ON THE CATHOLIC VISION OF CONJUGAL LOVE AND THE MORALITY OF EMBRYO TRANSFER

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According to a study performed by the Society for Assisted Reproductive Technology, in 2002 there were nearly four hundred thousand (396,526) frozen embryos in over four hundred assisted reproductive technology facilities in the

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United States. In response to this tragedy, pro-life groups have suggested that these embryos be rescued and implanted into the wombs of women who are willing to "adopt" them, to bring them to term, and to raise them as their own children. Not surprisingly, this proposal to rescue frozen embryos has raised many ethical questions in the pro-life community. It has also sparked a heated debate among Catholic moralists who seek to be faithful to the Church's magisterium: Are there any circumstances in which it would be morally permissible or even morally admirable for a woman to seek to have an abandoned embryo implanted in her womb?

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2 Recently, a Christian pro-life group established the Snowflakes Embryo Adoption Program (www.snowflakes.org), which connects genetic parents who have unwanted frozen embryos with adopting parents who are seeking to rescue these embryos. For the description of a specific case of embryo adoption, see JoAnn L. Davidson, "A Successful Embryo Adoption," *National Catholic Bioethics Quarterly* 1.2 (Summer 2001): 229–233. For an ethical analysis of this case, see John Berkman, "Adopting Embryos in America: A Case Study and an Ethical Analysis," *Scottish Journal of Theology* 55.4 (November 2002): 438–460.


The unitive good of marriage, also called the good of the spouses, is one of the twofold ends of marriage, the other being the transmission of life; see *Catechism of the Catholic Church*, n. 2363.

Congregation for the Doctrine of the Faith, *Donum vitae* (February 22, 1987), II (B), 4.
between husband and wife. Next, I will argue that this same vision of marriage and conjugal love rules out HET, because recent scientific discoveries have shown that gestation is another telos of the one-flesh union. A husband and a wife gestate their embryo together. Like procreation, gestation is a fruit of the one-flesh union. Thus, HET is unjust because it deprives a husband of his proper role of establishing a pregnancy in his wife, thus attacking the unitive good of marriage. Finally, I will propose that in contrast to HET, homologous embryo transfer is morally permissible.

**THE CATHOLIC VISION OF MARRIAGE AND SEXUALITY: THE MEANING OF THE CONJUGAL ACT**

Human sexuality has a unique place within the vision of Christian marriage accepted as normative by the Catholic tradition. It is ordered to the conjugal love of man and woman:

Sexuality, by means of which man and woman give themselves to one another through the acts which are proper and exclusive to spouses, is not something simply biological, but concerns the innermost being of the human person as such. It is realized in a truly human way only if it is an integral part of the love by which a man and woman commit themselves totally to one another until death.²

In other words, the conjugal act is the pre-eminent act and sign of the unity, intimacy, and exclusivity proper to marriage. It is an act that both seals and renews the covenantal relationship between man and woman in marriage. As Pope John Paul II has beautifully portrayed in his “theology of the body,” in sexual intercourse, a husband and a wife give themselves to each other in a mutual exchange of persons. The Holy Father has described this total self-donation and fidelity communicated by sexual intimacy within marriage as one dimension of the “language of the body.” In sexual union, a married couple speaks a language of love. They tell each other, “I give myself totally to you. I also receive you totally.” In and through the conjugal act, the spouses come together in such a profound way that they literally become a one-flesh union. As Gerald Bradley, Robert P. George, and Patrick Lee have convincingly argued, in the conjugal act, one can say that, in an analogous sense, a man and a woman become a single organism in order to procreate. The conjugal act is unitive precisely because it is procreative in kind.³

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¹²This is one reason why the sexual coupling between two men or two women is not unitive. By definition, it is not procreative, and as I will argue below, not gestative, in kind.
Conjugal love naturally tends to be fruitful unless impeded by age or fertility problems. It is ordered to the procreation and education of offspring in fulfillment of the Creator’s command that man and woman be fruitful and multiply (see Gen. 1: 28): “By their very nature, the institution of matrimony itself and conjugal love are ordained for the procreation and education of children, and find in them their ultimate crown.”\(^{13}\) Children are the supreme gift of marriage and also contribute to the good of the parents themselves.\(^{14}\) “A child does not come from the outside as something added on to the mutual love of the spouses, but springs from the very heart of that mutual self-giving” that defines conjugal love “as its fruit and fulfillment.”\(^{15}\) Thus, the conjugal act is ordered toward the procreation of children and the creation of a family. It is ordered to life. Indeed, the Church teaches that “each and every marriage act must remain open to the transmission of life.”\(^{16}\)

