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# ETHICS & MEDICINE

An International Christian  
Perspective on Bioethics



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From the Editor

# THE KEVORKIAN STORY CONTINUES

Whether we regard retired (out-of-work?) pathologist Jack Kevorkian, the spectre now haunting the sickbeds of Michigan, as a serial killer (as described by one ethicist) or a defender of the dignities of the patient (like Jack Kevorkian), the question we all confront is whether his is the face of the future. For in almost unbelievable caricature he has emerged as champion of the 'rights' of the sick to end their lives in that strange combination of self-destruction and homicide represented by 'physician-assisted suicide'. The traditional 'right-to-die' people (and, we say it again: whoever denied anyone the right to die, such that anyone troubled to consider dying a 'right' to be asserted? The 'rights' claimed in this discussion are not so simple: a 'right' to have someone kill me at my request; a 'right' to be allowed to kill myself unimpeded, when I feel like killing myself; a 'right' not so much to die as to opt out of dying – a 'right' to be killed, or to kill myself, *instead*. We could go on.) – the traditional euthanasia advocates don't know whether he is bane or blessing, though they do know that the best way to make him a blessing is to call him a bane. That makes them seem more responsible that he is (many of them really are, to be fair); and (since much public unease with Kevorkian is coupled with sympathy for his intentions) focuses attention on the need for Kevorkianism to be subject to appropriate bureaucratic control (beloved of Americans, whatever they say about supposed dislike of 'big government').

So, is Kevorkian the face of the future? The referenda in Washington state and California were nearly won by the physician-assisted suicide (i.e., pro-euthanasia) people. They claim that it is only a matter of time; that the question is when and not if. And they may, of course, be right; although democracy is all about putting people with such confidence in the inevitability of their ideas in their place. It is much to be hoped that the American people will do just that. For, of course, if Kevorkianism is triumphant here, it is hard to see how it will be contained – not least, of course, because Jack the Snuffer's bills (assuming he charged; his work at present seems to be *pro bono*, though not least *pro bono* himself) would be

very much smaller than almost any other which the chronic and terminally sick 'patients' he has attended will ever have seen before, or would have again. Euthanasia is cheap by any standards; by American healthcare standards, extraordinarily so.

The big question is whether the immense strength of the (largely conservative) churches will be able to be brought to bear. Since some 43% of Americans are in church each Sunday, the potential for Christian influence in this radically secular culture is great, though it has proved hard to exercise. It is very much easier for change to be resisted than for it to be effected, since – as in traditional military doctrine – the defence has a major built-in advantage. Had there been the public opposition to abortion in the U.S. of twenty years ago which there is today, it is hard to imagine *Roe v. Wade* being handed down. So there is the potential for a most effective opposition to the Kevorkian way – curiously aided, of course, by substantial commercial interests which would rapidly collapse in a Kevorkian culture (the growing elderly population are alive, consumers of goods and services, especially healthcare services; aside from a surge in business for morticians, and perhaps 'retired' pathologists, there would be no compensatory commercial advantage in their being dead. This is a most serious argument; and much could turn on the awakening of business interests to their stake in this ethico-political debate, which as the anti campaigners found in Washington state and California is starved of the funds which, over here at least, win elections).

At the same time, little can be achieved without the informed commitment of the Christians themselves, and there is sparse evidence of serious educational and consciousness-raising activity in the churches themselves and in the powerful para-church groups which deeply influence the Christian community on social questions. The need is immense, and the time to begin a series of multi-faceted programmes was yesterday – unless, that Kevorkianism is to go down in the history-books as the chapter following *Roe v. Wade*.

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*Ethics and Medicine* moves ahead at the beginning of its tenth year with a 50% increase in extent, and an editorial reorganization designed to reflect our growing international character – including the establishment of a North American board.



Kirkland Young, Washington, D.C.

# THE ZYGOTE, THE EMBRYO, AND PERSONHOOD: AN ATTEMPT AT CONCEPTUAL CLARIFICATION

The goal of this paper is the conceptual clarification of the notion of personhood. I intend to propose and defend the thesis that every human being is properly viewed as a person from the moment of conception. To answer the question, 'What is a person?' one needs to recognize that, viewed biologically, even an adult human being cannot be said to be a person. To a biologist *qua* biologist, I am simply a human organism. Genetics is only indicative, not determinative of the category 'person'. As O'Donovan notes, 'Genetics can only indicate, but cannot demonstrate personal identity, (for) "person" is not a genetic or biological category.'<sup>1</sup> At issue then is the determination of the significance of the biogenetic facts. One is interested in determining when human life attains moral status.

## NATURAL KIND

A functionalist view claims that the rights of a zygote/embryo/fetus develop gradually, just as its body does. When this human being reaches a certain point, it acquires personhood and thus the right to be valued as such. Fletcher declares that the definition of a person implies a developed capacity for self-awareness, intelligence, communication, and ability to relate to others.<sup>2</sup> The operative word here is 'developed'.

Disputing this, one may claim that personhood is not to be identified with any intellectual activity, but with that which underlies such activity; an abiding substance of some sort. This idea of an abiding substance finds its philosophical roots in Aristotle's conception of 'nature' or 'natural capacity' or 'natural kind,' which is the ultimate source of a being's activity or powers.

Natural kind, being more basic than function, should be considered more decisive in the determination of

To say that a human is self-determining presupposes a self-determining structure, and one must not mistake the function for its structure.

personhood. Iglesias concurs, stating that 'what makes us persons is the kind of beings we are, the kind of nature we possess'.<sup>3</sup> The prescription for a personal function is present before the function manifests itself. This prescription is found in the original genetic structure of the organism. When the future is prescribed, then it is present in that prescription. The genotype is actually, in the present, its potential future because its constitutional prescription in the present will control and guarantee the future.<sup>4</sup> To say that a human is self-determining presupposes a self-determining structure, and one must not mistake the function for its structure.

The concept of nature is critical for developing a philosophy of personhood. It provides a link between the biological and the moral realities. Seidl, repeating Boethius, states that 'Nature is the specific property of any substance, while person is the individual substance of a rational nature.'<sup>5</sup> Nature, or natural capacity, is possessed by the substance.

## THE RELATION OF SUBSTANCE TO NATURAL KIND

'Substance' is admittedly a metaphysical term but it may be seen as necessary for establishing continuity of existence when referring to a person. Certainly the functionalist viewpoint does not wish to establish functions as the only requirement for the existence of a person. To do so would be to say that the person exists only when he exercises those functions. To say this gives no reason why, for example, we could not say that a different person comes into existence every time that function operates. This might be seen to be the case particularly after a function has been absent or quiescent for a long period of time; after a long period of sleep, for example.

The person's value, it seems, could not plausibly be located in his functions. The functionalist position has been rejected by many writers because of its subjectivity. If rationality, for example, is to be the *sine qua non* of personhood, how much ability to reason would a human have to demonstrate in order to be awarded the status of 'person'? What would count as the lowest threshold of



one's 'capacity to desire,' or 'attainment of self-consciousness'? It seems that these landmarks of personhood could be changed from time to time by a society or a group of philosophers, in order to serve questionable interests.

The subjectivity of the functionalist's view sometimes reveals itself in Tooley's circularity. After founding personhood on the basic moral principle of self-consciousness, his defence of this, at root, is that 'it seems a conceptual truth that things that lack consciousness, such as ordinary machines, cannot have rights.'<sup>6</sup> Pestrana<sup>7</sup> rightly recognizes this as simply begging the question. Such an example of circularity and subjectivity cannot hold much logical ground for long.

The construct of 'substance' points not to a quality or even a complex of qualities, but to a 'someone who . . .'. The conceptual thrust is that there must be something that gives a person a continuity of existence. No quality will do this, for qualities can come and go even after having first manifested themselves. If an individual's rationality does not inhere in something (e.g. a substance or nature), then we are left without an identity or continuity from one act of rationality to another. It is in search of this continuity that we must now go.

In an Aristotelian view, the functionalist's qualities and actions are upheld and supported by 'substance,' to which they are secondary. In humans, the personal being is distinct from personal action and is related to it as a cause is to its effect. Such a view would agree with P. F. Strawson when he asserts that 'a person is not a quality; persons have qualities. Qualities have nothing; they are had.'<sup>8</sup> That is to say, that I (person) *have* states of

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However, what is not recognized by such functionalists is that the zygote is properly described as a rational being, because that is the type of fundamental being that all humans, at whatever stage, are. It is what humans are that determines what they do, not the other way around. 'If we can attain self-consciousness at some stage, we must already be the kind of beings that can attain it. The inseparability of what a thing is and its capacities is particularly manifested in its organic continuity.'

consciousness and corporeal characteristics. The construct of 'substance' accounts for this.

But, it may be argued, 'substance' alone constitutes only a general sort of substrate or foundation for functional capacities, but substance is a part of animals, as well. What is it that distinguishes animals from man? The Aristotelian concept of 'nature' can serve us here. As Seidl notes, 'The rational nature of man is the constitutive element of the human person.'<sup>9</sup>

Man's rational nature is not conceptually the same as his substance, but inheres in it. One's nature accounts for the form that the particular substance takes. 'Nature' is the intrinsic principle of operation by which a being acts in a way proper to its kind. 'Nature,' or 'natural kind,' accounts for several things. One is the person's continuity. Moreland observes that 'it is because an entity has an essence and falls within a natural kind that it can exist as a continuant, and possess a unity of dispositions and properties'.<sup>10</sup>

One's nature is also both the drive and determiner of the living being's specifics. Agents act according to their nature/natural kind. Thus, fish become fish, and not trees. It is in the proper concept of nature or natural kind that the right understanding of rationality is to be found. 'To be human is to be rational,' as the people who place rationality as the *sine qua non* of personhood remind us. However, what is not recognized by such functionalists is that the zygote is properly described as a rational being, because that is the type of fundamental being that all humans, at whatever stage, are. It is what humans are that determines what they do, not the other way around.



'If we can attain self-consciousness at some stage, we must already be the kind of beings that can attain it. The inseparability of what a thing is and its capacities is particularly manifested in its organic continuity.'<sup>11</sup>

Once a living substance exists, it possesses a specific nature. It is a particular natural kind, or has certain natural capacities. This nature is present in its totality, but it is only partially visibly manifested as such. It is the contention of Grisez and others that the genotype or

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genetic mechanism of the human being constitutes a biogenetic nature or essence. 'Nature' then is the intrinsic principle of operation by which a being acts in a way proper to its kind. Given that the individuality of the offspring (and thus its substance) is admitted to begin at conception, the human entity with its nature is present in its totality at conception. Only its development is necessary. Thus, this view holds that human zygotes and embryos are not different in kind from a fully developed human. Therefore, the respect due them is the same. Even if certain of the zygote's or embryo's powers are muted or interfered with in the course of its development, its nature continues to exist.

This muting or interference may be compared to the Oriental art of stunting the growth of certain trees for artistic purposes. The nature of the tree is toward a normal development that is different from what is finally manifested. However, though stunted, the nature is still fully present. It is the nature of humans, similarly, to be rational. The constituting feature of 'person' is not in manifested rationality, but lies in the human's rational nature.

If we value what is developed and fully manifested (e.g. rationality), we must also value the locus or source in which it inheres (the nature of the being). Thus, it is the nature of the individual that gives him his worth. Humans are of a certain natural kind. That nature is constituted by the genetic mechanism that all humans have in common. The essence of the natural kind is found in the genetic package at conception. Thus, no individual living being can become a person unless he already is a person. 'No living being can become other than what it already is.'<sup>12</sup>

The biological component of human being links with the moral component of personhood as we discern that the kind of life that the zygote has is personal because of the natural capacity it possesses. The conclusion entailed by this is that all humans, at whatever developmental stage, are linked by their nature or natural kind. Personhood is thus attached to humanity in general, since all human beings have the same nature, essence, and natural capacities.

It is herein argued that a person is much like a scroll, which unfolds what it already is and has always been (e.g. rational). Pestrana addresses himself to this when he observes that 'self-determination, freedom, ability to choose, etc., are not to be considered as completely separated from the capacities where those actions are rooted, since they are not discrete entities like solid blocks, which appear suddenly but rather they are the product of the continuous progression of the capacities initiated at the beginning of the embryo's existence'.<sup>13</sup>

### 'POTENTIAL' IS NOT 'POSSIBILITY'

It is incumbent upon us now to consider and attempt to rectify the common confusion over the term 'potential.' Often the popular understanding of 'potential,' whose meaning is closer to 'probability' or 'possibility' is imported into the professional literature. For example, Kottow characterizes a baby as a potential surgeon. The idea is then proffered that a zygote is a potential person in the same sense that a zygote is a potential surgeon. But to say that a zygote is a potential surgeon confuses the different senses of potentiality.

