

Ethics of Cryopreserved Embryo Adoption: Defrosting *Dignitas Personae*

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*The ethical status of embryo adoption, or heterotopic embryo transfer, remains an active debate within Catholic moral theology. Opponents of the practice compare the act of embryo adoption to surrogacy or extramarital procreation, and the debate is framed around the question of whether it is morally licit for a woman, married or unmarried, to gestate a genetically unrelated embryo in her uterus. An affirmative answer to this question allows for the idea that the spousal relationship and function can exist concomitantly with a gestational mother who is not a genetic mother. In fact, the debate around heterotopic embryo transfer seeks to answer questions about whether genetic and gestational motherhood can be distinguished at all. The church has spoken on this question in *Dignitas Personae*, which cautions against embryo adoption as a licit response to the injustice of conceived and frozen embryos. However, the logic employed to support that conclusion is unconvincing. This essay will seek to examine *Dignitas Personae* directly and through supporting documents to assert that embryo adoption of previously created and cryopreserved embryos is consistent with church tradition and teaching, and should be allowed as a charitable response to an existing injustice.*

INTRODUCTION

*It has also been proposed, solely in order to allow human beings to be born who are otherwise condemned to destruction, that there could be a form of “prenatal adoption.” This proposal, praiseworthy with regard to the intention of respecting and defending human life, presents however various problems ... — *Dignitas Personae* (2008), II. para. 19.*

As of 2015, estimates suggest that there are over 600,000 cryopreserved embryos stored in the United States, of which around 60,000 are available for adoption.¹ The embryos exist because current protocols for *in vitro* fertilization (IVF) and embryo transfer (ET) for infertile couples seek to maximize the chance of successful implantation while minimizing the risks of therapy. The method used to achieve this end is the simultaneous creation of up to two dozen embryos, of which some are implanted into an awaiting woman and some are stored in the event that the first implantation is unsuccessful. As more couples seek IVF as a solution to their infertility, the number of cryopreserved embryos in storage continues to grow.

The church has spoken clearly on the morality of the process of creating these embryos in the first place. *Dignitas Personae* states unequivocally that, “Cryopreservation is incompatible with the respect owed to human embryos” (*Dignitas Personae* [2008], II, para. 18; emphasis original). The parent document to *Dignitas Personae*, *Donum Vitae*, succinctly provides the reason for this imperative: “The human being must be respected – as a person – from the very first instant of his existence” (*Donum Vitae* [1987], I, 1).² *Dignitas Personae* goes on to state, “The proposal that these embryos could be put at the disposal of infertile couples as a *treatment for infertility* is not ethically acceptable ...” (*DP*, II, para. 19).

However, despite the seeming clarity of the statements in *Dignitas Personae*, there remains debate not only over embryo adoption, but also over the meaning and specificity of the statements in the magisterial document. John Finnis and Luke Gormally debated this point in a 2009 edition of *The National Catholic Bioethics Quarterly*, with Finnis arguing that the document does not make a definitive pronouncement, and Gormally offering an opposing position.³ Following this, the *NFP Forum*, a biannual publication of the United States Conference of Catholic Bishops, kept open the door for continued debate by declaring that *Dignitas Personae* does not “make a definitive judgement” regarding embryo adoption.⁴

In this essay, I examine the logic contained in *Dignitas Personae* to the support of its position, and ultimately conclude that embryo adoption of previously created and cryopreserved

embryos is morally licit, and in fact is a charitable response to an existing injustice.

INITIAL CONSIDERATIONS

As an entry point to the discussion of human embryo adoption, it is necessary to define the terms and outline certain theological propositions and assertions that I will accept as true for the duration of the argument.

The ontology of human life has been discussed at length by numerous authors. Medical science provides a view of human reproduction that understands the sequence of events from intercourse to pregnancy to birth in fine, but not perfect, detail. Beginning with the ovum of a female and the sperm of a male (the gametes), fertilization occurs upon the fusion of the nuclei of these two individual cells. At this point, from the partial genetic contributions of two individuals, a third individual has begun a journey during which it will self-develop into a human person.⁵ Some writers have made semantic arguments about the difference between a human being and a human person, arguing that although a fertilized embryo unequivocally contains the genetic material necessary to make it (genetically) a human, it is not yet a human person because it lacks consciousness. For this reason, some authors refer to the fertilized embryo that has not yet implanted itself into the uterine wall as a pre-embryo. From the point of implantation, the embryo develops into a zygote, morula and blastocyst sequentially, and then continues to divide and develop.

