adoption for the same reasons that *in vitro* fertilization and other assisted reproductive technologies are considered illicit. Among other concerns, the Catholic Church believes that these practices unethically separate the creation of new life from an act of conjugal unity and consequently violate the fidelity of marriage as well as the rights of children. However, by considering each aspect of the embryo adoption process individually, this thesis argues that neither of these ethical concerns is necessarily applicable to the practice of embryo adoption.

Embryo adoption itself, I argue, can actually be viewed in a manner that is consistent with Catholic Theology. While the practice is often considered to be a method of assisted reproduction, there are ways in which it is completely distinct. Embryo adoption can be evaluated apart from reproductive technologies and instead assessed similarly to traditional infant adoption. The actual application of embryo adoption, however, raises other concerns that could lead the Catholic Church to consider it immoral *in practice* even if it does not consider it *inherently* immoral.

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ABBREVIATIONS

Organizations:

CDC – United States Centers for Disease Control and Prevention

CDF – Congregation for the Doctrine of the Faith

NCBC – National Catholic Bioethics Center

USCCB – United States Conference of Catholic Bishops

IRB – Institutional Review Board

Sources:

CCC – Catechism of the Catholic Church

CFR – Code of Federal Regulations

Scientific Terminology

ART – Assisted Reproductive Technology

ET – Embryo Transfer

IVF – *In Vitro* Fertilization

IUI – Intrauterine Insemination

INTRODUCTION

In medical facilities throughout the world there are more than half a million human embryos frozen in suspended animation (Virzera 2009). For those who assert that a human person is formed at the moment of fertilization, the existence of these frozen embryos presents a morally challenging situation. For some, the dilemma stems from the conviction that the existence of frozen human embryos should never have occurred in the first place. These embryos originate through *in vitro* fertilization (IVF) techniques which currently are conducted in a manner that entails the death of at least one embryo and typically several. Human persons are generally recognized as having a high level of worth and dignity, and if embryos are equally considered to be persons then initiating procedures which lead to their death would violate basic principles of beneficence and respect. But even for those who hold such beliefs and oppose the practice of IVF and freezing embryos, the reality is that embryos already exist in frozen storage and concerns about what to do with them are unavoidable.

The primary objective of this thesis is to examine the ethical challenges of embryo adoption through the lens of those who assert that personhood begins at fertilization, namely the Catholic Church, and explain how embryo adoption may be a morally permissible practice. A detailed explanation of the Church's position on the matter of when personhood begins is not attempted; rather the focus is on the immediate pragmatic matter of how to address the issue of frozen embryos. An aid to beginning at this point is the fact that the articulation of a Catholic view of personhood can actually be quite brief: The moment at which human gametes combine and a unique *homo sapien* organism is formed is the point at which a being ought to be treated as a human person

(*Dignitas personae* 2008).¹ Even if a zygote later twins, as noted in subsequent chapters, the claim is that fertilization marks the point at which a unique person is formed² (O'Rourke 2006, 248). Thus, this thesis provides insight into the ethical aspects of embryo adoption not only for Catholics, but also for any person who might even consider fertilization the point at which a person is formed.

As the following chapters will demonstrate, one of the most significant challenges for a community is to profess a set of ideals while simultaneously confronting the concerns that arise from the less-than-ideal world we live in. Leaders of a community are often charged with the task of upholding ideals that other people dismiss as impossible. Jesus, for example, challenged His disciples to act in ways that one could argue were unattainable for any person. After saving a woman from being killed for committing adultery, Jesus says to her, "From now on sin no more" (John 8:11). Surely He knew that the woman was going to commit sins in the future, at least minor transgressions, and yet He told her to "sin no more" rather than merely "sin as little as possible." Another example from Christian Scripture is Jesus' command for the faithful to "pray without ceasing" (1 Thessalonians 5:17). As in the first case, He did not ask them to "pray whenever you can," but rather he told them to do it "unceasingly."

Leaders today are challenged to demand the ideals just as Jesus did. A director of nursing, for example, presumably instructs the nursing staff to avoid making any errors related to patients' care. Even though the director probably realizes that errors will occur,

¹ The term *unique* refers to either unique genetic makeup, or in the case of identical twins, unique genetic expression.

² The process of twinning, or parthenogenesis, is not typically discussed in Church encyclicals regarding personhood, but it is clear that the potential for twinning is not considered to be a permissible reason to treat a zygote as anything less than a person. Father O'Rourke explains that the exact moment when the twin came into being is not defined, but before it was formed there still existed the zygote from which it came.

he or she cannot teach that a few mistakes are acceptable or else it risks suggesting that subpar results are satisfactory. This practice is a way to uphold fundamental principles that should not be compromised. The Catholic Church, through its teachings, often commands people to work towards an ideal rather than a more “realistic” goal because the ideal itself reveals certain priorities and convictions. Sometimes, however, this leads to paradoxical dilemmas in which achieving the ideal is impossible but recommending something less than the ideal threatens to imply approbation. This is one of the issues that frozen embryos present for those who assert that personhood begins at fertilization. The Catholic Church’s ideal would be that embryos were never initially created or frozen, and to recommend that there is a solution to the problem risks suggesting tacit acceptance of the cause.

For Catholics there is no solution to the reality of frozen embryos that is not tainted by its connection with immorality. The Congregation for the Doctrine of the Faith (CDF), an authoritative teaching body of the Church, refers to this reality when it states, “It needs to be recognized that the thousands of abandoned embryos represent a situation of injustice which in fact cannot be resolved” (*Dignitas personae* 2008). Such claims, however, do not suffice as appropriate responses to the thousands of couples who are trying to decide what they should do with frozen embryos that are under their care. Furthermore there are also many Catholic couples of good intention who wonder whether it is appropriate to pursue a procedure that would allow them to adopt frozen embryos and give them a chance at a full life. While it is imperative for the Church to continuously encourage actions that rise to the ideal, it is nevertheless important to give guidance to those who are in situations where the ideal is unattainable. As it is written in

the book of James, “If a brother or sister has nothing to wear and has no food for the day, and one of you says to them, ‘Go in peace, keep warm, and eat well,’ but you do not give them the necessities of the body, what good is it?” (James 2:15-16). Throughout the Scriptures, Jesus invites the world to act according to principles of love and faithfulness. The fact that frozen embryos exist is regrettable in the eyes of the Catholic Church, similar to the perennial existence of abandoned children, but the Church is nevertheless charged with the task of contemplating how to respond in a Christ-like manner and stand up for the dignity of those who are especially vulnerable.

CHAPTER 1: EMBRYO ADOPTION, AN OVERVIEW

As assisted reproductive technology has improved immensely over the past half-century, the Catholic Church has worked to consider how these new possibilities fit within its moral principles. Most of these procedures are incompatible with Catholic theology because they violate some aspect of the teachings on marriage, parenthood, or human dignity (O'Rourke 2010). However, a relatively new procedure has emerged to transfer embryos leftover from infertility treatments to someone else who desires to become pregnant (Meniru and Craft 1997). This procedure can be seen in a slightly different light than many others because the act of creating and storing embryos may be completely distinct from the people who intend to offer them a chance at birth. In other words, one could adamantly oppose the practice of creating embryos in a laboratory while at the same time feel compelled to assist the thousands of embryos that have already been created and currently reside in storage facilities. This practice is particularly interesting from a Catholic perspective because on one hand it seems to uphold the conviction that embryos should be treated as full persons, while on the other hand it treads in areas of assisted reproduction that the Church oftentimes finds to be unethical.

The Significance of Adoption Terminology

The practice of transferring leftover embryos from one person to another is known by several different names, including embryo placement, embryo transfer, or embryo adoption. Some organizations prefer to specifically use the term *adoption* for two reasons: First, the procedure is carried out in a very similar manner to traditional adoption of children who have already been born. In most cases there is a home study of the adopting couple to ensure that they are willing and able to raise a child, the donating

couple often has input in choosing the adopting couple, and both parties enter into a contract that focuses on the embryo's well-being (Clark 2009). Secondly, Catholic teachings assert that this practice involves the transfer of a human person, and therefore *adoption* is more appropriate than typical economic or legal terms such as procure, trade, or purchase. In fact, referring to the couple who chooses to give away their embryos as the *donating* couple is concerning because the word *donation* is more of a legalistic term that refers to the giving of one's property or time, not people. In traditional adoption a person does not donate a child, but rather they *relinquish* a child. The Church demonstrates its preference for adoption language when it asserts that "the majority of embryos that are not used remain *orphans*" (*Dignitas personae* 2008, §18).

Those who believe that personhood should be granted to embryos or fetuses much later in the development process prefer to avoid the use of the term embryo adoption. A fertility clinic in Florida, for example, explains that using the word *adoption* to represent leftover embryos suggests that they are on a similar level as children who have already been born and implies rights of personhood to an embryo (Embryo Adoption International 2012). Peter Clark explains that "these groups would prefer the term *embryo donation*, or in more neutral, reductive terms, a term such as *transfer of genetic material* from one party to another" (Clark 2009). The differences between these terms are slight, but the implications are far reaching, especially regarding the legal rights of the donating person, the adopting person, and the embryo.

In 2009, a statute was passed in the State of Georgia which recognizes embryo adoption in the same way as traditional adoption of children. This law affords legal rights to all parties involved in embryo adoption, and it strengthens the permanency of

the adoption itself. An excerpt from the statute explains the practicalities of adopting and donating an embryo:

A legal embryo custodian may relinquish all rights and responsibilities for an embryo to a recipient intended parent prior to embryo transfer. A written contract shall be entered into between each legal embryo custodian and each recipient intended parent prior to embryo transfer for the legal transfer of rights to an embryo and to any child that may result from the embryo transfer. Such order shall terminate any future parental rights and responsibilities of any past or present legal embryo custodian or gamete donor in a child which results from the embryo transfer and shall vest such rights and responsibilities in the recipient intended parent. (Georgia Statute 2009, §19-8-41)

The statute was introduced by Rep. James Mills who explained during a news interview that the law was inspired by cases in which embryo donors have made claims to parental rights after one of their embryos was carried to term and delivered (Gurr 2009).

In regards to this thesis, referring to the person with leftover embryos as the donor and the receiving person as the adoptive parent has become commonplace among those who express views like those of the Catholic Church. Thus, these will be the preferred terms throughout the remainder of this paper.

