

# Fr. O'Rourke and Beginning-of-Life Issues

## His Contributions Are Both Foundational and Practical

**I**t is an honor to have been given the opportunity to write an article on the contributions of Fr. Kevin D. O'Rourke, OP, JCD, STM, and his work regarding beginning-of-life issues. It's an honor for me not only because of the magnitude of Fr. O'Rourke's contributions and the high esteem in which he is held by his colleagues but also because of the contributions Fr. O'Rourke has made to my own life, particularly the beginning of my professional life. Allow me to begin with the brief story of how I first met him.

### A PERSONAL PRELUDE

Just before completing the course work for my master's degree in philosophy—which I undertook specifically for the purpose of gaining entrance to the PhD program at Saint Louis University's Center for Health Care Ethics, of which Fr. O'Rourke was then the director—I began to question my chosen career path. As part of my discernment, I decided to take an entry-level health care ethics course he was teaching.

On the first day of class, I sat listening to him describe how the modern emphasis on individualism was contrary to the view that there is an inherent and objective good for the human person as made in the image and likeness of God. Perhaps somewhat naïvely, I raised my hand and proposed to Fr. O'Rourke that, even if there is one objective good for the human person, couldn't there also be a variety of ways different individuals can fulfill that notion of the good. After a moment of silence, he looked at me and said, "Who are you again, and why are you in this class?" After listening to my reply, he said, "Yes,

but I am not talking about that kind of individualism," and went on with his lecture. I listened silently for the remainder of that class period, the doubts regarding my career path even stronger than before.

The next week I walked to class hesitantly. Just outside the classroom, I met Fr. O'Rourke, who greeted me with "It's good to see you—let's go have some fun." In the end, I finished that semester more than ever resolved to pursue my original life plan. More than that, though, I emerged from the semester inspired by his mentoring to make a difference in any way I could in the lives of the sick and those who care for them. I can, with moral certitude, say that, if not for the wisdom and passion Fr. O'Rourke brings to the human endeavor of health care ethics, I likely would not be doing what I am today.

### TWO FOUNDATIONAL ISSUES

I relate the foregoing to give but a minor example of Fr. O'Rourke's contributions as a teacher and mentor. Although his contributions as such are indelible, so too are his contributions as a role model for anyone concerned with the search for moral truth in the combined light of reason and faith. Perhaps nowhere else is his effort to integrate faith and reason more steadfast than in his thinking about beginning-of-life issues. The issues on which he has published include those that one would normally expect a Catholic ethicist to be concerned with: contraception and sterilization, the moral status of embryonic human life, abortion, assisted reproduction, fetal experimentation, stem cell research, human cloning, genetic engineering, responding to abnormal pregnancies, and the treatment of compromised neonates, among others. In addition to treating these issues in copious articles, Fr. O'Rourke has provided guidance by way of case analyses and critical review of vari-



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## Prudential personalism situates beginning-of-life ethical concerns in the context of the twofold meaning of human sexuality.

ous public policies.<sup>1</sup> And, of course, there are the numerous textbooks he has authored with his longtime colleague, Fr. Benedict Ashley, OP, PhD, and others.<sup>2</sup> Substantively, Fr. O'Rourke's contributions consist in both the practical guidance he has provided and his treatment of the more foundational theological concerns that ground his practical conclusions.

In my opinion, there are two foundational elements of Fr. O'Rourke's approach to issues at the beginning of life that constitute his more distinctive contributions. First, there is his consistent attempt to make explicit the connection between the norms pertaining to human procreation and the meaning of human sexuality, and the ways the latter influences our personal and social lives. This connection, which is perhaps made more explicit only in the papal teachings on which Fr. O'Rourke relies, provides the foundation for his pastoral response in addressing reproductive ethical concerns.

A second contribution, which concerns a profoundly significant and controversial question, is Fr. O'Rourke's argument for the moral status of the early embryo. In contrast to the modern view that human dignity is contingent upon the actualization of conscious thought, the Catholic Church teaches that human dignity is inherent in all human life from the "moment" of conception. Going beyond church teaching, Fr. O'Rourke has presented *rational* arguments for the moral status of the embryo and has provided the basis for intellectual assent to the church's teaching.

