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On Rescuing Frozen Embryos

by

The Rev. Francis M. de Rosa, S.T.L.

The author is Parochial Vicar, Our Lady of Lourdes Church, Arlington, VA. This paper was submitted to Dr. William E. May for independent study at the John Paul II Institute for Studies on Marriage and the Family.

Prologue

It is to be noted at the outset of this paper that the interlocutors in the following exchange regarding the rescue of frozen embryos are men and women who are all manifestly committed to remaining faithful to the Magisterium of the Catholic Church. We do not here examine the positions of the Church’s champions vs. dissenters.

Certainly one side of the debate is in error. But at this point, i.e., prior to a definitive decision from Rome, the exchange is still intramural. That fact alone is quite refreshing and gives one the sense that here is true theology at work, unfolding, as it should, the principles of faith and reason and applying them to a new and previously unforeseen circumstance. How different this is from those ill-fated attempts at dismantling Catholic teaching under the guise of theological research!

Introduction

This paper constitutes a continuation and elaboration of a previous work completed in the Winter of 1999, entitled, “The Fate of Frozen Embryos.” The paper was written as a response to proposals in some quarters that women could or should offer their wombs to gestate the abandoned spare embryos resultant from in vitro fertilization procedures.

Although it did consider attendant issues related to artificial reproduction, the essential focus of the paper was to examine the question whether or not “rescuing” a frozen embryo by “embryo transfer” (ET) is to
be deemed intrinsically evil. The tentative conclusion of that previous work was the following:

Firstly, it seems to me that despite the genuine reservations expressed by so many regarding the embryos' "rescue" by volunteer "mothers," those reservations do not establish that such a procedure is intrinsically evil. Therefore, this path should be taken out of respect for the poor souls trapped in this macabre frozen prison. Other measures should be taken to eliminate the evil but accidental consequences that could arise as a result.

Secondly, I hold that the object of the act is neither surrogate motherhood nor adoption, but rather is the rescue of the child. Neither does it seem absolutely necessary that the child be adopted by the rescuing woman, although that is clearly preferable. Nevertheless, the rescue should not be undertaken unless adequate provisions are made for the care of the child after birth.

Thirdly, the option of baptism should be taken, but only for those embryos that are in imminent danger of being killed or are manifestly moribund. The death of the child would be an indirect but foreseen side effect of the baptism. There is due proportionality between the good and evil effects in that the salvation of the child's soul would be secured.¹

Since these conclusions were drawn, further arguments have emerged which warrant a fresh consideration of these conclusions. Those arguments focus most directly upon the act of embryo transfer as being an offense against the institution of marriage – most precisely against marital chastity, exclusivity and fidelity. They have the common characteristic of shifting the focus of the debate from the absolute inviolability of the life of these poor embryos to the "reproductive integrity" of the volunteer mother and the rights of her husband. In other words, instead of seeing this dilemma through the colored glasses of the noble and legitimate desire to save the babies, they take a hard and sober look at what the implications are for the woman who is involved. However, the following observations are meant not so much as an attempt to close the debate as to incorporate these new voices and offer a commentary on the strengths and weaknesses of their points.

The Underlying Debate

A review of the arguments reveals that the true underlying debate that this question has elicited is one regarding the identification of the fontes
moralitatis. Most precisely it is a debate about how one correctly articulates the end or the object of the act itself.

Not all have identified this point explicitly. Some we believe have rather focused on the circumstances or consequences of the “rescuing” of frozen embryos. But the real problem is determining the object of the act. And so this paper could be instead a short treatise on that question in the abstract: *how does one identify the object of an act?* It would seem superfluous to suggest this to readers trained in moral theology were it not for the fact that the sound minds involved in this debate come up with such varying conclusions concerning this point.

But despite the fact that the real debate is one of identifying the object of the act, it is worth considering some accidental arguments as well. This is because if a certain type of act abounds with negative consequences, that fact could point to the presence of an intrinsic evil. These observations having been made, the particular arguments will now be considered.

### Some Accidental Arguments

Hadley Arkes, a contributing editor of *Crisis Magazine*, recently reported on a meeting of the Life Forum held in January 2000 in Washington, D.C.² The meeting involved a panel discussion on the question of rescuing frozen embryos which manifested the tendency to focus on accidental points in the debate.

Sparking the discussion was one Fr. Richard Hogan of Priests for Life, who spoke tentatively in favor of “embryo rescue.” But the responses elicited did not address the core question of the object of the act.

One participant, an ethicist, opposed “embryo rescue” as “a form of complicity that merely sustains an evil practice...it could involve the mating of strangers, and at times in exchange for cash.”³ This intervention was valuable because the same ethicist did not oppose in vitro fertilization (IVF), thus illustrating most starkly the inclination to focus on accidental arguments. Surely if embryo transfer is an evil act it is so at least partly because it violates some of the same principles that undergird the opposition to IVF!

Another participant, a former director of an adoption agency, opposed the adoption of embryos for similar reasons. He added that it would encourage women to “rent” their wombs; it would break down people’s wariness with regard to IVF; and it would divert hopeful parents from adopting already born infants that need a home.

Again, we are here dealing with accidental arguments. Certainly there exist actions which are not evil in and of themselves but which nevertheless carry with them the possibility of bad consequences. This
point was drawn out by participant Michael Schwartz, who noted that it is not immoral to “rescue” those conceived in other immoral manners, e.g., through fornication or adultery or rape. To argue that doing so should be avoided because it might encourage those evil acts is fallacious. We are dealing with a human person’s life – should the chance to save it be passed up for such reasons? True enough, we might add. But what if the act of embryo rescue involves an intrinsic evil?

Finally, another participant of the Life Forum meeting argued that embryo rescue is not only licit, but that it involves an obligation – at least an abstract obligation on the part of society, if not a concrete obligation for a particular woman. Germain Grisez has argued this point as well. Clearly we have here a presumption in favor of embryo transfer not being intrinsically evil.

An Italian newspaper article of July 1996 reported on another non-essential argument, this time given by Archbishop Elio Sgreccia, the director of the Bioethics Center at the Universita’ Cattolica di Roma, and the vice president of the Pontifical Academy for Life. That argument says that a program to rescue frozen embryos will serve to legitimate IVF and lessen the guilt of IVF practitioners. Archbishop Sgreccia was quoted as saying:

*L’idea di una organizzazione sistematica dell’adozione prenatale degli embrioni finirebbe per legittimare la pratica che è alla base del problema. L’adozione finirebbe per attenuare anche il senso di responsabilità morale di chi continua a congelare embrioni, rassicurato dal fatto che tanto ci sarà qualcuno che li adotterà.*

Mauro Cozzoli, a professor at the Pontifical Lateran University in Rome, has seconded this precise point and has elaborated on it. In a compendium entitled “The Status and Identity of the Human Embryo,” he writes:

However, this [embryo “adoption” or “rescue”] does not constitute a solution to the problem. Above all because it is an extraordinary means, to which no one can be obligated and which cannot become ordinary. Besides becoming an undifferentiated means of access to maternity (for any woman or couple, in any condition), it would favor recourse to maternity separated from matrimony and sexuality. It is also a disproportionate means to deal with and resolve a problem of enormous dimensions and in progressive expansion. One fails to glimpse either the will to resolve this problem or even the beginnings of projected solutions. Furthermore, in the absence of a willingness and an agreement to cease the practice of the production and freezing of embryos...
of embryos, the systematic recourse to adoptive pregnancy can have the effect of legitimizing and motivating that practice.9

As can be seen, this is not an argument about the intrinsic value of the act of ET considered under the species of rescue. It incorporates the circumstances and conditions surrounding such a proposal, as do the preceding arguments just reviewed (either pro or con).