The Catholic Church, in teachings regarding the ontology of human life, is clear that

regardless of the stage of development, each of these stages should be afforded identical ethical relevance, and that from the moment of fertilization, a new human being is already constituted and must be respected as such. There remains, of course, a contemporary disagreement about this point, as the church insists on respect for human persons because of their ensoulment, and, “[no] experimental datum can be in itself sufficient to bring us to the recognition of a spiritual soul” (*DV*, I, 1). However, while recognizing the difficulty with the determination of the time of ensoulment, the teaching continues,

[n]evertheless, the conclusions of science regarding the human embryo provide a valuable indication for discerning by the use of reason a personal presence at the moment of first appearance of human life: how could a human individual not be a human person?... Thus the fruit of human generation from the first moment of its existence, that is, from the first moment the zygote has formed, demands unconditional respect, that is morally due to the human being in his bodily and spiritual totality (*DV*, I, 1).

While some authors have taken the church document as acknowledging a degree of doubt regarding the personhood status of the embryo,⁶ it remains true that the church has spoken clearly about the respect due to the embryo, which has been a rallying cry of the pro-life movement. Concomitant with the abortion debate, technology has also been advancing ways in which to artificially assist the production of embryos as an aid to infertile couples.

Artificial reproductive technologies (ART) have been hailed as a treatment for infertility, and they have rapidly gained popularity despite their high monetary cost. However, as noted above, by the nature of these technologies, they produce fertilized embryos in excess of what is strictly necessary for a single round of therapy. This has led to the banking of embryos, which are placed in a chemical preservative and frozen for future use. Around 90% of these are technically considered to be “in use” by the couples from whom they were created, which accounts for the numerical disparity between the existing cryopreserved embryos (about 600,000) and those available for embryo adoption (around 60,000).⁷ Embryo adoption agencies⁸ acquire available embryos on behalf of couples who seek to adopt the embryo as their own child through embryo transfer to the (unrelated) mother’s uterus. This is accomplished via a catheter which is inserted into the uterus and used to transfer heterologous, fertilized embryos for hopeful implantation. Some agencies, in keeping with a preferential option for the poor, use the lowest quality available embryos to ensure that even the most vulnerable are given a chance to be gestated and born.

The process of embryo adoption has been compared to surrogate motherhood, so it is of key importance at this point to define surrogate motherhood, which is an important concept in the analysis of several authors. Surrogate motherhood occurs when a woman carries a pregnancy for another woman or couple with the agreement that the baby will be returned to the biological parents after being born. The

surrogate pregnancy may be produced through natural or artificial means, and the arrangement may result in monetary compensation for the surrogate. This concept will be discussed further as I consider the relevant church documents and arguments of prominent theologians.

Prior to engaging the ongoing ethical and theological debate, it is first important to understand the content of *Donum Vitae* and *Dignitas Personae*. I will examine the content of the church documents as a foundation to further discussion, and following a discussion of the current debate in the literature, I will offer some comments on the structure and logic of the church documents.

DONUM VITAE

Donum Vitae was written in 1987 by then Joseph Cardinal Ratzinger, who was at the time the prefect for the Congregation for the Doctrine of the Faith. The document was approved and ordered for publication by Pope John Paul II. In many ways, it is the parent document to *Dignitas Personae*, offering strong influence to the later document and supplying much of the logic and language. For that reason, although it does not address embryo adoption directly, it is an important document to consider in the discussion on embryo adoption. The document seeks to answer specific questions that had been raised at the time by members of the church concerned about the implications of then new technologies. It is a document in three parts, which opens with an anthropological and moral examination of fundamental principles, then moves to moral questions raised by the emergence of new reproductive technologies, and finally attempts to provide guidance on the relationship

between moral and civil law regarding human embryos. Following are some key aspects of the document that bear relevance to the discussion at hand:

The gift of life which God the Creator and Father has entrusted to man calls him to appreciate the inestimable value of what he has been given and to take responsibility for it: this fundamental principle must be placed at the centre of one's reflection in order to clarify and solve the moral problems raised by artificial interventions on life as it originates and on the process of procreation (*DV*, Intro., 1).