IVF and Embryo Adoption Explained

Primarily as a means to overcome infertility issues, *in vitro* fertilization (IVF) developed rapidly in the 1970s after the first successful birth via such assisted reproductive technology (ART) in 1978 in Oldham, England (Wood and Trounson 2000). IVF involves the fertilization of embryos in a laboratory dish by mixing predetermined ovum and sperm samples of the highest quality (Bongso and Trounson 2007). Typically three days after fertilization has occurred, the embryos are introduced into a woman's uterus via catheter in hopes that one of the embryos will implant and result in a successful

pregnancy (De los Santos et al. 2000). The most recent data from the Centers for Disease Control and Prevention (CDC) show that there were 61,564 infants born using some variation of IVF (nondonor and donor eggs) in 2010, a number more than one and a half times that reported in 2001 (CDC 2010).

The technologies behind IVF and embryo adoption have progressed over the last 30 years as the frequency of the procedures have increased: two technologies of particular relevance to embryo adoption are superovulation and cryopreservation. Superovulation is the drug-induced increase in eggs released by the female body for harvest, ultimately leading to the creation of more embryos than the number that will be transferred (Avery and Brinsden 2002). Only 30 to 40% of the transfers using fresh eggs result in live births (CDC 2010), meaning clinicians seek to collect as many eggs as possible from the woman originally to reduce the need to repeat the expensive and invasive egg retrieval surgery (Brakman and Weaver 2007). Two embryos are transferred on average in the United States with each round of IVF usually leaving a surplus of embryos from the 14-20 eggs routinely collected per cycle (CDC 2010). The best quality embryos are commonly used in the fresh cycle of IVF while the remaining extra can be cryogenically preserved for use if successive rounds of IVF are needed or desired by the patient (Clark 2009).

Following the development of cryopreservation in the early 1980s, the first birth of a cryopreserved embryo via IVF occurred in 1983 (Trounson and Mohr 1983). Cryopreservation involves simultaneously extracting the intracellular water from the embryo while freezing it with an added cryoprotectant solution. Once this process is complete, the frozen embryos are said to be in “suspended animation” where cellular

activity has stopped, but the embryo is still considered alive (Clark 2007). The vials of embryos are stored in sophisticated systems which utilize liquid nitrogen to keep them frozen indefinitely. When the time comes for them to be removed from storage, the embryos undergo a process of thawing through which approximately 65-70% survive (meaning over 50% of the embryo's cells remain alive) (Clark 2007). Superovulation and the cryopreservation of embryos reduces the overall cost of IVF by decreasing the probable number of stimulation cycles needed to result in pregnancy (Keenan 2007), however, cryopreservation itself costs \$600-700 a year (Clark 2007). Of 500,000 or so frozen embryos stored in the U.S., surveys show that 90% of the couples report keeping them frozen for future use but the National Embryo Donation Center has found a large number of embryos will be left in storage (Keenan 2007).

One of the earliest rounds of IVF in the 1980s produced embryos which were then donated and implanted 20 years later, resulting in a successful pregnancy for a 42 year-old woman in 2010 (Marietta 2011). There is no evidence to suggest that the length of cryogenic preservation has an effect on the viability or development of the embryo (Marietta 2011) and surprisingly the adage "fresh not frozen" is not true in this case as data show that the success rate of IVF is actually increased by the use of frozen embryos (Avery and Brinsden 2002). Some countries have regulated the practice of cryopreservation while others continue to have thousands and thousands of embryos "put on ice" every year (Brakman and Weaver 2007). Countries such as Germany and Italy have stricter laws regarding the creation and storage of embryos in general. They require that no more than three embryos are produced per treatment and all three of them must be implanted in the process, consequently there are no leftover embryos to store (Cheely

2007). Other legislation limits the length that embryos can be stored, ranging from just one year (Austria and Denmark) to ten years (Finland, Israel, Spain, and the UK) (Avery and Brinsden 2002).

In the United States, embryos are considered to be property and it is the responsibility of the owner or owners to decide how they should be handled. The choice of whether to keep the embryos in storage, donate them, or dispose of them depends on the availability of services, their resources, and their belief system. The weight of the decision, however, causes some people to avoid taking any action and experts estimate that up to one half of the frozen embryos will never be used by their genetic parents, highlighting the issue of what to do about such a large constituency of frozen embryos (Keenan 2007).

Embryo Adoption in Practice

There are a number of organizations like the National Embryo Donation Center, the Snowflake Embryo Adoption Program, and Nightlight Christian Adoptions, which seek to match potential donor couples with other couples affected by infertility issues (Clark 2009; Keenan 2007). Potential donors often have a difficult time making a decision regarding leftover embryos because they recognize their potential to become their children's siblings (Keenan 2007), but these agencies seek to make the process of donation and adoption more plausible economically as well as emotionally so that more potential donors might choose such a pathway for their embryos. With over 200,000 couples seeking to adopt in the United States, and an estimate of 23,000-100,000 frozen embryos that would viably implant, the agencies have high hopes that embryo adoption could become more common (Clark 2009).

In many ways, embryo adoption in the U.S. is similar to traditional adoption, and it is legally permissible within all 50 states (Clark 2009). Of the 443 assisted reproduction clinics located in the United States, 69% of them offer embryo transfer using donor embryos (CDC 2010). It is up to a particular agency as well as the donor to determine whether the names of the involved parties are disclosed. In many cases, the donor has the right to set forth criteria that the adopting party should meet, such as marital status, age, and religion (Keenan 2007). As with traditional adoption, the adopting party typically undergoes home screenings, background checks, and health history screenings to ensure that the child will be welcomed into a familial environment that the agency believes will be supportive.

Finding a match between a donating party and an adopting party is the first task, but the hardest part is what comes next. As with other assisted reproduction procedures, the practice of embryo transfer does not always result in a pregnancy after the embryos are introduced into the uterus. If the first attempt is not successful, most agencies will try up to two additional attempts (Keenan 2007). As with other fertility treatments, different agencies have different rates of success. The national average rate of pregnancy and delivery via frozen embryo transfer is about 25%, but some clinics, such as the National Embryo Donation Center, claim a success rate of up to 42% (Keenan 2007). The range of success rates is partially due to the number of treatments, the makeup of clientele, and the specialization of the clinic. These success rates coupled with financial savings have largely led to the increased popularity of embryo adoption. The cost of IVF with a donor egg, for example, typically costs around \$22,000 while the average cost of embryo adoption is only around \$5,000 (Clark 2009).

The cost, efficacy, and availability of embryo adoption in the United States makes it an attractive option for women who would like to adopt a child and still experience pregnancy. For those who believe that a frozen embryo should be treated as a person, this procedure actualizes a life that has been temporarily suspended and gives a child a chance to thrive. Those who avoid ascribing personhood to an embryo still find the procedure to be an economical and effective method of reproductive technology. In either case, the process of embryo adoption amplifies the significance of the thousands of embryos currently in storage and highlights their potential to be gestated and born. In the following section I will explore how the Catholic Church values embryos and considers them to have inherent dignity.

CHAPTER 2: HUMAN DIGNITY AND MEDICAL ETHICS IN THE CATHOLIC TRADITION

The term *human dignity* is commonly used in modern dialogue, so much so that its definition may be taken for granted. But what is the actual definition of human dignity? Typically the term is used to refer to the most basic worth of a human person: even more fundamental than concepts of rights or privileges. Human dignity cannot be taken away from any person because it is innate, essential, and independent (Khant 1993, 36). Dignity is not afforded to someone simply because he or she is wealthy, talented, or productive. In fact, *human dignity* tends to be used precisely to emphasize that those worldly attributes are *not* what is most important. In its most basic sense, someone's human dignity stems from the truth that they are in fact *someone* (Sulmasy 2006). As such the Church asserts that "the introduction of discrimination with regard to human dignity based on biological, psychological, or educational development, or based on health-related criteria, must be excluded" (*Dignitas personae* 2008). The Ethical and Religious Directives for Catholic Health Care Services explain that "the Church's commitment to human dignity inspires an abiding concern for the sanctity of human life from its very beginning" (USCCB 2009). By conflating the concepts of dignity and sanctity the Church sets the foundation for asserting that all people have a right to life, not because of a human law but because of a spiritual principle. This position significantly impacts the way we treat other people because it challenges us to preserve life as a gift from God; acting as stewards rather than owners (USCCB 2009). A role of medicine is to care for the corporeal gift from conception to natural death, and consequently it cannot act in ways that judge the worthiness of a life or that end a life prematurely. The CDF expands on this topic in a declaration on abortion:

Any discrimination based on the various stages of life is no more justified than any other discrimination. The right to life remains complete in an old person, even one greatly weakened; it is not lost by one who is incurably sick. The right to life is no less to be respected in the small infant just born than in the mature person. In reality, respect for human life is called for from the time that the process of generation begins. (Declaration on Procured Abortion 1974)

Consider how good people around the world have fought fervently for the welfare of the impoverished, for the rights of minorities, and for the needs of the disabled. Our society despises the atrocities that occurred in the concentration camps of Germany and the injustices of involuntary sterilization practices in the United States. These convictions are rooted in the belief that every human person deserves a high level of respect and welfare irrespective of his or her ethnicity, age, or gender: every person has dignity. As a society, and indeed as a world, we should be encouraged by the progress we have made towards treating all people with respect. *Dignitas personae* explains that there are “legal and political – and not just ethical – prohibitions of racism, slavery, unjust discrimination and marginalization of women, children, and ill and disabled people. Such prohibitions bear witness to the inalienable value and intrinsic dignity of every human being and are a sign of genuine progress in human history” (*Dignitas personae* 2008).

The ultimate challenge of ethical debates involving embryos and fetuses is rooted in the question of whether or not they have the same human dignity as infants after birth. Or rather, at what point does a developing human being attain the dignity that we believe is inherent to personhood? If a fetus has human dignity then all of the aforementioned principles apply to its treatment, but if it does not have such dignity then such principles are irrelevant and the debate shifts more toward matters of legal rights and autonomy.

Convictions on this matter are important because they have massive consequences on one's approach to matters of sexuality, abortion and reproductive technologies. If embryos have the same essential dignity as infants after birth, then the overarching concerns regarding their treatment must be akin to familiar principles of law and bioethics: justice, beneficence, non-maleficence, and autonomy. In this light, the treatment of frozen embryos is dictated more by recognition of their personhood and less by legal policy, parental rights, or scientific progress. If an embryo is *somebody*, than they cannot be treated as *something*.

In practice, however, the appropriate treatment of embryos and fetuses is not so clear cut. Some may assert that embryos should not be treated as if they have human dignity, but that they should nevertheless be held in high esteem because of their potentiality and fragility. Another perspective is that their worth stems not from something inherent but rather from the fact that they are meaningful to someone else. Still others may assert that an embryo is significant but that its existence can be trumped by more important factors such as the mental and physical health of the parents or the promises of scientific advancement. The Catholic Church, however, asserts that an embryo should be treated with full moral status, as a person like any other.

