Embryo adoption: Some further considerations

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Recent discussions of embryo adoption have sought to make sense of the teaching of the Congregation for the Doctrine of the Faith (CDF) document Dignitas personae which appeared to provide a negative judgment on such a practice. This article aims to provide a personalist account of the process of fertilization and implantation that might serve as the basis for the negative judgment of the CDF document. In doing so, it relies upon the idea that a person, including an embryo, is not to be considered in isolation, but always in relation to God and to others. This approach extends the substantialist conceptualizations commonly employed in discussions of this issue. More generally, the article seeks to highlight the value of a personalist re-framing for an understanding of the moral questions surrounding the beginning of life.

Lay summary: *This article seeks to make sense of what appears to be a clear-cut rejection, set out in the Congregation for the Doctrine of the Faith (CDF) document Dignitas personae, of the proposal for women to “adopt” surplus frozen embryos. It draws upon more recently developed modes of philosophical/theological reasoning to argue that, in human procreation, both fertilization and implantation represent constitutive dimensions of divine creative activity and so must be protected from manipulative technological intervention. Since embryo adoption requires this kind of technology, it makes sense for the Church document not to approve it.*

Keywords: Embryo adoption, *Dignitatis personae*, Personalism, Fertilization, Implantation

Questions about the moral status of what is called “embryo adoption” or heterologous embryo transfer¹ continue to evoke considerable discussion. This has been the case both prior to and following the issuing of the document *Dignitas personae* by the Congregation for the Doctrine of the Faith (CDF) which expressed itself in negative terms on the matter but not in such a way as to render a decisive judgment (CDF 2008). The first purpose of this paper is to offer a theological grounding on personalist presuppositions for what is taken here to be a negative judgment on embryo

adoption. More specifically, it will draw attention to the need to consider the period between fertilization and implantation as sharing in the particular moral character that magisterial teaching attributes to the marital act as open to fertilization.

In order to pursue this argument I will exploit aspects of personalist thought which provide rationales unavailable to what might be called the substantialist approach of the Aristotelian-Thomist tradition. The specific aspect of personalist thought relevant to our question is that which describes the inter-

communication or dialogue between humans as well as that with God as possessing aspects that are not describable or translatable in terms of the categories of substance and accident. Indeed, it attributes a fundamental status to relationships involved in such dialogue just as basic or profound as that which is given to substantial realities. (I will develop this comparison later.) Thus the second purpose of this article is to make a contribution to the development of a personalist “translation” of theological argumentation supporting Catholic Christian teaching on moral questions.²

I will begin by reviewing in summary form the key arguments offered in relation to the morality of embryo adoption as they have been presented in the literature prior to the publication of *Dignitas personae* in September 2008. From this it will be clear that, given the presuppositions of the participants in that discussion, those arguing for the liceity of the procedure (at least in some circumstances) have had the better of the argument. The teaching of the two Church documents most relevant to the matter, *Donum vitae* and *Dignitas personae*, will then be considered, and it will be concluded that magisterial teaching is fairly conclusively against embryo adoption (CDF 1987). Yet it will also be acknowledged that the rationale for such a position is unclear, and in particular, does not fully address the reasoning of those who are, at least to some extent, supportive of the procedure. Next, I will re-describe the processes prior to implantation in personalist terms so as to offer a justification for the positions affirmed in the two documents. Finally, some more general comments will be made about the value of a personalist as distinct from a substantialist framework as a mode of pursuing difficult questions arising within bioethics.

DISCUSSION PRIOR TO *DIGNITAS PERSONAE*

My interest here is not to exhaustively review the arguments offered for and against embryo adoption prior to the publication of *Dignitas personae*, rather it is to point to the kind of argument typically brought to bear on the question. As we will note later, it is the presuppositions undergirding these arguments which will be challenged.

THE ARGUMENT IN FAVOR OF EMBRYO ADOPTION

Perhaps the most lucid presentation of a (hypothetical) case of embryo adoption is that of Germain Grisez in the third volume of his work *The Way of the Lord Jesus* (1997, 239–44). In the case presented a woman undergoes in vitro fertilization (IVF) treatment and a “spare” embryo produced during that treatment is frozen, perhaps for later use. Following failure to get pregnant and as a result of other traumas she takes her own life. At some time later, her sister then wonders about the possibility and morality of having the frozen embryo de-thawed and implanted in her own womb so as to give a life to that child, which would otherwise doubtless be lost.

In analyzing this case, Grisez responds with his usual clarity: the sister’s end or purpose is good; she is seeking to save the life of a human being which would otherwise be lost. The means of pursuing this end are also good since the object of the act is the de-thawing of an embryo and its implantation in her womb. Her womb, then, becomes the nurturing environment in which the already existing human being is brought to maturity ready for birth. As he argues, the means of fertilization in this case are immoral, but there is no significant sense in which the woman would be

co-operating with the immorality of the IVF procedure. Thus, the rescue of the embryo in this case would be moral. Addressing the hypothetical woman, he writes,

Therefore, you certainly can try to save the baby without acting contrary to what the Church has taught regarding IVF and surrogate motherhood. (Grisez 1997, 241)

To fill out the picture a little more, it is worth giving more detail of Grisez's argument especially as to the means employed. The act as he describes it is

to have the embryo moved from the freezer into your womb and to nurture him or her there, as any upright pregnant woman nurtures her child. (1997, 241–2)

It must be admitted that Grisez ignores the reality that the probability of a successful pregnancy in this case is quite small,³ but this does not detract from his argument about the in-principle goodness of the act, or even from a justification that would hold that any possibility of saving a life is better than the certainty of death without the procedure.

