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Contraception, In Vitro Fertilization and the Principle of Inseparability

Bartholomew Kiely, S.J.

The author, of the Gregorian University, Rome, presented this paper at the 2nd International Conference on Moral Theology, held in Rome in November, 1988.

1. Area and Approach

I wish to focus this presentation on two related problems: that of artificial contraception, and that of using invitro fertilization with embryo-transfer (in the form known as the "simple case")¹ to overcome sterility. The first of these topics was addressed by "Humanae Vitae," and the second seems to have been the most disputed point of the Instruction "Donum Vitae".²

Related to both topics is the principle of "Humanae Vitae" (12) and "Donum Vitae" (II.4) that the two meanings or significances of human sexuality, the unitive and the procreative, may not be separated by human initiative.

I shall attempt to explore this principle by analyzing the difference between *donation* and *domination*, between the giving of a gift and, for example, the making of a product. (The making of a product is not the only example of domination that will enter here.)

The purpose of this analysis is to seek at least a partial understanding of *why* the two meanings of the conjugal act are inseparable. It will here be argued that *if either of the two meanings is suppressed, the other meaning does not remain intact but is itself deformed*. Each of the two meanings is preserved in its integrity only if the two remain united. If they are separated by some kind of domination of the process, then *both* meanings are damaged. There is, as Professor McInerny has noted, a kind of symmetry between the teaching of "Humanae Vitae" and that of "Donum Vitae," and it is this symmetry which I wish to explore.

2. Donation and Domination — Notions and Examples

Giving a gift is a particular kind of *doing* — as distinct from *making*³ — with intransitive effects in the giver and transitive effects in the person who

receives the gift. In domination (*e.g.*, making a product), one imposes one's own will on the object and puts it on a level of pure passivity. When a person is using a word-processor, the machine is expected to comply totally with the will of the user, and not to introduce ideas of its own into the text. Only one will is involved, and it is a dominant will. In contrast, in the giving of a gift the will (or the rights) of each person involved must be respected. Thus there is a difference between proposing marriage (offering oneself as a gift to a woman, who may reject the offer) and buying a slave-girl as a concubine, the slave-girl having no say in that case. A gift must be freely given and freely received; it may not be imposed or coerced. Conversely, what may be imposed, coerced or dominated is not a gift.

Setting aside special cases such as the confinement of those who are mentally ill,⁴ domination is never an acceptable way to treat a *person*, since freedom is a hallmark of the person, while passivity is the hallmark of what is being dominated.⁵

It must be remembered, in the analysis of *any* moral situation involving more than one person, that there are as many wills involved as there are persons, and that the consent of any of the persons involved may not simply be taken for granted, still less overruled. This is easy to overlook, especially in an abstract discussion not referring to the fact that different persons are involved, as when a single moral agent is thought of as executing a process which is abstractly described. Impersonal or collective formulations ("*one* does this, *we* do this") may serve to conceal, but not solve this problem.

Our most frequent encounter with the domination of persons may well be in ordinary verbal conversation. A common *non-sequitur* is the assumption that because *I* wish to talk about myself and my preoccupations, that *therefore* you wish to listen. (But of course!) The image is useful, because this happens to everyone and annoys everyone; it is also relevant, not least because any conversation requires a kind of periodic abstinence if anything other than frustration is to be born of the conversation. I have sometimes wondered if it is more than a coincidence that many of those who dissent from "Humanæ Vitæ" are not good listeners.

3. Contraception.

The moral issues here are familiar and here need only be outlined so as to illustrate certain parallels with the procedure of in-vitro fertilization — parallels between the suppression of one meaning of the conjugal act and the suppression of the other meaning.

In marrying, the spouses give *themselves* to each other. Consent is always required for the validity of marriage. In the conjugal act, this self-giving is expressed in a unique way.⁶ The spouses are not sharing a function or a satisfaction, but *themselves*.

Upon this gift of the spouses to each other, another gift may, when

conditions are suitable, supervene: the gift of a new life. The new life comes as a gift from a gift, "dono di dono", as Professor Tettamanzi has expressed it.⁷

When the conjugal act retains its natural openness to new life,⁸ then all four of the *dramatis personae* immediately involved (the husband, the wife, the possible child, and God as the author of life⁹ and as the source of each person's vocation),¹⁰ are being respected.

