

Cryopreserved Embryos:
In Search of a Moral Solution to an Absurd Fate

By
Rev. Mr. Peter Joseph Fonseca

A thesis submitted to the faculty of
Kenrick School of Theology in partial fulfillment
of the degree of Master of Arts in Theology

December 8, 2014

Forward

I was born into the culture of death¹ and have witnessed firsthand the heroism of countless men and women who have sacrificed their lives to protect the lives of the most vulnerable in our society, the unborn. I have witnessed hundreds of thousands of people march against the 1973 Supreme Court Decision Roe v Wade, countless people fight to end embryonic stem cell research, the use of contraception and the so called morning after pill. I grew up witnessing countless people work tirelessly at the grassroots level to end the culture of death and work to bring about a culture of life.

The divinely protected teaching of the Roman Pontiff and the bishops in communion with him have upheld, supported and guided the interfaith grass roots efforts to bring about a culture of life. While the Church has always upheld the dignity of every human person and has from her earliest days condemned atrocities like abortion and infanticide,² new biomedical advances like human cloning have arisen which pose new medical moral questions. The Church, continuing the mission entrusted to Her by Christ, applies the Truths of faith to these advances to determine their moral permissibility. Using both faith and reason, which “are like two wings on which the human spirit rises to the contemplation of truth,”³ She constantly discerns the moral permissibility of current biomedical advances with the authority of Christ himself and the protection of the Holy Spirit. While much has been

¹The terms “culture of death” and “culture of life” were introduced by Pope Saint John Paul II in his 1995 Encyclical *Evangelium Vitae*.

²The *Didache*, believed to have been composed between 40 – 60 AD, clearly states “do not kill a fetus by abortion, or commit infanticide.” *The Didache*. In *Ancient Christian Writers: The Works of the Fathers in Translation*, trans. Johannes Quasten and Joseph Plumpe, (Westminster: The Newman Press), 1961. 16.

³Pope Saint John Paul II, Encyclical Letter on Faith and Reason. *Fides et Ratio* (14 September 1998), §0, *Origins* 28, no. 19 (1998).

written in recent years concerning the issue of a moral approach to our brothers and sisters frozen in a suspended state as embryos, the Church has not yet issued a definitive teaching.

Many faithful Catholic moral theologians have investigated the issue of a moral approach to cryopreserved human embryos and arrived at contrary positions regarding this moral dilemma. While there is no consensus amongst scholars the debate continues to inform the Church, providing the Roman Pontiff and the bishops in union with him with the necessary facts they need to make a definitive statement. After exploring the only five possible approaches to the absurd fate of cryopreserved embryos I will argue that the only moral approach to the absurd fate is to remove them from cryopreservation, allow them to die, and give them a proper burial in accord with their dignity as human persons.

While I take a position contrary to Fr. Peter Ryan SJ, S.T.D., Fr. Tadeusz Pacholczyk, Ph.D., Germain Grisez, Ph.D., and William E. May, Ph.D., I do so with the greatest respect for these esteemed moralists. It is my hope that my contradictory position may in some small way add to the dialogue assisting the Holy Father, the bishops and those charged by them to discern the proper response to this complex issue. While I stand behind the claims in this thesis I recognize there is more research to be done and only wish to advance the discussion and be a loyal son of the Church.

I would like to begin this thesis by thanking Fr. James Knapp SJ., S.T.D., Assistant Professor of Moral Theology, for walking every step of this process with me as my advisor, Shawn McCauley Welch, Ph.D., Associate Professor of Moral Theology, who served as my second reader, Peter Fonseca MD. Ph.D. for his generous reading of this thesis and helpful comments and Mary Ann Aubin, MA, Assistant Professor of Library Sciences, for her attention to detail in proof reading this thesis. In a special way, I would like to thank Fr. Peter

Ryan SJ for teaching me the basics of moral theology in his fundamental moral theology class at Kenrick-Glennon Seminary and for challenging me early on in the process through causal lunch conversation. Lastly, but certainly not least, I would like to thank Fr. Tadeusz Pacholczyk, Ph.D. and Paul Simoneua MA for their brief research suggestions.

I would like to close this forward by dedicating this thesis to the countless men and woman who have gone before me working tirelessly to bring about the culture of life.

Introduction

Since the late 1800's scientists have used artificial inception (assisted reproductive technology), a fertility treatment in which both eggs and sperm are handled,⁴ to impregnate livestock. In 1953 John Rock crossed a threshold bringing ART to humans by becoming the first man to extract an intact fertilized egg from a woman.⁵ In 1977, after many failed attempts, the first baby was born with the assistance of ART. Before the birth of this child, no religion had taken any official stance on the moral permissibility of ART, but Cardinal Gray, the Catholic Archbishop of St. Andrews and Edinburgh, responded to the news of the birth of the first child through ART by saying "I have grave misgivings about the possible implications and consequences for the future."⁶

Cardinal Gray's worry about the possible implications for the future has come to fruition. Today developed nations, particularly the United States, Great Britain, Australia and Spain, are facing a major moral dilemma which gains little recognition outside the world of medical ethics and medical moral theology. Since the mid 1980's, artificially fertilized embryos have been cryopreserved and stored for later use in the United States of America. "Nowadays embryos are often "flash frozen" and "flash thawed" which happens in about 15 minutes. They are frozen to -391F. Embryos are frozen at the blastocyst stage, which is 120-144 hours after fertilization. About 10% of the embryos do not survive this process."⁷

⁴"What is Assisted Reproductive Technology?" at Centers for Disease Control and Prevention, <http://www.cdc.gov/ART/> (12 August 2013).

⁵Malcolm Gladwell, "John Rock's Error: What the Co-inventor of the Pill Didn't Know: Menstruation Can Endanger Women's Health." *The New Yorker* March 13 (2000), 52-63.

⁶"On This Day 1950-2005: July 25th" at BBC News, http://news.bbc.co.uk/onthisday/hi/dates/stories/july/25/newsid_2499000/2499411.stm (12 August 2013).

⁷Daniel Nehrbass, Ph.D. to Peter Fonseca, "Embryo Adoption," personal e-mail (30 July 2013).

Sadly, in many developed countries, research is being undertaken which puts the life of human embryos in jeopardy. In 2006 the citizens of the State of Missouri voted to pass an amendment to the state's constitution, which permitted not only the legalization of research using human embryos, but also the production of human embryonic stem cells for research purposes.⁸ "Pope Benedict XVI strongly warned against putting human embryos at risk saying, "the destruction of even one human life can never be justified in terms of the benefit that it might conceivably bring to another."⁹ The growing trend of "freezing" human embryos continues to put more human embryos in grave danger.

While no one knows exactly how many embryos are frozen in the world, a 2002 study discovered 396,526 embryos were frozen and stored in the United States alone and there is no reason not to believe that the number continues to grow by the day.¹⁰ Today artificially fertilized human embryos are treated as products which are sold online just as any other product is sold online. With just the click of a mouse and three simple steps any adult can describe the features she wants her child to have, can order the customized child over the internet and have it mailed to her via standard postal services.¹¹

The basis of Catholic teaching on the moral solution to cryopreserved embryos rests in the proper understanding of who a human embryo is. The Catholic Church definitively teaches that an embryo is a human person. She holds that human life from conception, "the moment when the ovum meets a spermatozoon and the new 46 chromosome human being is

⁸2006 Ballot Measure Constitutional Amendment 2: Stem Cell Initiative.
<http://www.sos.mo.gov/elections/2006petitions/ppStemCell.asp> .

⁹Pope Benedict XVI, Address to Participants in the International Conference Promoted by the Pontifical Council for Culture (12 September 2011), at The Holy See, www.vatican.va.

¹⁰DI Hoffman, GL Zellman, CC Fair, JF Mayer, JG Zeitz, , WE Gibbons, and TG Turner. Cryopreserved Embryos in the United States and Their Availability for Research. *Fertility and Sterility* 79 (5): May 2003. 1063-1069.

¹¹Donor Search, at Fairfax Cryobank, <http://donorsearch.fairfaxcryobank.com/>.

created,”¹² “must be defended in its integrity, cared for, and healed, as far as possible, like any other human being.”¹³ Recognizing the truth that life begins at the moment of conception, one should immediately realize that in 2002 the United States had at least 396,526 human beings frozen in labs across the country “exposed to an absurd fate.”¹⁴

The United States of America, as do all nations that have frozen embryos, faces a major moral dilemma concerning these 400,000 children who have not been allowed the opportunity to develop as God intends. This tragedy leads Catholic moral theologians to ask: what should be done with these human embryos deserving the respect due to every human person. How shall they be handled while respecting their dignity as human persons? The Congregation for the Doctrine of the Faith wrestled with this question and issued *Donum Vitae*, an Instruction on Respect for Human Life in its Origin and on the Dignity of Procreation in 1987 which left the question of the moral approach to “frozen” embryos still unresolved. Today, 27 years after the publication of this instruction, moral theologians are still divided on the appropriate response to the plight of these human individuals.

The arguments concerning our forgotten brothers and sisters lead to only five medically possible approaches. In one possible approach, the human embryos are considered to be a collection of cells which can be simply discarded as medical waste. In a second approach, a utilitarian approach, the human embryos are recognized as cells available for scientific research. This research destroys the embryos but claims that since some good

¹²While the American College of Obstetrics and Gynecology (ACOG) changed the definition of conception 30 years ago to the “implantation of a blastocyst on the uterine wall” which usually occurs 1 - 2 weeks after fertilization, the Catholic teaching continues to hold that conception is the moment of fertilization.

¹³*Catechism of the Catholic Church*, 2nd ed. (Washington, DC: United States Catholic Conference, 2000), 2274.

¹⁴Congregation For the Doctrine of the Faith, Instruction *Dignitas Personae*: Bioethical Questions and the Dignity of the Person(12 December 2008), §1, *Origins* 38, no. 28 (2008), 438.

comes about, namely the advancement of science, it is morally permissible. A third and popular view among many Catholic moral theologians considers the embryos as human persons waiting to be adopted: this position claims that the embryos should be “adopted” by “rescue mothers”, nurtured in the womb and birthed, giving them the possibility of being raised as human beings in families. A fourth recognizes human embryos as human beings but claims that since it is not permissible to have the embryo implanted into a woman, because it violates the Church’s understanding of marriage and motherhood, and it is not permissible to harm the embryo, the embryo should simply be left alone. A fifth method, which also recognizes the human embryo as a human person, and also holds that implanting the embryo is not permissible, argues that leaving the embryo alone attacks the dignity of the human person and so comes to the conclusion that, while tragic, the only option is to “thaw” the embryos by removing them from their suspended state which will speed up the process of their death and then, affording them the care due a human person, give them a proper burial.

The first suggested solution advocated by the British Human Fertilisation and Embryology act of 2008¹⁵ calls for unused embryos in storage to be simply discarded. Intimately tied to this position is the belief that the human embryo is simply biological material which is in no way a human person because to advocate for discarding human embryos while recognizing human embryos as human persons would be to advocate the killing of innocent human persons. Dr. Peter Singer, a utilitarian moral philosopher who holds the Ira W. DeCamp chair of Bioethics at Princeton University and the Laureate chair at the Centre for Applied Philosophy and Public Ethics at the University of Melbourne, argues for the permissibility of destroying a human embryo because “at 14 days the first anatomical

¹⁵British Human Fertilisation and Embryology act of 2008.
http://www.legislation.gov.uk/ukpga/2008/22/pdfs/ukpga_20080022_en.pdf.

feature, the so-called primitive streak, appears in the position in which the backbone will later develop. At this point the embryo could not possibly be conscious or feel pain.”¹⁶ Singer holds that since an embryo does not yet have the physical structure of a human person and cannot feel pain, “a fetus has no right to, nor strictly speaking even an interest in, life.”¹⁷

In 2008, through the Congregation for the Doctrine of the Faith’s instruction *Dignitas Personae*, the Church clearly taught to the contrary holding “the human embryo has, therefore, from the very beginning, the dignity proper to a person.”¹⁸ The Instruction continued, “Proposals to use these embryos for research or for the treatment of disease are obviously unacceptable because they treat the embryos as mere “biological material” and result in their destruction.”¹⁹ The Catholic Church definitively teaches that a human embryo deserves the dignity due to all human persons from the very beginning because She recognizes the human embryo to be a human person. Since a human embryo must be afforded the same respect as a human person²⁰ it is not permissible to discard the embryos as one would other biomedical material.

Similar to the first method which advocates for the discarding of frozen embryos, a second approach sees a scientific use for cryopreserved embryos and advocates for their use in the advancement of science regardless of the fact that the embryo will be destroyed during the research. Some moralists, like Dr. Peter Singer, who advocate for embryonic stem cell research fail to recognize the embryo as a human person, claiming “at that stage (the blastocyst stage), the embryo does not have any of its subsequent anatomical features, like a

¹⁶Peter Singer, *Practical Ethics* (Cambridge: Cambridge University Press, 1993), 137.

¹⁷Singer, *Practical Ethics*, 164.

¹⁸Cardinal William Levada, Instruction on Bioethical Questions and the Dignity of the Person. *Dignitas Personae* (8September 2008), §5, *Origins* 38, no. 28 (2008), 439.

¹⁹*Dignitas Personae*, §5.