The reasons Grisez offers here are that the act as so described

does not violate the transmission of life; and it has nothing to do with the good of marriage, because it is not a sexual act, and the relationship between you [as potential mother] and the baby is neither marital nor a perverse alternative to the marital relationship. (1997, 242)

That is, this act has nothing to do with fertilization, which has already been accomplished. The goods of the transmission of life as well as the good of marriage do not come into play. In fact, to highlight the separation of the embryo adoption from any notion of sexual sin or sin against marriage, he suggests the following analogy:

Rather, you would be acting in much the same way as a mother who volunteers to nurse at her own breast a foundling conceived out of wedlock, abandoned by his or her natural mother, and awaiting adoption by a suitable couple. Like that mother's nursing, the nurture you hope to give will in no way involve you in the wrongs previously done to the baby and will be offered to him or her for his or her own sake, not done as a service to anyone else. (Grisez 1997, 241)

Thus, this clear separation of the act of embryo adoption from that of fertilization with all the attendant moral constraints surrounding the latter is central to Grisez's argument. More generally, such a notion forms a key plank in the reasoning of the Catholic theologians who support the procedure in at least some circumstances.⁴

We will now address some of the arguments offered against embryo adoption.

THE ARGUMENT AGAINST EMBRYO ADOPTION

Two years after the publication of Grisez's case study, Mary Geach (1999) offered her own response to the question of embryo adoption. In it she focused upon the fact that by having an embryo implanted in her womb a woman is thereby impregnated. But this process of impregnation is meant to be something that arises out of the mutual love between husband and wife. In the case of embryo adoption, this does not happen:

How much worse must it be to isolate the spiritual component of the marriage act, the giving up of the body to the impregnator, dissociating oneself from the parents of the child, and substituting for the relation to the father a mere arrangement with a technician ... If solitary vice is objectionable as part of the marriage act taken out of context, much more so is this giving up of one's body to

an impregnating intromission. (Geach 1999, 345)

In brief, Geach holds that embryo adoption is an example of an unchaste act. What is meant to be the activity of her husband as impregnator here becomes a technical act carried out by someone not her husband.

However, Helen Watt (1999), in her response to Geach's argument, questions the latter's use of the word "impregnate." In normal circumstances impregnation by the husband of his wife is the result of a marital act leading to fertilization. Impregnation, thus, means faithful sex leading to fertilization. In contrast, embryo adoption uses an already fertilized egg (conceived by immoral means) in order to induce, by technical means, a pregnancy. This sense of the word "impregnation" brings with it no notion of a sexual act. As Watt argues, if we keep these two meanings of the word distinct, we will conclude that embryo adoption cannot legitimately be called an unchaste act.

William Smith (1995) has also proposed arguments against the morality of embryo adoption on the basis of his reading of the CDF document *Donum vitae*. First, he quotes what appears to be a direct and negative judgment on such procedures.

In consequence of the fact that they have been produced *in vitro*, those embryos which are not transferred into the body of the mother and are called "spare" are exposed to an absurd fate, with no possibility of their being offered safe means of survival which can be licitly pursued.⁵

However, when one searches for a rationale for the judgment at the end of that sentence, nothing clear-cut appears. A reasonable reading of the surrounding text suggests that the immorality is connected with risk of death of embryos produced *in vitro*.

It is therefore not in conformity with the moral law deliberately to expose to death

human embryos obtained "*in vitro*." (CDF 1987, original emphasis)

A later passage within the same section seems to support this reading:

The freezing of embryos, even when carried out in order to preserve the life of an embryo—cryopreservation—constitutes an offence against the respect due to human beings by exposing them to grave risks of death or harm to their physical integrity and depriving them, at least temporarily, of maternal shelter and gestation, thus placing them in a situation in which further offences and manipulation are possible. (CDF 1987)

Indignity and risk to life undergird the argument against *in vitro* production; risk to life seems to be the reason for the judgment that there is "no possibility of [the embryos] offered safe means of survival which can be licitly pursued" (CDF 1987). As William May has asserted, the passage from which we have quoted does not appear to have in mind the option of embryo adoption.⁶

Smith also points to another section of *Donum vitae* to support his argument against embryo adoption. In relation to *Donum vitae*, II, nn. 1–3, he sees the case made there against surrogate motherhood as providing reasons for also judging embryo adoption (Smith 1995, 72). The text looks back to its earlier negative judgment of heterologous artificial fertilization to provide arguments against surrogacy:

Is "surrogate" motherhood licit? No, for the same reasons which lead one to reject heterologous artificial fertilization: for it is contrary to the unity of marriage and to the dignity of the procreation of the human person. (CDF 1987, IIA n.3)

Specifically, it is referring to a principle enunciated there:

Respect for the unity of marriage and for conjugal fidelity demands that the child

be conceived in marriage; the bond existing between husband and wife accords the spouses, in an objective and inalienable manner, the exclusive right to become father and mother solely through each other. (CDF 1987, IIA n.2)

The fact, however, that this text is referring to the process of fertilization is clear from what follows. There it talks about “recourse to the gametes of a third person” (CDF 1987, IIA n.2). To argue otherwise would be to exclude as legitimate adoption of orphaned children, or perhaps even the use of humicribs as substitute wombs for premature infants.⁷

Concluding this section, it seems that the pre-*Dignitas personae* case for embryo adoption on rational grounds is stronger than that which opposes the procedure. The CDF document *Donum vitae* offers some fairly ambiguous statements which could be interpreted as opposing embryo adoption, but are open to an interpretation which sees them as not directly relevant to the matter. That is, they would refer only to situations in which the process of fertilization itself was being considered.

As is well known, the publication of the CDF statement, *Dignitas personae*, in 2008 moved the question further along, seemingly providing a negative judgment on embryo adoption. We will now briefly consider the relevant passages from that document.⁸

DIGNITAS PERSONAE

In a section headed “Freezing embryos” (nn. 18–9), *Dignitas personae* specifically addresses the questions surrounding the use, treatment, and fate of frozen embryos. Number 19 contains passages relevant to our concerns.

With regard to the large number of frozen embryos already in existence the

question becomes: what to do with them? 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 statement explicitly forbids any use of frozen embryos that would represent a loss of dignity of these human beings. But what about their use among infertile couples?

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. (CDF 2008, n.19)

At this point, supporters would have come to suspect that their reading of *Donum vitae* was inaccurate, for here the argument is that the justification for the rejection of heterologous artificial fertilization and surrogate motherhood also applies to embryo transfer, something they believed not to be the case. But the matter becomes even clearer in the next section.

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.” (CDF 2008, n.19, emphasis added)

Here we have a relatively straightforward statement rejecting embryo adoption. The problem of abandoned embryos is something that “cannot be resolved.” The only hesitation in this regard is that the ensuing quotation from John Paul II expresses a similar sentiment but with less forthrightness: “there seems to be no morally licit solution.” Nevertheless, it is likely that we are to understand the difference here as due to the fact that the former pope was speaking these words in 1996 and that a deeper conviction about embryo transfer has matured since then so that a more confident judgment can now be made.⁹

What are we to make of the document’s rationale for such a judgment? Our passage (n. 19) tells us that embryo adoption is wrong for the same reasons that heterologous artificial fertilization is wrong. That is, (a) it removes the right of couples to become father and mother exclusively through each other; (b) it affects the child’s right “to be conceived, carried in the womb, brought into the world and brought up by his own parents” (CDF 1987, IIA n.3); and (c) it impacts upon the husband’s vocation to fatherhood. Now it would seem that these are not all of equal importance or of equal relevance. For example, in relation to the second cited reason, the mentioned rights of the child would presumably be subordinate to his or her right to life; conversely, orphaned children have to be cared for by

some adults. Also the third reason is a weighty practical consideration but it hardly represents a foundational principle of Catholic moral teaching, again, in view of the acceptability of adoption.

Let us consider again the first argument. Certainly, applied to the process of fertilization, there is plenty of support both from revelation and from practical considerations to hold to this principle. In effect, it affirms the crucial importance of fidelity in marriage. Yet it is not at all clear, given the technical capacity to separate fertilization from impregnation, that motherhood in this context must necessarily be interpreted to refer not only to fertilization but also to the state of being pregnant. This separability leaves us with a procedure— “causing to be pregnant”— the moral status of which no specific argument seems to clarify. If this is the case, then we are in need of a justification for what seems to be a “theological instinct” within magisterial teaching which sees in embryo adoption something that cannot be approved.¹⁰

DISCUSSION AFTER *DIGNITAS PERSONAE*

A number of scholars have analyzed the text of the 2008 CDF document and have sought to argue, generally on the basis of its insufficient justification for opposing embryo adoption, for situations in which the procedure would be licit.¹¹ As we have noted, this approach would seem to be precluded by the fairly direct negative judgment of the document. On the other hand, some contributions to the debate have provided argumentation opposing embryo adoption in principle. Tracy Jamison (2010, 120), for example, starts from the principle that

the perfection of human nature cannot coherently be separated from the exercise

of the faculties that exist in order to attain the natural goods that define human perfection.

From this she argues that one cannot impregnate a woman in any other way than by the conjugal act, and for this reason embryo adoption is illicit. The difficulty here is that the primary principle would appear to claim too much, for it would imply that any human activity carried out without the use of the “normal” faculties for such activity would attract a negative moral judgment. Thus, walking on one’s hands or eating foods containing artificial sweeteners would have to be considered immoral by this principle. It seems, then, that a less encompassing principle, one addressing the particularities associated with reproduction, is called for.