Finally, as Pope John Paul II has pointed out, expanding on the teaching of his predecessor, Paul VI, there is an inseparable link between the unitive and procreative dimensions of sexuality because an essential component of the total self-gift that unites the spouses is the mutual self-donation of their fertility. When both spouses engage in the conjugal act during their fertile period, they give to each other what the other needs to become a parent. This is part of their total self-gift: “It is in their bodies and through their bodies that the spouses consummate their marriage and are able to become father and mother.”\(^{17}\) To put it another way, the husband potentially becomes a father through the gift of self to his wife, and the wife potentially becomes a mother through the gift of self to her husband. Moreover, because of the exclusive nature of the total self-gift that is an integral part of the one-flesh union that defines marriage, the Catholic Church teaches that “the bond existing between husband and wife accords the spouses, in an objective and inalienable manner, the exclusive right to become father and mother solely through each other.”\(^{18}\)

**HETEROLOGOUS EMBRYO TRANSFER AND THE MEANING OF THE CONJUGAL ACT**

Advances in technology have now made it possible to transfer an abandoned embryo—an embryo whose biological parents have decided that he is not needed for the fulfillment of their reproductive needs—into the womb of a woman who is not his mother. However, what is technically possible is not for that very reason morally permissible. Rather, as the Sacred Congregation for the Doctrine of the Faith has made clear, the profound personal and theological meaning associated with human sexuality and procreation along with the intrinsic dignity of the human person deter-

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14 Ibid., n. 50.

15 *Catechism*, n. 2366.


17 *Donum vitae*, II (B), 4.

mine the moral limits of technological interventions at the beginning of life.\textsuperscript{19}

The Catholic vision of conjugal love sketched above ipso facto rules out HET. Recall that the conjugal act is ordered toward the procreation of children. When both spouses engage in the conjugal act during their fertile period, they give each other what the other needs to become a parent. But what exactly do they give each other? Clearly, one thing they give each other is what is needed to conceive a child—\textit{their} child. This is part of the total self-gift that brings about the one-flesh union. In biological terms, the man gives his wife his sperm, and she in turn gives him the opportunity to fertilize her egg. Thus, the Catholic Church teaches that technical interventions that result in a conception apart from a specific act of conjugal union are morally illicit because, fertilization is illicitly sought when it is the result of a “conjugal act which is \textit{per se} suitable for the generation of children to which marriage is ordered by its nature and by which the spouses become one flesh.” But from the moral point of view, procreation is deprived of its proper perfection when it is not desired as the fruit of the conjugal act, that is to say, of the specific act of the spouses’ union.\textsuperscript{20}

In other words, any technical intervention that violates the inseparability principle by severing conception from a specific conjugal act attacks the unity, integrity, and meaning of the one-flesh union. It separates that which should not be separated if one is to respect the human dignity of the two spouses: “Fertilization achieved outside the bodies of the couple remains by this very fact deprived of the meanings and the values which are expressed in the language of the body and in the union of human persons.”\textsuperscript{21} This logically follows from the link, both personal and biological, between the conjugal act and conception.

Recent research has now shown that the husband and the wife engaging in the conjugal act during their fertile period give each other more than simply what is needed to conceive a child. Reproductive immunologists have discovered that a successful pregnancy requires a state of maternal immune tolerance to accommodate the embryo. Furthermore, several laboratories have published data that indicate that semen plays an integral role in the establishment of this immune tolerance.\textsuperscript{22} These studies suggest that a man’s semen primes his wife’s body so that her womb will tolerate an embryo that is generated from the union of his sperm and her egg. To put it another way, a man’s semen deposited during intercourse appears to condition his wife’s immune system so that it will not reject his immunologically unique molecular signature, a signature that his embryo would inherit. Thus, it is not surprising to discover that exposure to semen during sexual intercourse around the time of a morally illicit IVF (in vitro fertilization) embryo transfer significantly increases the likelihood of successful early

\textsuperscript{19} \textit{Deus vivet}, II (B), 7.
\textsuperscript{20} Ibid., II (B), 4.
\textsuperscript{21} Ibid.
embryo implantation and development. Furthermore, the incidence of pre-eclampsia, a disorder believed to be caused by an overly aggressive maternal immune response toward paternal markers in the placenta, is diminished in a woman following prolonged exposure to her partner’s semen, with this protection being partner-specific. These are just two of the growing number of scientific studies that indicate that the father of the embryo has an essential role to play, not only during the conception but also during the implantation and gestation of his embryo.

