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A Critical Evaluation of the Vatican's Instruction on Respect for Human Life

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The Instruction on Respect for Human Life (1987), issued by the Sacred Congregation for the Doctrine of the Faith, attracted considerable negative as well as positive criticism at the time of its publication. The positive criticism included an excellent commentary in the *Australian Lutheran Theological Journal*.¹

The negative criticism came as much from within the Church as it did from without.

Those who hoped that the Vatican would allow in vitro fertilization with embryo transfer (IVF) as a means of treating certain forms of human infertility, if only in the "simple case", were particularly disappointed.

That disappointment was reflected in an anonymous critique of the document published in *The Tablet* (March 14, 1987: 271).

This critique rejects the Instruction's "thoroughgoing indentification of the embryo as a human person"² because, the writer says, it enables the Instruction to "speak as though the doctor and the zygote are on the same level and have the same rights."³

The Tablet went on to make other criticisms as well. But it is the question of the moral status of the embryonic human being and its implications for IVF technology which the present writer wishes to discuss in the light of the Vatican's Instruction on Respect for Human Life.

As to the general thrust of the Instruction, I would agree with the following statement:

But given the Church's consistent teaching on contraception as enshrined in 'Humanae Vitae' the Church could not come to any different conclusion without calling into question the teaching of 'Humanae Vitae'. This new Instruction is consistent with the principles and arguments of 'Humanae Vitae'.⁴

I also accept the validity of Dr. Peter Riga's observation that the Instruction "is really a compilation of authentic but non-infallible teachings of various popes, councils, and other historically authoritative statements by the bishops of Rome."⁵

The criticisms I wish to make are that the Instruction is, on one key issue, imprecise and misleading, and on another issue, does not go far enough in its appreciation of IVF in the "simple case".

To begin, we need to return to the criticism that the Instruction makes such a thorough identification of the embryo as a human person that it speaks as though the doctor and the zygote are on the same level and have the same rights.

This criticism would not appear to be a justifiable one, given the precise terms in which the Instruction expresses itself.

In quoting from its 1974 Declaration on Procured Abortion, the Sacred Congregation for the Doctrine of the Faith (SCDF) affirms that "from the time that the ovum is fertilized, a new life is begun which is neither that of the father nor of the mother; ... Right from fertilization is begun the adventure of a human life, and each of its great capacities requires time ... to find its place and to be in a position to act".⁶

In referring to "capacities", each of which "requires time ... to find its place and to be in a position to act", the SCDF is careful to avoid speaking of the doctor and the zygote as if they were on the same level. Further, there is no suggestion of a general equivalence of rights between doctor and embryo. It depends on what are the rights to which reference is made. Particular reference is made, in the Instruction, only to the right to live and to develop since the exercise of no other rights by an embryo is possible.

The Instruction then goes on to insist that "from the moment the zygote has formed" it "demands the unconditional respect that is morally due to the human being in his bodily and spiritual totality. The human being is to be respected and treated as a person from the moment of conception; and therefore from that same moment his rights as a person must be recognised, among which in the first place is the inviolable right of every innocent human being to life."⁷

Beginning of 'Unique Human Life'

That a unique human life begins at fertilization has been attested to by contemporary scientific knowledge. In a statement to the Australian Senate Select Committee on the Human Embryo Experimentation Bill 1985, the then head of the Reproductive Medicine Unit of the Queen Elizabeth Hospital in Adelaide in the State of South Australia said:

In simple and realistic terms it is clear that a biological entity capable of unique human development has not arisen prior to fertilisation of the egg with the sperm. Therefore neither the egg nor the sperm have a special significance in terms of their individual capacity for a separate human being. From the time of fertilisation onwards the embryo has the capacity for further development as an individual human being provided this is not interrupted by natural intervention such as spontaneous abortion, a major complication of pregnancy or interruption

of the pregnancy by artificial means which threatens the well-being of the foetus. *Therefore it would seem logical to infer that another human life begins at the time of fertilisation.* If this proposition is accepted then the next point of consideration relates to the rights and status of the human embryo from the point of fertilisation. [my emphasis]⁸