Another participant offering a case aligned with the negative judgment of *Dignitas personae* is Nicholas Tonti-Filippini (2003). Although his line of thought draws upon material from that document, the basic notion he relies on is expressed in the *Donum vitae* text:

the spouses [have], in an objective and inalienable manner, the exclusive right to become father and mother solely through each other. (CDF 1987, IIA, n.2)

Upon this basis he reasons as follows:

gestational motherhood results from impregnation, either sexually or by embryo transfer. It is my argument that impregnation has a particular significance and that the Congregation’s statement would rightfully apply to achieving motherhood by impregnation outside of the conjugal relationship. (2003, 118)

He spells this out by suggesting that motherhood by impregnation brings about an ontological change in a woman’s being such that from now on she is the mother of her child.

the formation of that union (between mother and child at impregnation) is an ontological change. Physiologically, and, I would argue, because physiologically, therefore in all other ways, given her psychosomatic unity, she and the child are so interrelated that this is a change to her being. (2003, 123)

Tonti-Filippini goes on to argue, *pace* Grisez, that

In her being, she is a *woman with child*, and this is very different from circumstances in which a woman merely holds a child in her arms or breastfeeds a child. Breastfeeding is a motherly thing to do, but it is not constitutive of a motherhood relationship. (2003, 123–4)

Now because, in embryo adoption, impregnation and thus motherhood arises outside of the context of a “becoming mother through my husband,” the *Donum vitae* stricture applies: it is illicit since in this case neither husband nor wife “become father and mother solely through each other.”

This line of argument would appear to be an advance on earlier negative arguments. It finds in the relevant passages from *Donum vitae* and *Dignitas personae* a principle which, while in its original context might have applied only to fertilization, would in fact cover a broader scope. To become father and mother solely through each other certainly provides a significant protection not only against perverse possibilities associated with the application of technology to fertilization but also against the problems linked to surrogacy and, in Tonti-Filippini’s view, on embryo adoption. The emphasis of this argument upon the new relationship that comes into existence with pregnancy is something that will be taken up later.

However, to ground this principle upon the notion of an *ontological* change in the

mother presents some difficulties. For even though it speaks of the decisive significance of becoming a mother, that is, of the coming-to-be of a mother-child relation, the language of ontological change is problematic. The notion of motherhood describes a new relationship into which a woman enters, that with her child. Yet relations of that kind, according to Aristotle, belong to the accidental properties of a substance. Substantial change, which I take Tonti-Filippini to mean here, would require something much more drastic than the formation of a new relationship with another human being. Thus I believe that another foundation would need to be sought in order to defend both the claim that the relation between mother and embryo is morally significant as well as the applicability of the *Donum vitae* principle upon which he relies.¹²

It is in the light of the difficulties so far indicated in the theological rationales offered in support of the rejection of embryo adoption in the relevant magisterial documents, that the following argument is offered. As will become clear, it takes up the valuable insight of Tonti-Filippini but translates the matter into a personalist key. In doing so, it moves beyond a substantialist mode of argument.

A PERSONALIST ARGUMENT AGAINST EMBRYO ADOPTION

A personalist perspective—and of course there are many rooms in the personalist mansion—has as a common denominator the fundamental significance it gives to the person. More particularly, in the approach adopted here, we affirm that there are things, and there are persons; persons are not things.¹³ Furthermore, persons only exist in relationship; there is no reality called a person which exists temporally or logically prior to the existence of a

person-in-relation-to-other-persons.¹⁴ We cannot say that of things. We might thus think of persons as *poles* of a relation, or if we use a communication model, senders/receivers within a process of communication or dialogue. We can contrast this with a substantialist view of reality that sees only things or substances, and accidents, i. e., properties tied to substances. In this view relations, since they are accidents, have no special status in their own right, they are merely descriptions of how two or more things are connected to each other.

We see most clearly the complementarity of the distinction between persons and natures/substances when we consider the doctrine of the Holy Trinity in which the three divine Persons (who only exist in relation to each other) are distinguished from the divine nature or Godhead. Similarly, in Christ there is one Person (in fact, the Son of God) in two natures, human and divine. The personalist approach adopted here echoes this theological notion of person in the way it considers the human person.

We relate to God as a personal God, and this forms our relationships more generally. As is the case in the inter-relations of the divine Persons, among humans, love is the defining mark of personal relating and essential here is the need to respect the freedom of the persons. To treat, for example, the worship of God as a means to some other end, whether it be social acceptance or whatever, is an offence against the divine Personhood. Likewise, to treat other humans merely as means to some other end is to wrong them. In view of its tradition of viewing persons as substances (e. g., the Boethian definition of person as an “individual substance of a rational nature”¹⁵), one of the enduring challenges for a substantialist perspective is that of providing a compelling account of why we should treat other persons as ends rather than simply means to our ends.

Although as humans we exist as persons only in relation to other persons (and more fundamentally to God), yet we do not always fully *manifest* our personhood through our nature, that is, by freely loving others. We can think of a toddler or the person who is self-centered as those whose *expression* of personhood is limited. But it is clear that the distinction between person and human nature is not easily drawn. Here it is argued that the way forward is not to attempt some kind of *conceptual* integration, a “living synthesis of substantiality and relationality” as it were,¹⁶ but to treat “person” and its alternative, “nature or substance” as something like *modes of reference* or ways of speaking, both of which are applicable to humans.¹⁷ When referring to human beings as persons we use particular language (John, Mary, I, we, love, free, etc.); in speaking of our natures, other language is called for (body, mind, behavior, etc.) Each mode is appropriate when referring to human beings but they point to distinct referents or aspects of reality, and indeed, they rely upon their own presuppositions (Denzinger and Hünermann 2012, n. 902).¹⁸ The upshot of all of this is that when we come to consider issues surrounding procreation and embryo adoption, we need to ensure that we do not confuse matters by failing to acknowledge the genuine distinction that exists between person and nature in the unity which is the human being.