In light of these discoveries, we can now say that a husband, as part of his total self-donation during the conjugal act, gives his wife the capacity to implant and to gestate the child they both conceive together. Consequently, in its fundamental structure, the one-flesh union, and thus, the conjugal act, is not merely ordered to conception. In fact, it is biologically ordered toward both the conception and the gestation of a child. Thus, both the procreation and the gestation of a child contribute to the unitive good of marriage, because both are ends that are attained by both spouses working together. Putting it another way, the conjugal act is unitive because it is procreative and gestative in kind. To extend the analogy mentioned earlier, when a man and a woman come together in sexual union, they become a single organism that conceives and gestates their child. Both parents are involved not only in begetting their child but also in caring for him from the earliest days of his life. There is no period in the child’s early life when he is not dependent on both his parents for his life and wellbeing.

Given this and the rationale of the inseparability principle, however, any technological intervention that severs the gestation of an embryo from a conjugal act of his parents logically would be morally illicit. In other words, because of the exclusive nature of the total self-gift that is an integral part of the one-flesh union, the marital covenant gives the husband the exclusive right to establish a pregnancy in his wife through their conjugal acts. He should be the one who prepares and helps his wife to implant and gestate their embryo. He should be the one who helps her become pregnant. Heterologous embryo transfer, however, robs the husband of this unique and privileged role. Instead, he is excluded from his wife’s pregnancy. He cannot play the paternal role in the gestation of the embryo that is justly his because he is her husband.

Notice that the scientific discoveries in reproductive immunology described above suggest that to increase the chance of successful implantation, it may soon become routine to introduce sperm-free semen taken from the

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25 Obviously, the limited success of HET suggests that the embryo’s father is not absolutely necessary for the successful implantation of his embryo. Without priming, the woman is still able, albeit at a low frequency, to immunologically adapt to another man’s embryo in order to successfully gestate it. This, however, is the exception and not the rule. Biology rarely involves absolute prohibitions. To take another example, there is a biological mechanism that normally prevents an egg from being fertilized by more than one sperm. However, the mechanism is not absolute, and eggs are sometimes fertilized by two sperm. The products of these conceptions give rise to partial hydatidiform moles.

26 Clearly, conception and gestation usually occur hours and days after sexual intercourse. However, both are still the fruit of the conjugal act. Both require the active contribution of both spouses.
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adopted embryo’s father into the womb of the woman in whom his embryo will be placed. Significantly, all the husbands I know find this suggestion repulsive. They reject it because of an intuition that the use of sperm-free semen introduces another man, the biological father of the adopted embryo, into the intimacy of the marital covenant they share with their wives. In the end, HET is unjust because it denies a man of his unique and privileged role as a husband to help his wife establish a pregnancy in her womb. In doing so, it attacks the unitive good of marriage.

In sum, given the personal and biological link between conception and the conjugal act, the magisterium has properly taught that only a husband and a wife should conceive only through exclusive conjugal acts in which both engage. This is part of their marital covenant. Thus, homologous artificial insemination is ruled out. By extension, however, given the personal and biological link between the gestation of the embryo and the conjugal act, it follows that a husband and a wife should only gestate an embryo and establish a pregnancy through exclusive conjugal acts in which both engage. This, too, is part of their marital covenant. Thus, HET—including the rescue of frozen embryos—is ruled out. Like homologous artificial insemination, it underlines the meaning of the one-flesh union and objectively deprives conjugal fruitfulness of its unity and integrity. It is morally illicit by the force of the premises.

RESPONDING TO OBJECTIONS

Several objections are possible. First, Germain Grisez has argued for the licity of HET by comparing it to wet-nursing.27 He argues that a woman who transfers an already existing child into her womb in order to gestate him and save his life is akin to a woman who takes a child to her breast in order to nurse him and save his life. Since wet-nursing is morally licit,28 Grisez concludes that HET, too, is morally licit.

In light of the scientific discoveries summarized above, however, the comparison fails. There are morally significant differences between HET and wet-nursing. Nursing is an act that does not involve the father of the child. It is something a mother and her child do together. Thus, wet-nursing does not deprive the father of a role that is properly his, and thus is not unjust. It does not attack the unitive good of marriage. Gestation, on the other hand, is—like conception—an act undertaken by both parents working together in and through their generative powers manifested in the one-flesh union of the conjugal act. This cooperation ensures that the pregnancy is not immunologically compromised and that it successfully proceeds to birth. Therefore, unlike wet nursing, HET does deprive the father of a role that is properly his. It does attack the unitive good of marriage.

Next, William E. May has argued that my argument, advanced in this essay, is flawed for two reasons: It confuses an act’s natural species with its moral species, and it fails

27Germain Grisez, Difficult Moral Questions, 239–244.