In this article, I will use Fr. O'Rourke's treatment of these two foundational concerns to illustrate some of the practical guidance he has provided throughout his career concerning beginning-of-life issues.

### THE MEANING OF HUMAN SEXUALITY

"Prudential personalism," the moral method espoused and employed by Frs. O'Rourke and Ashley, situates beginning-of-life ethical concerns in the context of the twofold meaning of human sexuality. As Frs. O'Rourke and Ashley are careful to point out, human sexuality first provides the basis of the human capacity for love, friendship, and community. As they tell us, "Our

capacity for affection, communication, and sympathy in all relationships is rooted in our physical and psychic sexuality."<sup>3</sup> The second sense of human sexuality is that of human reproduction. Here, their stated concern is primarily with "ethical questions about genital activity within marriage." Together these two meanings of human sexuality form the basis for five major values:

- Sensual pleasure and satisfaction
- More profoundly, the completion of the human person through an intimate and personal union of love
- The social necessity for the procreation of children and their education so as to expand the human community and ensure its continuation beyond the death of individual members
- Even more broadly, the basis of all relationships that constitute the network of human society (as discussed above)
- Symbolically, a sacramental mystery that stands for the creative love of God for all creatures and their loving response

These five values can be summed up in the "principle of personalized sexuality," which states that "God made us sexual not only for the survival of our species, but for the complete expression of a married person's mutual self-giving love that finds its complete fulfillment not just in orgasm but in children."<sup>4</sup>

Interestingly, what is not explicit in the principle of personalized sexuality is the premise, often cited by Catholic moral theologians, regarding the "inseparable connection, willed by God and unable to be broken by human beings on their own initiative, between the two meanings of the conjugal act; the unitive meaning and the procreative meaning."<sup>5</sup> Although some Catholic theologians might be content to rest the prohibition of contraception on the papal authority underlying this premise, the approach of prudential personalism emphasizes the personal and social implications of contraception. In Frs. O'Rourke and Ashley's words, "Contraception is intrinsically wrong, not because of any arbitrary rule of the church, but because it destroys the true meaning of sexual love and in the long run leads to serious personal and social evils."<sup>6</sup> Correspondingly, they also highlight four ways in which natural family



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planning—the method espoused by the church for limiting the number of children, when there are reasonable and serious reasons for doing so—fosters the personal and social values of human sexuality. The four ways are:

- It places responsibility on both partners, rather than on the woman alone, as do most methods of family planning.
- It results in an enhanced sense of personal dignity.
- It increases confidence in the strength of spousal love.
- It enhances the experience of intimacy due to periodic intentional abstinence.

Yet, at the same time, we cannot underestimate the significance that prudential personalism gives to the inseparable nature of the unitive and procreative ends of the conjugal act. For example, although some moral theologians have found the assisted reproduction technique of gamete intrafallopian transfer to be ethically acceptable when performed in conjunction with a conjugal act, Frs. O'Rourke and Ashley reject it outright. This rejection is based on their assessment that, even though fertilization is not extracorporeal (as is in vitro fertilization), it is not the result of the marital act itself but, rather, of a technician's manipulation following a conjugal act. This more literal understanding of the procreative dimension of the conjugal act leads Frs. O'Rourke and Ashley to conclude that number 39 of the *Ethical and Religious Directives for Catholic Health Care Services* is misleading insofar as, as they say, there are no techniques of assisted reproduction that "respect the unitive and procreative meanings of sexual intercourse."<sup>7</sup>