THE MARITAL ACT THROUGH PERSONALIST LENSES

In the marital act, we are dealing with a shared personal activity between a man and a woman but one which, in contradistinction to all other human activities, involves the possibility of God’s creative action in bringing into existence a human soul. It is no wonder, then, that humans

have often attributed a kind of sacral quality to sexual intercourse. For Catholic believers, in any case, the marital act involves God as divine Person, One who is able to bring about a new human being. Thus, such married couples are encouraged to recognize this reality, at least as a background awareness, when engaging in the act of marriage. In particular, they need to respect the freedom of God to bring about this new creation by not resorting to the intervening or controlling use of technical means to achieve or to prevent pregnancy. God, in His turn, respects both human freedom and the centrality of the unitive dimension of sexual love by creating us so that female fertility is limited to a portion of the menstrual cycle (Paul VI, n. 10).¹⁹

The important point to make here is that the event of procreation, in virtue of its partly supra-natural character, must be respected by making allowance for the divine freedom to bring it about. This is the time when a new human being, body and soul, comes into existence.²⁰

DISTINGUISHING BETWEEN BEING A PERSON AND EXPRESSING PERSONHOOD

Now although I have used the language of body and soul, the personalist viewpoint adopted here would want to qualify this somewhat. We recall that human beings are also persons but only so in relation to other persons. A new human soul, then, insofar as we can say that he or she is a person, is not simply a person *per se*, but a person-in-relation-to-God.²¹ This latter description is not to be construed as simply stating that, at this time, he or she exists in relation to God as *Creator*, which, of course, is true. Rather, and crucially, the new human person is also in relation to the One who loves and calls him or her into a full relationship with Himself.²² “Soul” in

this context refers to a new person-in-relation-to-God, and according to the presumed divine intention this relationship is oriented to eternal beatitude.

Yet it cannot be said to be the whole of this intention. For if that were the case, then the wholesale creation and immediate destruction of embryos in vitro would not create deep moral concerns. Our belief, on the contrary, is that the divine intention includes the immersion of humans in the world of history and of particular human relationships. We typically come to the fullness of life with God *through* the history of our relations with other people. That means that the state of play, as it were, at the time of the immediate creation of the soul as person-in-relation-to-God reflects only part of God's creative purposes for the new human being. Somehow—and here, as with the idea of immediate creation, we are talking of mysteries—there is a “more” to the fulfilment of those purposes which has to do with connecting this new creature into the world of particular persons. What we know is that at fertilization the mother's womb is to be viewed as an *environment* for the zygote for the reason that the process is readily achievable in a laboratory and thus any communicative relationship between mother and child is at that point, strictly speaking, accidental. But at implantation he or she has entered fully into a process of engagement firstly with this particular woman who is his or her mother—with whom there will be a sharing of cells for many years, if not indefinitely.²³ However, through that relation, ultimately with others as a full participant in human history.²⁴ The one who is/has been a person from the very start will, it is hoped, ultimately be able to *express* that personhood in relation to family, friends, and the wider world.

Summarizing this, we might say that there are typically two elements to the

divine purpose for the beginning of a new life, the divine address that calls forth the new person—and this is signified by fertilization—and the divine vocation to manifest that personhood (in particular relational engagements, in human history, and hopefully most fully in and with Christ)—and this is signified by implantation.

EVENT AND PROCESS

Another aspect of this personalist treatment of questions relating to the beginning of life must be considered, and it is best addressed by pondering the seeming “awkwardness” of the Church's teaching of the immediate creation of the soul. Put simply, such “awkwardness” arises because here we think in terms of an instantaneous event²⁵ yet one which must somehow slot into the *process* of fertilization. The word “process” is important here because it reflects a basic methodological assumption of contemporary science, that *natura non saltem facit* (nature does not make leaps). That is, it is assumed that every so-called event is in fact a process. Aside perhaps from the strange world of quantum physics, we can always—at least in principle—analyze even the most instantaneous event into a sequence of constituent stages. In the world of science, boundaries are virtually always fuzzy. A substantialist approach strikes a problem here because it will ask—and expect to be able to answer—the question, at what precise point during the process of fertilization is the soul infused. But whatever answer it gives will be open to the challenge that it is arbitrary. Within this view, there is an awkwardness in fitting an understanding of ensoulment into a biological understanding of fertilization.

From a personalist perspective, this awkwardness can be softened if we see the “event” of God's creative intervention in

nature as operating within a “space” or span of time which allows for the mystery of divine freedom to be protected. The boundaries framing that space are set; we know when a new human being is not yet present, and we know when he or she exists. But within those boundaries we cannot define matters any further. Indeed our boundaries are designed not to define something but to protect that which cannot be defined, that is, the divine address and vocation.