²⁰*Dignitas Personae*, §4.

backbone, limbs, or a head. It is not recognizably human or even mammalian and, lacking even the most vestigial brain or nervous system, could not possibly be a conscious being.”²¹

Dr. Singer’s position, which holds an embryo does not have a right to life, concludes that the great potential for scientific advantage ought to be considered as the primary concern. He argues one should use human embryos for research without regard for their damage just as someone would use any other biological tissue without regard for the preservation of the tissue.²² Thus Singer holds a position that is directly contradictory to the teaching of the Church who holds a human embryo is to be treated as a human person.²³

Others ethicists, like Michael Mendiola, associate professor of Christian ethics at the Pacific School of Religion, until his death in 2008, advocate for a third, more utilitarian and proportionalist view. This view considers the “inclusion of historical-social features of the current context may widen or, at the very least, make more complex the meaning and range of applicability of the principle prohibiting destruction of human or personal life.”²⁴ While accepting the Church’s teaching that embryos are to be respected in the same manner as human persons,²⁵ researchers agreeing with Michael Mendiola permit the use of human embryos for scientific research because they have the potential to do a greater good for a greater number by being used for research instead of remaining stored. Those who would advocate this approach argue that, since no good can come from leaving the embryos frozen, it should be permissible to use them for research, allowing some good to come out of a tragic situation. This line of thinking uses the human person as an object, a position staunchly

²¹Peter Singer, “The Harm that Religion Does,” *Free Inquiry* 117, no. 24 (2004), 17.

²²Singer, “The Harm that Religion Does,” 17.

²³*Dignitas Personae*, §4.

²⁴Michael M. Mendiola, “Human Embryonic Stem Cells: Possible Approaches from a Catholic Perspective,” in *The Human Embryonic Stem Cell Debate Science, Ethics, Public Policy*, ed. Suzanne Holland, Karen Lebacqz and Lauren Zoloth (Cambridge, MA: The MIT Press, 2001), 121.

²⁵*Dignitas Personae*, §4.

criticized by Pope John Paul II who noted “*utilitarianism* is a civilization of production and of use, a civilization of "things" and not of "persons", a civilization in which persons are used in the same way as things are used.”²⁶

Many prominent Catholic moral theologians including Dr. Germain Grisez,²⁷ Dr. William E. May²⁸ and Fr. Peter Ryan SJ,²⁹ advocate for a fourth *modus operandi*, the implanting of embryos into surrogate mothers. They hold that this approach is not only morally permissible but it is also praiseworthy. To demonstrate the moral permissibility for embryo rescue when the Church prohibits surrogacy,³⁰ Dr. Grisez argues that there are actually two acts involved in the case of surrogate motherhood. “Though the embryo came to be by IVF (in vitro fertilization), your sister, her husband, and the people at the IVF clinic did what they did some time ago, and what you are considering doing cannot in any way contribute to their past acts carrying out IVF.”³¹ Dr. Grisez’s argument holds that the first act, the artificial creation of the embryo, was a moral evil completed in the past. Since the act of conceiving a child was completed in the past by a different party the second act of implanting the fertile embryo is not morally wrong because the woman had no desire to unethically fertilize the egg but rather is simply trying to save a human person by taking on a new act of implanting the embryo into her womb.

²⁶Pope John Paul II, Letter to Families *Gratissimam Sane*, (2 February 1994), at The Holy See, www.vatican.va. §13.

²⁷Germain Grisez, “Should a Woman Try to Bear Her Dead Sister’s Embryo?” in *Difficult Moral Questions* vol 3 of *The Way of the Lord Jesus* (Chicago: Franciscan Press, 1997), 239-241.

²⁸William E May, *Catholic Bioethics and the Gift of Human Life* (Huntington: Our Sunday Visitor, 2008), 95-112.

²⁹Fr. Peter Ryan SJ, “Our Moral Obligation to the Abandoned Embryo,” in *Human Embryo Adoption Biotechnology, Marriage, and the Right to Life*, ed. Rev. Thomas V. Berg, L.C. & Edward J. Fulton (Philadelphia, PA: The Nation Catholic Bioethics Center, 2006), 303-304.

³⁰CCC 2376

³¹Grisez, *Difficult Moral Questions* vol 3, 241.

Dr. Grisez is correct that there are two separate acts in embryo rescue. While the intention of a “mother” to respect the dignity of the human person is in itself a noble intention it is still none the less a moral evil and should be avoided because it violates the dignity of marriage. The act of becoming pregnant from a man other than one’s husband violates the promise husbands and wives make to each other on their wedding day to give themselves over totally to the other.

A fourth method advocates for a position of simply leaving the embryos alone to remain in their suspended state. While it may appear that not acting is the only morally possible solution it is not a morally good alternative either. Leaving embryos alone in a cryopreserved state violates the dignity the embryo deserves as a human person and expresses a lack of care and concern required of those who are to promote the dignity of every human person.³²

Cryopreservation is incompatible with the respect owed to human embryos; it presupposes their production in vitro; it exposes them to the serious risk of death or physical harm, since a high percentage does not survive the process of freezing and thawing; it deprives them at least temporarily of maternal reception and gestation; it places them in a situation in which they are susceptible to further offense and manipulation.³³

The act of cryopreservation puts a child in a suspended state which deprives him of the maternal care that is not only required for further development but is a part of the natural process. Without maternal care the defenseless embryo is exposed to further offenses like being discarded, used for research or sold over the internet as a commodity.³⁴

³²CCC 2323

³³*Dignitas Personae* §18.

³⁴This fear of embryos being discarded after storage for a period of time came to fruition with the Human Fertilisation and Embryology Act of 1990 which placed a maximum storage period of five years for embryos in the United Kingdom. This was maximum storage period was later extended to 10 years after great public outcry. *Human Fertilisation and Embryology Act, 1990*, Chapter 37. (November 1, 1990) <http://www.legislation.gov.uk/ukpga/1990/37/introduction> (accessed September 20, 2013).

The idea of simply leaving cryopreserved embryos alone is not advocated by any moralist as a positive solution to the problem. To leave embryos cryopreserved is not a solution to the tragic state they experience, yet some see this position as the only solution to keep one from doing another immoral act. Fr. Tadeusz Pacholczyk argues for this position as the moral solution.

In fact, however, the decision to continue cryopreserving an embryo in liquid nitrogen is probably not an instance of using extraordinary means, since the burden and costs involved in taking care of embryonic children in this way are actually minimal. When we have children, we have a duty to clothe, feed, care for, and educate them, all of which costs plenty of money. When our children are frozen, we don't need to clothe, feed, or educate them; our care for them can only be expressed by paying the bill each month to replenish the liquid nitrogen in their storage tanks. This way of caring for our children is obviously unusual, but it does not seem morally extraordinary in terms of achieving the desired end of safeguarding their physical integrity.

In my opinion, parents have an obligation to care for their children in this way until some other option becomes available in the future (maybe a sophisticated "embryo incubator" or "artificial womb" of some kind), or until there is a reasonable certainty that they have died on their own from decay or "freezer burn," which may occur whenever frozen embryos are stored for extended periods. Perhaps after a few hundred years, all the stored embryos would have died on their own, and they could finally be thawed and given a decent burial. This approach would not involve us in the direct moral agency of ending their lives by withdrawing their life-sustaining liquid nitrogen.³⁵

Fr. Pacholczyk argues that leaving the child in the cryopreserved state is not extraordinary means because it does not place an undue burden on anyone. Recognizing no undue burden is placed on anyone by keeping the embryos cryopreserved, he argues they should remain in this state. While Fr. Pacholczyk may be correct that leaving these embryos in their current state does not place an undue burden on others in society, he fails to recognize the undue burden placed on the embryos themselves. Advocating the continuation of a suspended state

³⁵Fr. Tadeusz Pacholczyk, "What Should We Do with the Frozen Embryos?" at National Catholic Bioethics Center, <http://www.ncbcenter.org/page.aspx?pid=478> (20 November 2013).

for embryos fails to take into account the dignity owed to the embryo as a living person, and the violation of that human dignity which occurs by leaving the embryo in a cryopreserved state.

Having demonstrated that the previous four methods fail, that it is not permissible to destroy embryos either for convenience or for scientific research, to implant embryos into surrogate mothers or to leave cryopreserved embryos in a suspended state leaves only a fifth approach to explore as a moral possibility. This approach argues for the removal of the human embryos from the cryopreserved state to restore the dignity due to them. While the embryos will certainly die, their dignity as human persons, created for relationship with God, will be acknowledged and respected. Ultimately, this approach holds the embryos should be allowed to die while being treated with the proper dignity due to them as human persons created in the image of God, including the opportunity for baptism, if it is possible, and be given a dignified burial. The Spanish Episcopal conference advocates for this position saying:

To keep human embryos frozen is an abusive situation with these lives which can be compared to aggressive medical treatment. To proceed to defrost is to end the abuse and allow nature to take its course, i.e. death occurs. To let die in peace is not the same as killing. (My Translation)³⁶

³⁶“Mantener congelados embriones humanos es una situación abusiva contra esas vidas que puede ser comparada al ensañamiento terapéutico. Proceder a la descongelación es poner fin a tal abuso y permitir que la naturaleza siga su curso, es decir, que se produzca la muerte. Dejar morir en paz no es lo mismo que matar.” Conferencia Epsicopal Espanola, El ejecutivo del episcopado español ante la reforma de ley de Reproducción Asistida *Una reforma para mejor pero muy insuficiente* (29 Julio 2003), §6, at The Spanish Episcopal Conference, <http://www.conferenciaepiscopal.es/index.php/documentos-ejecutivo/1279-una-reforma-para-mejor-pero-muy-insuficiente.html> .

I translate *ensañamiento terapéutico* as *aggressive medical treatment* because it is the exact translation used by the Vatican in Her official translation of *Evangelium Vitae* §65. It is important to note that this precise use of *ensañamiento terapéutico* thus unites the Spanish Episcopal Conference to the Universal and Ordinary Magisterium of the Roman Pontiff.

The Spanish Bishops, recognizing that by defrosting the embryo with the intention to end the abusive situation of the cryopreserved state will lead to the death of the child, correctly teach that this is not the same as killing the embryo. While the embryo will die, the removal of the embryo from the suspended state simply allows nature to take its course, resulting in death.

The current status of the debate over the moral approach to the ethical and moral dilemma of cryopreserved embryos can be divided into five main camps. The first two camps, relying on the philosophy of Dr. Peter Singer consider the embryo to simply be biological matter and as such either find it appropriate to simply discard embryos as medical waste or advocate for a more utilitarian view of using the embryos for scientific research. The third, fourth and fifth camps recognize, with the Church, that embryos, which are to be afforded the same respect as human persons³⁷ must be afforded the rights and respect due to a fully developed human person. The third camp argued for by many prominent Catholic moral theologians including Dr. Germain Grisez and Fr. Peter Ryan SJ advocate for embryos to be implanted into “surrogate” mothers. A fourth position, held by Fr. Tadeusz Pacholczyk, advocates for a position that calls for the embryos to remain cryopreserved, to remain frozen in their suspended state, while the fifth position, held by the Spanish Episcopal Conference calls for the embryos to be thawed and given a proper burial as human children.

Cardinal Gray’s concern in 1977 about the use of ART with humans has become a reality today. Ultimately there appears to be no perfect solution for handling the grave human rights violation of at least 400,000 human embryos being held captive in labs across America. In 2008 the Congregation for the Doctrine of the Faith was correct to point out that “all things considered, it needs to be recognized that the thousands of abandoned embryos

³⁷*Dignitas Personae*, §4.

represent a situation of injustice which in fact cannot be resolved.”³⁸ This thesis, having already eliminated the possibilities proposed by the first two camps of destroying an embryo either outright by discarding it or using it for scientific experimentation,³⁹ will explore the remaining three different possibilities: leaving the embryos in a suspended state, implanting the embryos into women or removing the embryos from the suspended state, allowing them to die naturally and then giving them a burial that respects their dignity as a human person. This thesis will demonstrate that while we, as a society, have backed ourselves into a corner by artificially creating life outside of marital intercourse and cryopreserving the embryos, under the current conditions and biomedical possibilities, we must move forward to protect the dignity of our brothers and sisters held captive across the country. This thesis will advocate that the best way to move forward is to use our only moral option: unfreeze the embryos, allow them to die and then give them a proper burial.

³⁸*Dignitas Personae* §18.

³⁹The author feels that this point is not only sufficiently proven but more importantly that such heinous atrocities do not merit any further discussion and thus will not be addressed again in this paper.

Embryo Rescue

In the fall of 2013 the *St. Louis Post Dispatch* ran an article highlighting the case of a “successful” embryo adoption. The article told the story of a child who had been stored in a “deep freeze” for 19 years, was successfully implanted into a woman and born with good health. This child’s birth was hailed by the author of the article as a means to save the many thousands of embryos left in storage around the country.⁴⁰

Advances in “reproductive medicine” have made it medically possible to implant embryos which have been cryopreserved for an indefinite period of time into women, making it possible for a child to be nurtured inside the womb until birth. Many Catholic moralists see these advancements as a solution to what was previously considered an “absurd fate” for cryopreserved embryos. Yet, simply because a medical procedure is possible and increases the chance for a desired good it is not necessarily a morally permissible act.⁴¹ The possibility of implantation has led to heated debates about the moral permissibility of implanting human embryos into a “rescue mother.”

