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The Simple Case of In Vitro Fertilization and Embryo Transfer

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Many people, both Catholic and non-Catholic, can readily understand why the Catholic Church teaches that it is morally bad to generate human life by inseminating a married woman with sperm provided by a man who is not her husband or by having sperm provided by her husband inseminate another woman, a so-called "surrogate" mother, who would, after bearing the child, turn it over to the married couple. They recognize that choosing to generate human life in this way does violence to marriage and to human parenthood and does an injustice to the child. Such people can likewise understand why the Catholic Church rejects the deliberate creation in the laboratory of human lives which will be discarded or frozen or used for experiments designed only to gain knowledge which may benefit others, but which only poses harm to the lives upon which the experiments are performed. They recognize that such procedures do violence to the dignity of the human lives deliberately brought into existence in the laboratory. And such people also understand why the Catholic Church opposes the monitoring of human lives *in utero* for the purpose of detecting and then destroying, through abortion, those discovered to be of poor quality. Again they recognize that choosing to act in this way does a terrible violence and injustice to unborn human lives.

But many of these same people, Catholic as well as non-Catholic, find the teaching of the Catholic Church (as recently expressed in the Sacred Congregation for the Doctrine of the Faith's "Instruction on Respect for Human Life in Its Origin and on the Dignity of Human Procreation"), on the immorality of the "simple case" of *in vitro* fertilization, a different matter. In this case, there is no use of gametic materials from third parties; the child conceived is genetically the child of husband and wife, who are and will remain its parents. In this case, there is no deliberate creation of

“excess” human lives which will be discarded, frozen, or made the subjects of medical research of no benefit to them. In this case, there need be no intention of intrauterine monitoring with a view to abortion. Nor need there be, in this case, the use of immoral means (masturbation) to obtain the father’s sperm, for the sperm can be retrieved in morally acceptable ways. In this case there is, apparently, only the intent to help the couple, unable (by reason of the wife’s blocked Fallopian tubes) to have a child with whom they ardently desire to share life and to whom they wish to give a decent home, realize their legitimate desires. Why, many people reasonably ask, is it morally wicked — indeed, sinful, an offense against God — to remove an ovum from the wife’s body, fertilize it outside her body with sperm from her own husband, and then transfer the developing human life to her womb, where it will implant, develop, be nourished, and from which it will in due time emerge in birth? What wrong is being done? What evil is being willed? Is not the position of the Catholic Church on this matter too rigid? Is not the Church being insensitive to the agonizing plight of involuntarily infertile couples who are seeking, by making good use of modern biological technologies, to realize one of the goods of marriage?

The purpose of this paper is to examine, first, the reasons given by the Vatican Instruction to support this teaching of the Church and, second, to comment on these reasons in an effort to show that they are very good reasons, rooted in truths about human persons, which truths are of critical importance to a proper understanding of human existence.

The Reasoning Given in the Vatican Instruction

If one examines the Vatican document, one finds two major lines of reasoning advanced to support the conclusion that it is morally wrong for a married couple to generate new life through *in vitro* fertilization and embryo transfer, even when the ovum fertilized comes from the mother’s body and the sperm used to fertilize it are retrieved in a morally acceptable way from her husband’s body.

The first argument is based on the inseparability of the life-giving (procreative) and love-giving (unitive) meanings of the conjugal act. The Instruction, citing Pope Paul VI’s “*Humanae Vitae*”, first affirms “the ‘inseparable connection, willed by God and unable to be broken by man on his own initiative, between the two meanings of the conjugal act: the unitive meaning and the procreative meaning. Indeed, by its intimate structure, the conjugal act, while most closely uniting husband and wife, makes them capable of the generation of new lives, according to laws inscribed in the very being of man and woman’ ”¹ It then applies this teaching to the problem of “homologous artificial fertilization”, or the “simple case” with which we are concerned, by affirming, with Pope Pius, XII, that “it is never permitted to separate these different aspects to such a degree as positively to exclude either the procreative intention [as is done in contraceptive intercourse] or the conjugal relation’ ”² The instruction then draws the following conclusion:

Thus, fertilization is licitly sought when it is the result of a 'conjugal act which is per se suitable for the generation of children to which marriage is ordered by its nature and by which the spouses become one flesh.' But from the moral point of view procreation is deprived of its proper perfection when it is not desired as the fruit of the conjugal act, that is to say, of the specific act of the spouses' union³ (emphasis in original).