Furthermore, it is better to think not so much in terms of “some *thing*” being inserted into nature, but as the connecting of a relationship, that is, a person-in-relation-to-God, with the world of things or substances. As I have emphasized, this connection cannot be expressed in a straightforward manner, but only approximately, in terms of the two modes of reference referred to above.

Taking up this approach to the immediate creation or “calling forth” of the soul, and applying it to the other mystery of vocation whose own protective boundary has been located at the time of implantation, we see that personalist categories might open up possibilities for the further elucidation of the beginnings of life, and for thinking about the moral questions that relate to it.

DRAWING THE IMPLICATIONS

In view of what has been proposed, what becomes clearer is the necessity of acknowledging the sacred character of both the process leading to fertilization *and* the subsequent process resulting in implantation; they are both to be respected not least by the refusal to intervene technologically, for to do so is to arrogate to oneself control over a work which we believe belongs properly to divine freedom; it is, in other words, to compromise the

dialogical relation with God. Looking back to the *Donum vitae* principle that it is the right of the couple to become father and mother exclusively through each other, we note that it is precisely this requirement that protects the sacredness of the whole process. In relation to embryo adoption, we see that there is of necessity an inappropriate intrusion of controlling technology over and above that which occurred at (artificial) fertilization. For this reason, both heterologous and homologous embryo transfer must be judged in the same way, that is, as morally illicit.

HOW DOES THIS PERSPECTIVE RELATE TO THAT OF OTHER APPROACHES WE HAVE CONSIDERED?

In answer to Grisez’s argument, we can say that it fails to take account of the significance of post-fertilization processes presumably since it operates on substantialist presuppositions. Grisez (1997, 242) observes that “since the new person already exists, [embryo adoption] does not violate the transmission of life.” For him, once the event of fertilization has occurred, the goods associated with the transmission of life and of marriage have been met, and human control of the ensuing processes can be taken. Such thinking would appear to be behind the arguments offered by Helen Watt and William May in favor of embryo adoption. In each case, there would seem to be assumptions about the instantaneous coincidence of fertilization and ensoulment, and that moment as the sole element that calls forth special moral significance.

On the other hand, Tonti-Filippini, though working within a substantialist perspective, has drawn attention to the significance of the relationship between the mother and her embryo, a significance

that applies regardless of the means of impregnation. In this respect, his position fits with the teaching of *Dignitas personae*, but also provides at least a pointer towards a more apt account of that teaching. It is this line of thought that has here been developed and translated, as it were, into a personalist conceptualization.

Mention should also be made of the relevance to the whole discussion of the idea that sometime in the future an artificial womb might be invented which could bring to term a fetus who had been conceived naturally by its mother and father, but whose mother, for some reason, could no longer continue the pregnancy. In such a case, the question would arise: would it be morally acceptable to nurture to term a pre-viable fetus or even an embryo in such a facility? Some have suggested that such an action would be clearly laudable in order to save the fetus's life but, they reason, this would seem to contradict the reading of *Dignitas personae* that some opponents of embryo adoption have put forward (i.e., "mother" as impregnated mother). As argued here, however, it is fertilization-implantation that "makes" a mother and a father, as it were. That a human is further nurtured in his or her mother's womb is certainly ideal, but not morally necessary, and thus one could accept the employment of an artificial womb which is "impregnated" with an embryo, if medically necessary, in the circumstances described here.

Finally, I want to draw attention to the more general potential of personalist principles for bioethical argument. Such notions have been applied here both in describing the marital act and in providing a justification for rejecting the moral permissibility of embryo adoption. A number of advantages would seem to derive from this approach. To begin with, it highlights the relational, that is, the dialogic or prayerful dimension of the Christian

moral life. It is not firstly a matter of a set of rational moral principles of which a couple are heedful as they engage in sexual intercourse, but the (at least background) awareness of the potential life-creating activity of the Lord in the process. This would seem to be more attuned to the actual ecology of Christian married life. Next, the approach allows for positions and lines of argument that throw light upon recent magisterial teaching in a way that a substantialist approach struggles to accomplish. In particular, neither traditional natural-law arguments nor those of Finnis drawing on New Natural Law, based as they both are on Aristotelian categories, have so far been able to offer a compelling justification for the negative judgment of *Dignitas personae* on embryo adoption. Finally, one might point to the personalist approach as possessing the conceptual resources to both engage with scientific modes of thinking *and* preserve fundamental convictions about persons, freedom and love, again, something that purely substance-based metaphysics has not as yet successfully achieved.

CONCLUSION

This article has reviewed the arguments for and against the notion of embryo adoption and found that, given substantialist philosophical assumptions, the case in favor seemed to have the better case. Since the publication of *Dignitas personae* the Church's position against embryo adoption has been made clearer, yet the rationale provided in that document needs development. Working from a set of personalist assumptions, an outline account of the moral dimensions of the marital act has been offered which could form the basis for a reconsideration of the question of the limits within which technological intervention in the transmission of life might

be considered appropriate. It was argued that the sacred and therefore inviolable character of such transmission extends from the marital act to that point in the impregnation process referred to as implantation. This claim was supported by the argument that just as fertilization signifies but does not define the coming-into-existence of the new person, so too implantation signifies without temporally defining the divine vocation to the expression of personhood in history and in Christ. Given the dominance of non-personalist, substantialist commitments over many centuries, one can well understand reluctance to countenance such a line of reasoning. However, it is offered as a possible way forward in the continuing attempts to make sense not only of the teaching of *Dignitas personae* on embryo adoption but more broadly of questions within the sphere of bioethics.