Many faithful Catholic moral theologians argue for the implantation of embryos into “rescue mothers” as a moral solution to the absurd fate of cryopreserved embryos. While this position at first glance appears morally permissible and even noble, further reflection reveals that implanting embryos into women, while increasingly successful in rescuing embryos,

⁴⁰Lisa M. Krieger, “Long-Frozen Embryo Brings Joy To Adoptive Parent,” at *St. Louis Post Dispatch*, http://www.stltoday.com/lifestyles/health-med-fit/medical/long-frozen-embryo-brings-joy-to-adoptive-parent/article_d81f5783-5211-540e-beb3-c82413d6b69c.html (12 September 2013).

⁴¹“On the other hand one cannot derive criteria for guidance from mere technical efficiency, from research’s possible usefulness to some at the expense of others, or, worse still, from prevailing ideologies. Thus science and technology require, for their own intrinsic meaning, an unconditional respect for the fundamental criteria of the moral law: that is to say, they must be at the service of the human person, of his inalienable rights and his true and integral good according to the design of God.” Joseph Cardinal Ratzinger, *Instruction on Respect for Human Life in its Origin and on the Dignity of Procreation Replies to Certain Questions of the Day* (22 February 1987), §2, at The Holy See, www.vatican.va.

violates the sanctity of marriage, the dignity of woman and motherhood and is contrary to the moral law.

In this chapter I will take up the question of what some have called “rescue motherhood.” To show the moral impermissibility of rescue motherhood this chapter will investigate the position of Fr. Peter Ryan SJ, executive director of the Secretariat of Doctrine and Canonical Affairs of the U.S. Conference of Catholic Bishops, and a leading proponent of implanting embryos into rescue mothers.⁴² I will then take up the criticism levied against Fr. Ryan by Dr. Nicholas Tonti-Filippini, head of bioethics at the John Paul II institute for Marriage and Family in Melbourne Australia, then address Fr. Ryan’s response to Dr. Tonti-Filippini and finally levy a response in light of the teaching of the Church to show how Fr. Ryan’s particular position and any other position holding for the moral permissibility of implanting human embryos into rescue mothers fail to take into consideration marital rights and responsibilities of the husband and wife and defames the dignity of women and the beauty of motherhood.

Fr. Ryan’s Argument for Embryo Rescue

Fr. Ryan argues for the moral permissibility of implanting cryopreserved embryos into women by analyzing the traditional three sources of morality: object, intention, and circumstance.⁴³ Before taking up the traditional sources Fr. Ryan distinguishes the act of rescuing a human embryo from the act of surrogacy. He concludes that “surrogate motherhood” and “rescue motherhood” while similar are in fact different. In both “surrogate

⁴²The author could have chosen from many moralists to highlight this position, but he chose Fr. Peter Ryan SJ because he believes his argument best encapsulates the other pro rescue motherhood arguments and does so in the most clear and convincing manner. Additionally as his former professor with whom the author had many discussions about the topic, the author believes he can represent this position most accurately.

⁴³CCC 1750.

motherhood” and “rescue motherhood,” an embryo is implanted in a woman who is not the natural “genetic mother” of the child. In both “surrogate motherhood” and “rescue motherhood” an embryo is implanted into a woman who intends to carry the child to a full-term birth, but when their object, intention and circumstances are investigated it becomes clear that they are distinct.

Having made the important distinction between “surrogate motherhood and “rescue motherhood” Fr. Ryan begins to analyze the intention of embryo rescue which will impact the morality of the act and further clarify the distinction between surrogacy and embryo rescue. In surrogacy a mother intends to bear a child in her womb *for a third party* whereas in embryo rescue a woman intends to bear a child in her womb to save an embryo, nurturing the embryo *for the embryo’s sake*. Recognizing the intention of embryo rescue to be the well being of the child, Fr. Ryan argues the intention of embryo rescue is noble because any intention to save an innocent child is a noble intention.

Having concluded that the intention of embryo rescue is good, Fr. Ryan continues analyzing the traditional the sources of morality with respect to embryo rescue by investigating the object of the act. He demonstrates that the object of the act consists of two elements: having the embryo transferred into the “rescue mother’s” womb and the nurturing of the child in utero by the “rescue mother.” Fr. Ryan appears to agree with Dr. Brugger, the J. Francis Stafford Chair of Moral Theology at St. John Vianney Seminary and bioethical advisor to the bishops of Denver and the Denver chapter of the Catholic Medical Association, who argues the object of the act is both the taking of an embryo from a cryopreserved state and having it implanted into a woman where it can gestate and be

nurtured until birth.⁴⁴ Analyzed on the surface neither of these objects appears to be immoral and it appears that embryo rescue is a moral approach to an absurd fate.

Many moralists,⁴⁵ however, argue against Fr. Ryan by claiming both the act of having an embryo transferred into the “rescue mother’s” womb and the “rescue mother’s” act of nurturing of a child in utero are immoral because they violate the marriage covenant. This school holds the object of the act to be the seeking of pregnancy outside the conjugal act. When seen this way the object is immoral because it is an offense against marital fidelity since it removes the conjugal act from pregnancy.⁴⁶

Fr. Ryan responds to this criticism by claiming the object of embryo rescue does not violate the marriage covenant because in performing either of these acts the woman does not participate in procreation through a sexual act, but rather participates in the act of procreation only through nurturing acts.

Indeed, since those involved do not seek or experience any sort of sexual arousal, contact, or satisfaction, HET does not even resemble a sexual act. Rather, the union she enters into with the child is similar to, though more intimate than, the relationship a woman would have with a foundling that she saves by nursing him or her at her breast.⁴⁷

Fr. Ryan argues that because in embryo rescue *a child already exists*, it does not generate a new life outside the marital covenant of the surrogate mother, “there is no violation of what

⁴⁴ E.C. Brugger. “In Defense of Transferring Heterologous Embryos.” *National Catholic Bioethics Quarterly* 5, no. 1 (2005), 95-112.

⁴⁵ See Rev. Tadeusz Pacholczyk, “Some Moral Contraindications to Embryo Adoption,” in *Human Embryo Adoption Biotechnology, Marriage, and the Right to Life*, ed. Rev. Thomas V. Berg, L.C. & Edward J. Fulton (Philadelphia, PA: The National Catholic Bioethics Center, 2006), 37. and Rev. Nicamor Per Giorgio Austriaco, O. P., “On the Catholic Vision of Conjugal Love and the Morality of Embryo Transfer,” in *Human Embryo Adoption Biotechnology, Marriage, and the Right to Life*, ed. Rev. Thomas V. Berg, L.C. & Edward J. Fulton (Philadelphia, PA: The National Catholic Bioethics Center, 2006), 115. for two different arguments against Fr. Peter Ryan SJ’s position.

⁴⁶ Catherine Althaus “Human Embryo Transfer and the Theology of the Body.” in *The Ethics of Embryo Adoption and the Catholic Tradition*, ed. Sarah-Vaughn Brakman and Darlene Fozard Weaver (Villanova, PA: Springer 2007), 43.

⁴⁷ Ryan, “Our Moral Obligation to the Abandoned Embryo,” 303-304.

is proper to marriage, for there is not a sexual act.”⁴⁸ Since the evil act of procreating a child outside of marital intercourse has already been completed, a “rescue mother” is not participating in the evil act but rather is attempting to intervene in an attempt to bring some good from the evil act. At the core of Fr. Ryan’s argument is the belief that since the evil act of creating a child outside of marital intercourse is completed, and no sexual act occurs in the act of embryo rescue, a “rescue mother” does not act immorally, making “rescue motherhood” morally permissible.

With regard to the third source of traditional Catholic morality, the circumstances, Fr. Ryan argues that under perfect conditions the circumstances are good but recognizes in some cases the circumstances could make embryo rescue wrong. It would be wrong in all instances, for a woman to become a rescue mother if she does not have a good medical possibility of bringing the child to term as in the example of a woman undergoing radiation treatment, which may kill the child in the womb. While the woman may have noble intentions her situation is unique because there is no hope for the realization of the intention of rescuing a child. In other cases the negative circumstances could be mitigated allowing for a woman to become a rescue mother. For example a Catholic woman could become a source of scandal in her church if people assumed she became pregnant as a surrogate mother. The potential scandal could be mitigated by reasonably informing people that she is a rescue mother and is not conceiving a child through IVF or even more nobly a process could be created at the parochial level to support the “rescue mother.”

Fr. Ryan defends the position of “embryo rescue” by analyzing the moral permissibility of embryo rescue through an analysis of the traditional three sources of Catholic morality: the intention, object and circumstances. Fr. Ryan holds the object is good

⁴⁸Ryan, “Our Moral Obligation to the Abandoned Embryo,” 330.

because the two elements of the object, namely the nurturing of a child in the womb once it is there and the choice to transfer and embryo into the womb, are good.⁴⁹ While the intention can be perverted, provided the mother intends to rescue the child and not use the child as an object for her own gratification, the intention is also good. Likewise there are some circumstances that could make embryo rescue morally impermissible like an inability to carry the child to birth or scandal, yet provided these circumstances are mitigated the circumstances are also good. Recognizing the intention, object and circumstances to be good Fr. Ryan asserts “when a child’s life is at stake, it can be morally legitimate and even praiseworthy for a woman to become his or her gestational mother even when she cannot reasonably commit herself to assume responsibility to be the child’s social mother.”⁵⁰ Fr. Ryan comes to the conclusion that “rescue motherhood” is noble and morally permissible provided the intention and circumstances are good because the object itself is not a violation of the moral norm.

Dr. Tonti-Filippini’s response to Fr. Ryan

Dr. Nicholas Tonti-Filippini and Fr. Ryan agree that a distinction must be made between “surrogate mothers” and “rescue mothers.” Both recognize the intention of “surrogate motherhood” differs from the intention of “rescue motherhood.” In “surrogate motherhood” a woman carries a child on behalf of another woman with the intention of cooperating in the act of procreation outside the marital act, intending to give the child back to the biological parents after birth. On the other hand in “rescue motherhood” the woman intends to save a child, even if it means she becomes pregnant through a means other than marital intercourse. While agreeing about the distinction, Dr. Tonti-Filippini disagrees that

⁴⁹Ryan, “Our Moral Obligation to the Abandoned Embryo,” 303.

⁵⁰Ryan, “Our Moral Obligation to the Abandoned Embryo,” 317.

this distinction makes embryo rescue a moral solution to an absurd fate, claiming it is still wrong for the woman to become pregnant because the marital act was manipulated.

Fr. Ryan and Dr. Tonti-Filippini also agree that when considering the moral permissibility of “embryo rescue” one has to take into consideration not only the rights due to the child but also the moral responsibility of the “rescue mother.” In investigating the moral responsibility of “rescue motherhood” the unity of marriage, the dignity of the spouses and the fidelity of the marriage must be explored.

Contrary to the position of Fr. Ryan, Dr. Nicholas Tonti-Filippini, holds embryo rescue to be morally impermissible because the act of implanting an embryo into a rescue mother violates the dignity of her current or future marriage.⁵¹ In his argument against embryo rescue, Dr. Tonti-Filippini, attacks the analogy drawn by Fr. Ryan between “postnatal adoption” and “embryo rescue.” He points out “an adoptive parent is not a parent in the same sense that a child’s natural parents are.”⁵² Dr. Tonti-Filippini argues that there is a distinct difference between postnatal adoption and embryo rescue which invalidates the possibility of drawing an analogy between the two.

In the case of “postnatal adoption” the mother and father of the child legally give the roles expected of them to another through the legal process of adoption, but “they cannot actually relinquish the truth that they are the natural parents, that the mother did in fact become pregnant and in that way formed a unique and intimate union of gestational

⁵¹Since embryo rescue violates the dignity of future marriage it follows that it is wrong for both married and unmarried women to become rescue mothers.

⁵²Dr. Nicholas Tonti-Filippini, “The Embryo Rescue Debate. Impregnating Women, Ectogenesis, and Restoration from Suspended Animation,” in *Human Embryo Adoption Biotechnology, Marriage, and the Right to Life*, ed. Rev. Thomas V. Berg, L.C. & Edward J Fulton (Philadelphia, PA: The Nation Catholic Bioethics Center, 2006), 81.

motherhood with the child.”⁵³ While a mother and father can choose for various reasons to give up parental rights and any interaction with their child through the legal process of adoption, they cannot give up the reality that they are the genetic parents of the child. The act of giving up interaction with the child does not change the truth that the child is composed of 23 chromosomes from the genetic mother and 23 chromosomes from the genetic father.

Dr. Tonti-Filippini recognizes a crucial difference between “prenatal adoption or embryo rescue” and “postnatal adoption.” To understand this decisive difference one must recognize that in the case of embryo rescue the role of a traditional mother as both the genetic and gestational mother is separated: the embryo has one genetic mother, the mother who donated the egg, a different gestational mother, the mother who nurtures the child in her womb and a genetic father, the man who donated his sperm. The rescue mother, while not contributing to the DNA of the embryo is a gestational mother because the child connects to her through the umbilical cord through which the child receives the necessary nutrition and expels waste. In prenatal adoption the gestational mother is made pregnant by a medical procedure whereby she shares in the role of becoming a mother with the genetic mother of the child, which includes a physically and spiritually intimate role of carrying a child in a pregnancy. On the other hand in postnatal adoption an adoptive mother takes on the role of a mother caring for the child as a member of her household but does not partake in any biological role and thus is neither the genetic nor the gestational mother.