That having been said, the observation must be made that an evaluation of such accidental circumstances is an important contributor in deciding whether or not an action may be undertaken. Were the act of embryo transfer not intrinsically evil, it could still be argued that it is wrong to undertake the proposal. The circumstances of a morally good or indifferent act can vitiate that act and make it blameworthy. In order for an act to be considered a good act to commit, the object, the intention and the circumstances must all be good. A good object does not suffice, in accordance with the principle: malum ex qualunque defectu, bonum ex integra causa.

The above discussion was done by way of highlighting the difference between arguments pertaining to the object of the act and arguments pertaining to the circumstances. With regard to an evil intention (such as ET for profit motives), the so-called finis operantis, the reader can easily discern.

**Arguments Touching Upon the Object of the Act**

Next we will examine the arguments which deal with embryo transfer inasmuch as it is an act which is either intrinsically evil or morally good or at least indifferent. Germain Grisez has laid out a stance that can be a useful starting point for this discussion. In writing to a woman who is contemplating having her dead sister’s frozen embryo implanted in her womb, he states:

Nurturing the baby in your womb surely will not be wrong; if someone transferred an embryo to your womb without your consent, abortion would be wrong, and it would be your duty to nurture the baby, just as it is the duty of a woman who has been raped and finds herself pregnant.10

Obviously, Grisez is making the valid point that, as he says, “nurturing the baby in your womb surely would not be wrong.” In other words, it would clearly be immoral to abort such a pregnancy. But it does not follow that the pregnancy is normal. In the case of the rape victim,
notwithstanding the injustice of the rape, the child is still the very offspring of the raped and impregnated woman. The baby within her womb is right where he or she should be, i.e., within the sanctuary of his own mother’s womb. This would not hold true in the hypothetical case of a woman who is forced to have an embryo implanted within her womb (in the case of heterologous ET). Such a baby would be out of his or her “natural place.” It is a strangely anomalous situation. But the debate here is about the embryo transfer itself, and this is just what Grisez has to say next:

Thus, if anything makes your project intrinsically wrong, it must be having the embryo moved from the freezer into your womb. But that is not at odds with any basic human good. It protects life rather than violates it; since the new person already exists, it does not violate the transmission of life; and it has nothing to do with the good of marriage, because it is not a sexual act, and the relationship between you and the baby is neither marital nor a perverse alternative to the marital relationship...Though superficially similar to acts violating various goods involved in marriage and procreation, what you propose to do is not the same as any of them. In choosing to receive the embryo into your womb, you would be committing yourself to only one thing: trying to save his or her life."

If this statement is true, then we have a legitimate defense of embryo transfer. However, there are several authors who put forth contradictory arguments – arguments which challenge particularly Grisez’s assertion that embryo transfer, “has nothing to do with the good of marriage, because it is not a sexual act, and the relationship between you and the baby is neither marital nor a perverse alternative to the marital relationship.”

If one could imagine his opponents asking a collective question to Grisez, it would be along these lines: “How can it be said that a woman getting pregnant and carrying a child has nothing to do with the good of marriage, or that it does not pertain somehow to sexuality?”

The Argument of Mary Geach

The first line of argument opposing the “rescue” of frozen embryos is offered by the English philosopher (and mother) Mary Geach. In an article written in 1999, she argues passionately against embryo transfer as being an offense against chastity.

Put succinctly, Geach maintains that the woman’s part of the “act of generation” is the laying open of her womb to the impregnating intromission of the man. This is an act of admission of the kind that causes pregnancy. To submit to embryo transfer, an act of technological

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impregnation, is to dissociate essential aspects of the marital act. Thus, embryo transfer is unchaste.

Geach's article is not always focused precisely on her main thesis. She begins by criticizing embryo transfer as an intrinsic evil, as an "indecent solution" to the dilemma of orphaned embryos. It is indecent "that women should submit to technological impregnation, and should bear in their wombs children which are not their own." The immediate question one could ask is about homologous embryo transfer, i.e., the technological implantation of a woman's own embryo conceived with her own husband. Her ensuing argument does attempt to exclude this alternative as well, but there is some ambiguity in her initial articulation of her point.

Does Embryo Transfer Connote Surrogacy?

Geach also seems to think that embryo transfer involves the evil of surrogacy. Her concern must be looked at vis-à-vis the Magisterium's use of the term. The Catechism of the Catholic Church has this to say about surrogacy:

Techniques that entail the dissociation of husband and wife, by the intrusion of a person other than the couple (donation of sperm or ovum, surrogate uterus), are gravely immoral.

It is interesting that the Catechism uses the expression surrogate "uterus." The Latin editio typica is as follows:

Technicae artes, quae parentum provocant dissociationem per interventum personae a matrimonio alienae (spermatis vel ovocyti donum, uteri commodatum) graviter sunt inhonestae.

But Geach asserts:

If it is all right to "adopt" an embryo, it follows that the act of admission, whereby a woman allows herself to be made pregnant with a child not her own, is not an intrinsically evil kind of act. But if it is not an intrinsically evil kind of act, it is hard to see that there is anything wrong with surrogate motherhood. If we can dissociate surrogacy from IVF, then why should there be any objection to it?

Here she stands with Msgr. William Smith of St. Joseph's Seminary in Dunwoodie, New York. But this assertion is untrue, at least if we
restrict ourselves to the definition of surrogacy given by the Congregation for the Doctrine of the Faith in *Donum Vitae*. In that (authoritative) document we find the following definition:

By “surrogate mother” the *Instruction* means:

a) The woman who carries in pregnancy an embryo implanted in her uterus and who is genetically a stranger to the embryo because it has been obtained through the union of the gametes of “donors.” *She carries the pregnancy with a pledge to surrender the baby once it is born to the party who commissioned or made the agreement for the pregnancy.*

b) The woman who carries in pregnancy an embryo to whose procreation she has contributed the donation of her own ovum, fertilized through insemination with the sperm of a man other than her husband. *She carries the pregnancy with a pledge to surrender the baby once it is born to the party who commissioned or made the agreement for the pregnancy.*

As we can see from this citation, the Church does not define surrogate motherhood in a way which would need to fall under Geach’s condemnation of embryo transfer just considered. For instance, the CDF does not mention at all homologous IVF and ET. Geoffrey Surtees and Germain Grisez have also effectively shown that surrogacy is not necessarily part of the equation in embryo transfer, whether hetero- or homologous.