When the possible gift of a new life is directly opposed by contraception, the procreative meaning of the conjugal act is suppressed; domination is taking the place of donation. Once one grasps that donation is like a kind of service, then the opposition between donation and domination becomes more clear. What remains is not an intact expression of the unitive meaning, but a deformed version of that meaning;¹¹ ". . . contracepted sexual intercourse is simulated, not real, conjugal intercourse".¹² Two of the *dramatis personae* have been "locked out" or forced to be silent, so to speak (God as the author of life, and the possible new child), and the contracepting spouses at the same time lock themselves *in* to a defective expression of conjugal union, uncoupled from the real goods of procreation and collaboration with God, and reduced to a search for experiences in self-consciousness.¹³ So what the couple are united in choosing is no longer the *same* kind of union, once procreation has been deliberately excluded. And when the spouses have thus locked themselves in, they are also more or less likely to be locked in against each other, each within the self and failing to take account of the other. The existence of subconscious motivation as a normal human weakness, which often means that the self is talking to the self, aggravates this danger.¹⁴ Periodic abstinence is different, as more than one speaker has already explained.¹⁵

4. Simple-Case In Vitro Fertilization

A new human life is a gift in a very radical sense, in that its receiver does not even exist before the gift is made.¹⁶ The beginning of a human life is more solemn than dying, or capital punishment. A new human life is eternal, while death is only a transition. To procreate is more dramatic than to kill or to condemn to death.

The new life is a gift that emerges from the sexual gift of the spouses to each other; a gift from God to the child *and* to the parents, not only from the parents to the child or to each other.¹⁷ Sexual union is not a merely instrumental act finding its whole meaning in the result attained; Von Hildebrand proposes the idea of a "finality of superabundance".¹⁸

If the sexual procreation of spouses is replaced, in the attempt to overcome sterility, by "simple-case" in vitro fertilization with embryo-transfer, something is different. What is different?

In sexual procreation, neither spouse may be replaced by another person, because what is involved in the sexual union is an expression of personal commitment, and in personal commitment one person cannot

take the place of another. The spouses are, after all, giving themselves; and one cannot give another's self.¹⁹

The technical steps of in vitro fertilization are different in this respect: their moral quality does not depend on *who* carries them out. The technical steps of IVF-ET are chosen, not because they have any intrinsic value, but as an alternative adopted *solely* for the sake of the result that is hoped for.²⁰ Being a merely instrumental action, the process implies no uniquely personal commitment; therefore it might just as well be carried out by anyone possessing the necessary skills. If one imagines a "modified simple case" in which the husband and wife are sufficiently skilled and equipped to carry out the technical procedures of in vitro fertilization and embryo-transfer by themselves, that would not change the moral quality of the procedure.²¹

To consider IVF-ET as morally acceptable, one would have to agree to these three points:

- (1) that the new life is not really a gratuitous gift (from God:²² to the child and to the parents, as well as from the parents to the child or to each other), but is rather something that the parents may manufacture, or have manufactured, for themselves (and what may be produced for oneself, or for themselves, by technical means, is *not* a gift);
- (2) that the new life may be manufactured by a process which is impersonal in the sense that it might just as well be carried out by *anyone*, and so is not the expression of a uniquely personal commitment;²³
- (3) and that one may so place the new life in the inevitably inferior role of the product of a process of domination.²⁴ To produce life in a glass dish seems (returning to the earlier comparison with a conversation) to be like treating a person as one treats the disk of a word-processor: determining by mechanical means all the conditions of its existence.

But one cannot accept these three implications. They overlap, but they all imply treating the new life without the respect that is due to a person, and instead dominating it as if it were a thing.²⁵

So, to accept in vitro fertilization one would have to accept a deformed version of the procreative meaning, accompanying the exclusion of the conjugal act with its unitive meaning.

Overall, then, it has been argued that the exclusion of either of the meanings of the conjugal act deforms the other meaning.²⁶ When conception is deliberately excluded, what remains is not a full and true expression of the unitive meaning as self-giving, but a withholding of part of the self,²⁷ a domination imposed upon a donation. In vitro fertilization excludes the unitive meaning along with the conjugal act, and what is left is not a true and full expression of the procreative meaning as a donation by the parents in collaboration with God, but a domination which, as the term domination suggests, usurps a function of the Lord. Each of the two meanings retains its integrity as a donation only if it remains united with the other meaning. The logic of domination *contradicts* the logic of donation; it is not just a matter of using some technique as a less good

way of accomplishing essentially the same thing.