The document opens with this exhortation and maintains its focus on this “fundamental principle” throughout. In the first part, Ratzinger opens with an exploration of the ways in which science can serve mankind, and then moves into criteria for moral judgements regarding artificial reproductive technologies. He identifies two “fundamental values” that must be considered with respect to artificial procreation: “the life of the human being called into existence and the special nature of the transmission of human life in marriage” (*DV*, Intro., 4). It is important to note that this document was concerned mainly with the new technology of *in vitro* fertilization, and these fundamental points were constructed with that process in mind. This is a key point of consideration in the reasoning of some authors opposing embryo adoption, and I will consider it further as I explore the logic of the church documents.

The document then begins to provide answers to specific questions, and I will address some

of the key questions here. First, Ratzinger asks what respect is due to the human embryo, and in a refrain to be repeated often, writes that the human being must be respected from the moment of conception. He speaks against procured abortion, and refers to this teaching as unchangeable. He then, in comments that will presage the embryo adoption debate, writes that the embryo, as a person, must be “defended in its integrity, tended and cared for, to the extent possible, in the same way as any other human being as far as medical assistance is concerned” (*DV*, I, 1).

He further poses the question of whether therapeutic procedures may be licitly carried out on the human embryo. Again, we have a key question for the future embryo adoption debate, as implantation of a formed embryo might be considered a therapeutic procedure. Outside of procedures carrying disproportionate risk, the conclusion is that procedures should be allowed so long as they respect the life of the embryo and are directed toward its “*healing, the improvement of its condition of health, or its individual survival*” (*DV*, I, 3).⁹

The document then proceeds to address the questions of procreation and surrogacy, both of which become key considerations around embryo adoption. Ratzinger writes that the “child has a right to be conceived, carried in the womb, brought into the world and brought up within marriage” (*DV*, A, 1), and he then concludes that IVF is contrary to the unity of marriage because it separates the procreative act from the marital act, and as such violates not only the dignity of marriage but also the rights of the child. Utilizing similar logic, the

Instruction concludes that surrogacy must be rejected as morally illicit because it is contrary to the unity of marriage and dignity of procreation. *Donum Vitae* defines the surrogate mother as

the woman who carries in pregnancy an embryo implanted in her uterus and who is genetically a stranger to the embryo because it has been obtained through the union of the gametes of “donors”. She carries the pregnancy with a pledge to surrender the baby once it is born to the party who commissioned or made the agreement for the pregnancy (*DV*, A, 3).¹⁰

While none of these considerations touch directly on embryo adoption, the focus on the beginning of life and the application of emerging technologies to the generation of life has made this document an important consideration for some people concerned with the moral status of embryo adoption. Not least among writings that consider the document influential is *Dignitas Personae*, which brings us face to face with a discussion of embryo adoption.

DIGNITAS PERSONAE

Dignitas Personae was written in 2008 by William Cardinal Levada, who was at the time the prefect for the Congregation for the Doctrine of the Faith. The document was approved and ordered for publication by Pope Benedict XVI, who 20 years earlier had penned *Donum Vitae*. *Dignitas Personae* acknowledges in its introductory remarks that it is an extension and updating of *Donum Vitae*, which it holds as completely valid, but merely in need of updating in the face of new reproductive technologies. Similar to the older

document, the new Instruction is organized in three parts, with an opening consideration of anthropological and theological concepts, followed by two sections addressing new problems with procreation and embryo manipulation, respectively.

Dignitas Personae notes that, despite frequent exhortations to respect the embryo as possessing of personhood, *Donum Vitae* avoided making the philosophical conclusion that an embryo *is* a person. However, the document goes on to say that embryos possess “*full anthropological and ethical status*” and have “from the very beginning, the dignity proper to a person” (*DP*, I, para. 5). The teaching then examines the context in which human life should be brought into existence (in marriage), and examines the human and divine dimensions of procreation. The introductory section closes with a reminder that “*unconditional respect [is] owed to every human being at every moment of his or her existence*” (*DP*, I, para. 10).

The second part of the document contains the passages most central to the embryo adoption debate. In addition to reiterating the teachings of *Donum Vitae* regarding IVF, the new document emphasizes three “fundamental goods” that new medical techniques for the treatment of infertility must respect:

- a) the right to life and to physical integrity of every human being from conception until natural death; b) the unity of marriage, which means reciprocal respect for the right within marriage to become a father or mother only together with the other spouse; c) the specifically human values of sexuality which require ‘that the procreation of a human

person be brought about as the fruit of the conjugal act specific to the love between spouses’ (*DP*, II, para. 12).