A human zygote is a potential rational creature because that is the central attribute of its natural kind or capacity. But being a surgeon piggybacks on the potential by adding a probability. This probability is actualized only by environmental and geographic conditions, such as proper education, knowledge of the right references, money and the existence of a medical school.

Only the rational nature, though, can be read off the human zygote and is therefore the term that can be properly called 'potential.' The attribution 'surgeon' does not properly qualify. In short, those attributes that are dependent only on intrinsic and not extrinsic conditions of the zygote are true potentialities. Iglesias is accurate in defining potentialities as 'actually present capacities,' that will eventually manifest themselves. In theory, then, a complete analysis of a zygote will give us its potentiality *in toto*.

The proper view of the fetus' potentiality is 'not a passive potency which is neutral to the future nor an iffy promise, but is an active natural potency or tendency which is a guarantee of the future as far as the agent is concerned'.<sup>14</sup> The difference between the functionalist view and the view herein defended can be characterized briefly. The functionalist views potentiality as the process of development *into* a person. The Aristotelian framework views potentiality as the process of the development *of* a person. A zygote, on this latter view, is not a possible person, but rather a possibly functioning actual person.



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'Potential' persons and actual persons are the same in regard to their fundamental kind of being. The very meaning of 'potential' here when referring to a living organism is that it already is a certain kind of being which will develop according to its proper kind.

What is possible (or 'potential' in popular usage) about the zygote is not its being a person but rather its functioning as a person. That functioning is potential in the sense that the zygote now has only a latent capacity to function and not yet an immediately apparent or measurable capacity since this has not yet had a chance to develop sufficiently.

Potentiality, then, properly understood, means that the living being/person already is a certain kind of being that has yet to develop. And, as Dupre asserts, 'in an essentially dynamic entity, the potential forms a simple reality with the actual'.<sup>15</sup> Perhaps there is a better term for the zygote than 'potential person'. Although infelicitously lengthy, the term might be 'not-yet-unravell'd' (as a scroll), or 'not-yet-played person' (as a cassette tape or film). What must be understood is that all potentialities are already present in the biogenetic mechanism from fertilization onward. As Joyce says, 'every potential is itself an actuality. A person's potential to walk across the street is an actuality that a tree does not have . . . the potential of a human conceptus to think and talk is an actuality . . . the potential to receive actualization . . . is itself an actuality that is not had by something lacking it'.<sup>16</sup> Potentiality is something that a living being actually possesses, that need only play itself out. And it will do so inevitably if only conditions permit.

A zygote simply becomes itself when it grows into an adult. The embryo as potential person does not mean that the embryo is growing into something else, but rather that it is becoming what it already is.

Wade is helpful in noting that the Aristotelian notion of potentiality is not something new even to the popular mind. In our everyday lives, we regularly apply future predicates to present biological organisms when there is

an issue of active natural capabilities. In his example, seeds of high yield corn are bought by a farmer. These seeds have the active potential to produce more corn than other seeds of corn. Farmers buy it as if it had possessed its future in its present. Were its future not guaranteed by the natural kind or sort of corn it is (or its natural capacity/active natural potential), the farmer could sue for damages and misrepresentation. Thus, by analogy, if personhood consists of self-determination, 'it comprehends at once an actual achievement and the nature which provides the potential for this achievement. In an essentially dynamic entity, the potential forms a single reality with the actual'.<sup>17</sup>

## INDIVIDUATION CONSIDERATIONS

An objection that may be lodged at this point may regard 'twinning.' Prior to implantation, an embryo can develop in any of several ways. It is not yet 'individuated.' Individuation is the point where the embryo can develop only in one direction, be it a single individual or twins. Since it is the oneness and the indivisibility of the object being considered that characterized it as individual, the embryo cannot be considered personal, until individuation has been established.

In Aristotelian thought, matter and form combine to make an individual. Matter is potential and without shape until 'in-formed' or shaped by the form or soul to make the being what it is. The matter has to be of an appropriate organization to receive the form appropriate to its being the sort of entity it is. The matter cannot receive the form until the matter has been properly ordered to receive the specific form. The contention of Donceel is that the matter of human beings is not sufficiently organized to receive the soul or form until approximately day number fourteen after fertilization. This argument goes by the names of 'delayed hominization,' 'individuation,' or 'the principle of sufficient preparation'.

A better understanding of Aristotelian conceptions of form and matter will aid our understanding. Matter, for Aristotle, Ford says, 'because of the eminence of the a substance) which connotes indeterminacy or possibility. It can be actualized in various ways. Only when form is added does matter become recognizable as, for example, a rock, a tree, or a human being. 'Each of these aforementioned entities has a different nature or essence which, thanks to the form, is concretely realized'.<sup>18</sup>

The form makes its matter the specifically determined type of being that it is. Form is the essence of a thing and this thing or being, as form, contains the principle of actuality in itself. 'A sensible thing already is an actuality in a significant sense as soon as there is a sufficient reason to judge that the form which it generates and takes its identity from has become an integral part of its being'.<sup>19</sup>

When considering the human organism, 'form' can be defined as 'natural capacity' discussed above. Paraphrasing Aristotle, Ford says, 'because of the eminence of the causal influence of the form within a body, we can even speak of identifying the essence or nature of a thing with its form'.<sup>20</sup>



It is perhaps instructive that the delayed hominization camp is not united. Whereas Diamond locates the proper time of individuation at the appearance of the 'primary organizer,' Donceel locates it when the brain, especially the cortex, has developed. The appearance of 'the primitive streak is seen by some as determinative'.

Regarding the 'primary organizer' as being determinative, there are indeed problems afoot. It could be argued that all this is an appeal to ignorance, which immediately makes it suspect. Perhaps there is an earlier, more fundamental organizer that is part of the genetic mechanism. It may function as a computer chip would that has the ability to programme and control the body in which it is embedded.

Perhaps we simply do not have the requisite technology to physically identify the true source that runs the genetic show at this point in time. In favour of this view at this juncture is the issue of continuity. No biological data indicate that the primary organizer comes from outside the embryo. If it did, it would mean that some external means of changing the internal nature of the embryo was at work which the blastula could not have developed on its own. But the direct opposite is the case. The organizer comes from and appears within the natural and normal development of the embryo/blastula. Thus, with this continuity established, we certainly do not want to say that a radically, fundamentally new being comes into existence at day fourteen, the time of implantation.

The primary organizer itself is produced by the genetic mechanism present in the zygote, thus indicating that the matter was 'in-formed' from the time of conception. That is to say that the primary organizer was always part of the developing embryo and needed only to be actuated and become visible to our present technology. Diamond

As the embryo plays itself out, we will be able to measure certain aspects of it and we may wish to note several landmarks of development. But it has always been one and only one entity in continuous development, variously visible to us by the level of our technology, but one in which there is always continuity; an individuated form from the moment of fertilization. The entity's unity is still properly found in the kind of being that it is, in its essence. Therein lies its personhood.

gives away his hand when he says in regard to the primary organizer that its origins are obscure.<sup>21</sup> This seems to be a veiled way of saying that the organizer itself may have been present all along, from fertilization. It needed only to become visible. Stated thus, this appears to be another version of the person-as-function argument of the functionalists.

As the embryo plays itself out, we will be able to measure certain aspects of it and we may wish to note several landmarks of development. But it has always been one and only one entity in continuous development, variously visible to us by the level of our technology, but one in which there is always continuity; an individuated form from the moment of fertilization. The entity's unity is still properly found in the kind of being that it is, in its essence. Therein lies its personhood.

The problem of twinning may now be addressed directly. Individuation, according to Donceel<sup>22</sup> and Diamond occurs when twinning can no longer occur. The philosophical engine running this argument involves sorting out identity problems. The assumption here is that until it is visible to our technology that there is clearly and irreversibly one individual or two clearly distinct individuals, we cannot call the organism personal. The contention, intuitively understandable, is that one person cannot be two persons. The idea of cloning, however, does seem to undercut this intuition, where one person may well become two.

However, it is true that between days one and fourteen in the stage of totipotency, or multipotency, it has been noticed that each of the four cells in the morula stage can become an individual person. This is shown to be the case because if one cell is surgically separated, both the separated cell and the clump of three remaining cells, each develop into a separate individual.

The argument, then, is that because each cell could develop into a person, we should not treat the four-cell mass with the respect that we treat a person. This position is open to disagreement. It seems close to a statement of the nature that since we do not know whether one or four persons are present, we are within our rights in treating what is before us as if there were no persons present. This seems a logically questionable path to follow.

In twinning, the original person may continue to exist and the other embryo constitutes a new person, or the original cease to exist and two new persons develop. Certainly, though, there is continuity, or else we would not say 'the original organism becomes two'.

Chimera formation involves two embryos combining and becoming one. There are metaphysical problems of identity skulking about, but there are several possible ways one can view this. Perhaps one of the original persons may continue to live and the other dies and is then taken up into the other person. Perhaps, alternatively, both persons die and a third, a new person, is formed. Perhaps one embryo combines with another person to form one person. This may be seen as not unlike organ transplantation on a higher level.

At the least, it seems that there is an essential (defined here as 'natural kind') continuity between the developed person (at whatever stage) and the zygote. One could



say, at conception, that the basic tendential principle for at least one person was present at fertilization.

The issue of fetal wastage can perhaps be dealt with rather briefly. The argument takes its force from the biological fact that a large percentage of fertilized embryos do not implant. It is of course impossible to be precise in the relevant percentiles, but various studies indicate percentages as high as seventy-five percent.

The contention against personhood here is perhaps a version of the naturalistic fallacy, arguing from an 'is' to an 'ought'. An empirical natural fact such as embryo wastage by itself cannot tell us what the nature of the embryo is. Drought, floods, and earthquakes are all natural occurrences which result in loss of life of incredible magnitude. This loss in and of itself cannot be the moral barometer to decide for us the nature of the individuals lost. Any argument that includes the assumption that nature is typically moral or efficient is immediately suspect. An embryo's personhood rests then in his being, not in his acts or functions or in what happens to him.

1. Oliver O'Donovan, *Begotten or Made?* (Oxford: Clarendon Press, 1984) 56-57. Cf. Stephen Schwarz and R. K. Tacelli, 'Abortion and Some Philosophers,' *Public Affairs Quarterly* 3 (April, 1989):81-97, and J. W. Montgomery, 'The Fetus and Personhood,' *Human Life Review* (Winter, 1975): 42-45.

2. Joseph Fletcher, *Humanhood: Essays in Biomedical Ethics*, (New York: Prometheus Books, 1979): 12-16.

3. Teresa Iglesias, 'IVF: The Major Issues,' *Journal of Medical Ethics*, 10 (1984): 21. For a fuller treatment of Iglesias' position, see Iglesias, *IVF and Justice* (London: Linacre Centre, 1990).

4. F. C. Wade, 'Potentiality and the Abortion Decision,' *The Review of Metaphysics* 29 (1975): 245.

5. Horst Seidl, 'The Concept of Person in Thomas Aquinas,' *The Thomist* 51 (1987): 437-8.

6. Michael Tooley, 'Abortion and Infanticide,' *Philosophy and Public Affairs*, 45.

7. Gabriel Pestrana, 'Personhood and the Beginning of Life,' *The Thomist* 41 (1977): 268.

8. P. F. Strawson, 'Persons,' in G. N. Vesey, editor, *Body and Mind*, (London: Unwin and Allen, 1964).

9. Seidl, 449.

10. J. P. Moreland, 'A Review of James Rachels' *The End of Life*,' *The Thomist* 53 (1989): 714.

11. Iglesias, 'IVF: The Major Issues,' 24.

12. Robert Joyce, 'Personhood and the Conception Event,' *The New Scholasticism* 52 (1978): 346.

13. Pestrana, 251.

14. Wade, 245.

15. Luis Dupre, 'Philosophical Considerations,' *Beginning of Personhood*, ed. by Don McCarthy (Houston: Institute Of Human Development, 1973): 79.

16. Joyce, 100.

17. Jack Healy, 'The Christian Notion of Personhood,' *Linacre Quarterly*, (August, 1989): 79.

18. Paul Cox, 'An Argument Against Abortion: Germain Grisez,' *Monograph of International School of Theology*, (July/August, 1990): 3.