At the same time we must recognize that the difference between donation and domination does not seem to be widely appreciated in the contemporary world.²⁸ We tend to think often in technological terms, that is to say, in terms of a logic of domination or production. Further, the whole logic of proportionalism places the moral agent in the role of a demiurge dominating the future, as John Finnis has observed. Such habits of thought would seem to explain many reactions to the teaching of "Donum Vitae" on homologous in vitro fertilization, as also analogous reactions to "Humanae Vitae" and "Familiaris Consortio". The logic of self-giving is not so easily understood.

References

1. The "simple case" of in vitro fertilization with embryo transfer is defined in "Donum Vitae," II.5, as "a homologous IVF and ET procedure that is free from any compromise with the abortive practice of destroying embryos and with masturbation".

2. May W.E., "The Simple Case of In Vitro Fertilization and Embryo Transfer", *Linacre Quarterly*, February 1988, pp. 29-36. The present contribution is particularly indebted to this article of May; also to Finnis J. M., "Personal Integrity, Sexual Morality and Responsible Parenthood", *Anthropos* [since renamed *Anthropotes*]: rivista di studi sulla persona e la famiglia, 1, 1985, 43-45, and to Chappelle A., "Pour lire 'Donum Vitae'", *Nouvelle Revue Theologique*, 109 (1987) 481-508.

3. May, *op. cit.*, pp. 34-35.

4. Other special cases include prohibiting dangerous activities to small children (whether they understand or not), and imprisonment of the guilty. In general, such cases involve persons who, at the given time, lack either the right or the ability to exercise their own freedom.

5. "Freedom is proper to the person"; De Finance J., "Freedom", *New Catholic Encyclopedia*, 6, 95-100; citation from p. 99, col. 2. See also "Gaudium et Spes", no. 20, and "Dignitatis Humanae", throughout.

6. "Gaudium et Spes", 49; "Familiaris Consortio", 11.

7. Tettamanzi D., "Fecondazione artificiale e 'immagine' di famiglia," pp. 123-145 in: *Il Dono della Vita*, ed. E. Sgreccia, Vita e Pensiero, Milan, 1987; the reference is to p. 136.

8. "Humanae Vitae", nos. 9, 11, 12; "Familiaris Consortio", 28 and 32, par. 5.

9. "Humanae Vitae" 13: "... one is not the master of the sources of life but rather the minister of the design established by the Creator"; "Familiaris Consortio" 14: "they [the couple]... become cooperators with God for the gift of life to a new human person"; see also "Familiaris Consortio", 28, "Donum Vitae", II.1, and Giovanni Paolo II, *Uomo e Donna Li Creo: catechesi sull'amore umano*, Citta Nuova Editrice, 1985, sixth cycle, especially chapter CXXXII. See further, on the immediate creation of each human soul by God, "Donum Vitae", Introduction, 5, which refers to Pius XII, Encyclical "Humani Generis", AAS 42 (1950) 575 and to Paul VI, "Professio Fidei", AAS 60 (1968) 435.

Much more might of course be said about human cooperation with God, in general and as to the transmission of life. The immediately relevant point, both as to contraception and artificial fertilization, is that the transmission of life is not a "private affair" of the couple.

10. Paul VI, "Populorum Progressio", 15: "... every life is a vocation".

11. This point is forcefully made in "Familiaris Consortio", 32, par 4: "When couples, by means of recourse to contraception, separate these two meanings that God the Creator has inscribed in the being of man and woman and in the dynamism of their sexual communion, they act as 'arbiters' of the divine plan and they 'manipulate' and degrade human sexuality — and with it themselves and their married partner — by altering its value of 'total'".

self-giving. Thus the innate language that expresses the total reciprocal self-giving of husband and wife is overlaid, through contraception, by an objectively contradictory language, namely, that of not giving oneself totally to the other. This leads not only to a positive refusal to be open to life but also to a falsification of the inner truth of conjugal love, which is called upon to give itself in personal totality”.