An Embryo's Moral Status

At the heart of each of these positions is the attribution of an embryo's moral status. The term *moral status* is a philosophical designation regarding the significance of a person or thing in the moral life or moral community. It is not a quantifiable number but rather a categorization that allows one to consider, among other things, the ethics of

interactions. It serves as a way of navigating competing interests between people, or animals and people, by establishing guidelines for acceptable conduct and how it may be justified.

Determining moral status can be based on a variety of concepts such as cognition, sentience, or communal significance (Beauchamp and Childress 2009). For example, the moral status of a mosquito tends to be very limited according to most of these viewpoints, and consequently one does not need to ascribe the same rights to the insect as would be given to a fellow human being. Swatting a mosquito on one's arm can be justified by the prioritization of human comfort and health over the well-being of the animal. As noted, determining moral status is not a scientific or mathematical endeavor, but rather it is an attribute that one justifies by citing various principles and beliefs. Recognition of moral status is therefore a rather subjective stance that may vary from person to person, or from group to group. Consider how the United States approaches criminal cases in which a woman's pregnancy is terminated due to an act of violence. In some states, the violent offender is subject to manslaughter charges while in others he or she would not be charged in relation to the death of a fetus (Curran 2009). Essentially this is due to differing interpretations of a fetus' legal status, which may stem from beliefs about moral status. If a two-year-old is killed, however, it is unequivocally considered murder because a two-year-old is granted the same legal status as every other person.

As our understanding of human development has grown through advances in science and technology, the answer of when a new human life begins has become much clearer. While in ancient times some people believed that a human life began at the moment of quickening (Katherine Brand'Amour 2007), or when the mother could feel

the fetus move in her womb, we now understand that this stage of development provides no such mark of initiation. Science continued to push this moment of creation further back as more details about the process were discovered. Thus it is now understood that a new, living human organism is created through the process of conception when gametes from both parents combine to create a new organism with unique genes. This new organism is not the same as either parent, it is most certainly *homo sapien* in nature, and it meets the biological criteria of a novel living creature. Christopher McKay, a planetary scientist at NASA, proposes that the two defining properties of life are metabolism, meaning growth and reproduction, and a response to stimuli (McKay 2004). By this definition, a zygote from its earliest existence is a living organism because it meets both criteria. Furthermore, a zygote has a unique genetic expression, distinct from the gametes of either parent.

In 1981, a group of representatives from the medical and scientific communities were invited by the United States Senate Subcommittee to discuss the scientific status of a fetus.³ According to the report, “Physicians, biologists, and other scientists agree that conception marks the beginning of the life of a human being - a being that is alive and is a member of the human species. There is overwhelming agreement on this point in countless medical, biological, and scientific writings” (Subcommittee S-158 1981). Dr. Alfred Bongiovanni, one of the doctors who participated in the subcommittee hearing, summarized his feelings by stating, “I am no more prepared to say that these early stages represent an incomplete human being than I would be to say that the child prior to the

³ The group of representatives included men and woman from many different institutions and disciplines; some claimed to being pro-life and others pro-choice. Some of the representatives included: Ashley Montague, geneticist and professor at Harvard and Rutgers; Micheline Matthews-Roth, Harvard University Medical School; Jerome LeJeune, professor of genetics at the University of Descates in Paris; and Alfred Bongioanni, professor of pediatrics and obstetrics at the University of Pennsylvania.

dramatic effects of puberty is not a human being” (ibid.). The Congregation for the Doctrine of the Faith (CDF) approaches the topic from a similar perspective:

It has demonstrated that, from the first instant, there is established the program of what this living being will be: a man, this individual man with his characteristic aspects already well determined. Right from fertilization is begun the adventure of a human life, and each of its capacities requires time- a rather lengthy time- to find its place and to be in a position to act. (Declaration on Procured Abortion, sec 13)

This reality focuses the discussion of moral status on a single question: is the unique, living, human organism created through the process of fertilization equal in moral status to a baby whose umbilical cord has been cut? In other words, this situation challenges whether a living, human organism is necessarily a *person* or whether these classifications can be separate. Several prominent philosophers, including Daniel Dennett and Peter Singer, argue that the rights commonly afforded to persons are not necessarily inherent to all human life. Rather, they suggest that the criteria for personhood must be more nuanced than mere participation in the *homo sapien* species. An essay written by Dennett in 1978 suggests that personhood should only be ascribed to an individual if the following criteria are met:

- i. It is a rational being.
- ii. It is a being to which states of consciousness can be attributed.
- iii. Others regard or can regard it as a being to which states of consciousness can be attributed.
- iv. It is capable of regarding others as beings to which states of consciousness can be attributed.
- v. It is capable of verbal communication.
- vi. It is self-conscious; that is, it is capable of regarding itself as a subject of states of consciousness. (Dennett 1976)

According to Dennett, personhood requires some level of self-awareness; a person should be capable of acknowledging their existence as a conscious being and be able to communicate this understanding with others. This view, however, represents a position

that is much stricter than that to which most people adhere. As the remainder of this chapter highlights, Dennett's view stands near the extreme opposite of Catholic theology.

For many people, Dennett's criteria for personhood are more restrictive than they ought to be, but he does illustrate how one could use other measures to define personhood beyond the moment of fertilization. Within some Jewish traditions, for example, a fetus does not have the moral status of personhood, but from 40 days post-conception and onward the Mishnah explains that it holds a very high level of significance and should be treated with respect. Scholar Elliot Dorff offers an overview of rabbinical perspectives on personhood that highlights three major categorizations of moral status: from conception to 40 days, between 40 days and birth, and finally the period from birth onwards. These demarcations, Dorff explains, do not stem from a claim about ensoulment but rather they are based on the physical development of a fetus. During the first stage, from conception to around 40 days, Dorff recalls a tractate of the Talmud and asserts that the zygote/embryo has minor moral status and can be treated as "simply water" (Dorff 1998, 98).

The second stage of importance, the period of development from 40 days until birth, grants the fetus a moral status "like the thigh of its mother" (Dorff 1998, 128). While this analogy may seem odd at first, it is very appropriate in light of the importance that Judaism places on the preservation of one's body. The human body is considered to be a gift from God, entrusted to people with the responsibility of keeping it healthy and intact. As Dorff writes, "Because our bodies are God's property, neither men nor women are permitted to amputate their thigh except to preserve their life or health" (Dorff 1998,

128). Consequently, destruction of a fetus at this state must be justified by a proportionate concern for the health or wellbeing of the pregnant woman.

Finally, the third stage of development is the period from birth onwards. Dorff refers to another tractate in the Talmud and states, “The fetus does not attain the full rights and protections of a human being until birth, specifically when the forehead emerges or, if it is a breech birth, when most of the body emerges” (Dorff 1998, 129). Whereas before birth the life of a fetus can be trumped by the wellbeing of the pregnant woman, the moment of crowning confers personhood that cannot be overridden. The Mishnah stipulates, “Once its head has emerged, it may not be touched, for we do not set aside one life for another” (Dorff 1998, 129). Rather than ascribe personhood according to conscious capacities or the ability to communicate, as Dennett proposes, this approach considers moral status to be a spectrum that one essentially “grows” into.

One argument against assigning personhood immediately after fertilization claims that the capacity of a zygote to “twin”, or split into two entities, demonstrates that it is not yet a fully formed person. Fr. Kevin O’Rourke responds to this argument by emphasizing that “there is one human person before twinning occurs, and that human person continues in existence after a new human person develops through parthenogenesis” (O’Rourke 2006, 248). Another way to think of it is that before there were two there was at least one, rather than the two stemming from nothing. This phenomenon raises questions about when the additional zygote actually became a person and if either zygote represents the “continuous” person (it could be that there are actually three distinct entities involved). For O’Rourke, however, these questions are not of great significance because he sees each entity as being unique in relation to the biological

parents and consequently each should be treated as a person regardless of which came first.⁴ From the Church's perspective, a zygote prior to parthenogenesis meets the criteria to be treated as a person and zygotes after parthenogenesis each meet the criteria as well. Thus the question of which came first may be important for contemplating identity, but in respect to treatment there is no difference between a zygote prior to twinning and zygotes after twinning.

The Catholic tradition puts forth the viewpoint that personhood is not reliant upon any stage of development or particular capacities, but rather it exists from the very beginning of a human life. The Church asserts that conception is not only the point when new biological life begins but it is in fact the point when a human *person* is formed. The CDF writes about this declaration in the encyclical *Donum vitae*:

The fruit of human generation, from the first moment of its existence, that is to say from the moment the zygote has formed, demands the unconditional respect that is morally due to the human being in his bodily and spiritual totality. The human being is to be respected and treated as a person from the moment of conception; and therefore from that same moment his [or her] rights as a person must be recognized, among which in the first place is the inviolable right of every innocent human being to life. (*Donum vitae* 1987).

This teaching was a culmination of many prior claims about the moral status of embryos. In a 1974 document entitled *Declaration on Procured Abortion*, the CDF states, "From the time that the ovum is fertilized, a new life is begun which is neither that of the father nor of the mother; it is rather the life of a new human being with its own growth" (*Declaration on Procured Abortion*, 1974). A decade later, another document from the CDF expanded upon this claim and asserts:

⁴ As previously noted, the term *unique* in this capacity represents either unique genetic makeup, or in the case of identical twins, unique genetic expression.

Certainly no experimental datum can be in itself sufficient to bring us to the recognition of a spiritual soul; nevertheless, the conclusions of science regarding the human embryo provide a valuable indication for discerning by the use of a personal presence at the moment of this first appearance of a human life: how could a human individual not be a human person? (Instruction on Respect for Human Life, 1987).

According to the Church, the destruction of embryos is gravely immoral due to the sole conviction that they should be treated as persons with the same rights and human dignity as everyone else. Similar to the aforementioned testimony by Dr. Bongiovanni, the Church looks to modern science and finds no other point in human development, besides its inception, at which beforehand it is not a person and afterward it is a person. In practice this means that any decision concerning the well-being of an embryo or fetus must account for the fact that it is as fully a human person. If a particular action is not permissible to take upon an adult or adolescent, then according to the Church, it is most likely also impermissible to take such action upon an embryo or fetus.