28Incidentally, why do we assume that wet-nursing is good and morally justifiable? I argue that wet-nursing deprives the child of a fundamental relationship of intimacy with his mother that is properly his. Thus, it can only be justified if it is absolutely necessary for his survival. Otherwise, it would be an act of injustice with respect, not to the father, but to the child himself. Notice that recent research has shown that nursing establishes a strong biological bond between mother and child, mediated by the neuropeptides oxytocin and vasopressin. For details, see the review by A. Bartels and S. Zeki, “The Neural Correlates of Maternal and Romantic Love,” Neuroimage 21.3 (March 2004): 1155–1166. I thank John Berkman for helpful discussion of this point.
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... to take into account that the primary source giving an act its moral species is the object freely chosen as the proximate (not remote) end of the acting person, in this case the woman. It also fails to take into account that one cannot identify this object with processes in the external world capable of bringing about various states of affairs, but can grasp it only by viewing it from the acting person's perspective.\(^{29}\)

In response, I agree with Professor May. We should evaluate the morality of the human agent's act by focusing on the object that he has freely chosen. However, I also suggest that the biological sciences can help us evaluate the object freely chosen by identifying those goods that may or may not be attacked by a particular human act.

To illustrate my point, we return to May's argument. In his paper, May argues that the woman who is seeking to have an orphaned embryo transferred into her womb is choosing “to transfer this unborn human baby from the liquid nitrogen to her womb and to nurture it there until birth.”\(^{30}\) This is the object of her act. After an extensive analysis, May concludes that this freely chosen object is not opposed to any good of human persons. Thus, he argues that HET is morally licit. For argument's sake, however, let us imagine that the woman who seeks to transfer the embryo suffers from an immune disorder whereby her body would attack any developing fetus, leading to a miscarriage. A question to Professor May: Knowing this, would it still be good for this woman to adopt the abandoned embryo and transfer him into her womb? I would say no. In this particular circumstance, the freely chosen object would attack the good of the life of the embryo, since it is likely that the child will be killed if he is transferred into this woman's womb. Biology can and should influence our moral evaluations of different freely chosen objects.

In the same way, I am arguing that the recent discoveries in reproductive immunology described above alert us to the truth that every woman who freely chooses to transfer an abandoned embryo from the freezer to her womb and to nurture him there until birth is in fact attacking the unitive good of marriage in the same way that artificial insemination by husband (also known as homologous artificial insemination) attacks the same good—that is, both undermine meaning-laden biological processes that manifest the one-flesh union that is at the heart of marriage. This is intrinsically evil. Professor May is correct when he argues that biology does not define the moral species. However, it does help us evaluate the object of the act freely chosen by the acting person.

Third, in a related objection, E. Christian Brugger has argued that biology cannot determine moral norms unless it meets two criteria. He writes:

The biology alone, it seems to me, should not be taken as morally determinative since the biological contribution that the man's semen has to the woman's immunological system is something that is almost never intended by couples since most people know nothing about it; and you cannot intend something that you do not know or at least believe is possible. Deriving therefore an irrevocable negative norm from the biological fact that a man's semen plays an important but non-essential role in preparing a woman's body for an immunologically compatible implantation is illicit.\(^{31}\)

\(^{29}\) William E. May, "Rescuing Frozen Embryos," p. 157 of this volume.

\(^{30}\) Ibid., 144.

\(^{31}\) E. Christian Brugger, e-mail message to author, February 28, 2005.
In other words, for Brugger, a particular biological fact can be morally significant only if it is included within the intention of the couple and if it plays an essential biological role in procreation.

In response, I argue that the moral significance of a biological fact cannot simply depend on whether it is included in the intention of the couple or whether it plays an essential role in procreation. Take the biological fact that conception involves the active contribution of both spouses working together as a one-flesh union. As we discussed above, because of this biological fact, the Church teaches that separating conception from a specific act of conjugal union attacks the unitive good of marriage and is thus intrinsically evil. This moral truth remains despite the fact that for millennia, spouses could not have intended conception when they engaged in the conjugal act, since fertilization was discovered only in 1876. Furthermore, this moral truth holds despite recent advances in cloning technology that have now made conception nonessential for procreation—Dolly the sheep was created without a father. In the end, conception has moral significance as a biological process because it is a manifestation of the one-flesh union. It is a biological process undertaken by both spouses cooperating in and through their bodies. In the same way, we now know that gestation requires the active contribution of both spouses. It, too, is a biological process undertaken by both spouses cooperating in and through their bodies. Therefore, separating the gestation of an embryo from an act of conjugal union involving both his parents would undermine the unitive good of marriage.