12. Finnis, *op. cit.*, p. 48.

13. *Ibid.*, pp. 48-54.

14. “*Humanae Vitae*”, 17: “Another effect that gives cause for alarm is that a man who grows accustomed to the use of contraceptive methods may forget the reverence due to a woman, and, disregarding her physical and emotional equilibrium, reduce her to being a mere instrument for the satisfaction of his own desires, no longer considering her as his partner whom he should surround with care and affection”; see also “*Humanae Vitae*”, 13 and 21, “*Familiaris Consortio*” 32 (paragraphs 4, 5, 6), and the National Conference of Catholic Bishops [U.S.A.] “Partners in the Mystery of Redemption: a pastoral response to women’s concerns for Church and society”, first draft (as in *The Chicago Catholic*, 5 August 1988), n. 56: “Women who follow natural methods of regulating birth say that they and their spouses frequently experience new levels of intimacy and mutual responsibility, and improved quality in their sex life, and a healthy form of family planning”. Testimony to the same effect is reported (without much reference to Catholic doctrine) in Shivanandan M., *Natural Sex*, (New York: Berkely Books, 1981); (London: Hamlyn Paperbacks) 1980.

The hazard of self-absorption is increased by the general role that subconscious motivation may exercise in the sexual area, even in normal persons, so that it can incline them to be, to a greater or lesser extent, preoccupied with satisfying needs of their own which are more or less egocentric and immature, without their being aware of this. See Rulla L. M., Imoda F., Ridick J., *Antropologia della Vocazione Cristiana, II: conferme esistenziali*, Edizioni Piemme, Casale Monferrato (AL), 1986, sections 8.2, 8.3.3 and 8.3.4, or the same sections in Rulla, Ridick, Imoda, *Anthropology of the Christian Vocation, II: existential confirmation*, Gregorian University Press, Rome; in press.

15. Periodic abstinence does not effect the same deformation; “*Familiaris Consortio*”, 32 (par. 5) reads: “When, instead, by means of recourse to periods of infertility, the couple respect the inseparable connection between the unitive and procreative meanings of human sexuality, they are acting as ‘ministers’ of God’s plan and they ‘benefit from’ their sexuality according to the original dynamism of ‘total’ self-giving, without manipulation or alteration”. See also “*Humanae Vitae*” 13 and 16. Periodic abstinence is an acceptable way of avoiding the direct exclusion of procreation and also of avoiding irresponsible parenthood, though periodic abstinence might also be abused; see Finnis, *op. cit.*, pp. 48-49.

16. Physical life is the most basic of gifts, on which all other values of the person follow (“*Donum Vitae*”, Introduction, 4). It brings into being a human person, “the only creature on earth which God willed for itself” (“*Gaudium et Spes*”, 24). The soul of each person is immediately created by God (see note 9 above). The child is the greatest (“*Gaudium et Spes*”, 50) and most gratuitous (“*Donum Vitae*”, II.8) gift in marriage.

17. “*Gaudium et Spes*”, 50: “the couple [should] be ready with stout hearts to cooperate with the love of the Creator and Savior, who through them will enlarge and enrich his own family day by day”. On this cooperation, see also “*Donum Vitae*”, II.1, “*Familiaris Consortio*”, 14 and 28, and “*Humanae Vitae*”, 13, as cited in note 9 above.

18. Von Hildebrand, D., “Sex”, *New Catholic Encyclopedia*, 13, 147-150.

19. This point is stressed by May, *op. cit.*, pp. 32-34.

20. “*Donum Vitae*”, II.5, “It is acknowledged that IVF and ET . . . cannot be preferred to the specific acts of conjugal union, given the risks involved for the child and the difficulties of the procedure.”

21. “*Donum Vitae*” (II.5) discusses IVF-ET as carried out by third parties; this corresponds to the usual practice. But since the process involved, unlike sexual procreation, implies no uniquely personal commitment, its moral quality depends on the nature of the process itself rather than on who performs it.

22. See notes 9 and 17 above. Note also that nobody has a right, in the strict sense, to have a child: "Donum Vitae", II.8, and see Chapelle, *op. cit.*, p. 501, and May, *op. cit.*, p. 34.