This belief that personhood exists upon the moment of fertilization has many implications for modern medicine. In particular, all procedures which electively or intentionally harm or destroy human embryos are morally unacceptable. The CDF explains:

The first right of the person is his life. He has other goods and some are more precious, but this one is fundamental – the condition of all the others. This right is antecedent to its recognition; it demands recognition and it is strictly unjust to refuse it. (Declaration on Procured Abortion, 1974)

This viewpoint rules out the permissibility of elective abortions as well as all embryonic research that results in the destruction of a developing human. In fact, any intervention during the entire development of an embryo or fetus is unethical if it involves any risk and is not therapeutic to either the fetus or the pregnant woman (USCCB 2009). Catholic

healthcare directives, as well as U.S. federal guidelines, state that those involved in medical practice and scientific research should weigh the risks and benefits of possible interventions; if the expected benefits do not trump the risks then a procedure is typically disallowed (ibid.). For example, any research in the United States that involves human subjects must be reviewed by an Institutional Review Board (IRB). These organizations are charged with ensuring that federal regulations involving ethical research practices are maintained, including the mandate that “risks to subjects are reasonable in relation to anticipated benefits, if any, to subjects” (*Code of Federal Regulations*, title 45, sec. 46.111(a)(2)). The results of research cannot always be predicted, but risks and benefits are taken into consideration based on all available information. This obligation becomes even more important when research is conducted with vulnerable subjects, which according to federal regulations include fetuses. The Code of Federal Regulations states that research involving pregnant women or fetuses must meet the following condition:

The risk to the fetus is caused solely by interventions or procedures that hold out the prospect of direct benefit for the woman or the fetus; or, if there is no such prospect of benefit, the risk to the fetus is not greater than minimal and the purpose of the research is the development of important biomedical knowledge which cannot be obtained by any other means. (*Code of Federal Regulations*, title 45, sec. 46.204)

Catholic teachings and federal regulations are not in agreement about ascribing rights of personhood, but they do share the general conviction that risks of medical intervention should not outweigh the possible benefits. These policies stem from the recognition that human dignity compels researchers to act in ways that that strive to result in greater benefit than detriment.

Principles behind Moral Status

In philosophical terms, human dignity compels medical professionals and scientists to practice both beneficence and nonmaleficence. The concept of beneficence can be understood as the duty to act with intent to benefit other people (Beauchamp and Childress 2009). As members of a moral community in which we prioritize the wellbeing of other people, the principle of beneficence challenges us to be proactive to bring about, and sustain, the welfare of our neighbor. One who consistently lives out this principle is considered to have the virtue of benevolence. However, in terms of establishing specific rules regarding human conduct, the principle of beneficence can be difficult to translate into directives. It points towards an ideal aspect of human interaction, specifically the call to love our fellow man or woman. But while we may agree that benevolent intentions ought to be obligatory, the extent to which benevolent actions are morally required is difficult to define. This is especially true in the field of medicine where attempts to heal are often accompanied by unwanted and sometimes harmful side effects. Even the principle of nonmaleficence, which focuses on actions that “shall not” be allowable, is typically only helpful in the abstract. Related to the maxim *primum non nocere*: “above all do no harm,” the principle of nonmaleficence obliges one to avoid actions that are detrimental to another person’s wellbeing. Consequently it is generally not permissible to kill, cause pain, or disable another person. As noted, however, harmful side effects must often be tolerated in order to bring about a greater benefit, and thus the principle cannot be interpreted literally or else procedures such as surgery would be proscribed. Ultimately both the principle of beneficence and nonmaleficence are prima facie rules rather than absolutes because they include

subjective elements in their definitions. With regard to the topic of embryo adoption, however, the most important aspect of these principles is the way in which they both hinge on the theory that living creatures have a moral status that makes them worthy of being treated well.

By asserting that an embryo should be treated as a person, the Catholic Church compels us to approach matters of reproduction and child rearing with as much consideration for an embryo as for the parents. In some cases the vulnerability of an embryo or fetus requires that it be afforded special protections, as with the federal regulations previously noted. This practice is commonplace when we consider how society views parenthood of babies after they have been born. There are many cases in which personal liberties of parents, or other members of society, are trumped by concern for the wellbeing of children. For example, in the case of a parent who disciplines through violence or a parent who leaves a child in a dangerous environment, our society asserts that children's welfare justly trumps personal liberties. For those who assert that personhood begins with conception, the moral status of an embryo and fetus must be at the forefront of discussions regarding their treatment. A man or woman's actions regarding reproduction and pregnancy ought to consider the rights and welfare of their offspring from the moment of fertilization onward as being on par or higher than their own. On this point the CDF writes:

The child is not an object to which one has a right, nor can he be considered as an object of ownership: rather, a child is a gift, "the supreme gift" and the most gratuitous gift of marriage, and is a living testimony of the mutual giving of his parents. For this reason, the child has the right, as already mentioned, to be the fruit of the specific act of the conjugal love of his parents; and he also has the right to be respected as a person from the moment of his conception. (*Donum vitae* 1987, §8)

This excerpt demonstrates how the Church often considers sexual ethics in conjunction with ethics of parenthood and the rights of children. In other words, actions which yield the fertilization of an egg must account for the rights and welfare of that new person, the most fundamental right being that of the right to life. Tadeusz Pacholczyk, an ethicist for the National Catholic Bioethics Center, puts it simply: “Human beings are never disposable, whether in the form of a zygote, an embryo, a fetus, a neonate, an infant, a child, an adolescent, a teenager, an adult, or a 90 year old woman. Each of us exists as a remarkable biological continuum that extends from conception until death. Our fundamental and unique value is never determined or diminished by our stage of development” (Pacholczyk 2006).

Moral Deliberation

In their book on bioethics, Gert, Culver, and Clouser suggest that the concept of morality seems plagued with controversy because it tends to be reduced to only contentious issues, such as abortion and euthanasia. Rather, they assert that “such controversial matters form only a very small part of those matters on which people make moral decisions and judgments...most moral matters are so uncontroversial that people do not even make any conscious decision concerning them” (Gert, Culver, and Clouser 2006, 21). In a society that often seems polarized and hostile during debates about morality, the reminder that some principles are broadly accepted may be a welcome relief. For example, inflicting harm upon an innocent person is ordinarily deemed wrong; attending to the needs of an impoverished child is considered to be good; and treating others how you want to be treated is a virtue. But if there is as much agreement as Gert

suggests, than why do the points of disagreement often seem impossible to overcome? Perhaps the reason is that these particular controversies, such as the debate about when personhood begins, force one to go down to the very core of his or her code of ethics and explore the principles that underlie them. Discord about *what* should be done can reveal discord about *why* it should be done. Navigating these complexities requires one to try to view ethics through several different lenses. D. Micah Hester writes: “Moral deliberation, itself, cannot be rote application of principles and rules; it must be creatively flexible and adaptive...The imagination, then, has a moral function” (Hester 2001, 12). Ethical evaluation, therefore, can be strengthened by the collaboration of people with different viewpoints and disciplines. The following section considers how the practices of religion and healthcare can combine to produce quality medical care.

The Role of Catholic Ethics in Medicine

The Sacred Scriptures of Christianity reveal a multitude of accounts related to Jesus’ healing ministry; not only did he mend souls but he actually cured bodies as well. Within each of us resides both a spiritual and a physical dimension, and the wellness of one has tremendous effects on the other. Jesus knew this, and while he preached about opening one’s eyes to the light of God in a spiritual sense he also opened the eyes of the blind in a physical sense, for the Church believes that God longs for the wellness of all. As the Church works to sustain the mission of Jesus it rightfully seeks to care for both the sick in spirit and the infirm in body. Some of the first hospitals were housed in the monastic walls of medieval abbeys, and so today the Church promotes health through nursing homes, clinics, long-term-care facilities and medical schools (Wuerl 2001, 317).

At the heart of practicing medicine is the patient-physician relationship. Once this relationship has been established there is a general code of conduct that is presumed to exist. For example, the patient-physician relationship includes a respect for the patient's privacy, a commitment to forthright dialog, an honest assessment about the patient's ability to make decisions, and an ongoing assurance of informed consent. Fletcher and Spencer explain that "an ethical problem can arise when circumstances require, or appear to require, clinicians to infringe on one or more of these basic obligations" (Fletcher 2005, 11). For example, a physician may wish to continue with a particular treatment despite a patient's refusal to give consent because he or she thinks that it is in the patient's best interest and the refusal is a result of cognitive impairment rather than a rational desire.

A second source of ethical dilemmas in healthcare is the prevalence of cases that contain philosophical, theological, and legal aspects that are not easily addressed within the medical field (Fletcher 2005, 12). For example, hospitals encounter patients who forego standard medical procedures because of particular religious beliefs that may not be shared by the healthcare practitioner or facility. Other cases involve foregoing life-sustaining procedures and consequently raise philosophical questions about futility. In the political arena these sorts of dilemmas often seem like impasses in which argumentation rarely yields any practical outcome. The practice of medicine, however, does not typically include the luxury of "agreeing to disagree;" rather a patient and medical team are required to make a decision about whether an action is right or wrong and to put it into practice. This is essentially the role of clinical ethics, not only to identify moral dilemmas but to proactively explore the predicaments and find ways to

resolve them in a justifiable manner. In *An Introduction to Clinical Ethics*, John Fletcher explains that “*doing* ethics requires asking questions and making judgments about what to do in particular situations and giving reasons in support of these judgments” (Fletcher 2005, 12). Consequently, the practice of ethics is inseparable from the practice of medicine.

As evidenced by the previous sections, a code of ethics is grounded in particular principles and for many people these principles include spiritual elements. The term *spiritual* is often equated, or at least affiliated with, the term *religious*; but while these words are related to each other in many ways, they are not synonymous. The concept of spirituality may simply refer to the way in which one views the transcendental aspects of life, or the intangible things that give meaning and value to one’s existence. For some people the transcendent can be called “God,” but such a theistic interpretation is not inherent to spirituality in the broad sense because the atheist similarly struggles with questions about meaning and value. On the other hand, a religion can be understood as a collection of certain beliefs and practices that express a particular spirituality (Sulmasy 2006, 13-14).

Healthcare has a tendency to tap into the spiritual dimension much more acutely than other institutions. Sulmasy explains: “Patients struggle with all of the big questions: What is the meaning of my illness? Why must I suffer? Is there anything about me that is valuable now that I am no longer *productive*?” (ibid., 22). Similarly, institutions also ask questions about intangible aspects of their service: What is the meaning of healthcare? What is its value? What is suffering and how can it be palliated? These

questions, just like those of the patient, have a spiritual quality to them because they tap into aspect of morals and virtues.

The role of ethics in the clinical environment is to provide a framework with which to evaluate particular actions in light of underlying principles or the overall mission. For Catholic hospitals, the task of promoting and rebuilding physical wellness must be considered on par with the undergirding principles of promoting human dignity and moral integrity. Hospitals are not stepping outside their field when they move beyond the scientific and medical questions that characterize their practice and give witness to the less tangible aspects of humanity. Sulmasy writes that “if healthcare professionals are committed to healing patients as whole persons, they must understand not only what disease and injury do to patients’ bodies but also what disease and injury do to them as embodied spiritual persons grappling with transcendent questions” (Sulmasy 2006, 16). Healthcare practitioners should not only be able to recognize the spiritual dimension of their work, but they should also be proactive in ensuring that spiritual needs are met.