Following an examination of IVF, the document notes that frozen embryos are often created during the process of IVF, and deplores cryopreservation as “*incompatible with the respect owed to human embryos*”, and even referring to the unused embryos as “orphans” (*DP*, II, para. 18). Following this, the document presents a section dealing specifically with embryo adoption.¹¹ The section opens by posing the question of how we should address the fact that large numbers of frozen embryos already exist in storage. Rejected outright is the idea that frozen embryos might be used for research purposes or the development of disease treatments. This solution would treat the embryos as an object to be manipulated and used toward some other end, and is therefore unacceptable.

The document then makes a quite subtle differentiation between couples who would utilize the embryos in a heterologous transfer as a treatment for infertility and those who would “prenatally adopt” the embryos with the charitable intent of sparing them from destruction. Regarding the former, Levada writes, “The proposal that these embryos be put at the disposal of infertile couples as a *treatment for infertility* is not ethically acceptable for the same reasons which make artificial heterologous procreation illicit as well as any form of surrogate motherhood” (*DP*, II, para. 19). Regarding the latter situation, he continues,

It has also been proposed, solely in order to allow human beings to be born who are

otherwise condemned to destruction, that there could be a form of “*prenatal adoption*.” This proposal, praiseworthy with regard to the intention¹² of respecting and defending human life, presents however various problems not dissimilar to those mentioned above (*DP*, II, para. 19).

The section closes with John Paul II’s appeal to halt production of frozen embryos and afford those in existence protections under the law. Levada also notes that the existence of hundreds of thousands of frozen embryos represents a “*situation of injustice which in fact cannot be resolved*” (*DP*, II, para. 19).

ENGAGING THE DEBATE

In his analysis of the aforementioned documents, Luke Gormally puts forth several arguments against embryo adoption. He opens by highlighting the word *intention* in n. 19 of *Dignitas Personae*, which he notes can refer only to the intended end of the practice and not to any means used in the service of that end.¹³ In other words, though the desired end of rescuing a frozen embryo is laudable, the means available to achieve the end encompass, as the document tells us, “various problems.” Because *Dignitas Personae* notes the problematic nature of the means at our disposal to reach the “intention,” Gormally interprets the church document as making a negative pronouncement on the practice of embryo adoption, though he admits this teaching is not strongly worded.

Gormally rightly notes that the church document is clear in its teaching that the natural and authentic origin of the child is from the marital act, and a husband and wife have an inviolable right to make each other, and only

The adoptive couple seeks only to remedy an unjust situation that has already occurred by adopting the embryo as their own child.

each other, into father and mother. However, he continues that in embryo adoption, the woman does not become a mother through her choice to engage in intercourse with her husband, but rather through a choice to have a previously created embryo implanted in her uterus. Here Gormally refers back to the fine distinction noted above between the use of frozen embryos as a treatment for infertility and the idea of their prenatal adoption; he applies the rationale for rejecting embryo use as fertility treatment, that is “the same reasons which make artificial heterologous procreation illicit” to the process of embryo adoption (*DP*, II, para. 19). Heterologous procreation is illicit because it “*causes a complete separation between procreation and the conjugal act*” (*DP*, II, para. 17). If that separation then makes illicit the use of frozen embryos as a treatment for infertility, Gormally concludes that the same must be true for embryo adoption.

In addition, though it is not the express intent of *Dignitas Personae* to address this niche issue, Gormally comments on the idea that a woman might adopt an embryo in order to save its life and then give the baby up for adoption. In this situation, he concludes that the document’s prohibitions on surrogacy would apply to the

adoptive mother, because she is becoming pregnant with a heterologous embryo with the intention of giving the baby to different parents.

Ultimately, Gormally's major argument is that embryo adoption separates procreation from the marital relationship, and is therefore illicit. In embryo adoption, the woman makes, "a choice subversive to the dispositions required in any woman who chooses to allow herself to be made pregnant."¹⁴

Nicholas Tonti-Filippini makes similar claims in a 2003 essay on the topic of what he calls "embryo rescue."¹⁵ He highlights *Donum Vitae's* instruction that we need to consider not only the rights of the embryo, but also the fidelity of the marriage. In furtherance of his claim that embryo adoption is destructive to marital unity, Tonti-Filippini writes that it is the medical procedure that make the woman a mother and that, "becoming pregnant through [heterologous embryo transfer] ... is an event from which her husband is, in effect, excluded."¹⁶