19. Cox, 3.

20. Norman Ford, *When Did I Begin?* (New York: Cambridge University Press, 1988): 24.

21. J. Diamond, 'Abortion, Animation, and Biological Hominization,' *Theological Studies*, 1975.

22. J. F. Donceel, 'Immediate Animation and Delayed Hominization,' *Theological Studies*, 31 (1), 1970: 78-105.

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# PERSONALISM AND BIOETHICS

The actual scientific and technological progress in the biomedical field offers many possibilities of intervention on human life, but, at the same time, it introduces new elements for the moral thinking. Is anything that is technically possible also ethically possible? Anything that *can* be done, *must* be done anyway? Because an action can be undertaken, does it mean that this action is morally right and also juridically authorized?

The fact that bioethics is achieving great importance in almost every part of the world is a clear sign that the need for a serious and constructive dialogue among scientists, moralists and jurists about life (human and non-human) is deeply felt. On one hand there is a substantial agreement on the necessity of giving some sort of 'limits' to the technical researches and applications and of refusing total and complete trust in scientific progress (there are few people left who believe in the necessity of an absolute

freedom in the scientific and technological field); on the other hand positions differ as far as the choice of moral principle is concerned, principle that should be the boundary line between what is right and what is wrong. It is not a question of justifying the bioethics statute, but it deals with the justification of 'meta-bioethics': we can not talk 'of' bioethics only, but we have to talk, before that, 'on' bioethics. Meta-bioethics tries to give a reason and an explanation to the ethical choice of the values and principles which determine the behaviour of a man when he has to intervene on human life.<sup>1</sup> It is obvious that if meta-bioethics is different, bioethics is also different: if the moral-theoretical principle is different, its practical application is also different.

This is why the main question of the actual debate is no longer: 'are ethical principles necessary to science and technology?', but the question is: 'which ethics for bioethics?'.



And it is just at this level (of meta-bioethics) that the role of philosophy is clear: it deals with discrimination between good and evil in the scientific field and with the right way of acting in the biomedical field.

Because of the existing pluralism in the actual moral and philosophical situation, the values and principles which are proposed in bioethics are extremely diversified.

The lay position is based on the foundation of moral principles '*etsi Deus non daretur*', that is, 'as if God were not', or, 'in absence of God': in other words, this conception tries to justify the moral values and principles on an 'empirical-rational' basis, rejecting the idea of transcendency.

For this reason it is better to talk about 'more bioethics', than about 'one bioethics' only.<sup>2</sup> So many bioethics, so many meta-bioethics.

The question that comes after is therefore inevitable: *what moral foundation in bioethics?* Two of the main positions at the moment: the 'lay' conception and the 'personalistic' conception.

The lay position is based on the foundation of moral principles '*etsi Deus non daretur*', that is, 'as if God were not', or, 'in absence of God':<sup>3</sup> in other words, this conception tries to justify the moral values and principles on an 'empirical-rational' basis, rejecting the idea of transcendency. This kind of approach is factual and 'calculating' (as Heidegger refers to it) and it structurally denies metaphysics. The lay method of analysis is 'empirical-rational', that is, 'truth' is related to the empirical verification of facts and to the logical consistency of the arguments. Sociobiologism, non-cognitivism, utilitarianism and contractualism are some of the most widely spread philosophical trends of the lay perspective, that accept the physical dimension only, and reject any approach that will transcend the material aspect of what is real.<sup>4</sup>

*Sociobiologism* considers the moral values and principles, which belong to a particular society in a particular historical periods, as the result of a sort of 'natural selection' for the natural adjustment of human life to the external world (the 'environment'). When man's behaviour encourages the evolution of the species, then, it is considered positive: the tendency to sacrifice the respect for the individual in favour of the 'adjustment' of the group in its totality is clear.<sup>5</sup>

The theory of *non-cognitivism* by denying the existence of truth in ethics (the well-known formula 'ethics without truth') falls into the most irrational subjectivism. In this case the final moral choice can be neither true, nor false,

since it cannot be empirically verified (the neopositivistic assumption<sup>6</sup>), therefore the moral choice is a 'decision' or, better to say, an act of arbitrary individualistic will. The moral judgment is, in the end, subjective: it is possible to discuss the logical consistency, but the fundamental principle of the moral choice is irrational. From here comes the assumption of the absolute priority of the concept of 'self-determination', meant as individual free-will. Individualism is softened by the suggestion of the concept of tolerance, meant, within the social context, in the 'weak sense' of respect for the (arbitrary) decision of others.<sup>7</sup>

The theory of *neo-contractualism* lets the moral choice try to overcome the individualistic tendency through the search for an ethical criterion that, if not universal, could at least be based on a mutual inter-subjective understanding.

*Neo-utilitarianism* is based on the ethical criterion of what is socially useful: this means the greatest good (that is, the optimization of what is pleasant and minimization of what is unpleasant) for the greatest number. The cost/benefit ratio transposed from the egoistic to the collective level gives life to the definition of the moral principle which is valid for those who belong to the social group.<sup>8</sup>

The theory of *neo-contractualism* let the moral choice coincide with the 'contract' to the agreement among the 'moral actors' who belong to a 'moral community': the moral content is the result of a decision shared by the community members.<sup>9</sup>

From what has been mentioned here, from a theoretical point of view, the result on a practical level is that the lay conceptions (that is all the attempts to found morality on an immanentistic level) imply results which are strongly discriminating in bioethics.

The value of human life is *not* recognized in itself, but it is recognized only under some conditions, that is the condition that human life should encourage the evolution of the species (sociobiologism); that human life should empirically show the sensory capacity of feeling pleasure or grief (utilitarianism); that human life should have the rational capacity to take a decision (non-cognitivism) or to draw a contract to enter the moral community (contractualism). In other words, human life is not respected in its totality: the respect for human life is submitted to the survival and improvement of the species or to the presence of certain functions such as, perceptiveness, rationality and will. But what, if life does not favour the evolution of the species? And what, also, if human life has not yet developed or is no longer able to exercise its sensory and rational capacity?

According to the lay point of view, only *some* of the aspects of human life are respected (morally) and protected (juridically). There emerges the necessity of a philosophical point of view that justifies respect for human life in *all* its aspects. Here is the role of *personalism*.<sup>10</sup> According to the personalistic conception in bioethics human life must be respected *from the moment of conceiving (the fusion of the gametes) until the moment of total cerebral death*.

We are talking about the *ontological personalism* that goes back to S. Tommaso, reconsidered by J. Maritain.<sup>11</sup> This remark is important in order to avoid misunderstandings with other personalistic conceptions like the



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dialogical or existentialistic personalism that tend towards subjective solutions.<sup>12</sup>

Ontological personalism considers the 'person' as the centre of bioethics. The concept of 'person' must be examined very seriously in bioethics as the moral and juridical debate of our days is based on this concept. The assiological and juridical meaning to be assigned to the term itself is unanimously accepted: the 'person' must be morally respected and juridically protected.<sup>13</sup> The 'person' becomes the 'filter' for the definition of what is permitted and what is not in the case of intervention on human life: in other words, whatever does not damage the person is permitted, whatever kills or damages the person is permitted.

The most clear expression of the concept of 'person' has been worked out by S. Boezio, and then reexamined by S. Tommaso<sup>14</sup>: the 'person' is '*individua substantia rationalis naturae*'. Three are the elements that identify a person: 1. substance; 2. individuality and 3. rationality. Each point requires to be analyzed.

The *substance* indicates the act of being that has in itself the reason of its own being: substance means the presence of an ontological substratum that transcends the mere joining of the parts and goes beyond the acts (it is the metaphysical principle: the whole is more than the sum of parts and acts).

The *individual* aspect specifies the principle of distinction of every existing human being: our body, or still better, our genetic code makes us unique.

The *rationality* refers to a feature which belongs to the essence (or, as we said before, the substance or 'nature') of a human being, even if the human being is not able to exercise it.

Only because of the fact that a 'human being' is (that is, exists), he/she is a 'person', *apart from the capacity of behaving* in some particular ways, *apart from the capacity of actual exercise of perceptiveness, rationality and will*. Human beings are much more than their own acts: a person 'is' a person, even if he/she doesn't 'behave' (actually) as a person. The 'person' is much more significant than his/her 'acts' or the 'sum of the acts' performed (perceptions, thoughts or wishes): person transcends them. Human beings are the one physical, psychic and spiritual totality: the metaphysical element is the condition of the physical and psychic element. It is this ontological conception of 'person' that distinguishes the theory of personalism from all the other lay conceptions in bioethics.

In short, the theory of personalism justifies the *identification between the 'human being' and the 'person'*. 'All human beings are persons' is a statement that appears obvious: on the contrary, it is no longer obvious, and it needs to be philosophically justified as the lay positions have opened a discussion about it. For the theory of ontological personalism all human beings are 'persons': zygotes, embryos, fetuses, new-borns and children are 'persons', as they all possess *in nuce* all those elements that develop and allow them to become accomplished human beings. In the same way, the elderly, the handicapped, the insane and the terminally-ill, are 'persons', even if they do not perform some particular actions. The biological cycle of human life is an expression of the personal human life: every single expression of human life must be respected and protected.

The lay positions reject the ontological principle and identify the existence of a human being with the empirical observation of certain kinds of behaviour or actions. In this case the idea of person is reduced to a series of acts: the principle for the identification of the 'moral-subject' or of the 'law-subject' (that is of a 'person') is factual and functional. The existence of the 'human being' is not sufficient to recognize the fact that the 'person' exists. The theory of sociobiologism indicates that individual human life is subservient to the human life of the species. The theory of utilitarianism maintains that our personal life coincides with our sensory consciousness: what is useful, as already mentioned, comes from the cost/benefit ratio of the action and indicates the actor's perceptive capacity to distinguish what is pleasant and what is not. The theories of non-cognitivism and contractualism identify our personal life with our rational consciousness (that is with self-awareness, intelligence and memory), as well as with our capacity of self-determination.

Within these theories we can identify a restriction of the meaning of the term 'person', as this can not be assigned to all human beings: as a matter of fact, it can not be assigned to subjects who are not perceptive (zygotes and embryos until the nervous system is at least initially formed; as well as people who suffer brain damages that prevent from exercising any kind of sensory function) or to subjects who are not considered 'rational' (embryos, fetuses, children, and also some old people, seriously mental handicapped people, end-patients, as none of them is conscious and has memory). But, at the same time, the term 'person' may be assigned, paradoxically, to beings who are not human like animals (as they



'feel') or robots and artificial intelligences (as they exercise 'calculating' rationality).

In short, the personalistic theory, based on the ontological foundation of the concept of 'person', assigns the personal ordinance to the human being as it recognizes the existence of a unitary and permanent centre that transcends outward manifestations and behaviours. On the contrary, the anti-personalistic approach recognizes the personal ordinance of some human beings only (and, of some non-human beings) on the basis of an empirical verification of behaviours. It is obvious that the deferment of the 'beginning' of a person and the anticipation of the 'end' of a person imply a lack of respect for and protection of some human beings, with reference to their biological birth and death, and more specifically in relation to the so called 'boundary conditions' (pre-natal, neonatal and terminal life) as well as in the so called 'marginal conditions' (when life is seriously handicapped).

The ontological-personalistic conception in the meta-bioethical field makes possible, on a practical and applicative basis, the respect for human life in all its aspects. On the basis of the ontological concept of 'person' it is possible to justify the *fundamental principles of personalistic bioethics*: 1. the fundamental value of life; 2. the principle of totality or therapeutic principle; 3. the principle of freedom and responsibility; 4. the principle of sociality and assistance.<sup>15</sup>

The *fundamental value of physical life* ('fundamental' means that it founds all other values and principles) indicates that life is not at our disposal and is sacred. This conception is strictly connected to the ontological conception of corporeity: our body can not be simply reduced to an instrument or an object (Körper); it is not a group of cells and neutrons. The physical and psychic dimensions do not complete the human being. Our body is subject (Leib), as it is where the person, considered as one transcendent totality, is revealed. Our mind organizes our brain and our soul gives life to our body. The rejection of any form of suppression of human life (abortion, euthanasia, suicide *ect.*) is strictly related to the conceptions expressed here above.

According to the *therapeutic principle*, the medical act (or any other act which interferes with human life) must consider the patient in his totality. If our body is a unitary whole in the person's act of being, any intervention on the 'part' must keep in consideration the 'whole' (which is, qualitatively speaking, more than the sum of the parts). The therapeutic principle justifies intervention on human life only if the intervention is directed to the actual disease (or to the active cause of the disease), which otherwise could not be cured, having not only the concrete hope of a positive result, but also the patient's consent. The therapeutic principle is not only applied to the surgical operation, but also to the gene-therapy of the tests on human embryos, sterilization and organ transplants.