Surrogacy involves a contract to conceive and bear a child for another person. The surrogate mother is simply and crudely “renting her womb” for a time. But there need not be such an immoral contract in “embryo rescue,” although there could be, and then the evil of surrogacy would be involved in addition to the rescue effort, if the latter is in fact intrinsically immoral. But it is simply not correct to say that one must employ the *means of surrogacy* – as defined by the CDF – to obtain the end of embryo rescue. The *means* is something other than surrogacy: it is embryo transfer or technological implantation.

If we analyze Geach’s last citation in this light, we can respond that it does not follow that because surrogate motherhood is intrinsically evil then so must be “embryo rescue.” The evil of surrogate motherhood can lie simply in the contract aspect. Perhaps it also lies in the embryo transfer as well, but that remains to be seen.

Then she says: “If we can dissociate surrogacy from IVF, then why should there be any objection to it?” “It” is presumably “surrogate motherhood.” Can we not say that we are debating an issue which demonstrates clearly that it is certainly possible to *dissociate surrogacy from IVF*? In vitro fertilization does not involve surrogacy in its
homologous variety, and even if it be heterologous, “embryo rescue” is a morally distinct act from surrogate motherhood.

More than Two Sexes/A Third Parent

Geach also argues that embryo transfer of someone else’s genetic child “will thus increase the number of the sexes: there will be fathers, and mothers, and bearers.” Is that what “sex” signifies? One would object that “sex” is determined by genetics – it is laid out in the karotype or chromosomal blueprint of a given person – and not by relationship to others.

She next states that, “The bearer, it may be added, is likely to have a powerful influence on development, and can fairly be regarded as a third parent.” “Parenthood” is a broad concept. So is the idea of “influencing development.” Needless to say, in conventional adoption, the new “parents” also have a profound influence on the child’s “development.” We see no objections to that. Nor do we accede that this particular principle Geach is seeking to establish against “embryo rescue” poses any real threat to the moral order. Nevertheless, this concern voiced by Geach might be the undeveloped kernel of a more profound issue, viz., that a relationship between mother and child is formed which excludes her husband in a manner harmful to the marital union.

Wet Nursing Vis-À-Vis Embryo Transfer

Geach next laces several strains of thought together in an argument comparing wet-nurses and embryo-rescuing women. Rightly, we believe, Geach criticizes the proposition that “embryo rescue” is analogous to wet-nursing. But she begins her critique in a strange way. “A wet-nurse used to be paid, and it was fair enough that she should be,” Geach notes. Then, implying that “embryo rescue” means surrogate motherhood, she warns us that wealthy women could, on this right-to-payment principle, become the mothers of outrageous numbers of children – “hundreds” even – and “all without sin.” She adds,

If you think it permissible to pay a woman for this service, these problems will arise...[Or] perhaps you think it impermissible to pay a woman for such a service. You have a problem with the old wet-nurses...why is it wrong to be paid for it?

The response to this is that it has already been established (in Donum Vitae) that surrogate motherhood arrangements are immoral. But we are
not arguing about that. And whether or not wet-nurses should be paid is completely immaterial to the topic. However, even if wet-nurses should have been paid, it does not follow that paying (or financially assisting) an embryo-rescuing woman is immoral or outrageous. The point is that she should not be a surrogate. That means there should not be a contract to conceive and carry the child for another woman, with or without payment.

That notwithstanding, Geach is correct in stating that wet-nursing and “embryo rescue” are dissimilar acts. They are not analogous. She at first simply argues against the analogy between them by trying to show what she feels are the unacceptable contractual consequences of making them analogous. But the reason they are not analogous is more profound. She says that between the two there is a “morally relevant difference:”

The difference is that the act of admission, whereby one allows oneself to be made pregnant, is usually the female part of the act of generation. The act of accepting a child for nursing never is. The act of generation is normally the human act through which a woman is made pregnant, the human act through which she is made liable to give birth. By this act she is not merely committed to pregnancy; by this act she is made pregnant, as no subsequent choice on her part is usually needed if her pregnancy and giving birth are to occur. This fact about the marriage act is obviously important to it as a marriage act; but it is a fact which also holds for technological impregnation, whether with semen or with an already existing embryo.30

The Dissociation of the Parts of the Marital Act

Thus, for Geach, technological implantation mimics, in a sense, the marriage act, because it supplants the father and ignores the unitive aspect altogether. It is like the marriage act because in both cases the woman lays herself open in an act ordered by its nature to make her pregnant. In Geach’s line of reasoning, whether or not the impregnation is through semen or an embryo is irrelevant. The point is that she is made pregnant outside of the marital embrace. That, she goes on to argue, is an offense against chastity.31

This would be a broadening of the traditional conception of the virtue of chastity, however. Fr. Kevin Flannery, S.J., the Dean of the Faculty of Philosophy at the Pontifical Gregorian University in Rome, points out that chastity is the virtue which regulates concupiscence.32 Since there is no concupiscence in embryo transfer, it is fallacious to say chastity is violated. St. Thomas’ explanation of the virtue of chastity likewise leaves no room for Geach’s assertion.33
Nevertheless, we can see that Geach is developing a line of argument in which we are not simply dealing with what happens to a child (whether or not he or she is treated in a manner commensurate with human dignity), but with what happens to the woman (whether or not her chastity is safeguarded). This is an important point, because there is the danger that, in seeking to preserve the life of the embryonic baby, one might neglect a due consideration of the woman’s integrity.

Geach’s argument depends upon whether or not she can establish that, in technological implantation,

One dissociates the parts of the marriage act from one another, thus destroying in oneself the full sense of the significance of man in all his psychophysical unity.

She rightly notes that the “inseparability principle” holding together the procreative and unitive aspects of the marital act affects both sexual morality and reproductive technology. But she goes on to maintain that there is an even more general principle at stake: it is immoral to use “one part of the marriage act out of context.”

We believe that Geach establishes this principle in order to stave off those who might say that in “embryo rescue” the inseparability principle is not at stake at all, since the procreative aspect was already fulfilled in the conception of the embryo, albeit illicitly. The objection might be raised that one is not employing a means which violates the inseparability principle (and thus, so the argument would go, the good of marriage is not impinged) – that one is simply seeking to preserve a human life. Thus, if marriage is not harmed because the inseparability principle remains intact, and life is served, wherein lies the moral problem?

Continuing with Geach’s argument, she states:

The fact that one is laying oneself open to an impregnating intromission is a vital part of the self-giving involved in the woman’s part of the marriage act. This self-giving is not just a self-giving to the possible child, but to the father, since it would be his child that she would be bearing. The man gives up a part of himself in the marriage act, committing the fruit of the act to the womb of the woman; the woman’s complementary act of self-giving is to lay herself open, to surrender her body to an impregnating kind of act whose consequence is to occupy and use her whole body...[But in “embryo rescue”] what is being asked of women is that they take a vital part of the marriage act, and perform it without the father.
This is the heart of the argument of Mary Geach against the proposal that women adopt frozen embryos. An important complement to her stance is provided by the Australian ethicist, Nicholas Tonti-Filippini, whose position we will take up next.