In addition to the idea that procreation is, in this case, separated from the marriage, Tonti-Filippini also focuses on the developmental continuum from fertilization to implantation to development, and makes a number of interesting claims. First, he claims that conception has not occurred until the embryo is implanted in the uterus. Further, he argues that the frozen embryo, more than being left in cryopreservation by its parents, in fact has no parents. Tying these claims together, he concludes that if conception is the fact of becoming pregnant, and becoming pregnant occurs when the embryo implants in the uterus,

then an embryo which has been fertilized but not implanted in a uterus has not in fact been conceived. Because the fertilization occurs outside of the mother's body, although she is biologically maternal, she cannot claim gestational maternity. In this case, Tonti-Filippini concludes that the embryo has no parents and has not been conceived in marriage.¹⁷

The claims of both authors are unconvincing. Gormally is most concerned with the separation of procreation from the marital act, which may be a convincing rationale for the rejection of IVF techniques and ARTs. However, the question of embryo adoption is addressing a situation in which the procreation has already occurred, and a fertilized embryo is already in existence. The man and woman procuring the laboratory-based insemination of an ovum are the couple who have separated procreation from the marital act, and then compounded their error by leaving their offspring in a state of cryopreservation. However, the adoptive couple seeks only to remedy an unjust situation that has already occurred by adopting the embryo as their own child.

Gormally also argues that some types of embryo adoption, specifically those in which a woman gestates an embryo, gives birth, and then places the child up for adoption, is equivalent to surrogacy and is therefore illicit. If the first scenario is analogous to adoption, this scenario might be considered analogous to foster care, in which people care for a child until a permanent home can be found. This is certainly a more controversial (and less common) form of embryo adoption, but important points of consideration can be

found in the church teachings discussed above. First, *Donum Vitae*, notes that surrogacy is in part defined by the fact that a woman carries a pregnancy with a pledge to surrender the baby to the party commissioning the pregnancy. This is not the case in the embryo surrogacy described by Gormally, because the woman carrying the pregnancy is in fact gestating a baby that was abandoned by the party who commissioned the fusion of gametes and production of the embryo. While it is true that she is carrying unrelated, heterologous genetic material in her womb, she does not meet the church's definition of a surrogate. Further, when answering the question of whether any procedures may be carried out on a frozen embryo, *Donum Vitae* allows for those that are directed toward the embryo's "healing, the improvement of its condition of health, or its individual survival" (DV, I, 3). The intention of the woman in embryo surrogacy is specifically the individual survival of the embryo, which is allowable in the analysis of Ratzinger.

Tonti-Filippini is right to consider the fidelity of the marriage in his analysis of embryo adoption, but his conclusion that the process violates that integrity is mistaken. His claim that the woman becomes a mother by a medical procedure is a nuanced one, and deserves closer inspection. It is clearly true that, in embryo adoption, the genetic makeup of the embryo is not the same as the adoptive mother, and she therefore cannot claim to have genetic matrilineage of the embryo. But the term "mother" must be understood by Christians to mean more than simple genetic motherhood. The term also encompasses a much more philosophical understanding of motherhood that rests on the loving relationship between mother and child.

Many social injustices such as hunger and socioeconomic disparity cannot possibly be solved, but the church encourages charitable attention to them nonetheless.

This is why we consider a man and woman who have adopted children to be their father and mother; we understand that they are genetically unrelated, but the bond shared by parents who lovingly raise children is also considered, even by those children, to confer "motherhood". An exemplar for Christians is found in the Holy Family, in which Mary and Joseph became the mother and father of Jesus not through genetic relationship or the marital act, but by a deeply spiritual relationship to the child Jesus. Their parenthood can only be interpreted as of the philosophical kind, rather than the genetic.

Regarding Tonti-Filippini's claim that an embryo procreated in a laboratory cannot be said to have parents, or even to have been conceived, it first must be stated that the embryo has clearly been procreated. If the procreated being is to be respected, it should be offered the chance at conception, birth, and life. Though the claim is difficult, if one accepts the claim that conception has not occurred for a frozen, procreated embryo, it might then be simple to claim that this state of affairs in fact advances an adoptive mother's claim to maternity.