The principles of freedom and responsibility derive directly from the fundamental value of life. To be free does not coincide with self-determination: to be free does not mean the possibility to exercise the free-will in an absolute way: on the contrary, an absolute freedom coincides with an imposition of force which inevitably

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causes violence and conflicts. Every act of freedom comes true only if it is based on the idea of responsibility meant as 'res-pondere' or being responsible for our own acts towards ourselves and towards all other human beings. Freedom can be proved true only if other human beings are respected in their right to be free, but this means that also their life must be respected as well as their freedom. Man can not be free if he is not alive: freedom presupposes life. To be free does not mean that we can decide to have children 'at all costs' (accepting an indiscriminate use of artificial techniques) or decide that our life is not worth living (signing the 'Living will'). To be free means to make responsible choices for ourselves and for the others.

The *principle of sociality* consists in promoting life and health in our society through the promotion of the life and health of every single human being. The concept of sociality is aimed to reach the common good through the consideration of the individual good. The principle of sociality is supported by the *principle of assistance* towards whoever needs help and support. The principles of sociality and assistance come from the duty of mutual respect based on the dignity of others as human beings: the 'person' is source and aim of society and the act of being a person is revealed by taking the part of the common good. The principles mentioned here are related to the problem of health and economic policies (allocation of resources *etc.*).

Personalism gives a very important philosophical contribution to bioethics (or better, to meta-bioethics): the ontological concept of the 'person' provides a deeper understanding for moral and juridical reflections in bioethics which are respectful of all human beings without any discrimination.

The conclusion of this study is not a statement, but a question, or better the re-formulation of the beginning question ('which ethics for bioethics?'): which ethics in bioethics is really respectful of all human beings?

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3. U. Scarpelli, *La bioetica. Alla ricerca dei principi*, Biblioteca della Libertà 1987; 99: 7-32. It is a statement which goes back to Grotius, the first 'modern' philosopher.
4. L. Palazzani, *Dall'etica 'laica' alla bioetica 'laica'*, Humanitas 1991; 46 (4): 513-546.
5. E. O. Wilson, *Sociobiology: the new synthesis*, 1975.
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# REPRODUCTIVE TECHNOLOGIES AND THE THEOLOGY OF THE FAMILY

## INTRODUCTION

Motivated by altruism alone a daughter agrees to be a surrogate mother for a daughter in law. The egg of the daughter in law and the sperm of her husband are fertilized *in vitro* and successfully implanted in the uterus of the daughter. The fact that it was a case of gestational surrogacy, in which the surrogate has no direct genetic relation to the child she is carrying, made it morally permissible in the eyes of some. In addition, the fact that it was done out of purely altruistic motives added to its moral acceptability.

Reproductive technologies are rapidly becoming widely available to those who can afford them as treatments for infertility. The term refers to a wide spectrum of 'treatments' for infertility. These include fertility drugs, artificial insemination (both by husband, AIH, and by donor, AID), GIFT (gamete interfallopian transfer, where eggs are removed from the woman and reinserted in the fallopian tubes where fertilization can occur naturally), IVF (*in vitro* fertilization, where fertilization takes place 'in vitro' or in glass, outside the body), egg donation, and surrogate motherhood. Both genetic (where the surrogate contributes the egg and uterus) and gestational surrogacy (where the surrogate contributes only the uterus, the egg coming from the wife in the contracting couple) are becoming more common. One group of these techniques involves medical intervention into natural reproductive processes (fertility drugs, AIH, GIFT, IVF). Others go

further and require another person in order to achieve conception and/or birth (AID, egg donation, and surrogate motherhood<sup>1</sup>). In some cases, the genetic material of the third party is required, and in others, such as gestational surrogacy, it is not.

From a theological perspective, both groups of reproductive technologies raise ethical issues; and the issues are related to one's understanding of the theology of the family related to reproduction that is outlined in Scripture. From a predominantly Roman Catholic view of natural law, most interventions in the reproductive process have been ruled morally illicit because they interfere with the natural order of creation (and procreation) that God has ordained. Others allow for technological intervention but do not allow any third parties into the process. It is argued that since the family structure is clear in Scripture, that necessitates continuity between the biological and social roles of parenting. Thus the first group of techniques would be morally permissible but the second would not. The purpose of this paper is to evaluate morally and theologically both groups of reproductive technologies from the perspective of a theology of the family.<sup>2</sup>

Two primary questions will be addressed. First, does the Biblical teaching on the family and reproduction allow for the interventions of reproductive technologies that interrupt the natural processes that God has set up? In



other words, does the Catholic natural law doctrine as applied to reproduction reflect the Biblical teaching? Second, does the Biblical teaching on the structure of the family allow for participation of third parties in collaborative reproduction? Of course, if the answer to the first question is negative, then the second question becomes moot. We will argue that the Scripture does allow for some reproductive interventions, thus taking issue with Catholic natural law doctrine. We will also argue that the doctrine of the family establishes that the use of third parties in collaborative reproduction goes against God's intended creation norm. Though we hint that such arrangements are morally prohibited, even if they are morally permissible, we argue that issues about virtue and character must be considered in determining whether such arrangements lend towards true happiness.

## NATURAL LAW AND REPRODUCTIVE TECHNOLOGIES

The Catholic tradition of natural law has emphasized the continuity between procreation and parenthood, even to the point of denying the moral legitimacy of contraception, something that clearly interrupts that process. This is also one basis for Catholic opposition to abortion and most reproductive technologies. If everything progresses as God designed it, sexual relations result in conception and childbirth. In the same way that God designed an acorn to grow into an oak tree, he likewise designed sexual relations to come to fruition in the birth of a child. Thus there is a God-designed, natural continuity between sex in marriage and parenthood. Every sexual encounter has the potential for conception, and every conception has the potential for childbirth and parenthood. This is why sex is reserved for marriage, and why Catholic tradition makes little room for any reproductive technology that would interfere with a natural process that is the result of creation. It also rules out any third party involvement that would replace one of the partners in the married couple. The most recent Vatican statement on reproductive technology put it this way: '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 fidelity . . . in marriage and in its indissoluble unity (is) the only setting worth of truly reponsible procreation.'<sup>3</sup> In other words, only in marriage is it morally legitimate to procreate children. A further statement clarifies the unity of sex and procreation, thereby ruling out most technological interventions for infertile couples. 'But from a moral point of view procreation is deprived of its proper perfection when it is not desire as the fruit of the conjugal act, that is to say, of the specific act of the spouses' union . . . , the procreation of a human person (is to be) brought about as the fruit of the conjugal act specific to the love between persons'.<sup>4</sup> In other words, there is a unity between sexual relations and procreation. Procreation cannot occur apart from marital sexual intercourse and every conjugal act in marriage

must be open to procreation as the natural result of God's creation design.<sup>5</sup>

Catholic tradition does make an important distinction between a technology that *assists* normal intercourse and one that *replaces* it in the process of trying to conceive a child. Anything that assists coitus is considered a part of God's wisdom that can be utilized in reproduction. The important aspect is that the unity of sex and procreation is maintained. What this means more specifically is that conception must occur according to its intended design. The movement of genetic materials may be assisted, but use of technology may not replace normal intercourse. For example, fertilization must always occur inside the body, and masturbation may not be used as a substitute for coitus in order to collect sperm outside the body to be reinserted back into the woman.

An example of a reproductive technology that assists intercourse without replacing it is what is called low tubal ovum transfer (LTOT). This procedure extracts and relocates the egg to a place where fertilization can occur. This is performed in cases in which the woman is infertile due to a blockage in her fallopian tubes. The physician who performs LTOT is able to bypass the blockage and place the egg lower in the fallopian tubes or even in the uterus, where conception can now occur by natural intercourse. The sperm still follows its natural course and fertilization occurs in the body.

However, LTOT has some medical problems involved. Most clinicians believe that conception occurs in the higher regions of the woman's fallopian tubes and that the path of the embryo from the upper regions of the fallopian tubes to the uterus is an important part of the embryo's development that enables it to attach itself successfully to the wall of the uterus. Should fertilization take place in the lower regions of the fallopian tubes or in the uterus, it may increase the chances of a miscarriage.

To correct this a related procedure called tubal ovum transfer (TOT) has been developed. Here the egg is removed and relocated at a higher part of the fallopian tubes, giving implantation of the embryo, assuming the egg is successfully fertilized, a better chance to occur. Both of these procedures have been declared consistent with Catholic teaching because they assist rather than replace intercourse and because fertilization occurs naturally within the body. In both procedures the sperm is inserted through normal intercourse, though in TOT, the sperm must be treated, and reinserted in the woman's fallopian tubes.<sup>6</sup> This has caused some Catholic moral theologians to question the moral legitimacy of TOT.

A major problem with restrictions on reproductive technologies is that such restrictions may not be consistent with the notion of general revelation. For the most part, technological innovations that clearly improve the lot of mankind are considered a part of God's common grace, or his general blessings on creation. The use of medicine to alleviate infertility is parallel to the use of medicine to alleviate other physical effects of the Fall, namely disease. Any reproductive interventions that utilize the genetic material of the married couple can be considered consistent with Biblical teaching.



## THEOLOGY OF THE FAMILY RELATED TO REPRODUCTION

Having allowed for some reproductive interventions under the realm of general revelation, the more difficult question concerns those technologies that require a third party in collaborative reproduction. Does the Biblical teaching on the structure of the family preclude any third party involvement? Or is the structure of the family a cultural construct that can change as social conditions change?

Though there has been a great deal written on the structure of the family, it is rare that the subject of reproduction is addressed in these works. Gender issues have driven most of the discussion of the structure of the family, and as a result, the bearing of family structure on reproduction has been neglected.<sup>7</sup>

Even though the extended family, or clan was a major component of social life in Biblical times, the structure of the family has been remarkably consistent throughout Biblical history and up to the present day. Only with new ways of reproduction that do not require sexual intercourse has society been challenged to think of the family structure in different ways. This 'nuclear' structure, consisting of a heterosexual couple producing children within the context of marriage, has been the consistent pattern for the family throughout most of the history of civilization. But is it the divinely instituted norm, in such a way that any third party involvement in reproduction is precluded?

Perhaps the family structure was assumed in Scripture because it was grounded in creation. There is a normative family structure established by the creative word of God that expresses itself in the order of creation.<sup>8</sup> The natural order of the family is established by the God of nature who embedded a specific structure of the family into the creation. In Genesis 1-2, there is a critical link between the man and woman in the context of marriage and the procreation of children. Though the family is not the direct result of the command in Genesis 1:27 to 'be fruitful and multiply,' the institution of the family is clearly related to it.

Genesis 1-2, are complementary and not contradictory. Genesis 1 provides the broad panorama overview of creation. Genesis 2 views the most important aspects of creation, the creation of man and woman, their relationship to each other and to God, in more detail. Thus the account of the creation of man and woman that is described in Genesis 2:18-25 actually fits into the broader overview of Genesis 1. To be specific, it occurs after the divine initiative in 1:26 to create mankind, and prior to the command to the newly formed couple in 1:27 to begin procreating and populating the earth. Thus, the creation of mankind is described generally in 1:26 and specifically in the male and female of the species in 2:18-25. The first command given to them that is recorded by Scripture is the command to reproduce in 1:27.

The key phrase in 2:24 is widely considered by most evangelicals to be the place where marriage is instituted. There are numerous reasons. First, the way that this text is quoted in the New Testament (Matt. 19:5, Eph. 5:32).<sup>9</sup> Second, the term 'leave' is used to suggest that, against

common ancient Near Eastern cultural practice in which the bride moved in with the groom and his family, a man and woman who will be intimately related (as the term 'cleave' suggests) are to separate from their families of origin and begin a new family unit of their own. Third, the concept of one flesh clearly involves a sexual unity (though not limited to that), and throughout the Scripture, it is evident that sexual relations are restricted to the setting of marriage. Thus it would appear that 2:24 is the place where marriage as a divine institution is begun.

In the broader context of Genesis 1:26, the command to procreate is thus given to Adam and Eve in the context of their leaving, cleaving and becoming one flesh, that is, in the context of marriage. Though it is true that Adam and Eve are representative in a broader sense, of the first male and female of the species, it is also true that this sets the precedent for heterosexual marriage and procreation within that setting. In other words, God has set up procreation to be restricted to heterosexual couples in marriage. There is continuity between God's creation of the family in Genesis 1-2 and the command to procreate within that context.<sup>10</sup> This structure of the family seems to be basic to God's creative design, however extended the family became due to cultural and economic factors.