Of course, this emphasis on the physical dimension of procreation has direct implications for the moral evaluation of surgical sterilization. In keeping with the church's teaching, prudential personalism holds that sterilization, when not the side effect of a curative treatment, is objectively immoral because it is both a form of permanent contraception and a form of mutilation. Thus direct sterilizations, even when medically indicated, are inconsistent with both the principle of double effect and the principles of integrity and totality. As Frs. O'Rourke and Ashley conclude, "It may indeed be better for [a woman] not to

have another child, but she must solve this problem by changing her behavior, not by mutilating her body."<sup>8</sup> Situations in which a future pregnancy would seriously threaten the well-being and life of the mother, not to mention that of a future fetus, are not uncommon. Yet, as some might point out, Frs. O'Rourke and Ashley make very little (if any) mention in this context of the personal and social values of human sexuality or the emotional, psychological, and relational stress and toll that such situations can have on married couples (likewise, with infertility as well). In addressing such cases, Frs. O'Rourke and Ashley highlight the appropriateness of pastoral counseling based on the distinction between "objective morality" and "subjective culpability," the latter being diminished for individuals acting under severe duress.

#### **HUMAN DIGNITY AND THE HUMAN EMBRYO**

By no means are Fr. O'Rourke's contributions limited to the question of how, in light of the church's teaching, the process of fertilization is begun. Nor are his contributions confined to his thorough and insightful expositions of church teaching, though these are noteworthy in and of themselves.<sup>9</sup> Another contribution is his argument for the moral status of early human life. In addressing the question whether the human embryo is a person, for example, Fr. O'Rourke turns to the sciences of biology and philosophy. In doing so, he attempts to bridge the gulf between the Thomistic understanding of the human person that underlies church teaching and the more static notion of the human person operative in contemporary bioethics.<sup>10</sup> He thereby elucidates a rational foundation on which to build a consensus regarding the inherent dignity of the human embryo and the moral respect and protection it is therefore owed.

Fr. O'Rourke's argument for the moral status of the human embryo is founded on the twin pillars of "act" and "potency," as understood by St. Thomas Aquinas. Using this classification (into which St. Thomas divided the whole of reality), Fr. O'Rourke illustrates the congruity between our contemporary understanding of embryology and the Thomistic notion of "active potency." As he explains it, active potency



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implies that a being has the capacity to act in different ways, in accord with its nature, by reason of its own power. Here, Fr. O'Rourke uses the example of a grain of corn, which, though it is not yet a large stalk of corn, has the potency—that is, the innate capacity—to grow into one. Using the science of human embryology, Fr. O'Rourke points out that a single-celled zygote, though it will undergo many different phases of development and many changes, has an innate capacity to grow into a mature adult human in the same way the grain of corn has the capacity to grow into a stalk of corn. Thus he concludes, “the zygote at the time of fertilization is not a potential human being; rather it is a human being with active potential.”<sup>11</sup> According to Thomistic thought, all of the conditions necessary for the human soul to be present are met once the process of fertilization has come to its normal fruition, even though the zygote is not yet capable of actualizing all its inherent capacities.

This understanding of the human person stands in stark contrast to the modern understanding operative in contemporary bioethics. As Fr. O'Rourke describes it, this modern understanding concentrates exclusively on the presence of the attributes that indicate personhood—that is, conscious thought—rather than on the ontological substratum or nature of the conscious subject. However, as Fr. O'Rourke also points out, some contemporary bioethicists who espouse this modern notion of personhood implicitly admit the relevance of “potency” insofar as they acknowledge that a person is present even when his or her essential powers are not actualized. After all, “If one were to take the consciousness criterion for personhood literally, an adult human being with competent intellectual faculties would not be a person when asleep.”<sup>12</sup> Having achieved some semblance of agreement concerning the definition of personhood, Fr. O'Rourke explores the practical implications of the personal status of embryonic human life.

One implication of this understanding of the human person, with its foundation in the sciences of biology and philosophy, is that the church is apprehensive about declaring definitively that the human soul is infused at the time of fertilization. Although Fr. O'Rourke is himself convinced that

there is sufficient philosophical knowledge for a definition of ensoulment as beginning at the completion of fertilization (and although the church has defined other spiritual truths on the basis of philosophical evidence), he admits that there is still much that is not known about the operation of the human soul and the process of human generation.