Tonti-Filippini's claim falls on the same logical continuum as a claim advanced by Mary Geach, who describes the artificial implantation of an embryo into a woman's uterus as "allowing a carnal intromission of an impregnating kind."¹⁸ By this description, she allows the comparison of artificial embryo implantation to the carnal act, and if the act is carnal, one should conclude that it violates the marital vow. However, Christopher Tollefsen provides a nuanced interpretation of what occurs in the marital act that allows a rejection of Geach's claim. He writes that

men and women perform [marital acts], but neither performs an act of making pregnant or becoming pregnant. ... Why should we not say that the embryo itself ... has made the woman pregnant? ... The generative causality of the man and woman — the causality effected by the man's sperm on the woman's ovum — is at an end precisely because generation is over, and a new being with biologic causality exists.¹⁹

By this argument, Tollefsen indicates that the act of receiving an embryo via a catheter inserted in the uterus does not, in fact, duplicate any part of the marital act, as making the woman pregnant is the action of the embryo, and not the man or the woman. This would, in his analysis, remain true whether the embryo entered the uterus via the Fallopian tube or via a catheter.

In his own essay on the topic, William E. May also makes reference to arguments put forth by Tonti-Filippini and Geach, and writes that although he agrees with the eloquent descriptions the aforementioned authors

Embryos ... are owed the same respect and moral standing as any other human being. If this teaching is true, then embryo adoption can only be seen as consistent with church teaching ...

make of the beauty of the marital act, such descriptions are irrelevant to this debate because no marital act is involved in embryo adoption.²⁰ Although May agrees that it is immoral for a child to be generated by a means other than the marital act, the question of embryo adoption is not one of generation; rather the question is how to treat an embryo which has already been procreated. He writes that, "The woman who chooses to transfer a frozen, orphaned, and *unborn baby already generated* in vitro from the freezer to her womb and to nurture it there as a means of protecting its life is definitely *not* choosing to *generate* a child by means other than the conjugal act."²¹ Because of this, she cannot be said to be exercising unitive or procreative aspects of her sexuality extramaritally, or at all.

CONCLUSION

Most of this analysis has assumed that the church documents discussed above present accurate teachings, but the teachings have simply been misinterpreted as prohibiting embryo adoption. *Dignitas Personae* is certainly correct to note that, "the thousands

of abandoned embryos represent a *situation of injustice which in fact cannot be resolved* (DP, II, para. 19; emphasis original). However, the insertion of this point in the discussion of embryo adoption seems to imply that embryo adoption cannot certainly hope to address this situation of injustice. In doing so, the document can be read as asserting that we need not try to remedy the injustice because there is, in fact, no adequate solution. However, if this implication was intended, it should be considered an error. After all, many social injustices such as hunger and socioeconomic disparity cannot possibly be solved, but the church encourages charitable attention to them nonetheless. Even adoption in the traditional sense is, “a remedial measure...for adoption often or even usually is due to forms of social injustice.”²² Despite this, and despite the lack of genetic kinship, the church encourages adoption as a charitable response to a situation of injustice.

Ultimately, it is most important to consider the clear church teaching that embryos, from the moment of their genesis, are owed the same respect and moral standing as any other human being. If this teaching is true, then embryo adoption can only be seen as consistent with church teaching, as the technique allows for protection of a human being without any violation of marital integrity. Ultimately, we can conclude that embryo adoption of previously created and cryopreserved embryos is consistent with church teaching, and should be allowed as a charitable response to an existing injustice. ✚

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Creating Dialogue

1. What is the specific interpretive controversy that Malone is concerned about in this article? In other words, what do the church documents actually say about the embryo, its dignity, and the proposal of frozen embryo adoption?
2. Are there other ethical responses not mentioned by Malone that you can think of, by which we might approach this unjust situation, in harmony with the church’s moral guidance?
3. How would you explain the Church’s opposition to artificial interventions in reproduction, such as in vitro fertilization?

**APPENDIX A: *DIGNITAS PERSONAE*, II,
PARA. 19:**

19. With regard to the large number of *frozen embryos already in existence* the question becomes: What to do with them? Some of those who pose this question do not grasp its ethical nature, motivated as they are by laws in some countries that require cryopreservation centers to empty their storage tanks periodically. Others, however, are aware that a grave injustice has been perpetrated and wonder how best to respond to the duty of resolving it.

Proposals to *use these embryos for research or for the treatment of disease* are obviously unacceptable because they treat the embryos as mere “biological material” and result in their destruction. The proposal to thaw such embryos without reactivating them and use them for research, as if they were normal cadavers, is also unacceptable.