The specific terms bone (*etsem*) and flesh (*basar*) in Genesis 2:23-24 are often used figuratively to indicate family relationships. When the two terms are used in combination (Gen. 29:14, Judges 9:2, 2 Sam. 5:1) or in parallel (1 Chron. 11-1, 2 Sam. 19:12-13), or when flesh (*basar*) is used alone (Gen. 37:27, Lev. 18:6, 25:49, Neh. 5:5, Isa. 58:7), the notion of a blood family is normally present. It would appear, then, that the use of these terms in Gen. 2:23 when Adam declares that Eve is his bone and flesh suggests that the normative family is in view in the creation account.

It could be argued that sexual unity in marriage is the only arena in which procreation may occur. Most conservative Catholics argue for a complete continuity between sexual relations in marriage and procreation. That notion is normally grounded in natural law, which is rooted in the order of creation.

However, the creation account does not mandate such close continuity between sexual intercourse and procreation. One could argue that certainly Scripture did not anticipate nor address the complex methods or reproduction that are in use today. The notion of one flesh, though it certainly involves physical intimacy goes well beyond the physical alone, and includes all aspects of emotional and spiritual unity. Marriage is to be characterized by oneness between the partners, of which the physical is a part. The teaching of the creation account is that procreation is to take place within the oneness of a total marriage relationship, not necessarily a specific instance of sexual intercourse.

There were places in the Old Testament Law that were designed to safeguard this creation ideal of the family. For example, the prohibitions against illicit sexual relations functioned to preserve the family from breakdown and assume the creation structure of the family as normative. In the sexual code in Leviticus 18, every sexual relationship except that between a heterosexual couple in marriage is prohibited. Incest, homosexuality, adultery (and specifi-



cally cultic prostitution), pre-marital sex and even bestiality are forbidden. Keeping the creation ideal of the family intact and free from influences that would undermine it was considered central to the preservation of Israel as a society set apart as God's holy nation (Ex. 19:6).

One should recognize that there are some novel reproductive arrangements used in the Old Testament. For example, levirate marriage (Deut. 25:5-10, Ruth 3-4) was employed to continue the lineage of a woman's deceased husband should she be left childless at his death. Norman L. Geisler suggests this practice provides a Biblical precedent for third party involvement in a form such as artificial insemination by donor.<sup>11</sup>

However, levirate marriage is not analogous to other third party collaborative reproductive techniques for two reasons. First, there was actually no third party introduced into the reproductive matrix since the childless woman in view was a widow. Her husband was not only being replaced for purposes of reproduction, it was his death that made the entire levirate arrangement necessary. Second, this is not a case of simply inseminating the woman so that she could give birth, with the sperm donor taking no parenting responsibility. The near kinsman actually married her and took full responsibility for supporting her and the child that would be born out of their marriage. Levirate marriage only supports the creation model by keeping reproduction within the context of marriage.<sup>12</sup>

A second novel reproductive arrangement that is found in the Old Testament is 'surrogate' motherhood. This appears to have been a widely accepted cultural practice in the ancient Near East and was employed by both Abraham and Jacob in the patriarchal narratives (Gen. 16, 30). There does not appear to be any condemnation attached to the use of surrogates to alleviate female infertility. However, in Abraham's case with Hagar, it could be argued that the consequences of his going in to Hagar were so negative that that is tantamount to a judgment on the practice. God could have simply let the consequences speak for themselves as an evaluation of the practice. In addition, in the Abraham and Hagar narrative, the issue at hand is not the use of a surrogate *per se*, but Abraham's and Sarah's lack of trust in God to keep his covenant promise to make their descendants numerous and to make him a great nation.

Though Jacob too is a patriarch who carries on the covenant, in his case there is no other issue of faith as was the case with Abraham. In Gen. 30, Rachel is childless and Leah has had a number of children. Rachel is so grieved that she instructs her maid to have sexual relations with Jacob and she finally ends up with a child, who she considers completely her own. The maid, acting as a surrogate, has no parental rights to the child she has borne. This would seem to be a case in which surrogacy is accepted as a normal practice, in which good results to all the parties involved.

However, one cannot assume that an accepted cultural practice is necessarily a moral norm that transcends culture. The Scripture is replete with cultural practices that are not considered normative for today. For example, polygamy appears to have been an accepted practice in the ancient world, yet it is not considered normative,

particularly when viewed against the backdrop of the creation ideal of monogamy. Slavery was accepted in both testaments. Just because surrogacy was tolerated in the patriarchal era, it does not follow that its use today is legitimate, especially given the connection in the creation account between the context of heterosexual marriage and procreation.

One could object to this connection between marriage and procreation by citing the widely accepted practice of adoption, clearly a separation of the biological and social roles of a parent. However, adoption is widely recognized as an exception to the general rule, or an emergency solution to the tragic situation of an unwanted pregnancy or orphaned or abandoned child. It does not follow that any such *intentional* separation of the biological and social roles of parenthood is allowed.

We have assumed that reproductive technologies that do not introduce third parties into the reproductive matrix can be considered consistent with the Biblical theology of the family.<sup>14</sup> Those that enable an infertile couple to conceive using medical technology without third party collaborators can, for the most part, be embraced by evangelicals as morally legitimate.

## APPLICATION TO THE SPECTRUM OF REPRODUCTIVE TECHNOLOGIES

### Artificial Insemination

Used to alleviate male infertility, artificial insemination is a relatively simple procedure in which sperm, either from the woman's husband or a donor (if the husband is unable to produce sperm) is inserted into the woman's uterus directly rather than through sexual intercourse. It is normally the first infertility treatment that a couple will try because it is simple to accomplish, involves no pain for the woman and is inexpensive compared to other reproductive technologies. It is most often employed when a woman's husband has a low sperm count or his sperm has poor motility, that is, the sperm has difficulty in reaching the woman's egg.

When the woman's husband's sperm simply needs help in fertilizing the egg, artificial insemination by husband (AH) is performed. This is simply medical technology providing assistance to achieve what could not be accomplished by normal sexual intercourse. The genetic materials that are combined when conception occurs belong to the woman and her husband and they are the ones who plan to raise the child. Within the theology of the family developed here there does not seem to be any morally significant differences between AH and procreation by intercourse.

However, there are many cases in which the woman's husband's sperm needs more than some assistance in reaching the egg. In these cases artificial insemination by donor (AID) is used. The donation is almost always made anonymously, so that the father cannot be traced by the child, nor can the father elect to make contact with the child, potentially disrupting a harmonious family. In many cases, the sperm of two or three donors is mixed



together, thus making it easier to conceal the identity of the father.

AID raises ethical questions that are not raised by AIH. Since AIH takes place between husband and wife, the integrity of the family is maintained, and there is continuity between procreation and parenthood. But AID introduces a third party into the reproductive matrix, and someone who donates sperm to be used for AID is now contributing genetic material without the intent to parent the child that will be produced through the use of his genes. The law has attempted to minimize any stigma of illegitimacy on the child born out of AID. Anyone who donates sperm cannot be presumed to be the father of the child born to the mother who uses the donated sperm. That is, the father of the child is presumed to be the husband of the woman who gives birth to the child. This has been done to insure that the child is adequately cared for financially and that there would be no suggestion of illegitimacy in the child's heritage. Certainly there is a difference between a child born out of moment of passion (with the father leaving the mother and the child to fend for themselves, the classic illegitimate child), and a woman with an infertile husband who uses donated sperm to conceive a child who will be born into a stable family. This is hardly the equivalent of what most people think of as an illegitimate child. But the fact remains that procreation and parenthood have been separated and a third party has been introduced into family by contributing his genetic material to a child that he will never see. We are thus morally skeptical about AID since it violates the creation model that sets up continuity between partners in marriage and procreation.

### Gamete Interfallopian Transfer (GIFT)

A relatively recent development in reproductive technology, GIFT is usually the next step taken by an infertile couple if artificial insemination fails. In this process, the woman is induced to produce more eggs than she would normally produce in any given cycle. This is known as superovulation and is necessary because the procedure is quite expensive (around \$5,000), and the extraction of the eggs is the most difficult and expensive part of the process. In some cases, the eggs are simply placed back in the fallopian tubes, where fertilization can occur in the body as a result of normal sexual intercourse. This is the procedure mentioned earlier called *tubal ovum transfer* (TOT). It is often used interchangeably with GIFT, but it is not the same thing. However, to increase the chances that fertilization will indeed occur, GIFT goes one step beyond TOT. Once the eggs are extracted, the man's sperm is obtained through masturbation, treated and placed, with the eggs, in the woman's fallopian tubes. There the sperm and eggs are in close proximity and the chances of conception taking place are much higher.

GIFT clearly does more than assist normal intercourse in achieving conception. Since the sperm is acquired through masturbation and re-routed into the fallopian tubes, it is not consistent with Catholic natural law teaching. But for many Protestants and those from a secular perspective, GIFT presents no inherent moral

dilemmas that are any different from any other reproductive technology that utilizes genetic material from a husband and wife who plan to raise the child born to them. No third party is introduced into procreative picture and there is no separation of the biological and social roles of parenthood. There is no continuity between sex and procreation, but for those (many Protestants and other non-Catholics, for example), who do not insist on such continuity, there is no moral tension presented by this technology. Furthermore fertilization is achieved by means that are not entirely natural. GIFT actually replaces intercourse, it does not merely assist it.

### In Vitro Fertilization (IVF)

A British gynecologist, Dr Patrick Steptoe, and a physiologist, Dr Robert Edwards, first successfully joined egg and sperm outside the body, then implanted the embryo in the mother. Nine months later, on July 25, 1978, Louise Brown was born. Their success was not achieved without a substantial amount of trial and error, as they reported that they discarded the overwhelming majority of embryos, since they were not considered able to be successfully implanted in the uterus.

*In vitro* fertilization simply means fertilization 'in glass,' as in the glass container of a test tube or petri dish used in a laboratory. The procedure involves extraction of a number of eggs from the woman. To do this she is usually given a drug that enables her to 'superovulate,' or to produce more eggs in one cycle than she normally does. The eggs are then surgically removed, and fertilized outside the body in the laboratory, normally using the sperm of the woman's husband. Since the procedure is so expensive (normally around \$10,000 minimum), all of the eggs are fertilized in the lab. This is done so that if none of the fertilized embryos is successfully implanted, re-implantation of others can occur without much additional cost or lost time, since to extract the eggs would involve waiting until at least the woman's next cycle. Normally, more than one embryo is implanted in the woman's uterus, since it is uncertain how many, or if any embryos at all will be successful.

In most cases, it takes a few weeks or even months to determine if implantation has been accomplished or if the attempt at conception has resulted in a miscarriage. Should the embryo fail to implant, some of the embryos that were not implanted initially are used at this point. During the time period in which the couple and their doctor are waiting to see if the embryo is going to develop normally, the embryos that are left over are kept frozen in storage. The first child to be born from IVF when it was implanted following storage was born in Australia in 1984.

IVF is often used in conjunction with GIFT. Since the eggs are already extracted, rather than duplicating the costly procedure of reimplanting both eggs and sperm into the fallopian tubes, especially if the physician is unsure if the husband's sperm can penetrate the egg the remaining eggs are fertilized in vitro. Should the initial implantation of sperm and eggs together fail, the most economical and convenient way to proceed is to attempt



to implant a fertilized embryo in the woman's uterus. Lest one think that IVF is successful more often than not, the average success rate is somewhere between 10%–25%, depending on the clinic, of the embryos that are fertilized actually successfully implanting and developing into a child.

In order to keep the procedure as cost effective as possible and to maximize the possibilities of a successful implantation, embryos are frozen in storage to be used later if the first attempt fails. In addition, since there is no guarantee that an embryo will be successfully implanted, more than one is usually implanted. The actual number implanted depends on various factors relating to the condition of the eggs and the health of the woman. It is not unusual to have some if not all of the embryos spontaneously miscarry. However, in some cases, more embryos successfully implant than the woman is able to carry without endangering her health and at times even endangering her life.

In general, as long as *in vitro* fertilization does not utilize a third party who provides genetic material, as in cases of egg donation, or who provides the womb, as in cases of gestational surrogacy, it would be morally permissible for an infertile couple to use IVF. Though this involves fertilization outside the womb and extensive medical intervention in the woman's reproductive cycle, it would fall within the range of technological innovations that are a part of common grace. Only when third parties contribute gametes or the gestational environment would its use violate the Biblical continuity between marriage and procreation.

However, that is not to say that IVF is entirely free of moral concerns for the Christian. Both of the above possibilities (embryos in storage and too many embryos implanted in the womb) raise significant legal and moral issues about IVF.