Finally, critics may respond by pointing out that HET cannot attack the procreative good of marriage because the child was conceived prior to his transfer into his adopted mother’s womb. Indeed, the embryo’s adoptive parents, who had no role in the morally illicit IVF that conceived him, are simply trying to save his life. This is certainly true. However, the argument of this paper is that HET, like homologous artificial insemination, attacks not the procreative but the unitive good of marriage.

THE MORALITY OF HOMOLOGOUS EMBRYO TRANSFER

Although the debate over the morality of embryo rescue has focused on the morality of HET, it also raises the related question of homologous embryo transfer: Would it be morally permissible for a physician to implant an embryo of a Catholic couple, who after recognizing the evil of IVF, seek to bring their child to term in his mother’s womb? Alternatively, would it be morally permissible for a surgeon to transplant an already implanted embryo from an ectopic location to another location in his mother’s womb in order to save the embryo’s life? Given the moral analysis described above, I suggest that each of these procedures would be morally licit if it were preceded by a conjugal act between the father and the mother of the embryo. Here, the father of the embryo properly plays his role in establishing the pregnancy in his wife, even though conception, in the case of the IVF, occurred outside her body. In other words, he still prepares his wife to receive and implant their child, something he does every time he engages in marital intercourse with her. In this way, despite the evil of IVF, homologous embryo transfer respects the integrity of the marital covenant.

EMBRYO ADOPTION?

Finally, we should note that it has become commonplace to equate embryo adoption with HET. This, how-

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32 I thank John Grabowski for comments on an earlier draft of this essay, which raised the issues addressed in this paragraph.
ever, does not have to be the case. Adoption has been a part of human culture for millennia. In the biblical world, it involved the establishment of a covenant between parent and child that is the equivalent of a blood relation. Even today, our secular culture understands that adoption involves the creation of a unique relationship of responsibility between the adoptive parents and their adopted child. Thus, embryo adoption should be seen as much more than HET. A couple who adopts an abandoned embryo enters into a parental relationship with the child. The adopted embryo becomes their child. They assume the responsibility of caring for him and meeting his needs just as they would for a child whom they conceived together. However, as I have argued above, because of the meaning of the conjugal act that is determined by the structure of the one-flesh union, embryo transfer should be restricted to those embryos who are being transferred into the wombs of their biological mothers. In other words, adoption does not radically eliminate all the differences between adopted and biological children. Blood still counts. Therefore, instead of implanting their adopted embryo into his mother's womb, adoptive parents could pay for the cryopreservation necessary for the survival of their child until incubators capable of bringing him to term are invented.

CONCLUSION

Are there any circumstances in which it would be morally permissible or even morally admirable for a woman to seek to have an orphaned embryo implanted in her womb?

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34 Significantly, the Church acknowledges this when she invalidates marriage between blood relatives up to and including the fourth degree in the collateral line but between adopted relatives only up to and including the second degree in the collateral line. See *Code of Canon Law*, nn. 1091 §2 and 1094.

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35 Nicholas Tonti-Filippini suggests that we have an obligation to return an anhydrated cryopreserved embryo back to as normal a living state as we can. He argues that it is not acceptable to keep the embryo in a state of total suppression of dynamism and arrested development, an ambiguous state, which, according to Tonti-Filippini, is neither life nor death. See his “Embryo Rescue Debate,” 132–136. I disagree. I suggest that the cryopreserved embryo can only be in one of two states—the human being is either dead or alive. Either he has a soul or he does not. If the cryopreserved embryo is not dead, then he is alive. And if he is alive, then he is being kept alive by the state of cryopreservation. It should, therefore, be morally justifiable to keep him in this state until we are able to release him from the cryopreservation with some reasonable chance of survival. Notice the analogy to a trauma patient who is placed into a drug-induced coma, a state which in itself, had it been induced outside a medical context, would constitute an offense against the respect due to human beings. Nevertheless, it is clearly morally justifiable to keep him in this state until he has a reasonable chance of survival when he is returned to consciousness. It should be no different with cryopreserved embryos.

36 I have intentionally chosen to use the word incubator instead of artificial womb here, because I do not think that the distinction has moral significance. Incubators are machines used to sustain the life of a developmentally immature human being outside his mother's womb until he is capable of independent life. I argue that it is morally irrelevant whether the gestational age of the human placed in the incubator is one week or twenty-four weeks.
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In this essay, I have argued that there are none. The privilege of becoming pregnant, because it is an activity undertaken by both spouses working together, has to be reserved to marriage. This is a truth that is built into the very meaning and nature of the conjugal act that is determined in part by the structure of the one-flesh union, notwithstanding good personal intentions.