The deep personal relationship that exists between a gestational mother and a child in the womb is both a physical and psychological connection. “Indeed, there is increasing recognition that the relationship between the mother and child begins during pregnancy and

⁵³Tonti-Filippini, “The Embryo Rescue Debate. Impregnating Women, Ectogenesis, and Restoration from Suspended Animation,” 81.

that the womb has a formative influence on who the child will develop into.”⁵⁴ From the earliest moments of development in the womb the fetus develops not only a biological but also a psychological relationship with the gestational mother, which will shape his psychological makeup for life.

In the womb, a child begins to form the important mother / child relationship. For gestational mothers “it is the process of pregnancy that attaches them to their offspring.”⁵⁵ The physical attachment and the psychological unity present between a gestational mother and her child is critically different than the relationship between a postnatal adoptive mother and a child and even more so a wet nurse and baby.

The analogies drawn by some, like Fr. Ryan, between embryo rescue and adoption or embryo rescue and wet nursing highlights a failure to recognize that a child in the womb is not simply *in* the mother but rather is *of* the mother, vitally linked both biologically and psychologically to her.

The use of the phrase ‘prenatal adoption’ is a mistake precisely because it blurs the distinction between natural and adoptive motherhood. Adoption is a familiar concept, and the use of the term tends to obscure the reality of what would occur. It gives a sense of ordinariness to what is most extraordinary. It is one thing for a couple (and their existing family, if any) to welcome into their home an abandoned, orphaned, or neglected child; it is quite another matter for a woman to be made pregnant by a medical procedure with a child not of her marriage. To equate the latter with adoption ignores her psychosomatic unity and the unity ‘in one flesh’ of her marriage, and hence her personal integrity and the integrity of the couple’s marriage.⁵⁶

⁵⁴Ruth Landau, “Artificial Womb Versus Natural Birth: an Exploratory Study of Women’s Views,” *Journal of Reproductive and Infant Psychology* 25, no. 1 (2007), 4-5.

⁵⁵Landau, “Artificial Womb Versus Natural Birth: an Exploratory Study of Women’s Views,” 6.

⁵⁶Tonti-Filippini, “The Embryo Rescue Debate. Impregnating Women, Ectogenesis, and Restoration from Suspended Animation,” 82.

The critical biological and psychological unity of a mother and a child in the womb is essentially different than postnatal adoption.

In addition to the biological and psychological unity present between a mother and a child in the womb, the role of the father and the sanctity of marriage must be analyzed. Dr. Tonti-Filippini, comes to the conclusion that embryo rescue violates the marriage covenant in a way that adoption does not.

Dr. Althaus explains this violation through an understanding of Pope John Paul II's Theology of the Body. She argues that gestational motherhood is intrinsically linked to genetic motherhood through the conjugal union of the husband and wife. Since the embryo is conceived from the two in one flesh union of the conjugal act and continues to rely on that union "the child is in fact an embodied expression of the ontological reality of the "two in one fleshness" of its mother and father."⁵⁷ In becoming pregnant through the conjugal act the mother donates herself to caring for her child in a way that does not destroy the communion of persons that exists between her, her husband and her child and which is intended by the sacrament of marriage. Thus "it is only through these means that the mother, father and child have an uninterrupted and unfractured spiritual, biological, emotional, and moral communion to ensure the human flourishing of all parties."⁵⁸ When a woman becomes a rescue mother she destroys the communion that exists between her, her husband, and the child while also damaging her dignity by making herself "a reproductive unit rather than a person made for inseparable love and life."⁵⁹

⁵⁷ Catherine Althaus, "Human Embryo Transfer and the Theology of the Body," in *The Ethics of Embryo Adoption and the Catholic Tradition*, ed. Sarah-Vaughn Brakman and Darlene Fozard Weaver (New York, NY: Springer, 2008), 51.

⁵⁸ Althaus, "Human Embryo Transfer and the Theology of the Body," 51.

⁵⁹ Althaus, "Human Embryo Transfer and the Theology of the Body," 51.

In the conjugal act, a couple unites themselves as one flesh and in so doing they give physical expression to the spiritual reality of their marriage. It is because of this two in one reality that the only morally permissible way for a woman to become pregnant is through this one flesh union, for to become pregnant outside that two in one reality would express a physically reality different from the spiritual reality. Since in embryo rescue the woman becomes a gestational mother, using her body to gestate a new life, she violates the marriage covenant. An adoptive mother takes on the rights and responsibilities of a mother but does not conceive or gestate a new life and does not become a mother from outside her marriage and thus does not violate the marriage covenant.

The failure of the analogy between a “rescue mother” and postnatal adoptive mother does not necessarily disqualify the possibility of embryo rescue. The arguments holding embryo rescue to be a morally impermissible way to address the scandal of embryos in storage rests in the truth that pregnancy outside of marital intercourse is infidelity to the marriage covenant.

Dr. Tonti-Filippini argues that in the gift of pregnancy, achieved through sexual intercourse, the child in the womb is an expression and extension of the union between the husband and the wife. In the case of a child conceived through marital intercourse when the women carries the child in her womb the husband is not excluded. He is “bound ever more strongly to his wife through the coming into being of *their* child, the living consequence of their love.”⁶⁰

In pregnancy conceived through marital intercourse the mother becomes with child by virtue of her union with her husband; while not physically bearing the child, her husband

⁶⁰Tonti-Filippini, “The Embryo Rescue Debate. Impregnating Women, Ectogenesis, and Restoration from Suspended Animation,” 85.

is intimately linked to the child in the womb; 50% of the DNA of the child is his. In a Catholic understanding of marriage the husband and the wife are both to participate in the bearing of the child through their gift of self. “The gift of interior readiness to accept the child and bring it into the world is linked to the marriage union, which - as mentioned earlier - should constitute a special moment in the mutual self-giving both by the woman and the man.”⁶¹

In embryo rescue the child is procreated through the contribution of a genetic father and a genetic mother and then placed inside the gestational mother, through a medical procedure and not the natural act of sexual intercourse, whereas in traditional procreation the child is procreated through the contribution of a genetic father and mother and placed naturally inside the womb through the natural act of marital intercourse. In the act of implanting the child into the gestational mother through heterologous embryo transfer the mother becomes a gestational mother while her husband remains completely detached from the pregnancy whereas in procreation through marital intercourse the mother becomes a gestational mother through the contribution of her husband.⁶²

Through embryo rescue the mother defames her marital vows by making her body, which she gave exclusively and totally to her husband through their wedding vows, or will give to her husband at the time of her future marital vows, the home of a child who has no relationship to the father. Even if 50% of the DNA belongs to the father, in the case of a woman rescuing her own child fertilized by her husband outside the womb, the father is passive in the gestation of the child because the child has been implanted into the gestational

⁶¹Pope John Paul II, Apostolic Letter on the Dignity and Vocation of Women on the Occasion of the Marian Year. *Mulieris Dignitatem* (15August1988), §18, *Origins* 18, no. 18 (1988).

⁶²Even in the case of a husband and wife intending to rescue their own child the father, while a genetic father of the child does not participate biologically in the procreation of the child and thus cannot be considered a biological father of the child.

mother by a medical procedure and not by the father. A father cannot become a true father without sexual intercourse, just as a sacramental marriage cannot be consummated without a conjugal act. “In order for a male to be induced to undertake the responsibility of fathering, he needs, first of all, to give himself unreservedly to a particular woman, who in turn must receive him and, in receiving him, give herself to him.”⁶³ Since in embryo rescue a father takes on the rights and responsibilities of a father without active participation through sexual intercourse the act of rescue by his spouse degrades their marital vows.

In embryo rescue the mother uses her reproductive capacity, not for the total self-gift it was intended for, but as a tool for nurturing a child. If this were a proper use of a woman’s reproductive capacity it would seem appropriate for a bishop to erect a religious order of women whose charism it would be to use their reproductive capacities to rescue children from the absurd fate of cryopreservation.⁶⁴ When this absurd proposition is put forward it becomes obvious that embryo rescue is wrong because it violates the sacred bond between the religious sister and her bride, Christ. Likewise a woman using her body to rescue a child violates the covenant she has with her husband or further husband.

The analogy of a wet nurse and a rescue mother drawn by Fr. Ryan and his contemporaries fails as an analogy not only because it represents a failure to recognize the biological and psychological unity of the mother and child but also because it fails to consider the vital and intimate connection between a mother and the child in her womb.⁶⁵ While a child has a 50% survival rate outside the womb if the mother dies after 24 weeks of

⁶³William May, *Marriage the Rock on Which the Family is Built* (San Francisco: Ignatius Press, 2009), 28.

⁶⁴This idea of a bishop erecting a religious order of women to rescue embryos was proposed by Fr. James Knapp S.J. as an absurd example in conversation about the issues surrounding embryo rescue.

⁶⁵Tonti-Filippini, “The Embryo Rescue Debate. Impregnating Women, Ectogenesis, and Restoration from Suspended Animation,” 83.

pregnancy (with that rate growing the longer the child has to mature in the womb)⁶⁶ the mother must still be seen as developing a vital connection with the child because without the vital connection of the mother the child would not be able to develop from a zygote to a child at the point of fetal viability. While a child requires the nutrients of a mother's milk this can be supplemented through artificial means or through another lactating woman and thus the wet nurse is in no way vital to the upbringing of the child. Since the wet nurse analogy of Fr. Ryan draws an analogous relationship between a vital relationship (that of surrogate motherhood) and a non-vital relationship (that of a wet nurse) that fails as an analogy because it draws a comparison between essentially different things.⁶⁷

Fr. Ryan's analogy of a wet-nurse provides too close of a relationship between a wet nurse and a mother. For Fr. Ryan's comparison to be a valid comparison it would have to be the case that the rescue mother is nothing more than an incubator, which provides for the needs of the child. Since the rescue mother becomes a true gestational mother and not a simple provider for a child this comparison of Fr. Ryan does not hold. Clearly a mother is someone much different than a wet nurse; after all, a wet nurse does not claim to be a mother.

Fr. Ryan's response to Dr. Tonti-Filippini's position

Fr. Ryan disagrees with Dr. Tonti-Filippini's position which holds that in the sacrament of marriage a woman promises to become pregnant only through her husband. He claims "in marrying, she is not consenting to the possibility of becoming pregnant only through him; she cannot consent to that possibility because she knows there is no such

⁶⁶GH. Breborowicz, "Limits of Fetal Viability and its Enhancement," *Early Pregnancy* 5, no. 1 (2001), 49-50.

⁶⁷"Analogies are comparisons between two things that are related or similar in some way; they are similes." Peter Kreeft, *Socratic Logic* 3rd ed. (South Bend: St. Augustine's Press, 2008), 102.

possibility.”⁶⁸ The basis for Fr. Ryan’s position lies in his belief that “no one can choose or intend what he or she knows to be impossible.”⁶⁹ To demonstrate the application of this principle to marriage he notes that it is permissible for a woman to enter the sacrament of marriage even though she knows she cannot become pregnant, as is the case of an infertile couple. A woman unable to become pregnant thus cannot promise to become pregnant only through sexual intercourse with her husband because she cannot promise to become pregnant when it is impossible to become pregnant. Yet since the Church permits an infertile woman to marry it cannot be the case that she promises to become pregnant only through her husband in the sacrament.

While Fr. Ryan is correct in upholding the principle that one cannot chose or intend something she knows to be impossible, his application of this philosophical principle to becoming pregnant in the sacrament of marriage is a misapplication because the impossibility of a pregnancy through the conjugal act does not prevent a wife from consenting only to the possibility of becoming pregnant through her husband. While it is true that the infertile couple cannot become pregnant through the conjugal act, the woman can still become pregnant through rescue or through IVF. Since it is possible for the woman to become pregnant through some means other than the conjugal act she can still promise to only become pregnant through her husband; in essence accepting the trial that she will not be able to become pregnant and will not attempt to become pregnant through some other means. Further by promising only to become pregnant through marital intercourse a woman is not promising to become pregnant, for since a child is a gift from God, no one can promise to become pregnant. In marriage a woman does not promise the impossible, but rather she

⁶⁸Ryan, “Our Moral Obligation to the Abandoned Embryo,” 308.

⁶⁹Ryan, “Our Moral Obligation to the Abandoned Embryo,” 308.

promises that if she is blessed to become pregnant it will only be through marital intercourse with her husband.

Essential to the sacrament of marriage is marital consent, which includes the consent to live a covenant of faithful and fruitful love. “Matrimonial consent is given when a man and a woman manifest the will to give themselves to each other irrevocably and in order to live a covenant of faithful and fruitful love until death.”⁷⁰ The promises of marriage require the couple to be open to the possibility of procreated life; it does not require them to bring life into the world because one cannot be required to do something that is impossible. While knowing they cannot bring life into the world, an infertile couple can still be open to that possibility to procreation and can also promise to each other to become pregnant only through the conjugal act.