There are even some bizarre possibilities. What happens if, during the time in which the embryos are in storage, the couple divorces and a 'custody' battle ensues over the unused embryos? A case like this was recently resolved in court in Tennessee. A couple who had utilized IVF had finalized their divorce and the woman wanted to use the embryos to have a child. Her ex-husband refused, claiming that he did not want progeny without his knowledge even of their existence. They went to court to have their dispute arbitrated. The court ruled in favor of the ex-husband, holding that one's procreative liberty also gives him the freedom not to procreate, and thus the embryos could not be used without his consent.

What to do with frozen embryos if they are not needed raises significant questions about the moral status of the embryo. Most people recognize that with its potential to become a fully developed baby, the embryo cannot be seen as morally neutral and regarded as a piece of tissue, something that it inherently is not. The alternatives would appear to be to keep the embryos in storage, perhaps (at a cost of around \$150/year), to destroy them, to allow the couple to donate them to another infertile couple, or to use them for experimental purposes.

For those who view personhood as beginning at conception, the disposition of these embryos presents a knotty moral dilemma. If the right to life is acquired at

conception, then destroying embryos or using them in experiments is problematic. Destroying embryos outside the body or passively allowing them to be kept in storage until they could not be successfully thawed, would appear to be the moral equivalent of abortion, and science cannot experiment on someone with basic human rights without their consent, particularly since most experimentation on the embryo would result in its destruction. That leaves donation of the embryos as the only viable alternative. Yet this is problematic since it introduces not only a third but a fourth person into the reproductive matrix.

However, it might be possible to view embryo donation in a way that is analogous to adoption, as a *pre-implantation adoption* in which the couple who contributed the genetic materials to form the embryo consent to give up parental rights to their child after implantation instead of after the child's birth. This would require a significant change in many states adoption laws, since they frequently do not recognize any consent to adoption as valid and legal until a period of time after the child's birth.

A second problem arises not from the failures of implantation, but from its successes. Routinely more embryos are usually implanted than will survive in the uterus. But occasionally a woman is left with more developing embryos than she can carry to term without risk to her health and life. In these cases, the woman and her husband and her doctor have very difficult decisions to make. When this happens the doctor will normally recommend selective termination of one or more of the developing embryos. This is done not for convenience's sake, but out of a genuine concern for the life of the mother. Not only does this involve trading one life or more (the developing fetus(es)), but the doctor is faced with the decision of which one(s) to terminate and how to make that decision. If the mother's life is clearly at significant risk in carrying all the fetuses to term, then it would appear justified to terminate one or more of the fetuses in order to save the life of the mother. This is analogous to cases in which abortion is justifiable when carrying the pregnancy to term would put the mother's life at grave risk. But even for people who do not fit into the pro-life camp, the agony of making such painful decisions must surely be considered prior to utilizing IVF to alleviate infertility.

To avoid these dilemmas, a couple using IVF should request that only the number of eggs be fertilized that the couple will actually have implanted. In addition, they should request that only the number of embryos be implanted that the woman could carry safely should all of them be successfully implanted. This may increase the cost of IVF, but will avoid serious moral problems for those Christians who employ it.

### Micromanipulation

One of the most recent reproductive technologies involves highly technical and precise laser 'surgery' on a woman's egg to enable the sperm to penetrate it and fertilize it. This is known as *micro manipulation*. The procedure is still being perfected but it shows promise for couples in



whom the sperm of the man is unable to penetrate the woman's egg.

Under a very detailed microscope, the technician uses a very fine laser to make a small opening in the egg into which the sperm can enter and thereby fertilize the egg. In photographs, the opening looks much like a smile on a person's face, prompting researchers to refer to the opening in the egg as the 'happy smile.' Initial attempts at micromanipulation have had some success in which conception does result, but the technique is too recent for any systematic testing to be performed.

Since this involves only medical intervention and does not introduce any third parties into reproduction, this would appear to be morally allowed. This is the use of sophisticated technology to alleviate infertility in the same way that a physician would use medicine to cure any other condition that is the result of the Fall.

However, one concern has been raised about the wisdom of a procedure such as this. Since it is the more healthy sperm that finally endures the arduous process of getting to the egg and actually penetrating its surface prior to fertilization, critics of this procedure have asked if making penetration easier for the sperm will lead to inferior sperm being allowed to penetrate, and thus resulting in more miscarriages and perhaps more genetic abnormalities in the conceptions that do occur. Though it is still too early to tell whether or not these concerns will materialize, the concerns are well-taken, and merit caution in utilizing this technique.

### Surrogate Motherhood

Undoubtedly, surrogate motherhood is the most controversial of the new reproductive technologies. In many cases, the surrogate bears the child for the contracting couple, willingly gives up the child she has borne to the couple and accepts her role with no difficulty. In those cases, the contracting couple view the surrogate with extreme gratitude for helping their dream of having a child come true. The surrogate also feels a great deal of satisfaction, since she has in effect given a 'gift of life' to a previously infertile couple. But in some cases that have been well publicized in the media, the surrogate wants to keep the child she has borne and fights the natural father for custody. What began as a harmonious relationship between the couple and the surrogate ends with many doubts about the wisdom of using this type of reproductive arrangement.

Many supporters of reproductive technologies in general are opposed to surrogacy. Most of the states that have passed laws concerning surrogacy have decided to either prohibit it or strictly regulate it, and in general, most states have no such restrictions on other reproductive technologies.

Surrogacy itself is not new. The Old Testament records two incidents of surrogacy (Genesis 16:1-6; Genesis 30:1-13), and it appears that use of a surrogate to circumvent female infertility was an accepted practice in the Ancient Near East.<sup>15</sup> Today, surrogacy does not normally involve any sophisticated medical technology. Normally conception is accomplished by artificial insemination,

though in cases of gestational surrogacy, in vitro fertilization is used to impregnate the surrogate. What makes surrogacy new is the legal context in which reproduction now occurs. The presence of lawyers, detailed contracts and even the idea of legal representation for the yet to be born child are the new elements in the previously very private area of procreation.

Clearly in every case of surrogacy, a third party is introduced into the reproductive process. Even if third parties were allowed into reproduction by the Biblical teaching, there are other moral reasons to be concerned about surrogacy. They are as follows:

#### *Surrogacy Involves the Sale of Children*

Certainly the most serious objection to commercial surrogacy<sup>16</sup> is that it reduces children to objects of barter by putting a price on them. Most of the arguments in favor of surrogacy are attempts to avoid this problem. Opponents of surrogacy insist that any attempt to deny or minimize the charge of baby-selling fails, and thus surrogacy involves the sale of children. This violates the thirteenth amendment that outlawed slavery because it constituted the sale of human beings. It violates commonly and widely held moral principles that safeguard human rights and the dignity of human persons, namely that human beings are made in God's image and are His unique creations. Persons are not fundamentally things that can be purchased and sold for a price. The fact that proponents of surrogacy try so hard to get around the charge of baby-selling indicates their acceptance of these moral principles as well. The debate is not whether human beings are made in God's image and are his over whether commercial surrogacy constitutes such a sale of children. It is clearly more than the rental of a womb since the surrogate is paid at least of half the fee conditioned on her surrender of parental rights to the child she bears. Such surrender of parental rights is clearly an indispensable part of the arrangement being successfully completed. Thus it is more than simply a service rendered, it is the transfer of rights to a child for money, or baby-selling.<sup>17</sup> As the New Jersey Supreme Court put it in the Baby M case, 'There are, in a civilized society, some things that money cannot buy . . . , There are values . . . , that society deems more important than granting to wealth whatever it can buy, be it labor, love or life.'<sup>18</sup> The sale of children, which normally results from a surrogacy transaction (the only exception being cases of altruistic surrogacy), is inherently problematic, irrespective of the other good consequences that the arrangement produces, in the same way that slavery is inherently troubling, because human being are not objects for sale.

#### *Surrogacy Involves Potential for Exploitation of the Surrogate*

Most agree about the potential for commercial surrogacy to be exploitative. The combination of desperate infertile couples, low income surrogates and surrogacy brokers with varying degrees of moral scruples raises the prospect that the entire commercial enterprise can be exploitative. But statistics on the approximately six hundred surrogacy arrangements to date indicate that this potential for



exploitation has not yet materialized. Most surrogates are women of average means (the average income of a surrogate mother is around \$25,000 per year),<sup>19</sup> not destitute but also motivated by the money. The fee alone should not be considered exploitation but an inducement to do something that the surrogate would not otherwise do. But money functions as an inducement to do many things that people would not normally do without being exploitative.

However, this does not mean that the potential for exploitation should not be taken seriously. Should surrogacy become more socially acceptable and states pass laws making it legal, it is not difficult to imagine the various ways in which surrogacy brokers would attempt to hold costs down in order to maximize their profit. One of the most attractive ways in which this could be done would be to recruit surrogate mothers more actively from among the poor in this country and particularly from the third world. For example, some are suggesting that those with financial need actually make the best candidates for surrogates since they are the least inclined to keep the child produced by the arrangement.<sup>20</sup> Others are making plans to actively recruit women from the third world to be brought to the United States to serve as surrogates. The advantage to using these women is that it dramatically reduces the cost of doing the surrogacy business. John Stehura, of the Bionetics Foundation, stated that the surrogates from these countries would only receive the basic necessities and travel expenses for their services. Revealing a strong bias toward exploitation of the surrogates, he stated, 'Often they (the potential surrogates) are looking for a survival situation—something to do to pay for the rent and food. They come from underdeveloped countries where food is a serious issue.' But he also added that they make good candidates for surrogacy when he stated, 'they know how to take care of children . . . , it's obviously a perfect match.'<sup>21</sup>

Stehura further speculates that perhaps one tenth of the normal fee could be paid these women and it would not even matter if they had some other health problems, as long as they had an adequate diet and no problems that would affect the developing child.<sup>22</sup> It is not difficult to see the potential for crass exploitation of poor women in desperate circumstances, a potential that is already being seriously considered by brokers in the industry. It is not clear the degree to which these statements are representative of the entire industry, but with the profit motive being a primary factor it does not take much imagination to see the potential for taking advantage of vulnerable women.

#### *Surrogacy Involves Detachment from the Child In Utero*

One of the most serious objections to surrogacy applies to both commercial and altruistic surrogacy. In screening women to select the most ideal surrogates, one looks for the woman's ability to give up the child she is carrying easily. Normally the less attached the woman is to the child the easier it is to complete the arrangement. But this is hardly an ideal setting for a pregnancy. Surrogacy sanctions female detachment from the child in the womb, a situation in any other pregnancy that one would never want. This detachment is something that would be strongly

discouraged in a traditional pregnancy, but is strongly encouraged in surrogacy. Thus surrogacy actually turns a vice, the ability to detach from the child *in utero*, into a virtue. Should surrogacy be widely practiced, bioethicist Daniel Callahan of the Hastings Center describes what one of the results would be. He states, 'We will be forced to cultivate the services of women with the hardly desirable trait of being willing to gestate and then give up their own children, especially if paid enough to do so . . . , There would still be the need to find women with the capacity to dissociate and distance themselves from their own child. This is not a psychological trait we should want to foster, even in the name of altruism.'<sup>23</sup>

#### *Surrogacy Violates the Right of Mothers to Associate with their Children*

Another serious problem with commercial surrogacy might also apply to altruistic surrogacy. In most surrogacy contracts, whether for a fee or not, the surrogate agrees to relinquish any parental rights to the child she is carrying to the couple who contracted her services. In the Baby M case, the police actually had to break into a home to return Baby M to the contracting couple. A surrogacy contract forces a woman to give up the child she has borne to the couple who has paid her to do so. Should she have second thoughts and desire to keep the child, under the contract she would be forced to give up her child.

Of course, this assumes the traditional definition of a mother. A mother is defined as the woman who gives birth to the child. Society has never had to carefully define motherhood because medicine has previously not been able to separate the genetic and gestational aspects of motherhood. It is a new phenomenon to have one woman be the genetic contributor and a different woman be the one who carries the child. There is debate over whether genetics or gestation should determine motherhood, but in the great majority of cases of surrogacy, the surrogate provides both the genetic material and the womb. Thus by any definition, she is the mother of the child. To force her to give up her child under the terms of a surrogacy contract violates her fundamental right to associate with and raise her child.<sup>24</sup> This does not mean that she has exclusive right to the child. That must be shared with the natural father, similar to a custody arrangement in a divorce proceeding. But the right of one parent (the natural father) to associate with his child cannot be enforced at the expense of the right of the other (the surrogate).