As for the definition of personhood that focuses on the ontological nature of human life, one implication—an implication that some contemporary bioethicists operating under the modern understanding of personhood sometimes try to deny—is that it is a grave injustice to deprive human beings of their rights because of some physical or mental disability. This implication has particular import in Fr. O'Rourke's view of inducing labor and delivery solely because the fetus involved is inflicted with anencephaly. In his words: “Clearly, one need not prolong the life of an anencephalic infant because he or she will not benefit from prolonged life. But is one allowed to kill directly an anencephalic infant? If anencephalic infants could be delivered early (killing; by reason of *finis operis*), then it seems PVS [persistent vegetative state] patients could be smothered or poisoned without moral fault.”<sup>13</sup>

A related implication of this view is that every human being—at any stage of development, from conception to death—possesses the right to life. This understanding of the right to life provides the basis for the church's teaching regarding embryonic stem cell research and abortion. As Fr. O'Rourke points out, it is this understanding of the human person—not animosity toward, or fear of, scientific progress—that is the basis of the church's opposition to embryonic stem cell research.<sup>14</sup>

In the same way, the belief that life begins with conception has certain implications for Catholic hospitals' care of female victims of rape. In this case, the prohibition against contraception does not apply, because rape is not a freely chosen act and does not entail the responsibility to maintain the intrinsic significance of love and procreation that accompanies a freely chosen conjugal act between a husband and wife.<sup>15</sup> If, however, conception does occur, then the resulting embryo possesses the right to life. More precisely, “the victim of rape has a right to avoid pregnancy,



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which is a tragic violation of her human rights, but once she has conceived she must also respect the rights of the child within her, because both are equally human persons and have equal rights.”<sup>16</sup> Given this right, Frs. O'Rourke and Ashley argue that, if it were to interfere with embryo implantation, then emergency contraception should not be provided to female victims of rape if they are ovulating at the time of the assault. Accordingly, Catholic hospitals would have a responsibility to attempt to determine whether or not this is the case before administering the medication. The two acknowledge, however, that making such a determination is not always possible, and, because it isn't, “the therapy will often be utilized in the presence of some doubt.”<sup>17</sup> This would seem to imply that, even when innocent human life is at stake, we are not required to have absolute certitude before we act—that moral certitude can be a sufficient basis for respecting the right to life.

Regarding abortion, Fr. O'Rourke highlights two points that are sometimes obfuscated, if present at all, in some of the literature discussing the right to life of the fetus. First, he highlights a particularly pastoral passage from the encyclical *Evangelium Vitae*, in which Pope John Paul II writes, “Decisions that go against life sometimes arise from difficult or even tragic situations of profound suffering. . . . Such circumstances can mitigate even to a notable degree subjective responsibility and the consequent culpability of those who make these choices.”<sup>18</sup> Second, Fr. O'Rourke reminds us that, although the human fetus does possess the right to life, the norms governing the obligation to prolong human life still apply insofar as human life itself is a penultimate, but not absolute, good. As he further notes, “applying these norms to cases of the unborn and infants is a difficult proposition, but one truth of the tradition should not be overemphasized to protect another.”<sup>19</sup> Still, as he concludes, society remains in need of persuasion regarding the personal status of the human embryo, and it is our mandate and our debt to humanity to convince the public of this truth.

**OPPORTUNITIES FOR FURTHER THOUGHT**

In this brief article, I have attempted to highlight

a couple of Fr. O'Rourke's intellectual achievements and to at least hint at the practical guidance he has offered throughout his career. At the same time, I have tried to identify some opportunities for further thought. For example, Fr. O'Rourke's analyses of reproductive issues, particularly sterilization and assisted reproductive techniques, might achieve even greater balance (though his conclusions would not change) if some additional attention were paid to the emotional and relational impact that medical situations can have on married couples, especially, in light of the twofold meaning of human sexuality.

One may also wonder whether secular bioethicists and the larger public *can* be convinced of the personal status of human embryonic life for which Fr. O'Rourke so eloquently argues. Although *he* remains committed and optimistic, I question whether reason alone can overcome the metaphysical mind-set of our contemporary culture regarding the overriding value of autonomous action. Fr. O'Rourke's rational argument for the personal status of the human embryo, although a significant contribution in its own right, is only one piece of a broader cultural transformation needed to achieve the mandate he identifies for us.