ENDNOTES

1. The word "adoption" as used here is not primarily taken in its legal sense of a couple becoming the legal mother and father of a child for whom at least one parent is not their biological offspring. Rather the meaning employed is an analogous one such that a woman "adopts" when she becomes the bearing mother through artificial impregnation of an embryo not her own. The legal adoption of an embryo cannot of itself make licit the otherwise, arguably, illicit impregnation of a woman with another's embryo. Though embryo adoption is primarily linked to heterologous embryo transfer, or the use of a woman's frozen embryos to impregnate another woman, and that will be the focus here, it will hopefully become clear that my line of argument will also apply to circumstances in which a woman has implanted into her womb her own eggs.
2. Efforts in this regard have been made recently, for example, by T. Nelson (2012). However, Nelson relies upon what will later be argued is the inadequate ontology of John F. Crosby and W. Norris Clarke.
3. For example, US data from 2010 showing that the implantation success rate using frozen embryos ranges from 28.8 to 11.1 percent depending upon age of the woman. See Centres for Disease Control & Prevention website, Assisted Reproductive Technology (http://www.cdc.gov/art/ART2010/sect3_fig40-42.htm#f41).
4. Here one might point to William E. May who sets broad limits within which he considers embryo adoption a legitimate procedure. More limited possibilities are accepted by Edward J. Furton, Peter F. Ryan, and John Berkman (cf. Kellmeyer 2007).
5. *Donum vitae*, I, n. 5, quoted in Smith (1995, 72).
6. May (2000, 94–107) has a chapter devoted to the rescue of frozen embryos. See also Grisez (1999, 242, n. 188) and Surtees (1996, 16–7).
7. Grisez (1997) also rejects Smith's argument here as follows: "[Smith] ignores the fact that bearing *on another's behalf* is part of the very definition of surrogacy" (241, note 186). I am not sure that this is the relevant difference between embryo rescue and surrogacy.
8. My interpretation of the document has much in common with that of Oleson (2009a, 2009b).
9. In relation to the possibility of a slight hesitation in the document's expression at this point, one wonders whether the theoretical possibility of artificially nurturing an embryo to term (i.e., without impregnation) played a part. This issue as an argument supporting embryo rescue is raised by Napier (2009). I believe an adequate response to his arguments is given by Oleson (2009b).
10. A similar set of observations about the need for a further filling-out of the argument against embryo adoption has been made by Eberl (2010).
11. For the arguments of those still affirming the possibility of embryo rescue, see, for example, Finnis (2009), Furton (2010), Mayer (2011) and Gouge (2012).
12. As we will see later, Tonti-Filippini's search for a rationale which centers upon the

- relationship between mother and child is in fact heading in the direction of my own line of argument based on personalist principles.
13. Of course, we can use the word “person” to refer to the whole human being, including his or her body. But in this context the word is used in the specific sense given it here, which is the same sense it bears in Christology and Trinitarian theology.
 14. For approaches similar to that offered here, see Ratzinger (1990) and von Balthasar (1986).
 15. The famous definition of Boethius (480–524/5 AD) is given as *persona est naturae rationalis individua substantia*.
 16. The phrase comes from Clarke (1993, 5, 17, 43, 72–3). A similar line of thought is to be found in Crosby (1986). As noted above, I do not believe that such a hybrid conceptualization can work, primarily, because it seeks to give relations a status (necessary, constitutive of personhood, etc.) which substantialist ontologies cannot ground. For the Thomist tradition, relations belong to the realm of accidents; conversely, a substance cannot be constitutively in-relation if it is to preserve its status as a genuine suppositum.
 17. It must be noted that the notion of modes of reference is in fact a kind of conceptual integration—though of a very abstract kind—and as such is only an approximation for what is the true integration of person and nature which exists in the man Jesus Christ. The Vatican II document, *Gaudium and spes*, points in this direction when it says that “The truth is that only in the mystery of the incarnate Word does the mystery of man take on light... Christ, the final Adam, by the revelation of the mystery of the Father and His love, fully reveals man to man himself and makes his supreme calling clear” (*GS*, n. 22).
 18. This mutual exclusivity is expressed in Christological formulations that distinguish between divine and human natures, on the one hand, and His Person (i.e., the Second Person of the Trinity). Such a distinction does not undermine the true unity that exists in human beings, as has been taught at the Council of Vienne (1311–12).
 19. This rationale for a Catholic understanding of the moral dimensions of the marital act draws upon a personalist conceptualization but is closely aligned to magisterial teaching following *Humanae vitae* which underlines the importance of maintaining both the unitive and procreative elements of the act of marriage.
 20. Note the somewhat different tack taken here in seeking to ground the basic moral foundations of the act of marriage. Primary is the (at least) background awareness of an engagement with the divine reality in the marital act, rather than a calling-to-mind of a moral principle, e.g., “Keep together the procreative and unitive dimensions of the act.”
 21. The terminology of soul as person is used to distinguish it from the soul as substantial form of the body.
 22. Von Balthasar (1992, 202f.) develops this way thinking in his *Theo-drama: Theological Dramatic Theory*. His requirement, however, that an entity must be conscious in order to be a person (207) seems to miss the point.
 23. I am indebted to a reviewer for the idea of this sharing of fetal and maternal cells or micro-chimerism as a biological pointer to the particularity and enduring character of the mother–child bond.
 24. Talk of introducing implantation into the picture naturally prompts hesitation among those who recall the unfortunate attempts to move the starting point of human life to the time of that event. The approach proposed here would want to distance itself unreservedly from those attempts.
 25. The event is viewed in these terms because, according to St. Thomas, “no substantial form is susceptible of more or less” (*ST*, I, q. 118, a. 2, ad. 2.).