Conclusion

Embryo rescue appears, to many Catholic moral theologians, to be a noble way to save orphaned embryos, but because it violates the dignity of marriage it cannot be a morally permissible solution. While some theologians, like Fr. Ryan, arguing for the moral permissibility of embryo rescue recognize the dignity of marriage they claim embryo rescue does not violate the dignity of the marriage covenant because the marriage covenant includes only the promise to have sexual relations exclusively with one’s spouse and does not include a promise to become pregnant only through that sexual intercourse.⁷¹ Church teaching is clear that any action involving the transmission of life must respect the dignity of marriage. While embryo rescue does not result in a couple procreating a child outside the womb as a gestation mother, the mother does play a vital role in the transmission of life which must be

⁷⁰Compendium to the *Catechism of the Catholic Church*, (Washington, DC: United States Conference of Catholic Bishops, 2006), 344.

⁷¹Ryan, “Our Moral Obligation to the Abandoned Embryo,” 308.

respected within the dignity of marriage.

Just as they violate their marriage commitment by attempting, after marriage, to “give” themselves to another in sexual union, so too they dishonor their marital covenant by freely choosing to use their procreative powers with someone other than their spouse the person to whom they have given themselves , including their powers to procreate, “foreswearing all others.”⁷²

In embryo rescue the gestational mother uses her procreative power with the biological father who someone other than her spouse, the biological father, in violation of here marital promise.

Embryo rescue, as an action of the transmission of life violates the marriage covenant between a husband and wife because it violates the fidelity they promise to each other when they exchange their marital vows in the sacrament of marriage.

The married couple forms "the intimate partnership of life and love established by the Creator and governed by his laws; it is rooted in the conjugal covenant, that is, in their irrevocable personal consent." Both give themselves definitively and totally to one another. They are no longer two; from now on they form one flesh. The covenant they freely contracted imposes on the spouses the obligation to preserve it as unique and indissoluble.⁷³

Through the exchange of vows in the sacrament of marriage the husband and wife become one flesh. Any action that makes the couples parents not through each other is a violation of this fidelity because it is a betrayal of the spouses' “right to become a father and a mother only through each other.”⁷⁴ A rescue mother, by becoming a gestational mother, violates the right of the father to become a father only through sexual intercourse with his wife.

In embryo rescue the gestational mother becomes pregnant outside of marital intercourse in violation to the total fidelity she promised to her spouse. In becoming a

⁷²May, *Marriage the Rock on Which the Family is Built*, 76-77.

⁷³CCC 2364.

⁷⁴CCC 2376.

gestational mother, the woman undergoes a vital change; she does not simply nurture the child similar to the role of a wet nurse, but rather becomes the mother of a child. At the moment the woman is impregnated with the embryo a change occurs in her; “she is *a woman with child*, and this is very different from the circumstance in which a woman merely holds a child in her arms or breastfeeds.”⁷⁵ A woman who “donates” her body to carry a rescue child does not simply “donate” her body as a nurturing mechanism; rather the woman gives over her body in an intimate way becoming a mother of a child.

Those who argue that becoming a rescue mother is similar to becoming an adoptive mother, fail to distinguish the important difference between a birth mother and an adoptive mother. While one can certainly take on the role of a mother through adoption a woman does not become a mother simply by using her reproductive capacities to nurture a child as a wet nurse does but rather through a total gift of self.

But a human being is a person, so that the simply natural fact of becoming a father or mother has a deeper significance, not merely a biological but also a personal significance. Inevitably, it has profound effects upon the ‘interior’ of a person, which are summarized in the concept of parenthood. For human parenthood implies the whole process of conscious and voluntary choice connected with marriage and with marital intercourse in particular.⁷⁶

The process of becoming a parent is not simply a biological process, it requires the total gift of self.⁷⁷ To remove this total gift of self and become pregnant through some other means is a

⁷⁵Nicholas Tonti-Filippini, “The Embryo Rescue Debate: Impregnating Women, Ectogenesis, and Restoration from Suspended Animation,” *National Catholic Bioethics Quarterly* 10.2, no. 3 (2010), 336.

⁷⁶Carol Wojtyla, *Love and Responsibility* (San Francisco: Ignatius Press, 1981), 227. Trans. H.T. Willetts.

⁷⁷ St. John Paul II did not intend to speak negatively about post-birth adoption. He clearly appreciated the beauty of post-birth adoptions saying, “adopting children, regarding and treating them as one’s own children, means recognizing that the relationship between parents and children is not measured only by genetic standards. Procreative love is first and foremost *a gift of self*. There is a form of “procreation” which occurs through acceptance, concern and devotion. The resulting relationship is so intimate and enduring that it is in no way inferior to one based on a biological

violation to what it means to be a married man or woman. “For human parenthood implies the whole process of conscious and voluntary choice connected with marriage and with marital intercourse in particular.”⁷⁸ When a married man and woman procreate through marital intercourse the mother actively carries a child, as a gift from God and her husband and thus does not violate their unity whereas in embryo rescue a woman carries a child in her womb that is not a gift from her husband and violates her promise of the total gift of self to her husband.

In procreation through marital intercourse the husband and the wife unite as one flesh and are both responsible for the procreation of a child. In embryo rescue the father is completely removed from his wife becoming a mother; he takes on parental responsibility for a child that is in no way of him while the mother accepts motherly responsibility for a child which is of her.⁷⁹ While marriages do occur where either the husband or wife comes into the marriage with children that were previously conceived in a previous marriage or out of wedlock, it is done with the recognition that the wife from that moment on will only become pregnant through marital intercourse with her husband. The act of consenting to having a rescue embryo implanted into the uterus of a woman makes explicit the implicit claim that she wishes to use her reproductive nature, which she gave totally to her husband, for a cause that does not involve her husband or at a minimum involves her husband’s donation of genetic material but lacks his physical participation the procreation of the child.

connection. When this is also juridically protected, as it is in adoption, in a family united by the stable bond of marriage, it assures the child that peaceful atmosphere and that *paternal and maternal* love which he needs for his full human development.” Pope John Paul II, *Address of the Holy Father John Paul II To The Meeting Of The Adoptive Families Organized By The Missionaries of Charity*. (5 September 2000) at The Holy See, www.vatican.va

⁷⁸Wojtyla, *Love & Responsibility*, 227.

⁷⁹Even if the husband is the genetic father the wife becomes a mother, not through a one flesh union, but from outside the marriage through a medical procedure in violation of her marital covenant. This medical procedure would be a flawed act, because it is simply not a conjugal act.

While embryo rescue can appear to be a noble means to rescue cryopreserved embryos from an absurd fate with little to no moral side effects, it is in reality an attack on marriage at the very core of the sacrament of marriage. Embryo rescue rejects the promise of complete fidelity given in the sacrament of marriage and the consent to live a covenant of faithful and fruitful love both spiritually, emotionally and physically which makes a marriage. Since it is never morally permissible to violate the marriage covenant, embryo rescue should also be rejected as never morally permissible regardless of the circumstances.

Maintaining a Suspended State

Introduction

When faced with a “lose – lose” situation many people want to follow the example of Pontius Pilot and simply wash their hands of the problem.⁸⁰ Some Catholic moralists have interpreted Cardinal Ratzinger’s teaching that “spare embryos” are exposed to an “absurd fate”⁸¹ to mean that a child has been forced into an evil situation and there is no moral approach one can take to remove the evil, so the embryos must simply be left in their “suspended state.” Yet nowhere in *Donum Vitae* does Cardinal Ratzinger advocate for a hands off approach, for doing so ignores the teaching of Pope John Paul II who warned the faithful “the church cannot fail to emphasize the need to safeguard the life and integrity of the human embryo and fetus.”⁸² The Church calls on moralists to stand up for the dignity of our forgotten brothers and sisters by sincerely and honestly investigating the tragedy at hand rather than washing their hands of the situation.

Fr. Tadeusz Pacholczyk, a leading American medical moralist, sincerely engages the question and comes to the conclusion that embryos can be removed from their cryopreserved state “only if such removal were able to be done with little or no risk to the embryo (which is not the case), and the subsequent state of the embryo following such removal offered a reasonable likelihood or possibility for subsequent growth/development/continuation (also not the case).”⁸³ In effect Fr. Pacholczyk argues that one may only remove embryos from their cryopreserved state if doing so does not put them in grave danger. Given the current

⁸⁰ Mt 27:24.

⁸¹ Instruction on Respect For Human Life in its Origin and On the Dignity of Procreation Replies to Certain Questions of the Day *Donum Vitae* §5.

⁸² Pope John Paul II, Address to Catholic Health Officials (08 October 1987), §4, Origins 17, no. 17 (1987), 293.

⁸³ Fr. Tadeusz Pacholczyk to Peter Fonseca, “Concerning Embryo Rescue,” personal e-mail (19 December 2013).

state of medical technology this is impossible, so he holds cryopreserved embryos must remain in their suspended state. If Fr. Pacholczyk's position is correct, currently cryopreserved embryos must remain cryopreserved, not because it is the ideal situation, but because the other options available are morally impermissible.

Implicit in the claims of theologians who hold Fr. Pacholczyk's position is the belief that embryos may be sustained in an immoral situation as long as someone doesn't act immorally. While those who hold this position accept the truth that leaving embryos in a cryopreserved state violates the dignity of the embryo they advocate for a hands off approach because they believe if they attempt to intervene on behalf of the embryo they will be held morally accountable for their actions. They believe that if they take a hands off approach by not acting they will not commit a grave evil. This line of thinking does not follow the Catholic Tradition, which recognizes one can commit sin by failing to act, through sins of omission. This failure to act when one should have is exactly what the faithful ask forgiveness for when they pray "in what I have done and in what I have failed to do" in the Confiteor at Mass.

Fr. Pacholczyk attempts to preserve the dignity of the embryos by keeping them in their suspended state but in so doing actually advocates for a position that violates the dignity of that embryo. This chapter will explore Fr. Pacholczyk's position and show how his position actually supports a violation of the dignity of the embryo by exposing our brothers and sisters to an absurd fate. This chapter will argue that those embryos exposed to an absurd fate can be morally removed from that fate of cryopreservation.

Argument to keep embryos cryopreserved

Those who, in agreeing with Fr. Pacholczyk, argue that the embryo must remain cryopreserved, draw on the strength of *Donum Vitae* which claims “since the embryo must be treated as a person, it must also be defended in its integrity, tended and cared for, to the extent possible, in the same way as any other human being as far as medical assistance is concerned.”⁸⁴ They argue that since a cryopreserved embryo is a person⁸⁵ he must receive the same moral care as any other human person in need of medical care.

Recognizing with *Donum Vitae* the great care required of cryopreserved embryos as human persons Mr. Sinoneau, an MA student of Fr. Pacholczyk and the Vice Chancellor for Administration and Director of the Office of Justice and Peace for the Diocese of Knoxville, draws an analogy between the embryo locked in a suspended state and a patient in a persistive vegetative state. He argues that in keeping the embryo frozen “one is simply preserving the life of an embryo, even if it be in its unjust state of cryopreservation, a state that is painless and inexpensive with little to no burden upon anyone.”⁸⁶

Mr. Sinoneau recognizes an important teaching of the faith concerning the respect owed to human persons at the end of their life but fails to apply it correctly. At the heart of his claim is the statement of the Sacred Congregation of the Doctrine of the Faith which expressly teaches:

It is necessary to state firmly once more that nothing and no one can in any way permit the killing of an innocent human being, whether a fetus or an embryo, an infant or an adult, an old person, or one suffering from an incurable disease, or a person who is dying. Furthermore, no one is permitted to ask for this act of killing, either for himself or herself or for another person entrusted to his or her care, nor can he or she consent to it, either explicitly or

⁸⁴*Donum Vitae* (22 February 1987), I.1.

⁸⁵*Dignitas Personae*, §4.

⁸⁶Paul D. Simoneau, “Circumstances and the Moral Act of Embryo Adoption: The Neglected Element” (National Catholic Bioethics Center, 2010), 3.

implicitly. Nor can any authority legitimately recommend or permit such an action. For it is a question of the violation of the divine law, an offense against the dignity of the human person, a crime against life and an attack on humanity.⁸⁷

Mr. Sinoneau correctly recognizes that an embryo should not be killed but fails to realize that allowing an embryo to die by removing him from the cryopreserved state is not morally the same as killing the embryo.⁸⁸ While the analogy drawn between cryopreserved embryos and patients in a persistive vegetative state may be proper, it is not enough to draw the analogy and immediately jump to the conclusion that embryos must be preserved; after all while all patients in a persistive vegetative state have a right to nutrition and hydration not all forms of medical treatment are required to prolong the life of a patient in a persistive vegetative state and some procedures may actually be immoral given the circumstances.

Argument for removing embryos from cryopreservation

Many theologians, like Mr. Simoneau, who argue that embryos must be left in their cryopreserved state, appeal to paragraph four of *Donum Vitae* to support their position.

“Even when limited to the simple observation of the embryo, would become illicit were it to involve risk to the embryo's physical integrity or life by reason of the methods used or the effects induced.”⁸⁹ While these moral theologians attempt to show that *Donum Vitae* supports their position explicitly they take this passage out of context and fail to include the opening words of the sentence which reads “**It follows that all research**, even when limited to the simple observation...”⁹⁰ Those who use *Donum Vitae* I.4. to argue that the Church requires the embryo to remain in his cryopreserved state do so out of context; using a statement

⁸⁷Franjo Cardinal Seper, *The Vatican Declaration on Euthanasia* (5 May 1980), *Origins* 10, no. 10 (1980), 155.