Although Fr. O'Rourke's contributions in both the intellectual and practical spheres of Catholic health care ethics are great, perhaps his greatest contribution to the ministry itself is his pastoral concern for the human person as the subject of ethics. With this in mind, it is worth closing by quoting him and Fr. Ashley at some length:

The distinction between objective morality (i.e., what is helpful or harmful to the human person by reason of the moral object) and subjective culpability (i.e., a person's own understanding and responsibility for good or ill) is fundamental to pastoral care, which is directed toward helping people overcome the gap that often exists between moral truth and moral sensitivity. . . . The wisdom of pastoral counseling recognizes that the acceptance of moral truth and the development of moral sensitivity are gradual processes. The reform and



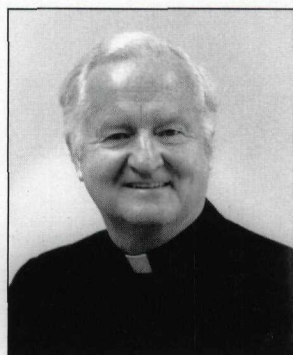
renewal of morality are not accomplished through condemnation, but through patience and compassion. . . . Pastoral considerations seek to help people follow the norms of sexual morality so that they will grow as persons and integrate their personalities. The distinction between objective and subjective morality does not result in a separation of mind and body, but rather in an effort to help people develop moral character.<sup>20</sup>