Hospitals are not the only institutions that are expected to work in both medicine and spirituality; the Church itself must be able to approach clinical ethics with an appreciation for both dimensions. Indeed, the field of medicine is a crucial area where the Church can highlight its ethical principles and propose a way of acting that focuses on the dignity of personhood. The CDF explains:

The Church, by expressing an ethical judgment on some developments of recent medical research concerning man and his beginnings, does not intervene in the area proper to medical science itself, but rather calls everyone to ethical and social responsibility for their actions. She reminds them that the ethical value of biomedical science is gauged in reference to both the *unconditional respect owed to every human being* at every

moment of his or her existence, and the *defense of the specific character of the personal act which transmits life*. (*Dignitas personae*, 2008 §10)

Caring for the infirmed and advancing medical technology are ways that the Church is able to live out its mission to live the Christian Gospel. Catholic healthcare facilities provide an environment in which medicine with a spiritual dimension can be realized, and their importance within the country's health system suggests that their mission is valued by many.

CHAPTER 3: FIDELITY IN UNITY AND PROCREATION

The Catholic Church has consistently viewed marriage as something holy, and it has worked hard to preserve its dignity and beauty. As it is written in scripture, “A man leaves his father and mother and clings to his wife, and the two of them become one body” (Gen 2:24). Out of this abundance of love comes a true sense of unity that connects a man and woman together so intimately that it has the power to be life-giving. Vincent Genovesi refers to a comment by one of his students who said, “Sexual intercourse is an act of self-revelation, self-expression, and self-giving which is so complete that it bears the potential of creating another human life” (Genovesi 1996, 154). The Church takes this notion to its highest degree and asserts that sex between married partners in its most ideal form is not only unitive but in fact results in procreation. Reality, however, is not always ideal and the Church recognizes the fact that not all instances of sex will result in the creation of new life. Nevertheless, it strongly asserts that the marital act “must of necessity retain its intrinsic relationship to the procreation of human life” (*Casti connubii* 1930).

As its natural ends, human sexuality is both unitive in respect to the couple involved and procreative with respect to the life that the act can create. Thus, the ideal expression of sexuality is one in which both partners are strengthened in their eternal commitment of love *and* the transmission of new life results. This ideal, however, was not intended to exist in every act of sex and is in fact very rare in the life of a couple. God himself created human sexuality in a way that the transmission of life was not always possible. What is important is that we do nothing to intentionally frustrate the ideal from occurring. In other words, we are actively working against the ideal when we

remove the aspects of unity or procreativity from the sexual act. The Catechism of the Catholic Church professes that “by safeguarding both these essential aspects, the unitive and procreative, the conjugal act preserves in its fullness the sense of true mutual love and its orientation toward [men and women’s] exalted vocation to parenthood” (CCC 2369).

According to the Catholic Church, sex is most properly expressed within a marital relationship in part because of its intimate connection with the creation of new life and the need for fidelity and permanence. The Catholic Church proclaims that marriage is not just an evolutionary phenomenon that evolved out of necessity or custom, but rather it is something that is fitting to our very nature as man and woman (*Humane vitae* 1968). Just as humans did not create the laws of human dignity, the Catholic Church believes that humans did not create the laws of *Eros*, or erotic love. Pope Paul VI explains that the doctrine marriage and sexuality is “based on the inseparable connection, established by God, which man on his own initiative may not break, between the unitive significance and the procreative significance which are both inherent to the marriage act” (*Humane vitae* 1968, 12). The loving embrace between spouses is viewed as a unique amalgamation of every facet of love: the physical, emotional, and spiritual. In its authentic state, this form of love is never selfish but instead exemplifies the spirit of giving oneself as a gift to another. A spouse who truly loves his or her partner does so for the partner’s own sake, for their enrichment and wellbeing, and never solely because of what he or she receives in return (*Humane vitae* 1968).

The Catholic Church further expounds that sexuality within marriage is not only the ideal environment for spouses to grow together, but that it is also the ideal

environment for the creation of new life. The CDF asserts that “the tradition of the Church and anthropological reflection recognize in marriage and in its indissoluble unity the only setting worthy of truly responsible procreation” (*Donum vitae* 1987).

Consequently, the Church proscribes all fertility treatments that create life extracorporeally, or outside the physical act of sex, because even if they are pursued with good intentions they deliberately separate the creation of life from its ideal environment (USCCB 2009).

Yet while the Church professes the ideal expressions of love and procreation, it concomitantly recognizes that such an ideal is oftentimes far from reality. Rather than being the fruit of a loving act, some children are created via acts of sexual abuse; or instead of being raised by their biological parents some children are left orphaned by the death of their parents. The Catholic faith avows that the response to such cases should always be one of love, for the worth and dignity of these children are just as perfect as any other. Endeavors that provide these children with support, such as foster care and adoption, are encouraged and practiced by the Catholic Church.

How Adoption Fits within the Aspects of Marriage

To examine how adoption fits into the Catholic aspects of marriage, it is helpful to use Pacholczyk’s articulation of the different stages of motherhood. Rather than view motherhood a single identifier, Pacholczyk distinguishes between genetic, gestational, and social motherhood (Pacholczyk 2009a, 46). The ideal act of procreation, as described in the previous section, stems from marital sexuality and results in the woman fulfilling all three facets of motherhood. By participating in the creation of life with her

husband she becomes the genetic mother; by carrying the fetus to term she becomes the gestational mother, and by rearing the child after it has been born she becomes the social mother. Through IVF a woman may also fulfill all three dimensions of motherhood, but the way in which she became the genetic mother is considered by the Church to be impermissible (*in vitro* rather than through a physical act of sexual intercourse).

Heterologous IVF with a donated egg, for example, further strays from the ideal because it deliberately removes the dimension of genetic motherhood.

Traditional adoption, or that of a person after birth, involves a situation in which the genetic and gestational aspects of motherhood are already past. Rather it provides the means for a woman to become the social mother of a child to who is in need. Unlike IVF, adoption does not involve any deliberate actions that violate the Church's ideal procreative process. In *Donum vitae* the CDF writes that "the fidelity of the spouses in the unity of marriage involves the reciprocal respect of their right to become a father and mother only through each other" (*Donum vitae*, 1987). The phrase "become father and mother" in this case seems to refer to actually participating in the creation of life itself through fertilization rather than "becoming" a father and mother via adoption. This claim is evidenced by the fact that the same encyclical includes support for couples who pursue "important services to the life of the human person" by adopting children (*ibid.*). In this way, couples who adopt a child are not violating their promise of fidelity or the unitive dimension of marriage because they are not participating in the actual creation of life with anyone else; their expression of Eros love remains exclusive to their partner.

Adoption is an example of when the Church accepts that the three dimensions of motherhood may be divided for the sake of something good. An adopted child

consequently will have both a genetic/gestational mother and a social mother. This leads to the primary question: could embryo adoption be understood in the same way as traditional adoption and fit into the Catholic aspects of marriage? In embryo adoption, just as in traditional adoption, the adopting couple is removed from the actual act of fertilization and consequently maintains sexual fidelity. In neither case is the woman the genetic mother. If we assume that the woman who adopts an embryo intends to raise the child, then in both cases she is the social mother. Therefore the key difference is that through traditional adoption a woman is not the gestational mother while through embryo adoption she is in fact the gestational mother. On this point Grabowski and Gross inquire:

Surely couples who adopt children whom they did not conceive through a conjugal act and whom the woman did not carry through pregnancy become fathers and mothers to these children. And if this is true of infants and adolescents, why is it not also true of embryos 'who have the dignity of persons' albeit at an earlier stage of development? (Grabowski and Gross 2010, 317)

Until the past several decades, a married woman becoming pregnant without the aid of her husband meant that either infidelity or assault had taken place; there was no way to separate genetic motherhood from gestational motherhood. Now, however, we can think of these two acts separately, an adopted embryo simply needs to be brought into the womb before it can be brought into the home. "It seems to me," Collins writes, "that what the entire issue devolves to is this: can it *ever* be morally licit for a woman to be voluntarily pregnant with someone else's child, outside of the marital act?" Referring to the Church teachings on the unitive and procreative dimensions of marriage, there seems to be a plethora of instructions regarding genetic motherhood and many instructions on

social motherhood, but there seems to be no instructions which focus on gestational motherhood distinct from genetic motherhood. Teachings on IVF and surrogacy, for example, evaluate gestation in combination with the mode of fertilization whereas embryo adoption can be evaluated separate from genetic origin. As the Church continues to examine the ethics and morality of embryo adoption, it is imperative that gestational motherhood is evaluated distinct from genetic motherhood, just as it is done in traditional adoption. By doing so, the Church will be able to better explain how traditional adoption fits within the aspects of marriage and whether embryo adoption may or may not.

CHAPTER 4: ASSISTING REPRODUCTION

In the Catholic tradition, the marital act of sexual intimacy is one of the most profound expressions of spousal love and represents an outpouring of affection so powerful that it can actually spill over into a physical manifestation of that love. These instances when the marital act results in the creation of new life perfectly exemplify the generative power of our human sexuality; not only does it generate love by strengthening the unity between spouses but ideally it also generates love by creating a new life that demands nurturing and training. “A child does not come from outside as something added on to the mutual love of the spouses, but springs from the very heart of that mutual giving, as its fruit and fulfillment” (CCC 1974, 2366). Acts of passion can create nearly-flawless paintings, performances, and symphonies, but all of these pale in comparison to the creation of a new living, breathing human being. There is something unique and awesome about the marital act by virtue of its potential to yield new life, which separates it from all other human endeavors. It is precisely this reality that commands us to treat issues of human sexuality and reproduction with diligence and respect.

Difficulties of Infertility and Recourse to Treatments

The fact that there are many couples who wish to become pregnant but are unable to bear new life is a point of sadness for many in the Catholic Church. As evidenced by many of the teachings cited throughout this thesis, Catholic theology holds procreation in very high esteem; indeed it is an opportunity to be co-creators with God and yield a person who was created in God’s image. Unfortunately by elevating the significance of fecundity, the Catholic Church may increase the distress of those who desire to have

children but struggle with infertility. Catholic teachings clearly state that infertility does not invalidate the importance or fruitfulness of the conjugal act, but such declarations do not cure the problem (*Familiaris consortio* 1981). There are accounts throughout the Hebrew Scriptures of women who suffered from sterility and the challenges it brought, both personally and socially. Sarah, the wife of Abraham; Rachel, the wife of Jacob; Rebecca the wife of Isaac; and Hannah, the mother of Samuel, all experience fertility problems and expressed their distress. The Catechism also emphasizes that “couples who discover that they are sterile [may] suffer greatly” (CCC 1974, 2371).