The Position of Nicholas Tonti-Filippini

Tonti-Filippini, like Mary Geach, hones in on the effect that embryo transfer has on marriage. He recognizes the intrinsic dignity of the poor frozen embryo, but notes,

The rights of the child are not the only intrinsic issue. The question of the unity of marriage, the dignity of the spouses, and their fidelity to each other are at issue.37

Elaborating on this point, he cites from Donum Vitae’s condemnation of heterologous artificial insemination, suggesting that the principle invoked therein also touches somehow upon the question of “embryo rescue”.38 The full passage is as follows:

Human procreation has specific characteristics by virtue of the personal dignity of the parents and of the children: the procreation of a new person, whereby the man and the woman collaborate with the power of the Creator, must be the fruit and the sign of the mutual self-giving of the spouses, of their love and of their fidelity [citing Gaudium et Spes, 50]. The fidelity of the spouses in the unity of the marriage involves reciprocal respect of their right to become a father and a mother only through each other.39

“Becoming a Mother or a Father”

The italicized sentence presents an insight for Tonti-Filippini into why he thinks embryo transfer is immoral, although he admits that the context in which it was written does not directly address our question (Msgr. William Smith also detects such a connection40).

It is to be noted that what “becoming a mother or a father” precisely means is somewhat ambiguous, as Tonti-Filippini recognizes. But he does use the passage as a springboard into his discussion of marriage and the marital act. What this passage must mean is that a person must not become a parent through some agent other than one’s spouse. If Donum Vitae sees this as a right of the respective spouses, then there must be a corresponding obligation not to let this happen, since a right is the corollary of an
obligation. In fact, there must be a moral norm involved prohibiting such a proposal.

The potential flaw in this argument is that the woman does not "become a mother" in the truest sense of the term, i.e., the genetic sense. In normal adoption a woman can "become a mother" by analogy (in the nurturing or social sense). In embryo "adoption" she would also be the gestational mother, but this latter state also lacks the ultimate sense of motherhood. It is motherhood by analogy, and upon this point hinges the argument intimated above about the parents' right to become parents only through each other.

The strength of the argument lies in the manifest reality that becoming a "gestational mother" involves an engagement of the woman's maternal potential in an utterly unique way – a way which is not realized in post-natal adoption. Something happens to the woman in embryo transfer which impacts profoundly on her reproductive and maternal self. We think that Mauro Cozzoli is on the same conceptual wavelength when he says, as was cited earlier, that,

Besides becoming an undifferentiated means of access to maternity (for any woman or couple, in any condition), it [embryo transfer] would favor recourse to maternity separated from matrimony and sexuality.41

The question then turns on the degree to which the woman separates her maternity from matrimony and sexuality. Does this occur in embryo transfer to an extent which violates any moral norms?

Embryo Transfer is not "Adoption"

Continuing, Tonti-Filippini rejects the terminology that facilely calls embryo transfer/rescue "adoption," for the following reason:

It is one thing for a couple...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 this to 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. The phrase "pre-natal" adoption ought to be rejected because it is implicitly dualistic in its over-simplification.42

Adoption is really a remote end for which the embryo transfer and rescue is undertaken. The relationship that is formed between mother and
baby in this case is really of a different order than in what we ordinarily call “adoption.”

“No Possibility of Their Being Offered a Safe Means of Survival which can be Licitly Pursued”

Tonti-Filippini couples his observation on Donum Vitae II, A, 1 with a reference to the CDF’s oft-cited yet somewhat problematic statement:

Every human being is to be respected for himself, and cannot be reduced in worth to a pure and simple instrument for the advantage of others. It is therefore not in conformity with the moral law deliberately to expose to death human embryos obtained in vitro. In consequence of the fact that they have been produced in vitro, those embryos which are not transferred into the body of the mother and are called ‘spare’ are exposed to an absurd fate, with no possibility of their being offered a safe means of survival which can be licitly pursued.

Interpreted as “Still a Possibility”

Whether or not this passage should be interpreted against “embryo rescue” has been contested; firstly, because the Latin editio typica can be translated variously. Instead of rendering the Latin non pateant into: “no possibility,” it can be rendered as: “with no well known [or clear or manifest]” safe means of survival which can be licitly pursued. Secondly, as Grisez points out, this passage and its apparently absolute prohibition to resolving the embryos’ fate “occurs in a section in which the document is concerned with using embryos produced in vitro as subjects of experimental research.” Thirdly, the Pope himself (albeit in a non-authoritative address) has used even less conclusive language in reference to these embryos:

Interpreted as “No Possibility”

Since this specific point is of such importance, a digression here is in order. Donum Vitae’s celebrated passage about spare embryos, notwithstanding the three observations just made above, could be
interpreted contrarily – to imply that their transference into the womb is immoral because such a transference is an act which is inherently flawed.

Firstly, the CDF’s statement is rather overarching in tone, not specific. If the CDF merely wanted to state that experimenting on the spare embryos is illicit, then why did it make such a seemingly absolute declaration about there being no licit solution to their absurd fate? The CDF could have just condemned experimentation (which, by the way, would seem redundant in light of everything that *Donum Vitae* had already stated about the dignity of the embryos). Instead it said there was “no possibility of their being offered a safe means of survival which can be licitly pursued.” Experimenting on them has nothing to do with the proposal to offer them a safe means of survival.

Secondly, in the above citation from the Holy Father’s address, he likewise does not unambiguously restrict his remark to situations where the question of experimentation is the sole issue. In fact, he explicitly refers not only to the section in *Donum Vitae* on experimentation, but also to the section on interventions upon procreation. He says that,

> The illicitness of these interventions on the origin of life and on human embryos has already been stated (cf. *Donum Vitae*, I, 5 [on experimentation]; II [on procreation])...⁴⁸

The third counterpoint is in relation to Geoffrey Surtees’ critique. He maintains that the statement only applies to the practitioners of IVF.

I submit that the CDF is speaking here from the perspective of the acting persons who have freely adopted by choice the intelligible, though illicit proposal of artificial reproduction; and, hence, not those who would wish to “rescue” these embryos through adoption. In other words, for those who choose the methods of in vitro fertilization, it is in fact true that there are no licit means of handling the “spares” begotten from the IVF procedure; this is because any action the parties choose to adopt with respect to the “spares” would be to deny the fundamental rights of the embryo(s) to enjoy gestation and birth in his natural mother; and, after birth, to be raised and educated by the same. Even if the couple were to envision giving up their “spares” for adoption, this too would be wrong, and for the same reason: it would deny the children the parental love they are by natural justice entitled to from their original parents. It is never licit to reject one’s own child...⁴⁹

The first observation on Surtees is that we are here speaking of embryos that the genetic parents do not want implanted. That is what the
CDF specified in its statement by the use of the word “spare.” This is a recognition by the CDF that the genetic parents are out of the picture. So it seems as if the CDF is not at all speaking from the perspective of those who choose the methods of in vitro fertilization. The statement is merely a comment on the fate of these abandoned babies.