The second argument presented in the Instruction to support its conclusion on the immorality of the simple cases of in vitro fertilization and embryo transfer is based on the dignity of the child who is conceived. The Vatican document holds that the child "cannot be desired or conceived as the product of an intervention of medical or biological techniques." Why? Because "that would be equivalent to reducing him to an object of scientific technology. No one may subject the coming of a child into the world to conditions of technical efficacy which are to be evaluated according to standards of control and dominion".⁴ The Instruction then concludes:

Conception *in vitro* is the result of the technical action which presides over fertilization. Such fertilization is neither in fact achieved nor positively willed as the expression and fruit of a specific act of the conjugal union. In homologous IVF and ET, therefore, even if it is considered in the context of de facto existing sexual relations, the generation of the human person is objectively deprived of its proper perfection, namely, that of being the result and fruit of a conjugal act in which the spouses can become 'cooperators with God for giving life to a new person'⁵ (emphasis in original).

This second argument can, it seems to me, be summed up as follows: to desire or cause a child as a product of a technique is to make the child an object. But this is incompatible with the equality in personal dignity between the child and those who give it life.

The central claims serving as the premises of the arguments advanced by the Instruction to show that it is always wrong to generate human life in the laboratory are, then, the following: 1) there is an inseparable connection, willed by God and unable to be broken by man on his own initiative, between the life-giving and love-giving meanings of the conjugal act, and 2) to conceive or desire a child as the product of a technique and not as the fruit of the conjugal act is to treat the child as if it were an object. Neither of these propositions is self-evidently true. This does not, of course, mean that they are false. Still, their truth needs to be shown, for it is upon their truth that the conclusion, namely, that it is morally wicked to generate human life in the laboratory, is grounded. My intention now is to offer some reasons to support the truth of these propositions.

Marital Rights and Capabilities, the Marital Act, and the Generation of Human Life

I believe that the truth of the claim concerning the inseparable connection between the life-giving and love-giving meanings of the conjugal act can be established by rights and capabilities of married persons and their relationship to the conjugal or marital act.

By getting married, husbands and wives have not only acquired rights that nonmarried men and women do not have, but they have also given to themselves capacities that nonmarried men and women do not have.

Nonmarried men and women have the natural capacity, by virtue of their sexual natures and their endowment with sexual organs, to engage in genital sex. They similarly have the capacity to generate human life through their genital acts. Yet they do not have the right to intimate genital acts, nor do they have the right to generate human life. This is not the place to develop fully the reasons why nonmarried men and women do not have the right to engage in intimate genital acts.⁶ Put briefly, the reason is simply that they have not, by their own free choice, capacitated themselves to respect each other as irreplaceable and nonsubstitutable persons in their freely chosen genital acts. Such acts between nonmarried males and females do not unite two irreplaceable and nonsubstitutable persons, but rather join two individuals who are, in principle, replaceable, substitutable, disposable. But human persons ought not to be treated in this way. Similarly, nonmarried men and women do not have a right to generate human life, precisely because they have not capacitated themselves to receive such life lovingly, nourish it humanely, and educate it in the love and service of God.⁷ Practically all societies, it should be noted, rightly regard as irresponsible the generation of children through the random copulation of unattached males and females.

Husbands and wives, on the contrary, have the right to an intimate sharing of life and love and to the marital act (whose nature will be more fully described later). They have this right precisely because they have capacitated themselves, through their irrevocable gift of themselves to one another in marriage,⁸ to respect one another as irreplaceable and nonsubstitutable spouses. They have similarly capacitated themselves to receive human life lovingly, nourish it humanely, and educate it in the love and service of God, for by marrying they have made themselves capable of accepting any human life that should be given to them and of giving it the home to which it has a right and in which it can take root and grow. They have, in short, capacitated themselves to give to one another a unique and singular kind of human love, marital love, a love that is fully human, total, faithful and exclusive until death, and fruitful.⁹ By so capacitating themselves by their free choice to marry, they have acquired the right to live as husband and wife, to share their lives fully, and to receive human life in a manner corresponding to its dignity.

Perhaps an analogy may be helpful here. I do not have the right to diagnose sick people and prescribe medicines for them, for I have not chosen to study medicine and acquire the knowledge and skills needed to do these tasks. But doctors, who have freely chosen to submit themselves to the discipline of studying medicine and acquiring medical skills, do have this right. Similarly, unmarried males and females do not have the right to engage in intimate genital union and to receive human life because they have failed to make the choices necessary to enable them to engage in these

activities. But husbands and wives have, by their own free and responsible choice, capacitated themselves to do so. Their right to engage in the marital act splendidly illumines this truth. To show why, I shall now make some observations about the marital act.