Dignitas personae states, “Techniques which assist procreation are not to be rejected on the grounds that they are artificial. As such, they bear witness to the possibilities of the art of medicine” (*Dignitas personae* 2008, §12). Science has done significant things in the way of correcting fertility issues for many women and men. According to the Catholic Church, “Research aimed at reducing human sterility is to be encouraged, on condition that it is placed at the service of the human person, of his [or her] inalienable rights, and his [or her] true and integral good according to the design and will of God” (CCC 1974, 2375). The CDF writes:

The Church recognizes the legitimacy of the desire for a child and understands the suffering of couples struggling with problems of fertility. Such a desire, however, should not override the dignity of every human life to the point of absolute supremacy. The desire for a child cannot justify the “production” of offspring, just as the desire not to have a child cannot justify the abandonment or destruction of a child once he or she has been conceived. (*Dignitas personae* 2008, §16)

The goal to alleviate sterility is itself a good thing, but it can be pursued in both ethical and unethical ways. The Ethical and Religious Directives for Catholic Health Care explain that “while we rejoice in the potential for good inherent in [reproductive

technologies], we cannot assume that what is technically possible is always morally right” (USCCB 2009). Summarily, “reproductive technologies that substitute for the marriage act are not consistent with human dignity” (ibid.). The Catholic Church’s primary concerns about the morality of a fertility treatment have been highlighted above: the personhood of an embryo and the fidelity of marriage. In order for means of assisting reproduction to be moral, according to the Catholic Church, they must uphold the teachings on both of these aspects. While this criteria leads to the proscription of most ARTs, there are some means of infertility treatment that are allowed and encouraged.

Dignitas personae explains:

Certainly, techniques aimed at removing obstacles to natural fertilization, as for example, hormonal treatments for infertility, surgery for endometriosis, unblocking of fallopian tubes or their surgical repair, are licit. All these techniques may be considered authentic treatments because, once the problem causing the infertility has been resolved, the married couple is able to engage in conjugal acts resulting in procreation, without the physician’s action directly interfering in that act itself. None of these treatments replaces the conjugal act, which alone is worthy of truly responsible procreation. (*Dignitas personae* 2008, §13)

Essentially, these noted treatments are licit because they do not violate the crucial dimensions of the conjugal act, nor do they result in the destruction of any living embryos.

On the other hand, immoral means of fertility treatment separate the unity and procreativity of the spouses or they result in the destruction of living embryos. Examples of current illicit treatments are *in vitro* fertilization (IVF), intrauterine insemination (IUI), and surrogacy. The reasons why each procedure is immoral are similar, but it is important to highlight the exact reasons so that we can evaluate other new and emerging technologies.

Almost every fertility treatment can be conducted in either a homologous or heterologous manner. A homologous procedure is one that uses the gametes (sperm and egg) from the couple that is intending to raise the child. The inverse, a heterologous procedure, uses at least one gamete from a third party in order to create the embryo. From the perspective of the Catholic Church, all heterologous techniques are gravely immoral because they separate the unity and fidelity of the married couple as well as infringe on the child's right to be born of parents bound in that covenant (CCC 1974, 2376). Homologous techniques are perhaps less reprehensible, but still dissociate the sexual act from the procreative act and are thus morally inappropriate (ibid., 2377).

In vitro fertilization, as previously explained in greater detail, is the most commonly used form of assisted reproduction in the United States. The primary stages of this procedure begin with inducing hyperovulation and then harvesting several eggs. These eggs are then mixed with sperm to yield fertilized embryos; some of the embryos are then introduced back into the woman and the rest are frozen and stored. The Church is very clear in its proscription of this procedure for two reasons: the destruction of human embryos is often caused by the process and is considered absolutely immoral regardless of the intent with which the procedure is done, and secondly the act of inducing fertilization in a glass dish separates the creation of new life from being the fruit of marital conjugation. According to *Dignitas personae*, the research and practice of *in vitro* fertilization represents a disturbing utilitarian treatment of embryos and does not consider them as living entities with human rights. The document explains:

It is deeply disturbing that research [behind the practice of IVF] aims principally at obtaining better results in terms of the percentage of babies born to women who begin the process, but does not manifest a concrete

interest in the right to life of each individual embryo. (*Dignitas personae* 2008, 14)

For the Catholic Church, which asserts that each embryo should be treated as a person, it is troubling that IVF often appears focused on bringing about a successful birth and often does not seem concerned with other embryos that may die during the process. When eggs are fertilized naturally but expelled rather than implanting, it is not seen as morally problematic because there is no intention or foresight involved. The Catholic Church is concerned with deliberate, or intentional, actions that are done with foresight that an embryo will likely die. These actions include practices such as introducing very high numbers of embryos in one cycle, rejecting embryos with genetic defects, and performing selective reduction when multiple births are not desired. Pope John Paul II writes:

The legitimate longing for a child or for good health cannot be made an unconditional right to the point that it justifies the suppression of other human lives. Science and technology are truly at the service of humanity only if they safeguard and promote all the human beings involved in the process of procreation. (John Paul II 2004, §3)

Many of the Catholic Church's teachings on this matter give mention to good intentions, specifically the desire to raise a family, which often lead men and women to pursue such procedures, but in such cases the ends do not justify the means (CCC 1759).

Another dimension of IVF that leads to its proscription is the way that it "dissociates procreation from the integrally personal context of the conjugal act" (*Humane vitae* 1967, §12). Thus, even if technology was improved and IVF became "perfect" (only one embryo was fertilized, introduced, and implanted) then it would still remain problematic. As the CDF writes, "human procreation is a personal act of a husband and wife, which is not capable of substitution" (*Dignitas Personae* 2008, §16). The birth of a child represents the opportunity for men and women to be co-creators with

God and thus sex is elevated beyond a biological function to that of a theological aspiration. To remove conception from the actual act of sexual love and turn it into a lab procedure is to violate an aspect of Catholic marriage.

A final problem with IVF is its tendency to yield more multiple pregnancies than normal. A pregnancy of twins, triplets, or more, brings up significant health concerns for the mother and the babies. To avoid the increased risk, or if multiple children are not desired, a woman can opt to limit the number of embryos that are initially introduced. Yet multiple pregnancies often result from IVF; in this case a woman may pursue selective reduction and have one or more of the implanted embryos removed from the uterus, leaving whichever one looks the most viable or has desired characteristics. The need for reduction, however, can be alleviated by limiting the number of embryos initially introduced. In the eyes of the Church, selective reduction is simply a euphemism for abortion. In the document *Gaudium et Spes* it is written: “From the ethical point of view, embryo reduction is an intentional selective abortion. It is in fact the deliberate and direct elimination of one or more innocent human beings in the initial phase of their existence and as such it always constitutes a grave moral disorder” (*Gaudium et Spes* 1965, 51).

Another assisted fertility treatment is known as intrauterine insemination (IUI). This procedure is older than IVF, but it still raises many of the same ethical concerns. During IUI, a physician often prescribes hormones to boost egg production and then injects sperm through a catheter into a woman’s uterus. This procedure can be done homologously with sperm from the husband or heterologously with sperm from a donor. From the perspective of the Catholic Church, IUI is similar to IVF in that this procedure

separates the creation of new life from an act of marital love, and in the case of heterologous insemination, it fractures the unity between spouses.

While surrogacy has been practiced throughout history and may be considered the oldest form of assisted reproduction, it is still employed today as a circumvention of infertility. In the process of surrogacy, a woman becomes pregnant with the intent of giving the child away after birth. Oftentimes through an official contract, the surrogate mother chooses to gestate the child in exchange for money or as a favor for a loved one. The surrogate mother can be impregnated with an embryo that is fertilized by the original couple or else she can donate her egg to be fertilized with either the contracting father or donor sperm. In the encyclical *Donum vitae* the CDF states:

Surrogate motherhood represents an objective failure to meet the obligations of maternal love, of conjugal fidelity and of responsible motherhood; it offends the dignity and the right of the child to be conceived, carried in the womb, brought into the world and brought up by his own parents; it sets up, to the detriment of families, a division between the physical, psychological and moral elements which constitute those families. (*Donum vitae* 1987)

In light of so many prohibitions, it is important to point out the deeper meaning behind the teachings of the Catholic Church because they can seem like overbearing rules and regulations if they are not examined in light of the principles they seek to promote. For those who look to the Catholic Church for guidance, she is like a parent who gives directions out of love rather than out of oppression. In reference to the teachings on marriage and sexuality, Pope Benedict XVI states:

Christianity, Catholicism, is not a collection of prohibitions: it is a positive option. It is very important that we look at it again because this idea has almost completely disappeared today. We have heard so much about what is not allowed that now it is time to say: we have a positive idea to offer, that man and woman are made for each other, that the scale of sexuality,

eros, agape, indicates the level of love and it is in this way that marriage develops, first of all as a joyful and blessing-filled encounter between a man and a woman, and then, the family, which guarantees continuity among generations and through which generations are reconciled to each other and even cultures can meet. (Benedict XVI 2006)

The Church's proscription of many infertility treatments is rooted in the conviction that such procedures are not in fact *treatment*. Instead of helping to bring about the highest goods of both marriage and fecundity, which would be the goal of treatment, they circumvent the foundational principles for the sake of attaining the end result. Ideally, assisted reproductive technology will not undermine important social and theological dimensions and instead help to make them a reality for those who need assistance. In order to ensure that the principles are not shirked, the CDF outlines aspects of commendable fertility treatments:

New medical techniques must respect three fundamental goods: a) the right to life and to physical integrity of every human being from conception to natural death; b) the unity of marriage, which means reciprocal respect for the right within marriage to become a father or mother only together with the other spouse; c) the specifically human values of sexuality which require that the procreation of a human person be brought about as the fruit of the conjugal act specific to the love between spouses (*Dignitas personae* 2008, §12).

It is important that the Church continues to provide loving guidance as we encounter moral dilemmas in the future. As the science of medicine continues to progress at a rapid rate, I believe that we can look forward to the development of technologies that take away many of the negative aspects of fertility treatments. For example, it will no longer be necessary to create multiple embryos but rather the procedures will allow fertilization of only one egg and then successfully implant it into the womb. This practice is already happening at some centers and it is expected to increase in frequency. While this would not solve the issue of extracorporeal conception

or heterologous fertilization, it at least succeeds in halting the destruction of human beings in their earliest stage. Ideally, there will be future procedures that can repair the causes of infertility in both men and woman so that conception can occur in a manner that upholds the principles of marital sexuality and the rights of children.