The second observation is that, with Surtees, we agree that planning in advance to conceive and then abandon a baby is assuredly evil. Women pursuing IVF do this as a matter of routine. It is an undeniably despicable aspect of the whole project. But we are beyond that point in this situation. The embryos already exist. Given the fact that the genetic mother will not accept them, what is their fate? The CDF at this moment says that there is “no possibility of their being offered a safe means of survival which can be licitly pursued.” And the Holy Father says regarding their fate that “there seems to be no morally licit solution.”

The third observation is that, if Surtees is indeed correct and the above observation is incorrect, then why would it be evil to give them up for adoption at this juncture? At this stage of the game (the embryos are in existence) it would in fact seem laudable for the genetic mother to permit their adoption. If embryo transfer is not evil in and of itself (as Surtees holds) then the mother would seem to be obliged to give them up for adoption if she cannot bear them herself (we need to keep in mind that she might have up to 20 of them). Women do this commonly with their babies. But the CDF says that there is “no possibility of their being offered a safe means of survival which can be licitly pursued.” And the Holy Father says regarding their fate that “there seems to be no morally licit solution.”

Surtees is saying that the CDF statement means that the IVF practitioners have no possibility of offering to the embryos a safe means of survival which can be licitly pursued. We want to argue that this interpretation is too problematic to truly portray the CDF’s genuine intention.

By analogy, we don’t argue against the feeding and continued sustenance of children who have been bred into slavery merely because the contract illicitly to conceive and then sell them is evil. We would only do so if there was something wrong with the feeding itself. But we don’t say anything like, In consequence of the fact that they have been conceived illicitly and as slaves those children which are not sold and are called ‘spare’ are exposed to an absurd fate, with no possibility of their being offered a safe means of survival which can be licitly pursued.

All these observations are by way of showing that perhaps the CDF’s condemnation does apply in the context of “embryo rescue” as well as in outright surrogacy arrangements.

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The Generative Continuum

Tonti-Filippini forthrightly states that embryo transfer violates the inseparability principle and that it furthermore "brings about the dislocation of the generative continuum." Herein might be found a key to showing that it is intrinsically evil. Tonti-Filippini asks whether our Tradition refers only to the marital act and fertilization when it speaks about the transmission of life. He says this is a reductionist approach which disrupts the continuum from “fertilization and embryo formation to implantation to embryonic and then foetal development.” Pope Paul VI wrote in *Humanae Vitae*:

In fact, just as man does not have unlimited dominion over his body in general, so also, with particular reason, he has no dominion over his generative faculties as such, because of their intrinsic ordination towards raising up life, of which God is the principle.

While we can say that from the perspective of the already-conceived embryo this point is moot; from the perspective of the not-yet-pregnant woman it is very pertinent: her generative faculties are being engaged in this particular case outside of marriage.

However, can one not view a caesarian section in the same way, i.e., as a disruption of the “generative continuum?” But perhaps the answer is that a caesarian section only assists, and does not actually replace the natural process of birthing.

One could also say the same for any procedure to resolve an ectopic pregnancy by surgically or technologically moving the embryo into the womb where it is ordained to implant by nature. The woman is already pregnant, the transference of the embryo only assists the pregnancy, it does not initiate the pregnancy, as does ET (since a woman can rightly be said to be pregnant when she conceives and not only when the embryo implants in her womb).

The Relationship Between Mother and Child

The next point addressed by Tonti-Filippini is one which Geach also touches upon, but without developing it to the same extent or with the same degree of articulation. Geach writes that: “The bearer, it might be added, is likely to have a powerful influence on development, and can fairly be regarded as a third parent.” The intuition manifested in this statement, it could be maintained, is along the same lines as what the Australian ethicist explains:
The intimate relationship between mother and child during pregnancy has no parallel. She and the child instantiate a unique union. Within marriage, that union is not separate from but rather an extension and an embodiment of the union between the woman and her husband. That the child arises through the creating hand of God as a gift called forth by their union has the significance of not displacing but rather enriching their union.\textsuperscript{54}

Tonti-Filippini applies this line of argument to heterologous embryo transfer:

The husband is isolated from this process by which his wife becomes with child. Her body, which she gave to him in love in the sacrament of marriage, a gift which they renew in the conjugal act, for a time becomes the home of a child which bears no relationship to him, which is from outside their union. It is in this sense that heterologous embryo transfer is an infidelity to marriage. The pregnancy is achieved outside the marital relationship.\textsuperscript{55}

One could respond that the objection that the child “bears no relationship” to the father does not hold for homologous ET, and thus not for ET in and of itself. But the last sentence quoted also serves as an objection to the latter scenario as well: the pregnancy is achieved outside the marital relationship. This is equally true of homologous ET as well.

Tonti-Filippini argues consistently from the standpoint of heterologous ET, as has been noted. Some of his points would not pertain if one wanted to show that ET is intrinsically evil. But in his thesis he progressively tightens the vice on ET in any circumstance. Embryo transfer involves the giving of a woman of herself in a way which is properly exclusive to marriage. In either type of embryo transfer, with hers and her husband’s progeny or with that of another couple, the woman is impregnated outside of the marital act (even if not by way of artificial insemination). Therefore the good which is undermined is not the good of human life, but the good of the institution of marriage, and this perforce is an undermining of exclusivity and fidelity. His words are worth quoting in full at this point:

Having given herself, her psychosomatic unity, faithfully, exclusively, totally, and in a fully human way \textit{in marriage} [here he cites \textit{Humanae Vitae}, n. 9], a woman is not free to give herself outside marriage in this way, however altruistic the purpose and however desperate the plight of those to whom she wishes to give herself. This is so because her generative capacity, which includes her capacity to bear a child in her womb, and not just her capacity to produce ova and
to express her love in the conjugal act, belongs to the marital union, and hence may not be given outside marriage. In these ways, but not with all its viciousness, heterologous embryo transfer is akin to adultery. Heterologous embryo transfer is at best a mistaken, misguided charity though an extraordinarily generous charity. But the mistake is a very grave mistake striking as it does at the very dignity of the woman and her marriage.\textsuperscript{56}

The bolded statement is the essence of his argument, and it is thematically the same as that of Mary Geach: \textit{the generative capacity in its totality belongs to the marital union.}

The only two ways to counter this would be to show: first, that the generative capacity in its totality simply need not belong to marriage; or secondly, that becoming pregnant and carrying a child in a woman’s womb (impregnation and gestation) does not involve the generative capacity. In other words, one would have to demonstrate that the generative capacity is restricted to having a woman’s ovum fertilized by a male gamete – that it essentially involves nothing further.