The Senate Select Committee did accept Dr. Kerin's expert scientific evidence and stated:

The Committee, in adopting the usage 'embryo' to describe the fertilised ovum and succeeding stages up to the observation of human form, means to speak of *genetically new human life organised as a distinct entity oriented toward further development.* [my emphasis]⁹

The Senate Select Committee went on to conclude

that the respect due to the embryo from the process of fertilisation onwards requires its protection from destructive non-therapeutic experimentation. ... The Committee recommends that the principle protecting the embryo from destructive non-therapeutic experimentation be adopted by the Senate in its consideration of this matter.¹⁰

Such a conclusion from a secular government committee is in complete accord with the public policy advocated by the Vatican Instruction. At the time of writing, the Australian Parliament has not yet adopted legislation which would give effect to the recommendation.

Another way of expressing the same truth, but in religious language, may be found in the writings of the great Lutheran pastor, theologian and martyr, Dietrich Bonhoeffer, who was killed by the Nazis in 1945.¹¹

Bodily life, which we receive without any action on our own part, carries within itself the right of its own preservation. This is not a right that we have justly or unjustly appropriated to ourselves, but it is in the strictest sense an 'innate' right, one which we have passively received and which preexists our will, a right which rests upon the nature of things as they are. Since it is God's will that there should be human life on earth only in the form of bodily life, it follows that it is for the sake of the whole man that the body possesses the right to be preserved. *And since all rights are extinguished at death, it follows that the preservation of the life of the body is the foundation of all natural rights without exception and is, therefore invested with a particular importance.* The underlying right of natural life is the safeguarding of nature against intentional injury, violation and killing. That may sound very jejune and unheroic. But the body does not exist primarily in order to be sacrificed, but in order that it may be preserved. Different and more exalted considerations may give rise to the right or the duty of sacrificing the body, but this in itself presupposes the underlying right to the conservation of bodily life. [my emphasis]¹²

In holding to the inviolable right of the embryonic human being to live and to develop, the Instruction is in harmony with the Catholic Church's consistent moral tradition, clarified and refined as that tradition undoubtedly has been in light of the scientific facts as they have become known.

It is the application of that fundamental moral teaching to contemporary biomedical technological developments that the Instruction, at certain

points, lacks a clarity and precision which leads it to say too little rather than too much.

Term Causes Confusion

The first major confusion is in the use of the term "abortion" in relation to "the destruction of human beings" in the regular practice of IVF and ET.¹³

This destruction of human beings involves the fact that nearly 60% of embryos generated in vitro are regarded as non-viable and accordingly discarded.¹⁴ Added to this is the fact that "cryopreservation damages 75% of embryos (about 50% are destroyed) such that the total wastage of embryos from IVF and ET after cryopreservation can be estimated ... at 96%."¹⁵

Since the development of our knowledge about embryos created in vitro comes about by using human embryos as experimental objects, both in their creation and in their manipulation,¹⁶ we are looking at a method of treatment of infertility which is highly experimental and "enormously wasteful of human life".¹⁷

These manipulations, resulting in the deaths of human embryos are not the moral equivalent of induced abortion. There are several distinguishing features between abortion on the one hand and destructive manipulations of human embryos on the other, such that it is arguable that it is the latter which is the greater evil.

The differences between the two sets of circumstances are:

1. A woman does not set out to get pregnant in order to have an abortion. In the case of IVF, embryos are created precisely as objects of destructive experimental and non-therapeutic procedures.¹⁶
2. Abortion involves the conflict of rights between the woman and her unborn child. That conflict may be resolved by considering the woman's rights to be always more significant than the right of the child to live. This resolution is, in my view, morally wrong and represents the most serious disregard for the moral rights of the fetus. Nevertheless, one recognizes that it is an attempt to resolve a conflict.
3. In the case of destructive, non-therapeutic interventions on a human embryo, scientists are dealing with human individuals who are in conflict with nobody. They represent no threat to any right (no matter how trivial or derivative) of any other human person. They are finally isolated human persons.