Unfortunately we remain far from the ideal and there are many who cannot fulfill their longing for childbirth. In these cases the Church recognizes the hardship but it also reminds us that there are ways of being life-giving apart from being physically generative. The Catechism of the Catholic Church teaches:

Spouses who still suffer from infertility after exhausting legitimate medical procedures should unite themselves with the Lord's Cross, the source of all spiritual fecundity. They can give expression to their generosity by adopting abandoned children or performing demanding services for others. (CCC 1997, 2379)

These options are not intended to be substitutes for fertility, nor should they be considered as second-best pursuits, but rather they each bear fruit in their own way. The following chapter will look specifically at the traditional process of adoption and how it can serve as a witness to love and human dignity.

CHAPTER 5: TRADITIONAL ADOPTION

The basic practice of adopting children has existed throughout human history in various forms. Adoption among the ancient Cretans around 500 B.C. focused on the establishment of an heir for those who did not have sons, and it often involved the adoption of adults rather than children (Chambers 1975, 119). This model was similar to that of Rome and consequently had a significant impact on adoption practices in several European countries. Sociologist Donald Chambers explains, “Historically it seems to be the case that most Roman Law countries, like the British, are very reluctant to obscure consanguineal identity, but do so under very strict conditions” (ibid., 122). In fact, Chambers explains that the system of adoption that exists in the United States today came about around 1851 and was unlike any other country. The laws established at that time “provided for the incorporation of a child into another family with the same rights as a natal child and, in varying ways, [sought] to obliterate the kinship bonds between the child and his natal parents” (ibid., 123). In the centuries following its establishment in the New World, the practice of adoption has grown significantly in popularity.

Adoption is an intimate endeavor that involves close personal relationships, but its impact reaches beyond the individual level to the society at large. For children who are adopted, the process bestows them with a family who proactively opened their home to welcome a new member. In that sense, when it goes well, adoption is life-changing for boys and girls who would otherwise remain in foster care or an institution. On a macro scale, the practice of adoption testifies to a spirit of hospitality and indicates that a society prioritizes the welfare of children who are in need. Theologian Holly Taylor Coolman explains that adoptive parents, by their actions, give witness to principles of human

dignity, altruism, and sacrifice. In this sense adoption is connected with society's sense of the common good and emphasizes the importance of human relationships. She states, "A focus on the common good begins with the claim that communities and societies flourish when their children are well cared for and well-formed, and it argues that adoption can serve this purpose" (Coolman 2012, 99). Rather than pursue adoption for the sake of social lineage, adoption today is more altruistic and is designed to have more of a focus on the child and less on the parents.

The successes of adoption should be celebrated, but it is important to remember the fact that the need for its practice is unfortunate. On one hand adoption speaks to a beautiful example of our humanity: one that is altruistic, loving, and dignified. On the other hand, adoption stems from a situation that is never ideal: situations such as death, abandonment, lack of resources, or neglect. Its beauty, therefore, stems from its ability to turn a negative situation into something that is life-giving. Coolman explains:

To put it simply, adoption is considered a situation in which, given some disruption in biological kinship, the good ends toward which biological kinship is directed—above all, an intimate nurturing of children toward adulthood---can be undertaken in a family setting without that biological connection. (Coolman 2012, 98)

Adoption is not intended to correct the wrongs of the past or provide an equivalent substitute for what was lost; rather, in the Catholic tradition adoption is something that is good in itself and even offers a glimpse of how we are all adopted children of God.

Adoption and Catholicism

There are many couples around the world, regardless of their ability to have biological children, who choose to adopt children into their family. These cases can

serve as testaments to the power of a loving family as well as the dignity that is owed to all persons. In fact, there are some couples who have taken up the admirable effort to adopt children who need special care due to physical or mental impairment. Through these actions, couples give expression to the generosity that flows from their committed love by adopting children who are in need (CCC 1997, 2379). All of these cases represent the type of unconditional love that Christ has called us to practice. For these reasons, the Catholic Church is extremely supportive of the adoption process. In

Dignitas personae it is written:

In order to come to the aid of the many infertile couples who want to have children, adoption should be encouraged, promoted and facilitated by appropriate legislation so that the many children who lack parents may receive a home that will contribute to their human development. (*Dignitas personae* 2008, §16)

Looking to Christ as its model, the Christian Church has always taught that every person is deserving of love and compassion. Each one of us is made in the image and likeness of God the Father and we are therefore granted an innate dignity that cannot be taken away or even tarnished. These teachings factor into the practice of adoption when you consider children who have come from very challenging backgrounds. Some kids come from violent homes while others are unloved and abandoned. Some children are the result of abhorrent acts such as rape or incest. Yet regardless of their backgrounds, these children are made in the image of God and are deserving of love to the same degree as everyone else. To bring such children into a family as a member “transcends biological ties because...adoption itself is a form of covenant...it contains a declaration of fidelity that is as important as blood or biological relation” (Grabowski and Gross 2010, 321).

CHAPTER 6: ETHICAL EVALUATIONS OF EMBRYO ADOPTION IN LIGHT OF CHURCH TEACHINGS

The Catholic Church has not released much explicit direction in reference to the practice of embryo adoption. It was not until 2008 that the issue was specifically addressed in the encyclical *Dignitas Personae* which states:

The proposal that these [frozen] 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. 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 with regard to the intention of respecting and defending human life, presents however various problems not dissimilar to those mentioned above. (*Dignitas personae* 2008, §19)

Some theologians have interpreted this statement to definitively prohibit the practice of embryo adoption, but there are others who think it leaves room for further debate (Napier and Haas 2009). In fact, the United States Conference of Catholic Bishops (USCCB) has stated that there has not been a formal definitive judgment against embryo adoption. In a letter that accompanied the release of *Dignitas Personae* they state:

Proposals for “adoption” of abandoned or unwanted frozen embryos are also found to pose problems, because the Church opposes use of the gametes or bodies of others who are outside the marital covenant for reproduction. The document raises cautions or problems about these new issues but does not formally make a definitive judgment against them. (USCCB 2008)

Indeed, as this thesis has attempted to demonstrate, artificial reproductive technologies are fraught with ethical problems for the Catholic Church and are most often considered contrary to the Church’s ideals. In many ways embryo adoption seems to warrant the same proscription as IVF and other ART, but there are some crucial differences that set it apart and allow it to be defended in ways that the other procedures cannot.

Embryo adoption poses a particularly difficult challenge for the Catholic Church because aspects of each possible response seem inconsistent with its ideology. Consequently, it is vital that whichever position the Catholic Church ultimately professes is explained thoroughly and with particular attention to points that could appear hypocritical. In the meantime, continued ethical deliberation in the public forum is important because it allows the issue to be approached from myriad perspectives and ultimately strengthens whichever stance the Catholic Church assumes.

Ultimately, however, while some moral theologians and even the USCCB are leaving the door open for more discernment, the sentiment from the Vatican seems to be in opposition to permitting embryo adoption. As previously quoted, the CDF asserts that the existence of frozen embryos “represents a situation of injustice which in fact cannot be resolved” (*Dignitas personae* 2008, §19). Bishop Elio Sgreccia, former president of the Pontifical Academy for Life said, “It is worse than a dead end, which has only one way out; this has none. It is one of those actions that has no remedy. Once it is done, correcting it implies committing another error” (Wooden 2008). But even if there is not one perfect solution, some options are still better than others and the choice that is least-problematic should be pursued. The reality is that frozen embryos exist and some sort of decision regarding their treatment is required: the decision to do nothing has implications as well.

The remainder of this chapter is devoted to addressing two primary challenges that embryo adoption poses to Catholic theology. By evaluating each claim separately, it is easier to show how embryo adoption differs from other ART. Before beginning the analysis it is important to first note the difference between an action that is *inherently*

immoral and one that is immoral in *practice*. The Catholic Church asserts that inherently immoral actions “are acts which, in and of themselves, independently of circumstances and intentions, are always gravely illicit by reason of their object; such as blasphemy and perjury, murder and adultery” (CCC 1756). Actions that are immoral in practice, however, are deemed impermissible precisely because of the circumstances and intentions that surround them. According to the Catholic Church, capital punishment is not inherently immoral because it is intended to safeguard the common good, however it is almost always unethical in practice because the cases in which it is absolutely necessary in modern society “are very rare, if not practically non-existent” (*Evangelium vitae* 1995). The following ethical and theological evaluations will attempt to demonstrate why embryo adoption is not inherently immoral but there are a few issues that may make it immoral in practice.

Whether Embryo Adoption Breaks the Unitive Aspect of Marital Sexuality

The strongest argument against the permissibility of embryo adoption asserts that the practice violates the unitive aspect of marriage and breaks the fidelity that spouses promise to each other. This is a primary reason for the Catholic Church’s proscription of IVF; for even if IVF was done heterologously and without the destruction of any embryos, it is still considered illicit because it separates the act of procreation from the conjugal act (*Humane vitae* 1967, §12). Catholic theology professes that the ideal environment for the creation of new life is one that upholds the dignity of both the parents as well as the offspring, specifically a physical act of marital love. Artificial methods of reproduction which intentionally remove procreation from the conjugal act

are viewed by the Catholic Church as deliberately working against the ideal, and consequently they are morally illicit even if those who pursue such methods have the laudable intention to procreate (*Donum vitae* 1987, §8). This raises the question: does embryo adoption disassociate procreation from the conjugal act and consequently break the unitive aspect of marital sexuality? No, because like traditional adoption, the actual procreation has already taken place prior to, and separate from, the couple who adopt an embryo.

Unlike IVF, embryo adoption is not necessarily involved in fertilization or procreation. A couple who adopt a frozen embryo most likely had nothing to do with the actual procreative process. In fact, any involvement with the initial extracorporeal fertilization would make the practice illicit according to the Catholic Church, as evidenced by the previous paragraph. Thus, a couple who adopt a frozen embryo may not actually be involved with ART at all because they are entering the scene after an ART method has already taken place; they provide a home to child that already exists.

Tracy Jamison suggests that embryo adoption be viewed in a different way than usual; instead of artificial *reproduction* it should be understood as artificial *impregnation* (Jamison 2010, 111). This interpretation makes it easier to distinguish embryo adoption from other practices which actually involve reproductive techniques. Procedures such as IVF are considered to be immoral by the Catholic Church in part because they intentionally violate the proper fulfillment of genetic motherhood. A woman who adopts an embryo, however, is not involved in genetic motherhood at all. Jamison's suggestion leads to the key question of whether artificial impregnation as embryo adoption violates the ideal of gestational motherhood.