REFERENCES

- von Balthasar, H.U. 1986. On the concept of person. *Communio: International Catholic Review* 13: 18–26.
- von Balthasar, H.U. 1992. *Theo-drama: Theological dramatic theory*, vol. 3, *Dramatis personae: Persons in Christ*. San Francisco: Ignatius Press.
- Clarke, W.N. 1993. *Person and being*. Milwaukee, WI: Marquette University Press.
- Congregation for the Doctrine of the Faith (CDF). 1987. *Donum vitae*. http://www.vatican.va/roman_curia/congregations/cfaith/

- documents/rc_con_cfaith_doc_19870222_respect-for-human-life_en.html.
- Congregation for the Doctrine of the Faith (CDF). 2008. *Dignitas personae*. http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html.
- Crosby, J.F. 1986. *The selfhood of the human person*. Washington, DC: Catholic University of America Press.
- Denzinger, H., and P. Hünermann, eds. 2012. *Compendium of creeds, definitions, and declarations on matters of faith and morals*, 43rd ed. San Francisco: Ignatius Press.
- Eberl, J. 2010. What *Dignitas personae* does not say. *National Catholic Bioethics Quarterly* 10: 89–110.
- Finnis, J. 2009. Understanding *Dignitas personae* on embryo adoption. *National Catholic Bioethics Quarterly* 9: 474–7.
- Furton, E.J. 2010. Embryo adoption reconsidered. *National Catholic Bioethics Quarterly* 10: 329–47.
- Geach, M. 1999. Are there any circumstances in which it would be morally admirable for a woman to seek to have an orphan embryo implanted in her womb?—I. In *Issues for a Catholic bioethic: Proceedings of the international conference to celebrate the twentieth anniversary of the foundation of the Linacre Centre*, ed. L. Gormally, 341–6. London: The Linacre Centre.
- Gouge, M. 2012. Embryo adoption scenarios: Drawing distinctions and separating cases. *National Catholic Bioethics Quarterly* 12: 429–45.
- Grabowski, J.S., and C. Gross 2010. *Dignitatis personae* and the adoption of frozen embryos—a new chill factor? *National Catholic Bioethics Quarterly* 10: 307–28.
- Grisez, G. 1997. *The way of the Lord Jesus*, vol. 3, *Difficult moral questions*. Illinois: Franciscan Press.
- Jamison, T. 2010. Embryo adoption and the design of human nature. *National Catholic Bioethics Quarterly* 10: 111–22.
- Kellmeyer, S. 2007. Embryo adoption: A form of *in vivo* organ donation? *National Catholic Bioethics Quarterly* 7: 263–70.
- May, W.E. 2000. *Catholic bioethics and the gift of human life*. Huntingdon, IN: Our Sunday Visitor, Inc.
- Mayer, R.C. 2011. Is embryo adoption a form of surrogacy? *National Catholic Bioethics Quarterly* 11: 249–56.
- Napier, S. 2009. Moral justification and human acts: A reply to Christopher Oleson. *Linacre Quarterly* 76: 150–62.
- Nelson, T. 2012. Personhood and embryo adoption. *Linacre Quarterly* 79: 261–74.
- Oleson, C. 2009a. *Dignitas personae* and the question of heterologous embryo transfer. *Linacre Quarterly* 76: 133–49.
- Oleson, C. 2009b. More thoughts on *Dignitas personae* and embryo rescue: A reply to Stephen Napier. *Linacre Quarterly* 76: 250–64.
- Paul VI, Pope. 1968. *Encyclical letter Humanae vitae (On the regulation of birth)*. Homebush, NSW: St. Paul Publications.
- Ratzinger, J. 1990. Concerning the notion of person in theology. *Communio: International Catholic Review* 17: 439–54.
- Smith, W. 1995. Rescue the frozen? *Homiletic and Pastoral Review* 96: 72–74.
- Surtees, G. 1996. Adoption of a frozen embryo. *Homiletic and Pastoral Review* 96: 16–7.
- Tonti-Filippini, N. 2003. The embryo rescue debate: Impregnating women, ectogenesis, and restoration from suspended animation. *National Catholic Bioethics Quarterly* 3: 111–37.
- Watt, H. 1999. Are there any circumstances in which it would be morally admirable for a woman to seek to have an orphan embryo implanted in her womb?—II. In *Issues for a Catholic bioethic: Proceedings of the international conference to celebrate the twentieth anniversary of the foundation of the Linacre Centre*, ed. L. Gormally, 347–52. London: The Linacre Centre.

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