However, if Tonti-Filippini argues correctly, then the embryo-transferring doctor or technician is analogous to an adulterer or a fornicator, as the case may be (i.e., whether it be heterologous or homologous ET),

Because it is by his or her act that the woman becomes pregnant. That this is so highlights the reality that the achievement of a pregnancy in this way is outside marriage and hence an infidelity to the marriage.\textsuperscript{57}

Embryo transfer would violate marital fidelity and exclusivity on two scores at least: it excludes the father from the relationship with the child and/or it excludes him from the act whereby the woman is made to be pregnant. Tonti-Filippini encapsulates his argument thusly:

The profound notion of marital communion, of the two in one flesh, is broken by the use of the generative capacity of the woman in her bearing a pregnancy in a way which isolates her husband, which excludes him from this part of her life, because he makes no direct contribution to the pregnancy and it is established in her as a result of an embryo transfer procedure performed outside the context of their expression of conjugal love. She becomes pregnant and he is not the father. He has no part in the pregnancy. The child is not an expression of their union. Her body, which they share in their complete love, is then temporarily given to another union, the union between her and the child she carries, and that union does not include him as it would if the child were the fruit of their own union. In this there is infidelity to the
marriage covenant and there is a lack of respect for the dignity of both the man and woman because of a lack of respect for the dignity of their marriage.\textsuperscript{58}

**The Position of Helen Watt**

Our next interlocutor is Helen Watt. She adopts the counterposition that rescuing and “adopting” frozen embryos by embryo transfer is a **morally licit** option.\textsuperscript{59}

Like Mary Geach, and against Germain Grisez, Watt rejects the analogy of embryo transfer with wet-nursing. She says pregnancy, unlike nursing, “makes a woman a mother.”\textsuperscript{60}

Unlike Geach (and, we might add, unlike Msgr. Smith), and **with** Grisez, she also rejects the identification of embryo transfer as surrogacy. Watt locates the evil of surrogacy in the contract to bear a child on another’s behalf.

“It is therefore wrong to plan in advance of conception (or, if one is not the genetic mother, in advance of gestation) to bear a child who will be brought up by others.”\textsuperscript{61}

Watt also thinks it would be wrong for single women to “adopt” frozen embryos.\textsuperscript{62} This is a position which Geach challenges directly. While Geach doesn’t accept embryo transfer in any case, as has been seen, she questions the logic of people like Watt, who, once having admitted embryo transfer in principle, then try to restrict its application.\textsuperscript{63} But Watt does so for non-essential reasons: a single woman engaging in this practice would be hard put to show that she does not accept IVF as morally licit.

**Breaks in the Continuum**

Despite all of these observations concerning Watt’s article, she does argue her point by way of trying to demonstrate that embryo transfer is not evil in and of itself. She states her thesis at the outset of her article:

Ideally, pregnancy should have, I want to argue, a particular **symbolic content** which has to do with both past and future – both with genetic and social motherhood...What I want to argue is that just as the significance of pregnancy and birth with regard to future care need not be present in the case of adoption after birth, the significance of pregnancy and birth with regard to origin need not be present in the case of adoption of an embryo. In the case of embryo adoption, birth does have its normal significance with regard to the child’s future.
care, but lacks its normal significance with regard to his or her origin in an act of marital union. While embryo adoption does, it is true, fragment the maternal role to some extent, it does not create any more breaks in this role than does adoption after birth.64

But can one not respond that the number of the breaks in the continuum is not the issue? Rather, it is the nature of the breaks that is morally significant. Watt intimates that she realizes this, but does not, in our opinion, resolve the question. She states her unease with this point:

There is therefore some sense in which the significance of pregnancy and birth with regard to origin is more important than its significance with regard to future care. Why this is so I am not sure.65

Watt offers some thoughts on why this could be, but her reasons only deal with care and commitment, and not with the very act of becoming pregnant. Geach would say that a bond is formed between mother and child – a bond which, as Tonti-Filippini says, is “without parallel.” Watt maintains that the introduction into the family of the embryonic child does not disrupt family relationships any more than does post-natal adoption,

...given the fact that the links with the original mother and father have already been severed, and given the fact that the child will be both gestated and reared by the woman who has it transferred to her womb.66

It seems to us, however, as if the mother who “adopts” an embryo will actually form a closer bond with the baby than a post-natal adoptive mother. From the standpoint of the child there would be less of an adjustment. Could a child who was adopted as an embryo, in a moment of rebellion, ever challenge his or her adoptive mother by saying, “You are not my mother?” Perhaps he or she could, but with less conviction than a post-adoptive child. Maybe such a child could say, “You are not my mother, you are merely the vehicle through which I was born.”

In any case, Watt does not adequately account for the fact that the father is excluded from the relationship in a way that does not occur in normal adoption. In the latter case, both father and mother welcome the adopted baby in more or less the same sense. This is certainly not the situation in embryo transfer, where there is a qualitative difference between the relationships of each parent to the child. Embryo transfer establishes a scenario more akin to a husband whose wife has a child by another man,
yet decides nevertheless to raise that child as his own. Both Geach and Tonti-Filippini focus on this reality in a way which Watt ignores.

**Embryo Transfer and Chastity**

Watt next analyzes Geach’s proposition that embryo transfer is a perverse or unchaste act. She says that,

> The term “allowing oneself to be made pregnant” covers two quite different intentions, which affect in different ways the morality of what is being done. The first intention is to allow a child to come to be – to be created – inside one’s body... Quite different from the intention to have a child come to be inside one’s body is the intention to have a child put inside one’s body.\(^{67}\)

It is obvious that this point is true: a woman can be impregnated when a child is conceived within her (as in normal intercourse or as in artificial insemination techniques); or a woman can be impregnated when an already conceived embryo is placed in her (as in IVF & ET techniques or embryo “rescue”).

Watt admits that artificial insemination substitutes the marital act (which must precede conception). She asks if embryo transfer also substitutes the marital act (in causing implantation).\(^{68}\) Her answer is that it does not. And to argue this point she dissects the stages of what happens between intercourse and gestation.

**Intercourse as the Cause of Pregnancy**

Accepting the moral principle that intercourse must directly cause, and not merely precede conception, Watt asks,

> Is uterine gestation also directly caused by intercourse, or is intercourse not rather an event which normally precedes it? Surely, what intercourse directly causes is the union of sperm and ovum, not uterine gestation of the embryo so created. While the embryo’s creation within the mother’s body is, indeed, caused, at least partly, by intercourse, any subsequent positioning of the embryo, and any actual implantation of the embryo, is brought about in other ways. For the embryo to travel down the fallopian tube and implant in the womb, it needs nothing further from its father, but simply the assistance of its mother. The journey of the embryo is, after all, in a different direction, as well as involving a different subject, from the earlier journey of the sperm. It is the mother and the embryo, not the father and mother, who
cause the embryo to implant. It is therefore not the case that uterine pregnancy – that is, pregnancy after implantation – is directly caused by intercourse.69

This sort of parcing of the events raises some serious questions that need to be addressed. Firstly, we believe Watt uses the term “to cause” in equivocal ways. It is one thing for an event to be caused by an act of man, i.e., a mere human biological process that involves no voluntary decision on the part of an agent. It is quite another to say that an event is caused by a human act, i.e., a volitional act involving the moral order.

The reason this point must be discussed is that Watt concludes in the above quotation that: It is therefore not the case that uterine pregnancy – that is, pregnancy after implantation – is directly caused by intercourse.

But we do commonly consider the act of intercourse to be the moral act eventuating in pregnancy. Indeed, common sense certainly regards intercourse as the direct cause of pregnancy. If someone were to say: “Tom and Susan had intercourse, but that is not the direct cause of her being pregnant,” we would rightly think that person mad!