23. Contrast "Donum Vitae", II.4(c) with its insistence that "the generation of a child must therefore be the fruit of that mutual giving which is realized in the conjugal act wherein the spouses cooperate as servants and not as masters in the work of the Creator who is Love".

24. "Donum Vitae", II.5: "Such a relationship of domination is in itself contrary to the dignity and equality that must be common to parents and children"; also Finnis, *op. cit.*, pp. 54-55; Chapelle, *op. cit.*, p. 498; May, *op. cit.*, pp. 35-36.

25. It follows that sterility which cannot otherwise be remedied, while indeed tragic, must be accepted in the spirit and with the alternatives given in "Donum Vitae" (II.8) and "Familiaris Consortio" (14). Help to those who cannot procreate is a topic of great importance, but is not the subject of the present brief contribution.

26. "Humanae Vitae", 13, draws an explicit parallel between forcing the use of marriage on one's spouse and the use of contraception, both being opposed to the true moral order. A further parallel with IVF-ET is suggested in the present essay.

Elsewhere I have argued that homosexual relations are characterized in the first place by a deformation of the unitive meaning and not only by the absence of the procreative meaning (Kiley B., "Sulla recente lettera della Congregazione per la Dottrina della Fede, La Cura Pastorale delle Persone Omosessuali: nota psicologica", *L'Osservatore Romano*, 14 novembre 1986, p. 6; English translation in the English weekly edition of the *Osservatore*, 12 January 1987, pp. 6-7); this would be a further example of the requirement that the two meanings be kept united if each is to retain its integrity.

27. "Familiaris Consortio", as cited in note 11 above.

28. Journalistic discussion of homologous in-vitro fertilization seems generally to presuppose that the desire of sterile parents for a child is an unquestionably sufficient motive which in turn makes acceptable any technical procedures employed. This, of course, is hardly surprising in a context in which the parents' wishes can also be sufficient grounds for legally-accepted abortion.

One possible reason for the acceptance of homologous in-vitro fertilization is the spontaneous tendency to see such a procedure as like any other medical treatment, in which patient and physician form an alliance to dominate the illness. This overlooks the difference between dominating an illness and donating life to a new human person.

More generally, popular discussion of this problem seems to support the assertion of Alasdair MacIntyre that "to a large degree people now think, talk and act as if emotivism were true, no matter what their avowed theoretical standpoint may be" (*After Virtue*, second edition, University of Notre Dame Press, 1984, p. 22), while "Emotivism is the doctrine that all evaluative judgments and more specifically all moral judgments are *nothing but* expressions of preference, expressions of attitude or feeling, insofar as they are moral or evaluative in character" (*ibid.*, pp. 11-12).

The logic of proportionalism seems to lead some professional moralists to a similar difficulty with the teaching of "Donum Vitae", especially as regards homologous in-vitro fertilization. This logic is unable to provide an antidote to emotivism, and is very much a logic of *domination*, since it places the moral agent on the level of a demiurge choosing among future possible worlds (Finnis, J. M., *Fundamentals of Ethics*, (Oxford: Clarendon Press, 1983), pp. 118-120, 11, 111, 126, and therefore turns the moral community into a group of conflicting demiurges, insofar as they cannot be presumed to agree about the most desirable future world. (And one may wonder, in passing, what authority any magisterium could hope to exercise over a group of demiurges in conflict).

Proportionalism also involves denying any independent moral quality of the act-as-means (Connery, J. R., "Catholic Ethics: has the norm for rule-making changed?" *Theological Studies* 42 (1981) p. 246).

The radical difference between the kind of logic used by "Donum Vitae" and the logic of proportionalism seems to explain why some commentators on "Donum Vitae" (especially

as to homologous in vitro fertilization) seem to reject the Instruction *a priori*, without giving its arguments any fair consideration; see, for example, McCormick, R. A., "The Vatican Document on Bioethics", *America*, April 11, 1987, pp. 247-248, and Selling, J. A., "The Instruction on Respect for Life: I. The Fundamental Methodology", *Louvain Studies*, 12, 212-244; "The Instruction on Respect for Life: II. Dealing with the Issues", *ibid.*, pp. 323-361. (The moral method favored by Selling becomes particularly clear on pp. 225-226 of the first article.)

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