As a result of this fundamental rights, some states that allow a fee to be paid to the surrogate do not allow the contract to be enforced if the surrogate wants to keep the child. Any contract that requires a woman to agree to give up the child she bears prior to birth is not considered a valid contract. This is similar to the way that most states deal with adoptions. Any agreement prior to birth to give up one's child is not binding and can be revoked if the birth mother changes her mind and wants to keep the child. Many states that have passed laws on surrogacy have chosen to use the model of adoption law rather than contract law that essentially says that 'a deal's a deal.' The problem with allowing the surrogate to keep the child is



that it substantially increases the risk to the contracting couple. They might go through the entire process and end up with shared custody of a child that they initially thought was to be all theirs. To many people, that doesn't seem fair. But to others it is just as unfair to take a child away from his or her mother simply because a contract states that she must.

## POTENTIAL OBJECTIONS AND RESPONSES: FOR THE SAKE OF VIRTUE

Thus far a reasonable argument has been made for a theology of the family in which *two-party* reproductive technologies alone are consistent with the biblical and creation norms. However, someone might object that we have merely assumed without argument that what is biblically or creationally normative is also morally obligatory and that to act contrary to a norm is to do what is morally prohibited. That is, we can imagine an objection which insists that an act may be contrary to what is morally normative and at the same time be morally permissible. Case in point, the examples of Abraham and Jacob are arguably illustrations of third-party reproductive arrangements which though not normative are nevertheless morally permissible. At least nothing is said explicitly to the contrary. In fact, there may be a number of actions or situations which are not biblically normative but are arguably morally permissible (whether explicitly condoned in Scripture or not), e.g., masturbation, adoption, one-parent families, divorce, lying, birth control, numerous two-party reproductive technologies discussed above, and so on.

The bottom line for many objectors to the line of reasoning presented in this paper, especially for those personally interested in third-party reproductive technologies, is determining whether using these technologies is sinful. Because of the personal issues at stake, many may not find the argument 'whatever falls short of the biblical/creation norm is sin (morally prohibitive)' to be intuitively obvious or satisfying. Due to the importance and complexity of these issues, nothing short of a thorough justification and discussion of the logic of moral terms is needed. Unfortunately, this is quite beyond the purview or space of this article.

Rather, and for argument's sake, let us assume with our objector that though third-party reproductive matrixes are against the biblical/creation norm, they are nevertheless morally permissible. In that case, how are individuals to decide what is best for their situation? What moral or other elements play into the discussion between counselor and client looking for wisdom? It will become evident in our discussion below that determining some act to be morally permissible is only the beginning of moral deliberation. Many further issues concerning the action's implications for one's character and overall happiness must be brought into play. That is, just because something is morally permissible does not mean that it is morally beneficial for one's character, situation and overall aim at a happy life. Of course, this raises the whole question of

virtue and the excellent life which has been purposefully ignored until now.

Though questions about moral obligation, prohibition and permissibility are not irrelevant to discussions of virtue, they are secondary to questions about what the wise person of good character would do, how certain choices affect one's character and what kinds of choices lead to a skillful and happy life. Certainly fortunate circumstances are important for the good life. But wisdom and experience teach us that the manner in which we experience life on account of our character is perhaps most central to living well. For without a good character, of which virtue is concerned, even the best of circumstances may not be enjoyed as they could. Because of the manifold application of virtue ethics to choices involving third-party reproductive technologies, I will mostly limit my treatment to one very relevant virtue, namely, fortitude.

Fortitude has traditionally been that virtue having to do with our irascible or 'spirited' nature (cf. Aristotle's discussion of *thumos*, in which a person's character enables him to embrace or face a difficulty in order to do, be or accomplish something good). In particular, fortitude is a description of our psychological state relevant to the well functioning of the emotions of our spirited nature (e.g., hope, despair, daring, fear and anger). Notice the following descriptions of such emotions:<sup>25</sup>

1. Hope: the feeling that a good which is absent though desirable may be attained in spite of difficulty;
2. Despair: the feeling that the difficulties associated with the attainment of an absent good cannot be overcome;
3. Daring: the feeling that a bad which is absent may be overcome for the attainment of a good in spite of difficulty;
4. Fear: the feeling that the difficulty of avoiding an absent or present evil is too great to be overcome; and
5. Anger: the feeling which is concerned with both good and evil; by this emotion one desires a good and, thus, reacts emotionally (spirited) to the evil which threatens the attainment of that good.

Clearly the above five emotions are neutral in themselves depending upon how they are experienced and habituated in the agent. Each emotion can be habituated and experienced virtuously (well) or viciously (poorly) depending upon (1) whether the emotion is concerned with what is truly or falsely good or evil and (2) whether the degree to which the emotion is experienced is appropriate according to wisdom, or according to excess or deficiency. For example, a sane person despairs of sprouting wings and flying as a bird but typically hopes in having some pleasant relationships; a pathological individual may despair of ever enjoying healthy relationships and may hope in excess of gaining wings and taking to flight.

Let us apply the above general discussion of fortitude to a couple, Ted and Mary, who inquire into the moral legitimacy of third-party reproductive technologies. It has been determined that they cannot have their own children on account of Ted's infertility. Furthermore, they believe that the AID technology is morally permissible though



not the biblical/creation norm. Still, they feel sufficiently uneasy about this so that they come to you, their local Virtue Ethicist, for theological and moral counsel.<sup>26</sup> It should be readily apparent that the virtue of fortitude and its corresponding emotions are primary candidates for moral investigation, for the couple is faced with a bad or difficult situation (male infertility) in light of their desire to get a good (a child). Thus, Ted and Mary's 'spirited' nature is being addressed. The moral counselor's task, at least in part, is to (1) help them understand how they in fact are feeling and experiencing this situation, (2) educate them into the possible range of virtuous feelings appropriate for this and (3) assist them along the path into developing appropriate feelings in such circumstances. That is, the goal is to assist them into an open, honest and reflected life, understanding and experiencing what is healthy and intended by God for their character in the day-to-day circumstances as ordained by God (Prov. 14:8).

In general, it should be kept in mind that the biblical/creation norm involves a two-party reproductive matrix. As the norm, it represents what God had in mind for healthy and well functioning relationships and families. Going against this norm—as in the case of third-party reproductive technologies—may be morally permissible, especially in a fallen world, but not typically without some cost (cf. the relational price which Abraham and Jacob paid, the jealousies which raged etc.).

Furthermore, the couple must come to terms with their own character, particularly with fortitude or God's goal in developing their ability to deal with bad and troubling situations in light of living well with him and others (James 2:2ff.). Firstly, the couple certainly exemplifies a degree of daring or audacity in light of their willingness to pursue a third-party reproductive technology. However, the couple needs to consider whether an excess of this emotion has blinded them to having the proper fear and caution in considering all the relevant factors. Perhaps God is working in their infertility to teach them deeper lessons about character, love and life which their daring will inhibit. This consideration at least should be entertained by the couple who are reflective and seeking the will of God. Unfortunately, daring or audacity is sometimes employed as a defense against this type of reflection or against experiencing the fear or despair over possibly being unable to attain a good, in this case, a natural child. On the other hand, some couples might need to be encouraged to explore the emotions surrounding what is daring. Perhaps some are too afraid of this powerful emotion and, thus, too quickly suppress it. Or perhaps they are under a legalistic and fear-orientation to religion which does not permit them to even consider such an alternative as third-party reproductive situations. Again, the moral counselor will guide these individuals into exploring with wisdom in the presence of God what is wise and best for their lives and character.

Secondly, the couple need to reflect upon the objects of hope and despair and the degrees to which these emotions have been or should be experienced. Perhaps too much hope has been placed in having a natural child or too much emphasis has been given to the role a natural child plays in happiness. The virtuous person also grows

to hope in the Lord, in the fact that someday all hurts will be healed, all injustices made right and all natural evils transformed to pure joy. Perhaps the couple needs to entertain the virtue of despairing over what is normative, despairing over having a natural child, despairing even over the use of these morally permissible reproductive technologies. The purpose of such despair and the reflection which accompanies it is to entertain a manifold of possibilities: of what good there might be in not having a natural child; of what character development might occur as a result of hoping in God alone; of what one might learn of the virtue of charity in adopting a child (as exemplified in God's love towards the Gentiles); of what it is to participate in the sufferings of Christ who despaired of avoiding the Cross. On the other hand, some couples may hope in God to the unwise exclusion of entertaining any hope in or even considering any human means of having a natural child. Perhaps these couples despair too quickly of receiving any natural good. This may be a defense against experiencing any unrequited hopes, something of which they may be too familiar. Again, many issues should be introduced for reflection and experience.

Thirdly, the couple should be assisted in reflecting upon and experiencing appropriate anger. Perhaps they possess a faulty view of anger or have been raised to experience anger as always a bad thing so that they feel no offense at this obvious natural evil. Or perhaps they are angry in excess or at the wrong thing. The goal of virtue is to experience anger to the appropriate degree at the correct sorts of things, in this case, at the Fall and the results of a sinful, cursed world. Natural evils such as infertility are not good in themselves and, thus, should provoke a healthy anger. But of course, this anger should not be to such excess that it inhibits one from perceiving what God may intend for our potential good. Moreover, this anger should be focussed properly against the general injustice of the Fall rather than at any particular person, for example, the husband or God. At least this is the goal of the virtuous person. (And even if anger against God is present, there is no better relationship in which to transform this. Ask Job.)

Finally, the couple should be encouraged to come to terms with their fears, real and illusory. Perhaps some have hoped or dared to excess as a way to defend against their fears that perhaps the best for them would be to despair of having a natural child. Some may find it too painful to even consider that it might be best for their character and their particular situation to accept the situation (the bad) as it is and find God's good in it. Perhaps the couple in question has been unwilling to face this fear. However, some couples may be overly fearful, feeling and believing that God always wants them to embrace the hardest way. Perhaps these types of couples find themselves overwhelmed with such irrational fears. A good moral counselor will help couples understand and process their fears in view of the goals for a healthy emotional life.

In general, the moral counselor assists the couple in reflecting upon what kind of people they are, what kind of person it takes to make certain kind of decisions, what kind of person will result from making certain kinds of



decisions and how certain kinds of characters experience various consequences. Notice that the focus is less upon following certain rules and more upon what God intends for human life and character. Thus, by introducing the concept of fortitude, our original moral quandary of whether to engage in third-party reproductive technologies has taken on many dimensions. These multiply exponentially once the panoply of virtues as well as all the details of circumstances are interjected. This line of moral deliberation not only provides rich resources for reflecting upon the good life but also accounts for many of the truly human dimensions which common sense brings into any complex decision.

## CONCLUSION

We have argued that the Biblical teaching on the family allows for some technological interventions in reproduction but is morally suspicious of those that introduce a third party into the process. In general, artificial insemination by husband, GIFT and in vitro fertilization can be used, assuming that the other moral difficulties involved with *in vitro* fertilization (embryo storage and selective termination) are addressed. But artificial insemination by donor, egg donation and surrogate motherhood cannot be used without violating the divinely ordained continuity between the context of marriage and procreation.

Furthermore, though we hinted that perhaps use of these third parties in collaborative reproduction is morally prohibited, we do not pretend to have argued adequately that every violation of a biblical/creation norm is morally prohibited or sinful. Rather, for argument's sake, we assumed that third-party reproductive technologies may be morally permissible even though they are a violation of what is normative in creation. Nevertheless, we stressed that moral deliberation concerning the employment of these reproductive technologies should not be limited to determining what is morally permissible and prohibited (sinful). Good moral reasoning should also account for considerations of virtue and human character which are complex and extremely relevant to obtaining the good life.

1. Much of the debate over surrogacy is over gestational surrogacy, in which there is no genetic link between the surrogate and the child. This is often viewed as a 'rent-a-womb' arrangement and since it does not introduce a third person's genetic material into the child, it is treated differently than genetic surrogacy, where the surrogate contributes both egg and uterus.

2. The discussion of the theology of the family will not be exhaustive, but will be developed only as it relates to reproduction.

3. Congregation for the Doctrine of the Faith, 'Instruction on Respect for Human Life in Its Origin and on the Dignity of Procreation', *Origins* 16:40 (19 March 1987): 704-705.

4. *Ibid.*, 706.

5. For further information on Catholic teaching in this area see Edward Collins Vacek, S. J., 'Catholic Natural Law and Reproductive Ethics', *Journal of Medicine and Philosophy* 17 (1992): 329-346.

6. The way this is done is by silicon sheaf, much like a condom, that seals itself after the initial expulsion of sperm in intercourse. The sperm that is left over after this initial expulsion is then treated and re-

introduced into the woman's body, to enable fertilization to occur and thus to enable intercourse to achieve its intended goal. Some Catholic ethicists insist that this is within Catholic teaching since masturbation is avoided as a means of collecting the sperm. Others, however, conclude that because the sperm does not travel its normal route, but is taken outside the body and re-inserted into the woman after being treated, it has partially replaced intercourse, instead of simply assisting it. The debate over this procedure shows the fine distinctions that are sometimes necessary in assessing the morality of some new reproductive technologies. For more discussion on the technicalities of ovum transfer and its moral assessment by Catholic theologians, see Donald DeMarc, *Biotechnology and the Assault on Parenthood* (San Francisco: Ignatius Press, 1991): 205-238.