These differences in circumstances make such procedures against innocent embryonic human beings a greater moral evil for which nothing can be said in mitigation of the moral blame to be attached to such acts.

Even in the so-called "simple case" of the homologous IVF and ET procedure to which the Instruction refers,¹⁸ the serious moral blame for the destruction of human pre-implantation embryos is not eliminated as the Instruction surmises it might be.

The fact is that human fertilization in vitro is seriously flawed technologically because about 60% of the embryos so created are non-viable.¹⁴ The medical technologists are morally responsible for every human embryo which does not implant.

In the case of normal sexual intercourse between husband and wife, a large number of embryos appear not to develop and come to birth.¹⁹ This has led scientists to take the view that nature is "very prodigal with respect to embryo loss".²⁰ They then conclude that if nature is "very prodigal", it should not matter that there is an equally large (but in reality much larger) embryo loss in IVF with ET.²¹

The truth is, though, that nature is 100% wasteful of human beings. Every human being dies. It would not follow from that undeniable fact that we are free to kill other individuals, or to behave in a way which is recklessly indifferent to their right to live. Indeed we would ordinarily suppose that reckless behavior leading to the deaths of others is not only immoral, but ought to be considered criminal within the meaning of the law.

If a person dies of natural causes, we do not suppose that anyone is morally culpable for that death. And persons may die at any time from soon after fertilization to more than 100 years after birth.

But if a person dies because of other people's manipulation of them, then that is not a morally neutral event. The fact that medical scientists choose to cause human beings to come into existence through artificial means (IVF technology) implies that they must accept responsibility for what happens to those embryonic human beings who are in their care. It follows that the deaths of such embryos in the IVF/ET procedure are the responsibility of those involved.

Responsibility for Embryo Loss

Even in the so-called "simple case" there is substantial embryo loss — a loss for which those involved must accept responsibility. After all, we know in advance that IVF/ET, being very flawed and imperfect technologies, will occasion the deaths of most of the embryos so formed. To proceed to IVF/ET in the current state of knowledge is to behave in a manner recklessly indifferent to the plight of the embryos, in the hope that a woman will become pregnant.

When the Instruction refers to the "simple case" as a "homologous IVF and ET procedure that is free of any compromise with the abortive practice of destroying embryos ...", it obscures the significant moral difference between abortion and the destruction of pre-implantation embryos and fails to distinguish between natural wastage and the wastage of embryos caused by human intervention which is not morally neutral.

It needs also to be pointed out that the formation of embryos in vitro is not necessary since it is not done to save the lives of the mothers concerned. IVF may alleviate infertility in about 14% of the women who come to an IVF clinic,²² but the cost of that alleviation of infertility in terms of embryo loss, even in the "simple case", is morally unacceptable.

The Instruction, however, is very clear in pointing out that the basis of the moral indifference to the essential right of embryonic human beings to live is in the very nature of the procedures involved.

Homologous IVF and ET is brought about outside the bodies of the couple through action of third parties whose competence and technical activity determine the success of the procedure. *Such fertilization entrusts the life and identity of the embryo into the power of doctors and biologists and establishes the domination of technology over the origin and destiny of the person.* Such a relationship of domination is in itself contrary to the dignity and equality that must be common to parents and children. [my emphasis]²³

Apart from its lack of clarity and precision at certain points as suggested above, the Instruction is a timely reminder to the world that the gift of human life is God's gift, and that many contemporary reproductive technologies are carried out in a way which is indifferent to that gift and which attacks the integrity of marital intimacy as the means by which God intends procreation to occur.

If criticism can be made of the Instruction it is, in this writer's view, that the Instruction did not go quite far enough in the terms of its rejection of in vitro fertilization and embryo transfer.

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8. Evidence to Senate Select Committee, pp. 682-683. Dr. Kerin is now Professor of Obstetrics and Gynecology, Reproductive Endocrinology and Infertility, University of California, Los Angeles, and Co-director, Division of Reproductive Endocrinology and Infertility, Cedars-Sinai Medical Centre, Beverly Hills, Los Angeles.

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