⁸⁸ Conferencia Episcopal Espanola, *Una Reforma Para Mejor Pero Muy Insuficiente* §6.

⁸⁹*Donum Vitae*, I.4.

⁹⁰*Donum Vitae*, I.4.

concerning research and improperly apply it to a question about the dignity of the child.

Rather than appealing to *Donum Vitae* out of context one should apply the principles of the Church's teaching on the proper care of a patient in a persistive vegetative state.

A true understanding of the principles of the Church's teaching on the ethical care of patients in a persistive vegetative state makes it clear that embryos should not be preserved in a cryopreserved state. While it may not be readily apparent, embryos, like patients in a persistive vegetative state, are undergoing "medical treatment." Due to the actions of men the growth of the embryo has been halted. If human intervention removes the treatment the embryo will continue to develop, even if it leads to death. By suspending the embryo in storage a medical procedure is being performed on the embryo. In the act of keeping the embryo in a cryopreserved state a treatment is being imposed on the embryo which should be in accord with the ethical practices approach to similar medical situations and treatments.

One cannot impose on anyone the obligation to have recourse to a technique which is already in use but which carries a risk or is burdensome. Such a refusal is not the equivalent of suicide; on the contrary, it should be considered as an acceptance of the human condition, or a wish to avoid the application of a medical procedure disproportionate to the results that can be expected, or a desire not to impose excessive expense on the family or the community.⁹¹

Since, by remaining cryopreserved, the embryo is undergoing a "medical treatment" an analysis must be undertaken to determine if the treatment is proportionate in order to determine if it is morally licit to remove the embryo from the cryopreserved state.

The teaching of the Church is clear; one must attempt to preserve life by making use of ordinary means, but one is not required to use extraordinary means.⁹² The *Catechism*

⁹¹Congregation for the Doctrine of the Faith, *Declaration on Euthanasia* (5 May 1980), *Origins* 10, no.10 (1980), 155.

⁹²United States Conference of Catholic Bishops, *Ethical and Religious Directives for Catholic Health Care Services Fifth Edition* (17 November 2009), §32, 56,57 at

of the Catholic Church lays out four criteria for which it would be morally acceptable to discontinue a medical procedure.

Discontinuing medical procedures that are burdensome, dangerous, extraordinary, or disproportionate to the expected outcome can be legitimate; it is the refusal of "over-zealous" treatment. Here one does not will to cause death; one's inability to impede it is merely accepted. The decisions should be made by the patient if he is competent and able or, if not, by those legally entitled to act for the patient, whose reasonable will and legitimate interests must always be respected.⁹³

Provided the act of keeping embryos cryopreserved is burdensome, dangerous, extraordinary or disproportionate to the expected outcome, it can be morally permissible to end the cryopreserved treatment which holds the embryos in a suspended state.

In determining if a procedure is burdensome a concern for the patient's personal, financial, familial and social circumstances should be considered. The act of preserving an embryo in a cryopreserved state cannot be a personal burden. Since the embryo is trapped in a suspended state without any possibility of a natural or assisted therapy and he has no personal circumstances that could be considered burdensome. Preserving cryopreserved embryos in their suspended state is certainly not financially burdensome on the family. While the process of fertilizing an egg in a lab can be expensive⁹⁴ the cost to store the human embryo is much less.⁹⁵ If the Church holds that a feeding tube is not financially

<http://www.usccb.org/issues-and-action/human-life-and-dignity/health-care/upload/Ethical-Religious-Directives-Catholic-Health-Care-Services-fifth-edition-2009.pdf>.

⁹³CCC 2278.

⁹⁴USC Fertility charges \$10,000 to undergo one egg freezing cycle. "Egg Freezing FAQ'S" at USC Fertility http://www.uscfertility.org/fertility_options/egg_freezing/egg_freezing_faqs.php (25 February 2014)

⁹⁵USC Fertility charges \$500 a year to store an embryo. "Egg Freezing FAQ'S" at USC Fertility. The average cost of a feeding tube is estimated to be \$31,000 a year "VITALSTIM THERAPY FACTSHEET" at VITALSTIM ®THERAPY http://www.vitalstim.com/uploadedFiles/What_is_VitalStim/Fact%20Sheet%20Vital%20Stim%20011910.pdf While this estimate may be high it certainly costs more than \$500 a year to feed and hydrate a person.

burdensome⁹⁶ one cannot make the claim that preserving an embryo is financially burdensome to a family.

While the family may not have a financial burden to bear, they do have other burdens to bear in the case of a cryopreserved embryo. The family must live with the realization that their actions have caused a human person to remain in a suspended state indefinitely. This dramatic realization can cause pain to a family long after they have repented of the evil act. While the parents will have to live with the death of the cryopreserved embryo for the rest of their lives, the death and proper burial of the embryo will allow the process of post reconciliation healing to begin.

Likewise, society has additional burdens to bear. Firstly, society must bear the burden of the scandal of having embryos stored in a lab. Secondly, society will eventually have to take on a monetary obligation to ensure they are being stored properly since the embryos will remain cryopreserved long after any living family exists.⁹⁷

While there is no personal or financial burden born by the cryopreserved embryo himself there certainly are other burdens to be considered. Both the family and society have a burden to accept by keeping embryos in a cryopreserved state. Thus leaving embryos in a suspended state is in fact burdensome.

While the dangers of freezing⁹⁸ and thawing an embryo are readily apparent the danger the embryo is exposed to once frozen is less obvious. If one looks closely, however it

⁹⁶Pontifical Council for Pastoral Assistance to Health Care Workers, Charter for Health Care Workers, 1995 (#120).

⁹⁷While \$500 a year is not burdensome for a person $\$500 \times 400,000 = \$200,000,000$ is a substantial cost. This cost to a society per year is burdensome and this price will only go up as more embryos are stored.

⁹⁸Referring to embryo “freezing” is somewhat misleading. Actually the embryos are slowly cooled, and cryoprotectants, chemical agents such as DMSO (dimethylsulfoxide) or glycerol used to replace cellular water, are used to minimize embryo damage caused by intracellular ice crystal

becomes clear that the “treatment” of keeping an embryo frozen is very dangerous. Once frozen it is impossible to determine if an embryo is alive or dead without removing the embryo from the suspended state.

It is impossible to know exactly how long an embryo can live while cryopreserved or even if one has died during the freezing process. Inability to make a determination about death means there is a serious danger that dead embryos will be forced to remain cryopreserved after their death and not given a proper burial worthy of their respect as human persons. Just as it is wrong for Ted Williams to keep his dead body cryopreserved⁹⁹ so too, it is wrong to keep an embryo cryopreserved after death. While it is convenient for people to see cryopreserved embryos as being in a suspended state and thus in no danger, it is exactly by being in that suspended state that they are in danger of having their dignity violated. It is simply impossible to leave an embryo in a suspended state without exposing him to grave danger.

In his 1951 article *The Duty to Preserve Life* Fr. Gerard Kelly, S.J. proposed definitions for ordinary and extraordinary care.¹⁰⁰ Underlying the difference he drew between ordinary and extraordinary care was the idea that ordinary care offered a reasonable hope of benefit without excessive expense, pain or other inconvenience while extraordinary care did

formation during freezing and thawing. Hence, the embryos are both desiccated and frozen. The embryos are then stored in liquid nitrogen at -196 degrees Celsius. When embryos are thawed for transfer the whole process must be reversed. Only 60 to 70 percent of cryopreserved embryos survive thawing. Many embryos that survive, however, are injured through the thawing process; on 30-35 percent of thawed embryos survive with all cells viable. Robert F. Onder Jr., “Practical and Moral Caveats on Heterologous Embryo Transfer,” *National Catholic Bioethics Quarterly* 5, no. 1 (2005), 79.

⁹⁹ For an understanding of the Ted Williams situation please see Celeste McGovern, “Ted William’s Frozen Corpse Raises Issues of Cloning the Dead” at National Catholic Register, http://www.ncregister.com/site/article/ted_williams_frozen_corpse_raises_issue_of_cloning_the_dead/ (18 August 2002).

¹⁰⁰ Gerald Kelly, S.J., “The Duty to Preserve Life,” *Theological Studies* 12, no. 4 (1951), 550.

not offer a reasonable hope of benefit without excessive expense, pain or other inconvenience.¹⁰¹ From Fr. Kelly's distinction it is apparent that keeping embryos in a suspended state is extraordinary care because it is a type of treatment that offers no reasonable hope of benefit.¹⁰² Embryos left in the suspended state have no hope of any physical recovery. More importantly embryos in a cryopreserved state, since embryos are unable to be baptized,¹⁰³ or have an opportunity to live a "good life," have no spiritual benefit to be obtained by remaining cryopreserved. Unable to receive any spiritual or physical benefit from the treatment of cryopreservation it would be appropriate, in this limited situation, to categorize cryopreservation of human embryos as extraordinary care.

The idea of proportionality, first introduced by Cardinal de Lugo in the late 19th century, also needs to be investigated. The understanding of proportionality has developed to a simple understanding that "the crucial element that determines proportional benefit is whether or not there exists a reasonable hope of recovery or continued life for an extended

¹⁰¹ It should be remembered that food and water are beyond this discussion because they are considered to be natural means of living and not a medical treatment. "I should like particularly to underline how the administration of water and food, even when provided by artificial means, always represents a *natural means* of preserving life, not a *medical act*." Pope John Paul II, *Address to the Participants in the International Congress on Life Sustaining Treatments and Vegetative State: Scientific Advances and Ethical Dilemmas*. (20 March 2004), at the Holy See www.vatican.va.

¹⁰² The author realizes that the question of rehydrating cryopreserved embryos was not a problem Fr. Kelly considered because the medical technology had not advanced to that point in his lifetime. Yet his explanation of ordinary and extraordinary care, for which he is still considered a leading authority, can be applied by extension to the modern problem of cryopreserved embryos because the treatment applied to cryopreserved embryos is similar to the treatment offered to patients at the end of their life. Having already demonstrated the moral impossibility of implanting these embryos into "rescue mothers" and having demonstrated that the embryos are receiving palliative care it is apparent that cryopreserved embryos are in a similar situation to the situations Fr. Kelly was considering when he explained the differences between ordinary and extraordinary care, and his teaching can be properly applied to the absurd fate of cryopreserved embryos.

¹⁰³ The author of this thesis recognizes that theologically cryopreserved embryos are candidates for baptism but he also recognizes that currently there are no technical methods available that allows water to flow over them and the words of baptism to be said without the embryos bursting in the process. If medical technology were to advance to a point where baptism is possible the author would support the individual baptism of each embryo.

period of time, not simply a few extra moments.”¹⁰⁴ Fr. Donald Henke further summarizes this understanding of proportionality as “no one was obliged to employ a useless means.”¹⁰⁵

While cryopreservation will certainly extend the life period of embryos, one cannot say it is a proportionate response. By leaving an embryo cryopreserved one is simply delaying the eventual death of the embryo while offering him no opportunity for any physical or spiritual good. Just as an elderly patient who has no hope of recovery or even only has hope for a partial recovery can morally cease further treatment so to can an embryo stored in a suspended state cease to receive further treatment.

Conclusion

There is no doubt that leaving embryos cryopreserved violates their dignity as human persons which is a grave evil. The Second Vatican Council is clear that anything hostile to life is a disgrace.

Moreover, whatever is hostile to life itself, such as any type of homicide, genocide, abortion, euthanasia or voluntary suicide, whatever violates the integrity of the human person, such as mutilation, physical and mental torture, and attempts to coerce the spirit; whatever offensive to human dignity, such as subhuman living conditions, arbitrary imprisonment, deportation, slavery, prostitution and the trafficking in women and children; degrading conditions of work which treat labourers as mere instruments for profit and not as free responsible persons; all these and the like are a disgrace and so long as they infect human civilization they contaminate those who inflict them more than those who suffer injustice, and they are a negation of the honour due to the creator.¹⁰⁶

¹⁰⁴Donald E. Henke, “A History of Ordinary and Extraordinary Means,” *National Catholic Bioethics Quarterly* 5, no. 3 (2005), 555.

¹⁰⁵Henke, “A History of Ordinary and Extraordinary Means,” 560.

¹⁰⁶Second Vatican Council, Pastoral Constitution on the Church in the Modern World *Gaudium et Spes* (7 December 1965), §27, in *Decrees of the Ecumenical Councils*, ed. Norman P. Tanner SJ. (London: Sheed & Ward, 1990), 1085-1086.

Leaving embryos in a suspended state insults human dignity by forcing human persons to remain live in subhuman living conditions and in doing so dishonors them, society and the Creator.