7. There are a handful of exceptions to this trend. They include Helmut Thielicke, *The Ethics of Sex*, Ray S. Anderson and Dennis B. Guernsey, *On Being Family*, Eerdmans, 1985, and Oscar E. Feucht, *Family Relationships and the Church*, Concordia, 1970. In general, Protestant works on the ethics of reproductive technologies have been scarce and the field has been dominated by Roman Catholic moral theologians.

8. Anderson and Guernsey, 17.

9. The exception to this is in 1 Cor. 6:12-20, where Paul argues against sexual promiscuity on the basis of Gen. 2:24. He is not speaking to married couples here, but his point is limited to the one flesh relationship that is associated with sexual intercourse, thus making promiscuity wholly inappropriate for the believer. This is magnified by the indwelling Christ in the believer, so that Christ is actually joined to the person with whom one has had an affair.

10. This is not to say that single parent families are any less genuine families in the sight of God, only that procreation cannot occur in that setting. Single parent families usually began as two parent families and procreation occurred in the proper context. Divorce, however tragic, does not prevent the resulting single parent and children from being a legitimate family.

11. Norman Geisler, *Christian Ethics*, Baker, 1990, p. 187.

12. Levirate marriage does introduce the issue of polygamy, but that is a separate issue from third party collaborative reproduction.

13. It would be more accurate to say that adoption breaks the link between procreation and parenting, though most children that are put up for adoption are born to unwed mothers, thus violating the link between marriage and procreation as well.

14. See the discussion of *in vitro* fertilization below, which on the surface would be consistent with the Biblical notion of the family but has other moral concerns that are addressed.

15. Both the Code of Hammurabi (1792-1750 B.C.) and the Nuzi tablets (1520 B.C.) authorize surrogacy, and not only for cases of barrenness. Thus surrogacy was not only widely practiced, but it was the subject of detailed legislation to keep the practice within proper limits.

16. Most of the surrogacy cases are of the commercial kind, involving a fee paid to the surrogate above normal expenses incurred in the course of the pregnancy. There are a few cases of altruistic surrogacy, in which a close friend or family member carries a child for another out of altruism alone.

17. Exchange of consideration for the transfer of parental rights in adoption cases is against the law in most states in the United States.

18. In the matter of Baby M, 537 A. 2d, 1249 (1988).

19. The statistics on the annual income of surrogates is a bit misleading since it records the income of women who were selected as surrogates. It does not take into account the women who applied to be surrogates but were not chosen. In a 1983 study by psychiatrist Philip Parker, he found that more than forty percent of the applicants to provide surrogacy services were receiving some kind of government financial assistance. See 'Motivation of Surrogate Mothers: Initial Findings,' *American Journal of Psychiatry* 140 (1983): 1.

20. Statement of staff psychologist Howard Adelman of Surrogate Mothering Ltd. in Philadelphia, cited in Gena Corea, *The Mother Machine* (New York: Harper and Row, 1985), 229.

21. Cited in Corea, 245.

22. Cited in Corea, 214-215.

23. Daniel Callahan, 'Surrogate Motherhood: A Bad Idea,' *New York Times* (20 January 1987): B21.

24. In *Stanley v. Illinois*, the Supreme Court stated that, 'the rights to conceive and to raise one's children have been deemed essential . . . , basic civil rights of man . . . , far more precious than property rights. It is cardinal with us that the custody, care and nurture of the child reside first in the parents.' 405 U.S. 650 (1971), at 651.



25. The following descriptions are taken from Vernon Bourke's lucid discussion of the virtues in his *Ethics: A Textbook in Moral Philosophy* (New York: The MacMillan Company), 314. I should just comment that these emotions are not to be understood as 'mere' affective states but as meaning-laden states. That is, the ancients assumed that human emotion is somehow tied into cognition and meaning. Though a full discussion of this is not possible here, it should be obvious that these definitions of human emotions clearly involve a meaning component

(e.g., hope is 'a feeling that a good which is absent may be attained' etc.). These feelings are not without intentionality or a meaning content as is the case with, perhaps, dizziness.

26. In no way do I intend the following discussion to be a model for therapeutic intervention. The dynamics involved in that are manifold and beyond my discussion. Rather, the following are some of the relevant issues in virtue ethics which I think the counselor, therapist or friend should at least have in their world view when discussing such issues.

## BOOK REVIEWS

### Life on the Line

John F. Kilner

Wm. B. Eerdmans, Grand Rapids 1992, ISBN 82018 0630 9

Some books on ethics are strong on the moral imperatives that underly the issues being discussed while others present arguments based on an analysis of data—the trends in statistics relating to abortion for example. This book does both but also relates biblical teaching to real situations in a very effective way.

The two main themes of the book are *Ending Patients' Lives* and *Allocating Vital Resources*. These are skilfully brought together in the first section *Living Ethically* and in the conclusion of the book. Well chosen and straight forward illustrations of the principles are effectively used. For example in the final section on priorities in care (pp. 237–239) it is pointed out that 74,000 women give birth to babies without any pre-natal visit to a physician. As a result a disproportionately large number of low birth weight babies are born each year needing a large amount of very expensive intensive medical care to ensure their survival. Of course these are also the babies least likely to get that care since they come from the poorest and most deprived section of the population. The author reminds us of the distress and suffering in the families concerned that this represents and that 'Statistics are human beings without the tears'. In terms of the financial cost to the community the National Perinatal Information Center is quoted as reporting that if 20% of low birthweight babies were born in one higher weight group the savings in intensive health care would be \$70–\$90 million. The extra cost of the prenatal care needed to achieve this is estimated at only \$19–28 million.

From such illuminating observations the author returns time and again to look at Christian teaching on each topic with relevant specific biblical references. The fundamental truth that life is eternal is contrasted with the 'fixation on youth and productive life—i.e. the elderly and infirm. The point is well made that each person's life is uniquely important to that is well argued. On the other hand the young and productive resent the use of limited resources on those who have the least productive life—i.e. the elderly and infirm. The point is well made that each person's life is uniquely important to that person. The common humanity of those providing health care resources and those receiving them is linked to our common dependence on, and answerability to, God. The author develops the position theme that moral living is fundamentally an expression of love for God—based on the first and great commandment to love the Lord your God with all your heart and with all your soul and with all your mind.

In other parts of the book the problem of balancing the burden on society of providing treatment with the burden of

prolonging a life of suffering is discussed. Other themes include the difference between the value and sanctity of life (I am sure many readers will not have realised what the difference is!); the finding of joy in suffering; faithfulness to God and faithfulness to each other.

He is not afraid to engage in discussion of difficult issues, particularly euthanasia and suicide. In dealing with euthanasia the discussion is based on the very important distinction between the actual person involved and the suffering that they are undergoing. In the case of those who advocate euthanasia on demand he points out that they fail to make this distinction and fall prey to the fallacy that 'people are nothing more than the suffering or happiness they are experiencing at the moment' (p. 109). The argument seems to become a little less cogent when it is asserted that if severe pain eclipses the person this is a tragedy to mourn, not a pattern to emulate. However the basic issues in this area are admirably set out. He makes clear that the hubris of mankind in presuming to control death is part of his desire to be as God.

The discussion of 'The Patient's Wishes' opens with three models—the care giver as a warrior engaged in saving the patient from death—the caregiver as a surrogate parent—the caregiver as a professional with a contract to provide services—and the covenant model in which the caregiver and patient have a mutual commitment to each other. I did not feel that the author appreciated fully the less acceptable consequences of the 'advance directive'. Professor David Short has recently pointed out the fallacies in thinking that such a directive is compatible with true patient autonomy. For one thing no one knows what their circumstances will be when the directive comes into force or at what stage of their illness it should be applied. Attitudes when someone is healthy change radically when illness happens, as we all know. Professor Short also makes the point that it places the onus on the patient rather than the doctor to define the standard of care expected. If the public knew that doctors were committed to never giving futile treatment or prolonging unnecessary suffering with no hope of a cure much of the demand for the directive would vanish. Finally the promotion of the advance directive, at least in Britain, is a stalking horse used by pressure groups who wish to see euthanasia legalized.

In the chapter on 'Ending Patients' Lives' the destructive effect of suicide on human community is well described and the inherent selfcentredness of being unwilling to see others suffer. This last aspect is one that needs to be made strongly since it is too readily accepted today that someone should request



euthanasia for a relative whose suffering they cannot bear to witness. In this case death is sought not for the sake of the sufferer, who may or may not wish it, but the onlooker.

The problem of how to allocate limited resources in the face of unlimited demand for relief of illness is discussed fully and frankly. The resolution lies in accepting the sovereign will of God and thus acquiring what the author calls the 'eternal perspective' so that this life is seen as part of a much greater pattern. The book always returns to the Bible and the individual response to God's laws in obedience to which hard decisions can be made in humility but with confidence. The book ends with definite statements on the criteria for choosing which patients should receive treatment when there are only limited resources available. The final challenge is for caregivers, patients and relatives to work together in finding the best way forward, which for the Christian means seeking the will of God.

This book should be in the library of every Christian training institution and of anyone who is involved in a pastoral ministry or profession where counseling occurs. I thoroughly recommend it.

Dunfermline, Fife

P. K. BUXTON

#### **Bioethics and Secular Humanism: A Search for a Common Morality**

H. Tristram Engelhardt, Jr.

S.C.M. Press London 1991, 206 pp.

Given the importance of bioethics in our modern world, it is interesting to find an attempt to replace religious perspectives with a clarion call to secular humanist values. Seeking to address the fundamental philosophical and cultural challenges of the post-modern age, the book argues that secular humanism justifies a moral framework that can be shared by moral strangers in an age of moral fragmentation and apathy. Religion and reason have failed to provide a reliable account of justice or morality, but secular humanism can articulate what humans hold in common. The problems of pluralism create an atmosphere where we are moral strangers to each other and moral fabric of our society shatters into disparate moralities. Engelhardt believes that it is possible to provide a content-full moral framework by appealing to human nature disclosing what we all share simply as humans.

In essence the book is an intellectual journey from the difficulties of a post-modern age, examining the two key concepts of secularity and humanism to arrive at a defence of secular bioethics, all based on faith in reason. The journey analyses secular humanism, bioethics and the post-modern

world. Secular bioethics provides a neutral framework for understanding health care in the post-modern age. The interest that we share as humans and the goods that define a human life of excellence provide a basis for secular cooperation. The author then focusses on the flaws in various ethical bases for medicine including appeals to rationality, consequences, nature and what is natural, intuitions, and the apparent unavoidability of nihilism and relativism. The solution to the failures lies in a secular humanist perspective which endorses free and informed consent, rights to privacy, health care entitlements and the individual.

The conclusion of the book is that secular humanism elaborates a common moral framework grounded in what we share as persons. Such secular humanism in health care requires tolerance and restraint, provides a moral language for moral strangers, reminds us of a sense of human finitude and gives an account of the essence of what it is to be human, resting on what we share as persons.

With only one hundred and forty pages of text and sixty-plus pages of footnotes and index the book is certainly a carefully argued piece. There are all too few full blooded secular humanists left, with even fewer who show sufficient confidence to claim to find a way forward for medical and bioethics. Yet the book appears to offer more than it actually delivers. We are not presented with a full blooded secular humanist account of bioethical issues but rather a *prolegomena* for such an account. Even the *prolegomena* is stronger on the critical need for such an account, than on the detail not only of what such an account would be, but even of how it would proceed. Even if we all adopt a rejection of relativism and pluralism and accept the need for values surrounding autonomy and personhood, we are still left with the hard questions of what is a self, when does personhood begin and end, and what are the appropriate moral, legal and social limits of autonomy. In that sense the book is unsatisfactory, for despite the critical analysis of secularism and humanism, and the all too brief rejection of religion, the transcendent and the divine, there is too little of substance or form to be assured that either rejection is justified, or that some better cure is offered.

Perhaps the introduction is accurate when it expresses the faith of the author in reason in an age when unbelief and distrust of reason is the norm. It is doubtful if we have sufficient rational grounds or argumentation to justify either that rejection or the proposed alternative of secular humanist bioethics. Yet to be fair, we ought not to dismiss what we have not yet genuinely seen presented or argued. The Scottish legal system would have only one valid verdict on the book's attempt to argue for a secular humanist approach to bioethics. Not proven.

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