The Catholic Church professes that a child has the right to be “conceived, carried in the womb, brought into the world and brought up by his own parents” (*Donum vitae* 1987). This ideal is not always upheld in practice; for example there are occasions when parents do not have the faculties necessary to raise a child and consequently offer the child up for adoption. This act is not part of the ideal, but the Church understands that it was not done intentionally and it may have been the best reaction to an unfortunate situation. Immorality arises, however, when the ideal is deliberately violated or ignored. Thus we must consider: does embryo adoption intentionally violate a child’s right “to be carried in the womb...by his own parents?” On one hand it does, because embryo adoption is not in accordance with the ideal situation; but on the other hand it does not because the less-than-ideal result was not necessarily intended by the adopting parents. This is especially true in cases when the genetic mother cannot physically gestate the embryo and the ideal is impossible to achieve. Traditional adoption, for example, clearly violates the right of a child to be “brought up by his own parents” (*ibid.*), but it is still encouraged by the Catholic Church because the adopting parents are not *intending* to violate the ideal and are instead attempting to bring about the best possible outcome for the child.

Unlike traditional adoption, however, embryo adoption includes gestation and therefore it may appear to be a form of surrogacy. The Catholic Church considers surrogacy to be immoral for a number of reasons, but one of them is that it is not believed to focus on the child in the same way that traditional adoption does. Surrogacy “[carries] a child *for* some other adult as opposed to *for* the good of the child” (Collins 2008). It further violates Catholic ideals because it involves fertilization *in vitro* and because, by

its nature, surrogacy involves from the outset an intention to have gestation take place by a woman who is not the genetic mother. Unlike both embryo adoption and traditional adoption, surrogacy involves the deliberate violation of a child's rights as described in *Dignitas personae*.

In order to conceptually separate embryo adoption from the process of fertilization, let us consider a hypothetical situation in which the possibility exists to transfer a fetus from one womb to another. A pregnant woman who is halfway to term tragically suffers from a heart attack and dies at the hospital. Would Catholic teachings prohibit the fetus from being transferred to a different woman who volunteers to sustain its life by gestating it to term? Would this practice illicitly substitute for the conjugal union that is ideally the initiator of pregnancy? If the answer to either question is yes, then the Catholic Church would need to justify why it is better to do nothing and let the fetus die than utilize the technology of fetal transfer. Fetal adoption is only hypothetical at this point in time, but embryo adoption is real and it raises the same concerns for those who assert that an embryo has the same inherent dignity as a fetus.

Ultimately the question of whether embryo adoption breaks the unitive aspect of marriage is rooted in the theology of gestational motherhood. The Catholic Church is clearly against the dissociation of conception from the conjugal act, but it is not clear whether it is ever permissible to separate conception from gestation. Some teachings by the Catholic Church seem to proscribe embryo adoption, but as explained in this chapter, most of these teachings can be interpreted such that they only relate to conception and not necessarily gestation. The process of embryo adoption is not necessarily reproduction at

all, and if it is evaluated in this way many of the Catholic teachings regarding ART no longer apply.

We are then left with the question that was stated earlier: “can it ever be morally licit for a woman to be voluntarily pregnant with someone else’s child, outside of the marital act?” In other words, the Catholic Church asserts that procreation should only occur through sexual intercourse exclusively with one’s spouse, but does it necessarily follow that gestation must also be exclusive? Based on my interpretation of the Catholic teachings on procreation and adoption, it seems like embryo adoption does not necessarily break the unitive dimension of marriage and may be permitted as long as it remains separate from methods of reproduction that the Church proscribes. Embryo adoption from this perspective causes no more disruption to marital unity than infant adoption. Grabowski and Gross explain:

Since the Church considers both the embryo and the infant to be human beings who deserve rights, care, and respect, then it is difficult to see how the physical process of gestation that is involved in embryo adoption makes a moral difference. (Grabowski and Gross 2010, 321)

I must admit, however, that I am not an expert on Catholic sacramentology and there is the possibility that I am overlooking a tenant of marriage which requires that a woman only gestate offspring that are the result of sexual intercourse with her husband. At this point, I have not found such a teaching among the Church’s writings on sexuality, reproduction, or adoption.

It is important to reiterate that our actions often fall short of the Catholic Church’s ideals, but this reality does not necessarily mean that our actions are immoral. Rather, inherently immoral actions are those which are done deliberately and that the Catholic Church considers contrary to the ideal. One may claim that embryo adoption is not in

accord with Catholic ideals, for indeed it is not, without asserting that the practice itself is unethical. It could be that embryo adoption, like infant adoption, palliates an unideal situation and is therefore commendable.

Whether Embryo Adoption is Immoral because of its connection with Immoral Acts

Up to this point, the evaluation of embryo adoption has been primarily focused on the medical and biological aspects of the procedure itself. Thorough ethical assessment, however, requires that we extend considerations of embryo adoption to a broader context, specifically how it leads to cooperative affiliations between the Catholic Church, adopting parents, and medical facilities. These connections can be ethically problematic because the various parties may act according to different mission statements or moral codes and when they exchange services there entails, to some degree, cooperation with one another. A couple who wishes to adopt an embryo, for example, may go to a fertility clinic which offers embryo adoption as well as other procedures such as IVF, IUI, and abortion (Caplan 2008). Even if the Catholic Church condoned the practice of embryo adoption, it could not accept that money would be going to fund clinics that practice procedures which the Church has deemed to be intrinsically immoral. Another example of potentially problematic cooperation includes the extent to which a couple who adopts an embryo is connected with the methods by which the embryo was initially fertilized. A third concern related to cooperation is whether the Catholic Church's permission of embryo adoption could lead to an increase in the number of embryos that are frozen.

Pacholczyk explains:

If embryo adoption were to become standard practice in the current, largely unregulated climate of the fertility industry, this could actually

stimulate the production of yet more embryos; IVF clinic operators would be able to placate themselves by saying, "We really don't need to worry about producing extra embryos, because there will always be somebody willing to adopt any that are left over." (Pacholczyk 2009b)

In order to this to be true, however, one would have to show that IVF clinic operators currently fertilize less embryos because they are concerned with the Catholic Church's disapproval. Pacholczyk's general concern, however, is still pertinent and it highlights the importance of considering the practice of embryo adoption within a broader context.

For Grabowski and Gross, the issues that cooperation presents may be significant enough to make the practice of embryo adoption unethical. They write:

If embryo adoption is to be prohibited, it is not because it should be understood as intrinsically evil, but rather such a position is based on a prudential judgment concerning the potential for scandal and cooperation with evil in the present cultural context. (Grabowski and Gross 2010, 318)

The Catechism of the Catholic Church defines scandal as "an attitude or behavior which leads another to do evil" (CCC 2285). An action may not be immoral at all yet still be considered scandalous if it has the effect of leading others to sin. The practice of embryo adoption could be scandalous if, for example, the general population thought that it entailed the same fertilization techniques that the Catholic Church opposes in IVF. This misunderstanding could lead to the mistaken notion that the Church no longer opposed IVF and thus lead to sin. Notice that embryo adoption would not be *inherently* immoral in this situation, but rather the way in which it is practiced can be unethical.

In order to mitigate the risks of scandal and unethical cooperation, the Church would need to take several proactive steps. First, it would need to educate the public as much as possible about the practice of embryo adoption and how it fits within Catholic theology. Conversely it would need to explain what differentiates the procedure from

other ART that the Catholic Church opposes. Secondly, in order to avoid the scenario raised by Pacholczyk, the Church would need to be vocal in its opposition to procedures like IVF which are the primary sources of frozen embryos. This is similarly done in cases of traditional adoption that involve sexual assault; the Church vehemently opposes the violent act on one hand while professing the child's inherent human dignity on the other. If the majority of people were aware of the Catholic stance against IVF, then it would be hard for clinical practitioners to feel "placated" by the approval of embryo adoption. Thirdly, the Catholic Church would need to pursue means of removing the practice of embryo adoption from general fertility clinics to separate facilities which would not have ties to the ART methods that are contrary to Catholic teachings (Grabowski and Gross 2010). If steps such as these are not taken, the practice of embryo adoption could be considered unethical in practice for a long time, even if the procedure is not considered inherently immoral.

Ultimately, even if cooperation makes embryo adoption unethical, it only makes it immoral in practice rather than inherently immoral. This means that the embryo adoption could be permissible at some later date when cooperation is no longer a significant issue because, for example, steps have been taken to remove problematic affiliations and mitigate the potential for scandal.

Conclusion

The teachings of the Catholic Church regarding sexuality, reproduction, and adoption are intended to exemplify an ideal way of acting that upholds the human dignity of everyone involved. The realities of life, however, often result in actions and outcomes

that are less than ideal, but Catholic leaders assert that the important thing is that we continue striving to attain the ideal and that we do not settle for a goal that is subpar. Inherently immoral actions, according to the Catholic Church are those which include a deliberate violation of the ideal, they work against the very thing that the Church is encouraging.

The Catholic Church adamantly professes that human embryos should be treated with the same dignity as infants, and it finds the fact that almost 500,000 embryos are currently stored in a cryogenic state to be abhorrent. The ways in which these embryos were fertilized go against Catholic teachings, and the practice of storing these “spares” until they are needed threatens to devalue human life by treating it more as a commodity than a gift (*Donum vitae* 2008). Responding to this issue, however, puts the Catholic Church in a difficult predicament because any action that it takes is not aligned with the ideals that it teaches. But ultimately the Church must choose which action it will take, because taking no action is itself a choice and has repercussions as well.

This thesis has attempted to show how the practice of embryo adoption may actually fit within Catholic teachings on sexuality and reproduction. The ways in which embryo adoption is distinct from fertilization practices allows it to be evaluated differently than reproductive technologies. As a result, embryo adoption can be considered akin to infant adoption and therefore should not be considered inherently immoral. In order to actually pursue the practice of embryo adoption, however, one would need to address several issues that present ethical concerns. Among these issues are the cooperation with fertilization clinics that offer what the Catholic Church considers

to be illicit procedures, as well as the inevitable link that is made between an adopting couple and the initial methods of fertilization that the Church deems unethical.

Over the coming years there will likely be Catholic teachings which further address the morality of embryo adoption. Current language that is being used by the Vatican regarding the practice seems to suggest that the official position will be against its permissibility. But regardless of what decision the Catholic Church makes regarding the dilemma of frozen embryos, it is vital that it provide clear explanations for why that particular position is best suited to uphold the ideal that calls for a recognition of inherent human dignity within all human beings from the moment of fertilization until the end of life.

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