Certainly the concerns of theologians like Fr. Pacholczyk and Mr. Simoneau, who are concerned that taking any action against these abandoned brothers and sisters would be a grave sin, are noble in their intentions to follow the moral law and keep themselves free from sin but they are mistaken in their thinking. Mr. Simoneau and Fr. Pacholczyk both recognize leaving embryos in a suspended state is not the ideal circumstance and hold it to be the moral solution only because they believe no moral alternative exists. When the issue of leaving embryos in their cryopreserved state is properly analyzed, it becomes apparent that keeping these embryos in their cryopreserved state is extraordinary care which can be morally ended; thus, those who advocate for their release from the suspended state do so without risk to their own soul. Since it has been demonstrated that it is moral to remove these embryos from their suspended state Mr. Simoneau and Fr. Pacholczyk's position fails. Just as importantly, since keeping embryos in a cryopreserved state violates the dignity of the embryos and it is morally permissible to remove them from this state, they should be removed immediately.

Relief and Dignity

The Spanish Episcopal Conference proposed a third possible solution to the absurd fate of cryopreserved embryos, calling for the embryos to be warmed, allowed to die and given a proper burial.¹⁰⁷ To understand why the Spanish Episcopal Conference advocates for this position one must have a proper understanding of death and the moral obligation to the dying. Even with a proper understanding of death, their position may appear, at first glance, to be a participation in the act of killing an embryo; however, a proper understanding of the Catholic moral tradition makes it clear the Spanish Episcopal Conference is not in fact advocating for an act of killing. This chapter will begin by exploring the state of death and continue to demonstrate that permitting the warming of embryos is not murder by applying the traditional principle of double effect or double effect reasoning (DER).

Can Cryopreserved Embryos Die?

To understand why the Spanish Episcopal Conference's argument is a possible moral solution one must first have a proper understanding of death. Some scientists want to argue that it is impossible for the embryos to die a natural death because they are in a suspended state. Those who hold this view argue the embryo is in a state of nonexistence. They claim that while the cryopreserved embryo is believed to be a person,¹⁰⁸ it is neither dead nor alive and thus unable to die. To these scientists the embryo cannot be seen as alive because its biological and cellular functions have ceased due to the cryopreservation, yet it cannot be

¹⁰⁷The Spanish Episcopal Conference, *Una Reforma Para Mejor Pero Muy Insuficiente* §6.

¹⁰⁸*Dignitas Personae*, §4.

considered dead because it has the potential to become alive if it is placed in the right environment.¹⁰⁹

While these scientists are correct that cryopreserved embryos are in a suspend state, they must be either dead or alive. Since death is “the end of earthly life”¹¹⁰ it must be an irreversible state. Either a cryopreserved embryo is dead or alive. Since it is possible for cryopreserved embryos to be successfully implanted into women and born they cannot be dead and thus must be alive or at a minimum must be presumed to be alive unless they have corroded to a point that one can be certain they have died.

Understanding that cryopreserved embryos are living substances makes it clear that one cannot hold the position that cryopreserved embryos are in a state of nonexistence. Substances are all things that have separate existences. “A substance is the perfection whereby a fully complete individual nature is rendered in every way, in its being, and in its actions, distinct from and incommunicable to any and every other being, so that it exists and acts sui juris, autonomously, independently of every other being save the Creator.”¹¹¹ Substances can be understood in two ways. Substances are the essence of the thing, the *whatness* of a thing, the definition of the thing. These are also the subject or the *whoness* of a thing, or what makes the thing an individual.¹¹² While cryopreserved embryos are suspended by the medical procedure of cryopreservation, they still exist distinct from any other being.

¹⁰⁹This potential argument was brought to my attention in conversation with Peter Fonseca MD, Ph.D.

¹¹⁰CCC 1007.

¹¹¹Coffey, Peter. *Ontology or the Theory of Being An Introduction to General Metaphysics*. London: Longmans, Green and Co. 1914. 265.

¹¹²Thomas Aquinas, *Summa Theologica*, I, q. 29, a. 2, in *Summa Theologica: Complete English Edition in Five Volumes*, vol. 4 trans. Fathers of the English Dominican Province (Notre Dame, IN: Christian Classics, 1981).

The act of cryopreserving embryos does not change the *whoness* or the *whatness* of the embryo; he is still a human person just as he was from the moment of conception.

Substances are the primary form because it is the cause in virtue of which a thing is determinate. If a thing does not contain its substance it is not the thing. For example if a leaf does not contain the essentials of what it is to be a leaf it is not a leaf; it is something else.¹¹³ It follows then that substances are the primary and fundamental beings of the predicamental order, since cryopreserved embryos still contain the *whatness* and *whoness* of a person they must be substances and thus in existence.

Substances are also divided into simple and composite. A simple substance is one which is constituted by a single substantial principle that specifies the essence of the thing without any material present to determine the thing. Angels are examples of simple substances because they are pure forms and contain no matter. Composite substances are those substances which are constituted by a natural and substantial union of two distinct and incomplete substantial principles. These include all corporeal substances organic, vegetative, sentient, or rational. A worm for example cannot exist if just the matter of the worm is shaped to look like a worm. The matter shaped like a worm and the worm soul must be united for it to live. When the soul and body separate the worm does not exist; we say it has died.¹¹⁴ Since the cryopreserved embryo has not died it must still be a substance. Since we know from the moment of conception the embryo has a body and a soul, the substantial form of the material body, he must be in a state of being with the capacity to die, and cannot be said to be in a suspended state from which he cannot die.

¹¹³Gardeil, H.D. *Introduction to the Philosophy of St. Thomas Aquinas: IV Metaphysics*. Paris: Les Editions du Cerf, 1967. 153 – 164.

¹¹⁴Gardeil. *Introduction to the Philosophy of St. Thomas Aquinas IV Metaphysics*. 153 – 164.

Principle of Double Effect

Since cryopreserved embryos exist as substances capable of death they deserve the same proper respect and end of life care as any other human person. The Catholic moral tradition makes use of the principle of DER to evaluate the moral permissibility of acting when the act may cause an effect that under perfect circumstances one would be morally obliged to avoid. The first basis of DER is found in St. Thomas's *Summa Theologica* II-II, q. 64, a. 7. In this article of the *Summa Theologica*, St. Thomas specifically discusses the question of whether it is lawful to kill a man in self-defense. "Nothing hinders one act from having two effects, only one of which is intended while the other is beside the intention. Now moral acts take their species according to what is intended and not according to what is beside the intention since this is accidental."¹¹⁵ St. Thomas correctly notes that an act can have more than the one effect and clearly places a greater emphasis upon the intent than the effects.¹¹⁶ St. Thomas concludes that "it is lawful to repel force by force, provided one does not exceed the limits of a blameless defense."¹¹⁷ He holds that in some circumstances it is permissible for one to carry out an act that has an evil effect provided the effect is not intended and other conditions are met.

DER, as it has developed from St. Thomas' teaching by his commentators in the tradition, is understood to have four criteria that an act must meet to justify the action. The act must be the least harmful method capable of achieving the end, the act must be considered good independently of the evil effect, the agent must be more obliged to pursue the good than to avoid evil, and the agent must intend the good and not intend the evil as a

¹¹⁵ST, II-II, q. 64, a. 7, trans. English Dominican Province, 1471-1472.

¹¹⁶Cavanaugh T.A., *Double-Effect Reasoning Doing Good and Avoiding Evil* (Oxford: Oxford University Press, 2006), 4.

¹¹⁷ST, II-II, q. 64, a. 7, trans. English Dominican Province, 1471-1472.

means to the end.¹¹⁸ For the warming of a cryopreserved embryos to be morally licit it must not be an intrinsically evil act, the good and not the evil must be intended, and there must be a proportionally grave reason for doing so.¹¹⁹

A proper reflection on the warming of human embryos reveals that it is not an intrinsic evil. Intrinsic evils are “objects of the human act which are by their nature “incapable of being ordered” to God, because they radically contradict the good of the person made in his image.”¹²⁰ Intrinsically evil acts are acts that are always wrong to perform regardless of the circumstances because the object, the immediate goal for which the person is acting, is wrong. For example abortion and euthanasia are intrinsically immoral acts because the act of taking an innocent unthreatening life is always wrong regardless of the circumstance a person finds himself in. The rehydrating of cryopreserved embryos is not euthanasia because there is not an intention of taking an innocent unthreatening life, rather an innocent life is simply allowed to die.

The object, the rehydrating of cryopreserved embryos so as to restore human dignity, is not in and of itself wrong. Certainly, with the current state of medical technology, one knows the embryo will die once it is rehydrated, if it is not implanted into a womb, but this is an indirect choice to the object itself. Just as when a decision is made to remove life support a decision is not made to kill the person, so too the decision to rehydrate embryos is not a decision in favor of death; rather, “it is an act whose moral object may be accurately

¹¹⁸Cavanaugh, *Double-Effect Reasoning: Doing Good and Avoiding Evil*, 12.

¹¹⁹Cavanaugh, *Double-Effect Reasoning: Doing Good and Avoiding Evil*, 36.

¹²⁰Pope John Paul II, Encyclical *Veritatis Splendor* (6 August 1993), §80, *Origins* 23, no. 18 (1993), 321.

described as allowing to die for legitimate reasons.”¹²¹ Similarly the fimbrial expression technique of placing an ectopic embryo into the womb, often called milking technique, is recognized as legitimate even though given the current state of medical science it is well known that child will not survive.¹²² Since the object, the rehydrating of cryopreserved embryos itself is not wrong, the act of rehydrating frozen embryos cannot be intrinsically evil. To determine the moral permissibility of rehydrating embryos the intention and its proportionality must be further explored.

An intention is “a movement of the will toward the end: it is concerned with the goal of the activity.”¹²³ It is the purpose for which the act is done. The intention behind rehydrating frozen embryos is simply a desire to restore the dignity that has been taken from them by dehydrating them and storing them in labs. Any intention to restore dignity to a human person is a good intention. Even though one knows the outcome will be death, the intention is still to restore dignity to the embryo which can still be achieved in death. Were the intention to kill the embryo so as to solve the problem, rehydrating them would be wrong, but since the intention is to restore dignity it is morally good or at least morally neutral. While the ends do not justify the means, and a good intention does not necessarily make an action moral with the object being good and the intention being good, rehydrating cryopreserved embryos will be good if the circumstances are proportional.

The circumstances “contribute to increasing or diminishing the moral goodness or evil of human acts (for example, the amount of a theft). They can also diminish or increase

¹²¹Kevin D. O’Rourke, “The Catholic Tradition on Forgoing Life Support,” in *On Moral Medicine: Theological Perspectives in Medical Ethics*, ed M. Therese Lysaught and Joseph J. Kotva Jr. (Grand Rapids, MI: William B. Eerdmans Publishing Company, 2012), 1119.

¹²²Christopher, Kaczor. "Moral Absolutism and Ectopic Pregnancy." *Journal of Medicine and Philosophy*, 2001: 61-74.

¹²³CCC 1752.

the agent's responsibility.”¹²⁴ The circumstances surrounding frozen embryos are very grave. These forgotten souls are stuck in labs with only two options; remain in a suspended state or be allowed to die. Since these embryos are undergoing a medical treatment, if the treatment is not proportionate it is moral to remove them from the treatment of being cryopreserved. Frozen embryos are stuck in a state which is not only risky but also burdensome. Since “one cannot impose on anyone the obligation to have recourse to a technique which is already in use but which carries a risk or is burdensome,”¹²⁵ it is a proportionate response to remove these embryos from the cryopreserved state even if it means they will die.

Conclusion

A proper understanding of death and the moral obligation to the dying makes it clear that removing embryos from their cryopreserved state and allowing them to die a “natural” death is a possibility. At first glance it may appear that this option, proposed by the Spanish Episcopal Conference, is immoral because it causes the death of the embryo; however, using the traditional distinction of object, intention and circumstance and a proper application of the principle of double effect it becomes clear that while tragic, the decision to rehydrate cryopreserved embryos and allow them to die is not immoral. Since sustaining embryos in a suspended state is abusive, the embryos should be allowed to be re-warmed, which will cause their death. While the death of the embryos is a tragedy it does allow the embryo to die in peace and in a manner that is moral and the most appropriate option for frozen embryos, an option that reaches a moral solution to an absurd fate.

¹²⁴CCC 1754.

¹²⁵*Declaration on Euthanasia*, §4.

Embryos should be rehydrated and allowed to die in peace. As the embryos are being rehydrated the proper prayers for the dying should be prayed.¹²⁶ Once death is certain these embryos should be given a proper burial. To ensure that our forgotten brothers and sisters are given a proper burial each diocese that has cryopreserved embryos should prepare a lot in one of their Catholic cemeteries and once certain of the death of each embryo, he should be buried in that plot and at minimum the *Rite of Final Commendation For An Infant*¹²⁷ should be offered. If possible a funeral Mass for Children should also be celebrated.¹²⁸

¹²⁶*Pastoral Care of the Sick Rites of Anointing and Viaticum* (Totowa, NJ: Catholic Book Publishing, 1983), pp. 169-193.

¹²⁷*Order of Christian Funerals Approved for Use in the Diocese of the United States of America* (Totowa, NJ: Catholic Book Publishing, 1998), pp. 199-202.

¹²⁸ *Order of Christian Funerals Approved for Use in the Diocese of the United States of America*. (Totowa, NJ: Catholic Book Publishing,) 1998. 153. The author suggests one “large” funeral Mass be held by the diocesan bishop, giving publicity to the horrors of the crimes committed and as an attempt to restore some public dignity to those our forgotten brothers and sisters.