Watt says that intercourse directly causes conception, but not implantation and uterine pregnancy. However, to remain consistent with her line of reasoning, would it not be truer to say that intercourse merely causes the ejaculation of semen into the woman, and not conception itself? The sperm affects conception without any further assistance from the father. That this is true is evident from the fact that conception may even take place against the father’s will, but the ejaculation does not (normally).

She says that nothing further is needed from the father for the embryo to travel down the fallopian tube, “simply the assistance of the mother.” But the “assistance of the mother” is needed no more than a continued action of the father. The embryo travels the fallopian tube quite happily all on his or her own.

Watt also introduces the term “uterine pregnancy” instead of just “pregnancy.” This does not seem to be a necessary distinction, morally speaking. A woman is pregnant when a child comes to be within her. We speak of ectopic pregnancy and abdominal pregnancy, for instance. We do not speak as if such a mother were not pregnant at all because the embryo has not implanted in her uterus.

We also treat in a morally sensitive way a woman who we even suspect of having conceived, even if we think implantation has not yet occurred (e.g., in treating rape victims). Indeed, for those who incline toward the opinion that a “pre-implantation” embryo is not a moral subject or is somehow not yet an individual, this distinction is crucial. Conception is really what is determinative for moral decision making in this case. And
when a woman conceives, she is pregnant. Watt’s use of the term “uterine pregnancy” is tendentious.  
These are important distinctions, because Watt depends upon this line of reasoning for her conclusion:

It is therefore not the case that uterine pregnancy – that is, pregnancy after implantation – is directly caused by intercourse. If this is so, should it still be said that intercourse must always precede uterine pregnancy? What I want to argue is that whereas ideally intercourse should precede uterine pregnancy, the only absolute moral requirement is that intercourse precede – and indeed, directly cause, in vivo conception.

We think that Watt fails to establish the principle she enunciates, i.e., the only absolute moral requirement is that intercourse precede – and indeed, directly cause, in vivo conception. The reason for the failure is because she relies upon an inconsistent analysis of the events from intercourse to what she calls “uterine pregnancy.”

We have tried to show that intercourse in one very restricted and physicalistic sense (in Watt’s merely biological sense) can be said to directly cause neither conception nor implantation nor uterine pregnancy; that it is merely the direct cause of the ejaculation of the semen into the woman. The rest is up to non-rational natural processes.

But intercourse is the direct cause, in a morally determinative sense, of all three: conception, implantation and pregnancy. When a woman gets pregnant, according to the order established by God, the only moral act which is the direct cause of the pregnancy is intercourse. To say that the moral act of intercourse is not the direct cause of pregnancy is untenable. Watt seeks to parce the causality in the marital act in an inconsistent manner. Now, in embryo transfer procedure, a woman is impregnated by what can only be viewed as an act involving the moral order (the act of the technician). In this sense it certainly does substitute the marital act.

Summary

We have seen in this paper that the question of embryo transfer as a way to resolve the fate of frozen embryos can be considered under two species of argument: accidental or essential. Accidental arguments cannot resolve the question whether or not embryo transfer is intrinsically immoral, yet serve to point out the potential dangers latent in it. Essential arguments seek to show that ET is either intrinsically evil or not.
Some accidental arguments against embryo transfer warn that this solution involves the mating of strangers; diverts resources and adopting couples from post-natal adoption options; entwines one in the evil of IVF; breaks down society’s moral wariness to IVF; lessens the guilt of IVF technicians; and even serves to legitimize IVF overall.

The essential arguments seek to identify the moral object of the act in this proposal to save the frozen embryos. Whether or not statements issuing from the CDF and the Pope can be interpreted as closing the door to this proposal is a debatable point. Some authors think that the proposal must involve surrogate motherhood (Smith and Geach). Others view it as pre-natal adoption (Surtees and Watts). Tonti-Filippini maintains that the term pre-natal adoption must be rejected altogether. Another view identifies the object of the act as rescue (our original position). Finally, some hold that the object of the act is precisely transferring the embryo into the womb (Grisez and May).

Those in favor of this project maintain that it has nothing to do with the good of marriage since the baby is already in existence (Grisez, May, Watts and Surtees). The opposing camp argues that it violates, variably: the woman’s chastity, the exclusive nature of the marital union, fidelity and/or the very institution of marriage itself (Geach and Tonti-Filippini). While Watts argues that the continuum of conception-gestation-birth-education is only broken quantitatively, others hold that it is a qualitative breach in what is rightly called the generative continuum, a breach which is immoral (Geach and Tonti-Filippini). Watt justifies this breach by referring to caesarian sections. Grisez has used the analogy of wet-nursing to show that ET is not intrinsically evil, while others (Geach and Watts) say that this analogy does not hold. Finally, those who argue in favor of embryo transfer usually do not reject in principle single women or even consecrated women as potential volunteers, but would reject this alternative as a matter of prudence.

**Conclusion**

Drawing a conclusion as to the moral licitness of embryo transfer proves to be a rather difficult endeavor. This conclusion is admittedly tentative and we welcome the inevitable criticisms it will evoke as essential to the process of uncovering the truth and elucidating the question. The problems associated with this project certainly abound and the arguments that have been raised against this project must be answered.

The rule or measure of this act of embryo transfer must be pregnancy normally achieved, i.e., by a marital act performed in *humano modo*. Therefore, in light of the foregoing arguments, it seems to us to be
untenable to maintain that embryo rescue has nothing to do with the good of marriage because it intimately involves a woman's reproductive dimension. This procedure is clearly not necessary for the woman's health and is non-therapeutic. It makes her pregnant. Can we not say that any time a woman gets pregnant the good of marriage is somehow affected, even if only in virtue of the fact that it is ignored or even rejected by the impregnating agents?

True, in embryo rescue the marital act in not directly involved. For this reason it seems unfounded to hold that the virtue of chastity is offended. There is no venereal vice involved at all; no surrender to the movements of concupiscence.

But God has established that the marital act be the cause of pregnancy. Anything else is in fact an aberration. And embryo transfer circumvents the marital act in making a woman pregnant. Granted, the rescuing woman may not be intending to subvert marriage in consenting to this sort of impregnation – she merely seeks to save a life – but the reality is that she finds herself with new life in her womb in a manner which obviates the marital act. She in fact commits an act which engages her reproductive capacity outside of sexuality. This is not a foreseen but unintended side effect, but is the directly willed and intended effect of her act. She intends to transfer the embryo to her womb technologically. But this is the same as intending to do so in a manner which is not the marital act. Her purpose might not be to get pregnant outside of the marital act, but what she freely chooses to do (her "intelligible proposal adopted by choice") is precisely that: get pregnant, technologically. It seems impossible to say that this is not the same as getting pregnant outside of the marital act.

This reproductive capacity of the woman stands apart from the other human body systems because of its manifest moral connection with the marital bond. It really does belong to marriage. Thus, utilizing one's reproductive organs does not fall into the same category as, for example, donating one's kidneys or blood. In offering the use of one's womb to an abandoned embryo a profound relationship is formed between the woman and child. We earlier noted that this is not motherhood in the ultimate sense, i.e., the genetic sense. But it is motherhood in a sense beyond that resultant in post-natal adoption (it is gestational motherhood). Post-natal adoption does not engage a woman's reproductive capacity, but embryo transfer most assuredly does so.