The proposal that these embryos could be put at the disposal of infertile couples as a *treatment for infertility* is not ethically acceptable for the same reasons which make artificial heterologous procreation illicit as well as any

form of surrogate motherhood; this practice would also lead to other problems of a medical, psychological and legal nature.

It has also been proposed, solely in order to allow human beings to be born who are otherwise condemned to destruction, that there could be a form of “*prenatal adoption*”. This proposal, praiseworthy with regard to the intention of respecting and defending human life, presents however various problems not dissimilar to those mentioned above.

All things considered, it needs to be recognized that the thousands of abandoned embryos represent a *situation of injustice which in fact cannot be resolved*. Therefore John Paul II made an “appeal to the conscience of the world’s scientific authorities and in particular to doctors, that the production of human embryos be halted, taking into account that there seems to be no morally licit solution regarding the human destiny of the thousands and thousands of ‘frozen’ embryos which are and remain the subjects of essential rights and should therefore be protected by law as human persons.”

ENDNOTES

¹ "Embryo Adoption," United States Department of Health and Human Services, 2015. Retrieved 04/01/2015, from <http://www.hhs.gov/opa/about-opa-and-initiatives/embryo-adoption/>

² The document later defines the "very first instant" as "from the moment the zygote has formed."

³ John Finnis, "Understanding Dignitas Personae on Embryo Adoption," *The National Catholic Bioethics Quarterly*, 9(3) (2009): 474-477; and Luke Gormally, "The Various Problems Presented by Embryo Adoption," *The National Catholic Bioethics Quarterly*, 9(3) (2009): 469-474.

⁴ Therese Notare, ed., "Dignitas Personae: Questions and Answers," *NFP Forum, Diocesan Activity Report 20* (1 & 2) (2009): 2-4.

⁵ Benedict M. Ashley, Jean DeBlois, and Kevin O'Rourke, *Health care ethics: a Catholic theological analysis*, 5th ed. (Washington, D.C.: Georgetown University Press: 2006).

⁶ See Lisa Sowle Cahill, *Theological Bioethics: participation, justice, and change* (Washington, D.C.: Georgetown University Press, 2005).

⁷ "Embryo Adoption," United States Department of Health and Human Services, 2015. Retrieved 04/01/2015, from <http://www.hhs.gov/opa/about-opa-and-initiatives/embryo-adoption/>

⁸ See <https://www.nightlight.org/snowflakes-embryo-donation-adoption/>.

⁹ Following this there are a number of questions regarding research on embryos which are not relevant to the present paper.

¹⁰ A secondary definition is similar to the first but includes the possibility that the pregnancy may be the result of an ovum from the woman carrying the baby and the sperm of a man other than her husband.

¹¹ Please see Appendix A for the full text of *Dignitas Personae*, II, para. 19, which is the section most central to this essay.

¹² This word, "intention," is of key importance in Luke Gormally's interpretation of the document.

¹³ Luke Gormally, "The Various Problems Presented by Embryo Adoption," *The National Catholic Bioethics Quarterly*, 9(3) (2009): 469-474.

¹⁴ Gormally, "The Various Problems Presented by Embryo Adoption," 474.

¹⁵ Nicholas Tonti-Filippini, "The embryo rescue debate: impregnating women, ectogenesis, and restoration from suspended animation," *The National Catholic Bioethics Quarterly* 3(1) (2003): 111-137.

¹⁶ Tonti-Filippini, "The embryo rescue debate," 115.

¹⁷ Tonti-Filippini, "The embryo rescue debate," 123.

¹⁸ Mary Geach, "The Female Act of Allowing an Intromission of the Impregnating Kind," in *Human embryo adoption: biotechnology, marriage, and the right to life*, eds. Thomas V. Berg and Edward J. Furton (Philadelphia: The National Catholic Bioethics Center, 2006), 251-271, at 261.

¹⁹ Christopher O. Tollefsen, "Could Human Embryo Transfer Be Intrinsically Immoral?" in *The ethics of embryo adoption and the Catholic tradition: moral arguments, economic reality and social analysis*, eds. Sarah-Vaughan Brakman and Darlene Fozard Weaver (Dordrecht: Springer, 2007), 85-102, at 90, 97.

²⁰ William E. May, "On 'rescuing' frozen embryos: why the decision to do so is moral," *The National Catholic Bioethics Quarterly* 5(1) (2005): 51-57.

²¹ May, "On 'rescuing' frozen embryos," 55; emphasis original.

²² Cahill, *Theological Bioethics*, 209.