Conclusion

Sadly, hundreds of thousands of human embryos are stored in a cryopreserved state in labs across the United States of America. These forgotten brothers and sisters are exposed to an absurd fate. This thesis attempts to find a moral solution to this fate. While much ink has been spilled over the question of the moral approach to caring for these brothers and sisters exposed to an absurd fate, no consensus has yet been reached and the Church has not yet handed down a definitive teaching. This thesis has attempted to shed more clarification on the crisis with the hope of assisting the Church find a moral solution.

Due to the limits of modern medicine, there are only five possible approaches to this horrific problem: simply discarding the embryos as medical waste, using them for scientific research, implanting embryos into rescue mothers, leaving the embryos in their suspended state, or rehydrating them. Of these five possible solutions, only the last three are possible moral solutions. Since the first two possible solutions, simply discarding the embryos as medical waste or using them for scientific research, do not recognize the embryo as a human person worthy of the dignity and respect due to all human persons, they are directly and obviously contrary to the faith and should be immediately ruled out as moral solutions. The last three possibilities, implanting the embryo into a rescue mother, leaving the embryos in their suspended state or rehydrating the embryos, recognize at a minimum that embryos are human persons deserving of the same respect and dignity due to other living human persons. Taking the last three possibilities as serious attempts at arriving at a solution to the crisis of frozen embryos this thesis has investigated each of them as a possible solution.

The third position, one put forward by many prominent Catholic moral theologians including Dr. Grisez and Fr. Ryan SJ, argues that embryos should be implanted into “surrogate mothers.” They hold that since the act of conceiving a child through

immoral purposes was done in the past the second act of implanting the embryo is not morally wrong because the “surrogate” mother had no participation in the immoral act of fertilizing the egg but is simply trying to heroically rescue the child from an absurd fate. As a surrogate or rescue mother she is acting nobly by rescuing a child without falling into sin on her part. While the intention behind this act is noble it fails to realize that women should only become pregnant through their husbands and any attempt at “rescue motherhood” is a violation of the dignity of the sacrament of marriage.

The fourth approach put forward by other prominent Catholic moral theologians like Fr. Pacholczyk, holds that the embryos should simply be left in their cryopreserved state. This solution, while not a positive solution that solves the problem, is put forward by those who hold it is the only moral option. This argument fails to consider the undue burden placed on the embryo. More importantly this argument fails when one comes to realize through the proper application of the Catholic moral tradition that it is morally permissible to rehydrate the embryos and allow them to die of natural causes.

The fifth and only moral solution is proposed by the Spanish Episcopal Conference which calls for the embryos to be rehydrated and given a proper burial. While there is no doubt these embryos will die they are not being killed; rather, their death is ancillary and even in the tragedy of their death their dignity can be restored. Since this option is morally licit and removes embryos from the horrific suspended state it is the only moral solution to the absurd fate of cryopreserved embryos.

Those in the Pro-Life movement must advocate for their brothers and sisters stuck in a suspended state. While the Church has not yet issued a definitive teaching on this complicated question of medical moral theology those in the Pro-Life movement must

continue to engage the question in the hopes of coming to a clear consensus on this important issue.

A close study of the situation and the practical application of the Catholic moral tradition make it clear that there does in fact appear to be a moral solution to an absurd fate. This investigation has shown that cryopreserved embryos should be rehydrated, allowed to die and given a proper Christian burial in accord with the proper norms of a burial of an unbaptized infant.

Sources:

- Althaus, Catherine. "Human Embryo Transfer and the Theology of the Body." In *The Ethics of Embryo Adoption and the Catholic Tradition*, ed. Sarah-Vaughn Brakman and Darlene Fozard Weaver. Villanova, PA: Springer, 2007. 43 – 68.
- Austriaco, Nicamor Per Giorgio O. P. "On the Catholic Vision of Conjugal Love and the Morality of Embryo Transfer," in *Human Embryo Adoption Biotechnology, Marriage, and the Right to Life*, ed. Rev. Thomas V. Berg, L.C. & Edward J Fulton. Philadelphia, PA: The Nation Catholic Bioethics Center, 2006. 115 – 134.
- Breborowicz, G.H. "Limits of Fetal Viability and its Enhancement." *Early Pregnancy* 5, no. 1 (2001): 49-50
- British Human Fertilisation and Embryology act of 2008.
http://www.legislation.gov.uk/ukpga/2008/22/pdfs/ukpga_20080022_en.pdf
- Brugger, E.C.. "In Defense of Transferring Heterologous Embryos." *National Catholic Bioethics Quarterly* 5, no. 1 (2005): 95-112.
- Cavanaugh, T.A.. *Double Effect Reasoning, Doing Good and Avoiding Evil*. Oxford: Oxford University Press, 2006.
- Compendium to the Catechism of the Catholic Church. Washington, DC: United States Catholic Conference, 2006.
- Catechism of the Catholic Church. 2nd ed. Washington, DC: United States Catholic Conference, 2000.
- Center For Disease Control and Prevention. "What is Assisted Reproductive Technology?" At Centers for Disease Control and Prevention, <http://www.cdc.gov/ART/>. 12 August 2013.
- Coffey, Peter. *Ontology or the Theory of Being An Introduction to General Metaphysics*. London: Longmans, Green and Co., 1914.
- Conferencia Episcopal Espanola. El ejecutivo del episcopado español ante la reforma de ley de Reproducción Asistida *Una reforma para mejor pero muy insuficiente* (29 Julio 2003). At The Spanish Episcopal Conference, <http://www.conferenciaepiscopal.es/index.php/documentos-ejecutivo/1279-una-reforma-para-mejor-pero-muy-insuficiente.html>.
- Gardeil, H.D.. *Introduction to the Philosophy of St. Thomas Aquinas: IV Metaphysicis*. Paris: Les Editions du Cerf., 1967.

- Gladwell, Malcolm. "John Rock's Error: What the Co-inventor of the Pill Didn't Know: Menstruation Can Endanger Woman's Health." *The New Yorker*. (March 13, 2000): 52-63.
- Grisez, Germain. *The Way of the Lord Jesus*. Chicago: Franciscan Press, 1997.
- Henke, Donald E. "A History of Ordinary and Extraordinary Means." *National Catholic Bioethics Quarterly* 5, no. 3 (2005): 555-575.
- Hoffman, Di. Zellman, G.L. Fair, CC. Mayer, JF. Zeitz, JG. Gibbons, WE. and Turner, TG. "Cryopreserved Embryos in the United States and Their Availability for Research." *Fertility and Sterility* 79, no. 5 (2003): 1063-1069.
- Kaczor, Christopher. "Moral Aboslutism and Ectopic Pregnancy." *Journal of Medicine and Philosophy* (2001): 61-64.
- Kelly, Gerald. "The Duty to Preserve Life." *Theological Studies* 12, no. 4 (1951): 550 - 556.
- Kreeft, Peter. *Socratic Logic* 3rd ed. South Bend: St. Augustine Press, 2008.
- Krieger, Lisa M. "Long-Frozen Embryo Brings Joy To Adoptive Parent" At St. Louis Post Dispatch, www.stltoday.com. 12 September 2013.
- Landau, Ruth. "Artificial Womb Versus Natural Birth: an Exploratory Study of Women's Views," In *Journal of Reproductive and Infant Psychology* 25, no. 1 (2007): 4-5.
- Laveda, William Cardinal. Instruction *Dignitas Personae*: Bioethical Questions and the Dignity of the Person (12 December 2008), *Origins* 38, no. 28. 437 – 449.
- May, William E. *Catholic Bioethics and the Gift of Human Life*. Huntington: Our Sunday Visitor, 2008.
- May, William E. *Marriage the Rock on Which the Family is Built*. San Francisco: Ignatius Press, 2009.
- Mendiola, Michael M, "Human Embryonic Stem Cells: Possible Approaches from a Catholic Perspective," in *The Human Embryonic Stem Cell Debate* ed. Suzanne Holland, Karen Lebacqz and Lauren Zologth (Cambridge, MA: The MIT Press, 2001), 119 – 125.
- Nehrbass, Daniel to Peter Fonseca. "Embryo Adoption," Personal e-mail of 30 July 2013.
- Onder, Robert F. Jr., "Practical and Moral Caveats on Heterologous Embryo Transfer," *National Catholic Bioethics Quarterly* 5, no. 1 (2005): 75 – 94.

Order of Christian Funerals Approved for Use in the Diocese of the United States of America. Totowa, NJ: Catholic Book Publishing, 1998.

O'Rourke, Kevin D. Kevin D. O'Rourke, "The Catholic Tradition on Forgoing Life Support," in *On Moral Medicine: Theological Perspectives in Medical Ethics*, ed M. Therese Lysaught and Joseph J. Kotva Jr. (Grand Rapids, MI: William B. Eerdmans Publishing Company, 2012).

Pacholczyk, Tadeusz to Peter Fonseca. "Concerning Embryo Rescue" Personal email of 19 December 2013.

Pacholczyk, Tadeusz. "Some Moral Contraindications to Embryo Adoption," in *Human Embryo Adoption Biotechnology, Marriage, and the Right to Life*, ed. Rev. Thomas V. Berg, L.C. & Edward J. Fulton. Philadelphia, PA: The National Catholic Bioethics Center, 2006. 37 – 54.

Pacholczyk, Tadeusz. "What Should We Do with the Frozen Embryos." At National Catholic Bioethics Center, <http://www.ncbcenter.org/page.aspx?pid=478> 20 November 2013.

Pastoral Care of the Sick with Rites of Anointing and Viaticum. Totowa, NJ: Catholic Book Publishing, 1983.

Pope Benedict XVI, *Address to Participants in the International Conference Promoted by the Pontifical Council for Culture* (12 September 2011). At The Holy See, www.vatican.va.

Pope John Paul II, *Address of the Holy Father John Paul II To The Meeting Of The Adoptive Families Organized By The Missionaries of Charity*. (5 September 2000) at The Holy See, www.vatican.va

Pope John Paul II. *Address to Catholic Health Officials*. (08 October 1987), *Origins* 17, no. 17 (1987) 292 – 294.

Pope John Paul II. *Address to the Participants in the International Congress on Life Sustaining Treatments and Vegetative State: Scientific Advances and Ethical Dilemmas*. (20 March 2004), at the Holy See www.vatican.va .

Pope John Paul II. *Apostolic Letter on the Dignity and Vocation of Women on the Occasion of the Marian Year* (15 August 1988). *Origins* 18, no. 17 (1988). 261 – 283.

Pope John Paul II. Encyclical letter on Faith and Reason. *Fides et Ratio* (14 September 1998), *Origins* 28, no. 19 (1998): 317 – 347.

Pope John Paul II. Letter to Families *Gratissimam Sane* (2 February 1994). At The Holy See, www.vatican.va.

Pope John Paul II. Encyclical *Veritatis Splendor* (6 August 1993), §80, *Origins* 23, no. 18 (1993), 297 - 334.

Ratzinger, Joseph Cardinal. Instruction on Respect for Human Life in its Origin and on the Dignity of Procreation Replies to Certain Questions of the Day (22 February 1987). At The Holy See, www.vatican.va.

Ryan, Peter SJ, "Our Moral Obligation to the Abandoned Embryo," in *Human Embryo Adoption, Biotechnology, Marriage, and the Right to Life*, ed. Thomas V. Berg, LC and Edward J Fulton (Philadelphia, PA: The National Bioethics Center, 2006), 297 – 325.

Second Vatican Council, Pastoral Constitution on the Church in the Modern World, *Guadium et Spes* (7 December 1965), in *Decrees of the Ecumenical Councils*, vol. 2, *Trent to Vatican II*, ed. and trans. Norman P. Tanner (London: Sheed & Ward, 1990), 1085 – 1086.

Seper, Cardinal Franjo. The Vatican Declaration on Euthanasia (5 May 1980). *Origins* 10, no. 10. (1980): 154 – 157.

Simoneau, Paul. "Circumstances and the Moral Act of Embryo Adoption: The Neglected Element," MA Thesis, National Catholic Bioethics Center, 2010.

Singer, Peter. *Practical Ethics*. Cambridge: Cambridge University Press, 1993.

The Didache. In *Ancient Christian Writers The Works of the Fathers in Translation*, trans. Johannes Quasten and Joseph Plumpe, 15 - 25. Westminster: The Newman Press, 1961.

Thomas Aquinas. *Summa theologiae: Complete English Edition in Five Volumes*. Vol. 4. Trans. Fathers of the English Dominican Province. Westminster, MD: Christian Classics, 1981.

Tonti-Filippini, Nicholas. "The Embryo Rescue Debate. Impregnating Women, Ectogenesis, and Restoration from Suspended Animation." In *Human Embryo Adoption Biotechnology, Marriage, and the Right to Life*, ed. Rev. Thomas V. Berg, L.C. & Edward J Fulton. Philadelphia, PA: Rev. Thomas V. Berg, L.C. & Edward J Fulton , 2006. 69 – 114.

United State Conference of Catholic Bishops. *Ethical and Religious Directives for Catholic Health Care Services* 5th Edition. Washington DC: United States Conference of Catholic Bishops, 2009.

USC Fertility. "Egg Freezing FAQ's" USC Fertility, www.uscfertility.org. 29 October 2014.

Wojtyla, Carol. *Love and Responsibility*. San Francisco: Ignatius Press, 1981.