## NOTES

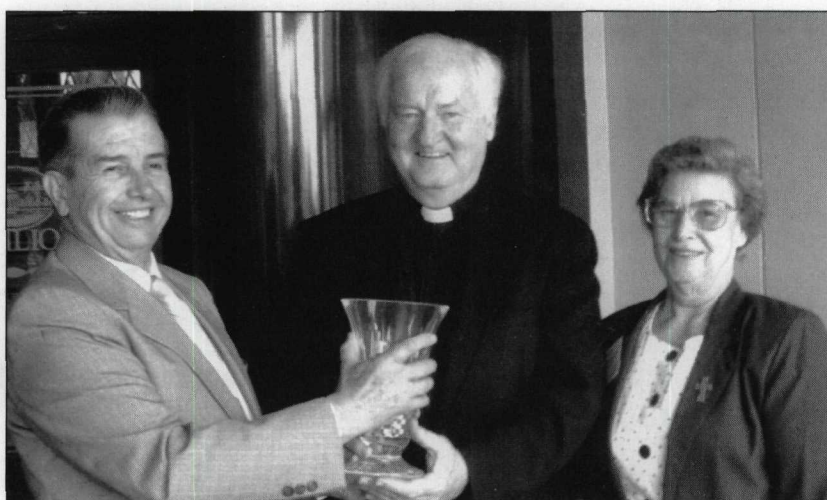
1. See, for example, "An Ethical Evaluation of Federal Norms for Fetal Experimentation," *Linacre Quarterly*, vol. 43, no. 1, 1976, pp. 17-25; "An Analysis of the Church's Teaching on Sterilization," *Hospital Progress*, vol. 57, no. 5, 1976, pp. 68-70, 80; "Treatment of Rape Victims," *Catholic Pharmacist*, vol. 23, no. 11, 1990, pp. 4-5; "Induced Delivery of Anencephalic Fetuses," *Kennedy Institute of Ethics Journal*, vol. 4, no. 1, 1994, pp. 47-53; "Embryo Research: Ethical Issues," *Healthcare Ethics USA*, vol. 2, 1994, pp. 2-3; "Care for the Beginning of Life," *Health Progress*, vol. 76, no. 7, 1995, pp. 36-40; "Catholic Health Care and Sterilization: the 'Principle of Cooperation' Provides the Necessary Ethical Guidelines," *Health Progress*, vol. 83, no. 6, 2002, pp. 43-48, 60; "Ethical Opinions in Regard to the Question of Early Delivery of Anencephalic Infants," *Linacre Quarterly*, vol. 63, no. 3, 1996, pp. 55-59; "An Exposition of *Evangelium Vitae*," *Josephinum Journal of Theology*, vol. 4, no. 1, 1997, pp. 4-12; "Applying the Directives: Three Directives Require Elucidation," *Health Progress*, vol. 79, no. 4, 1998, pp. 64-69; "Stem Cell Research: Prospects and Problems," *National Catholic Bioethics Quarterly*, vol. 4, no. 2, 2004, pp. 289-299; "The Embryo as Person," *National Catholic Bioethics Quarterly*, vol. 6, no. 2, 2006, pp. 241-253.
2. See, for example, *Medical Ethics: Common Ground for Understanding* (with Dennis Brodeur), Catholic Health Association, St. Louis, 1989; *Medical Ethics: Sources of Catholic Teachings* (with Philip Boyle), Georgetown University Press, Washington, DC, 1993; *A Primer for Health Care Ethics* (with Jean deBlois and Patrick Norris), Georgetown University Press, Washington, DC, 1994; *Ethics of Health Care: An Introductory Textbook* (with Benedict Ashley), Georgetown University Press, Washington, DC, 2002; *Health Care Ethics: A Theological Analysis* (with Benedict Ashley), Georgetown University Press, Washington, DC, 1996.
3. Ashley and O'Rourke, *Ethics of Health Care*, p. 121.
4. Ashley and O'Rourke, *Health Care Ethics: A Theological Analysis*, pp. 240-241.
5. Pope Paul VI, *Humanae Vitae: Encyclical Letter on the Regulation of Birth*, U.S. Catholic Conference, Washington, DC, 1968, n. 12.
6. Ashley and O'Rourke, *Ethics of Health Care*, p. 133.
7. Ashley and O'Rourke, *Ethics of Health Care*, p. 129.
8. Ashley and O'Rourke, *Health Care Ethics: A Theological Analysis*, p. 291.
9. See, for example, O'Rourke, "An Exposition of *Evangelium Vitae*."
10. O'Rourke, "Embryo as Person," pp. 241-251.
11. O'Rourke, "Embryo as Person," p. 247.
12. O'Rourke, "Embryo as Person," p. 244.
13. O'Rourke, "Ethical Opinions in Regard to the Question of Early Delivery of Anencephalic Infants," p. 58.
14. O'Rourke, "Stem Cell Research," p. 292.
15. O'Rourke, "Applying the Directives," p. 66.
16. Ashley and O'Rourke, *Ethics of Health Care*, p. 136.
17. Ashley and O'Rourke, *Ethics of Health Care*, p. 137.
18. Pope John Paul II, "The Gospel of Life," *Origins*, vol. 24, no. 42, 1995, n. 18.
19. O'Rourke, "The Embryo as Person," p. 251.
20. Ashley and O'Rourke, *Ethics of Health Care*, pp. 138-139.



## HONORING FR. O'ROURKE



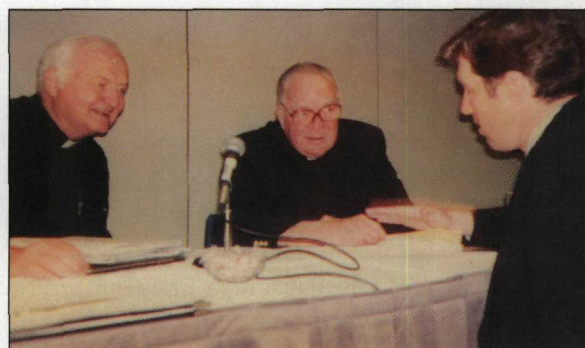
**1999**, retirement from Saint Louis University School of Medicine.



**1992**, first recipient of CHA's Sister Mary Concilia Moran, RSM, Award.



**2001**, delegate to 50th anniversary of Dominicans in Nigeria celebration.



**2000**, on a panel with Fr. Richard McCormick, SJ, STD.



**1980**, with Archbishop Jean Jadot, Apostolic Delegate, at a conference on revising canon law.

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