Therefore the woman establishes a type of relationship with the child that is unequal with her husband (if she has one). This is not an accidental difference. It does not result because she spends more time with the baby or is kinder and more nurturing and perhaps more concerned with the baby's

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future, etc. It is a difference which is part and parcel of the project to transfer and gestate the baby. The bodiliness of the woman/embryo relationship is morally significant, especially since we do not accept a dualistic anthropology. The woman's body does not become a mere incubator for the new baby.

Thus, there seems to be a real dissociation of the husband and wife in embryo transfer inasmuch as her pregnancy and her impregnation have no connection to him. If the embryo happens to be his very own progeny, then at least the implantation procedure excludes him. The woman stands in relation to the child in a way which excludes the man (or a man). As Mauro Cozzoli fears, this is maternity separated from sexuality and marriage. But *Donum Vitae* (II, A, 1) has warned that husband and wife have a right to become parents only through each other.

Pope Paul VI in *Humanae Vitae* taught that man has no dominion over his generative faculty as such. But this project, albeit good in purpose, extends the dominion of man over woman's generative capacity by causing her to become pregnant by an act of technology.

Therefore we propose the following analysis of the project of embryo rescue:

The *finis operantis* (the purpose for which the act is undertaken) is noble and good: to save the frozen embryo's life with a further end of adopting and raising the child.

The circumstances are commensurate with the purpose: the baby is abandoned by his or her mother; is absurdly cryopreserved; the baby will eventually perish or be murdered without some action being taken; a woman is willing to have the procedure performed and adopt the baby; etc.

The moral object of the act is "transfer the embryo to a woman's womb." This is the same as "technologically impregnate a woman." Because this object appears to have inextricably built into it an undermining of marriage since of its very nature it obviates the marital act and/or excludes the husband so radically, it is not an object compatible with the true good of man.

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**Bibliography**


Flannery, Kevin. Private correspondence by e-mail.


John Paul II. “I Appeal to World’s Scientific Authorities: Halt the Production of Human Embryos!”

L’Osservatore Romano, no. 22-26, May 1996.


References


3. Ibid.


5. We say this without prejudice to the possibility that Archbishop Sgreccia might have also elaborated arguments that touch on the object of the act.


7. Whether or not the distinction between “ordinary” and “extraordinary” means, considered as permissible medical treatment, is predictable of ET at all is a contested point. Does ET even fall into the category of “medical treatment?” Suggesting that ET is extraordinary also implies that it is legitimate, which would be an a priori assumption in this argument.

8. This statement is to be noted, i.e., that: Besides becoming an undifferentiated means of access to maternity (for any woman or couple, in any condition), it would favor recourse to maternity separated from matrimony and sexuality. This point is akin to positions that argue that ET is intrinsically evil.


11. Ibid. [emphasis not in original]

12. Other “indecent solutions” for Geach include: war, prisons and body searches. However, the term is tendentious and morally imprecise. War is not “intrinsically evil,” for instance.


14. The Instruction *Donum Vitae* uses the terms *homologous* and *heterologous* in reference to artificial fertilization: “By the term *homologous fertilization or procreation*, the Instruction means the technique used to obtain a human conception using the gametes of the two spouses joined in marriage...By the term *heterologous fertilization or procreation*, the Instruction means the technique used to obtain a human conception artificially by the use of gametes coming from at least one donor other than the spouses who are joined in marriage.” Analogously, in reference to embryo transfer, *homologous ET* means the embryo to be transferred is the fruit of the same woman and her husband who conceived the baby in vitro. *Heterologous ET* means that the embryo is to be implanted in a woman who is not its genetic mother. Cf. The Sacred Congregation for the Doctrine of the Faith, *Donum Vitae: Instruction on Respect for Human Life in Its Origin and the Dignity of Procreation—Replies to Certain Questions of the Day* (Ignatius Press, San Francisco: promulgated February 22, 1987), footnotes in Part II, introduction.


17. Geach, p. 342.


19. *Donum Vitae*, II, 3, footnote (*) [emphasis not in original].

21. Grisez, p. 244.

22. Geach, p. 342.

23. Ibid.

24. Ibid.

25. Ibid.

26. This was an analogy made originally by Germain Grisez, although she does not mention him by name. Cf. Grisez.

27. Geach, p. 342.

28. Ibid.

29. Ibid.

30. Ibid., p. 343 [emphasis added].

31. Even were this argument false, it seems safe to say at this point that the analogy between wet-nursing and embryo transfer does not hold. In the former case a woman who is already a mother embraces and cares for a needy child with her biological/motherly gifts. In the latter case a woman who is not a mother seeks to activate and engage her biological/motherly gifts by technological means, and with no necessary connection to the marital act. Embryo rescue is more analogous to a woman who is not lactating but takes hormones to cause her mammary glands to produce milk so that she can suckle a needy child. The objection might be in that both women turn their bodies into mere instruments or reduce them to a raw material to be “exploited” to gain a desired end. Would not this be a degrading of the human body and an implicit denial of the body-soul unity?


34. Geach, p. 345.

35. Ibid.

36. Ibid.

38. N.B. Throughout his paper, Tonti-Filippini refers to *heterologous* embryo transfer, however, in private correspondence he widens his condemnation to include *homologous* ET as well (e-mail from Nicholas Tonti-Filippini on August 14, 2000).


40. Smith, p. 72: “Perhaps, the CDF [in *Donum Vitae*] did not intend to address this precise case, but I read here a first principled insight indicating that this volunteer ‘rescue’ is not a licit option.”

41. Cozzoli.

42. Tonti-Filippini, p. 4.

43. One might comment on the statement just cited, viz., that: *It is therefore not in conformity with the moral law deliberately to expose to death human embryos obtained in vitro*. Does thawing them out so that they might expire violate this injunction of the CDF?

44. *Donum Vitae*, I, 5 [emphasis added].

45. Surtees, p. 9.


50. Ibid.

51. Ibid.


53. Geach, p. 342.

54. Tonti-Filippini, p. 4 [emphasis added].
55. Ibid., p. 5.

56. Ibid., [emphasis added].

57. Ibid.

58. Ibid., p. 7.


60. Ibid., p. 347.

61. Ibid.

62. Ibid., p. 351.

63. Geach, p. 343.

64. Watt, pp. 347-8 [emphasis added].

65. Ibid., p. 348 [emphasis added].

66. Ibid.

67. Ibid., p. 349.

68. Here we must note the introduction of the term implantation, whereas Geach uses impregnation. Implantation is an impregnation, but the converse is not necessarily true.

69. Watt, p. 349.

70. In fact, it is curiously akin to attempts to equate “conception” with “implantation.” However, we do not make this remark to cast aspersions on Watt’s commitment to the pro-life cause. Cf. Daniel Avila, “When Does Parenthood Begin” A Massachusetts Court Defines the Issue,” Ethics and Medics, Vol. 25, no. 7, July 2000. pp. 3-4.

71. Ibid., pp. 349-50 [emphasis added].

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