Clarification of Marital Act

The marital or conjugal act is not simply a genital act between a man and a woman who happen to be married. Husbands and wives have the capacity to engage in **genital** acts, as do nonmarried males and females, because of their sexual nature and their endowment with genitalia. But they have the capacity (and the right) to engage in the **marital** act because they are spouses, i.e., husbands and wives. The marital act, therefore, is more than a simple genital act between a man and a woman who happen to be married. It is an act which participates inwardly in their marital union and which respects the "goods" of marriage, i.e., the good of faithful and exclusive spousal love and the good of children. Thus the marital act is one which is 1) open to the communication of spousal love and 2) open to the reception of human life. Thus, a genital act forced upon a wife by a drunken husband, seeking only to gratify his sexual desires and unconcerned with the legitimate desires of his wife, is a genital act, but is hardly to be counted as a marital act.¹⁰ Similarly, a genital act between husbands and wives which is deliberately made inimical to the reception of human life — that is, an act of contraceptive intercourse — is also one that violates the meaning of the marital act, precisely because it dishonors one of the goods of marriage.¹¹

The marital act, in other words, is by its own inner structure one which is love-giving or open to the communication of spousal love, and life-giving or open to the reception of human life, of a new human person. And these two meanings or aspects of the marital act are inherently interrelated, connected. While it is not good for human life to be generated in the random copulation of unmarried men and women, it is good, and indeed beautiful, that human life can be given in the "one-flesh" marital union of husbands and wives. The bond uniting these two meanings of the marital act shows that the love husbands and wives have for one another, while exclusive in that they have unreservedly and completely given themselves exclusively to one another, "foreswearing all others," is not an *égoïsme à deux*, a narcissistic and selfish love. It shows that their love for one another is actually what capacitates them to welcome new human life and give it the home to which it has the right. The bond uniting these two meanings of the marital act shows that the marital union is one which is love-giving and life-giving, a beautiful human reality fitting to be a "sacrament" of the love-giving and life-giving union between Christ and His bride, the Church. The bond uniting these two aspects of the marital act actualizes the rights and capabilities which husbands and wives have acquired by virtue of their choice to marry, to be "one flesh". The "connection" between these two meanings of the marital act is inseparable insofar as this

act is one that inwardly perfects and expresses their one-flesh marital union, the union which capacitates them to give to each other the unique and exclusive love rightly called “marital” love and to receive human life lovingly, as a gift from the One Who is the source of life, and as a gift to be welcomed as a person equal in dignity to themselves.

While husbands and wives have the right to engage in the marital act and, through it, to receive the gift of life, they do not have the right to a child. They do not have this right because a child is, like them, a person, a being that is *sui iuris*. A child is not a thing which others can possess or own, nor is it an act to which persons can have rights.

It is for these reasons that the proposition affirming an inseparable connection, willed by God and unable to be broken by man on his own initiative, between the love-giving and life-giving meanings of the marital act is true. Human life is a gift from God which is to be received by those who have made themselves capable of receiving it in the act which is proper and specific to them.

‘Procreating’ Human Life vs. ‘Reproducing’ Human Life

As we have just seen, when human life is given through the act of marital union, it comes, even when ardently desired, as a “gift” crowning the act itself. The marital act is not an act of “making” either babies or love. Love is not a product that one makes; it is a gift that one gives — the gift of self. Similarly, a baby is not a product inferior to its producers; rather, it is a being equal in personal dignity to its parents. The marital act is something which husbands and wives “do”; it is not something that they “make.” What is the difference between “making” and “doing,” and what is the human significance of this difference?

In “making”, the action proceeds from an agent or agents to something produced in the external world. Autoworkers, for instance, produce cars; cooks produce meals; bakers produce cakes, etc. Such action is transitive insofar as it passes from the acting subject(s) to an object fashioned by him or her (them). In this kind of human activity, governed by the rules of art, interest centers on the item made (and usually those which do not measure up to standard are discarded — or at any rate, they are little appreciated). Those who produce the products made may be morally good autoworkers or cooks or bakers or they may be morally bad, but our interest in “making” is in the product, not the producers, and we would prefer to have good cars from morally wicked autoworkers than “lemons” from morally good ones.

In another mode of human activity — “doing” — the action abides in the acting subject(s). The action is immanent and is governed by the requirements of prudence, not by the rules of art. If the action is good, it perfects the agent(s); if bad, it degrades and dehumanizes them.¹² I should note here that every act of “making” is also an act of “doing” insofar as it is freely chosen, for the choice to make something is something that we “do,” and the choice, as self-determining, abides in us. Thus, in choosing to make

a good cake for someone's birthday, one is choosing to respect the good of friendship and is "doing" something good and making oneself to be, in this respect, a good person. Likewise, in choosing to write pornography, one is choosing to do something that is evil because it dishonors the dignity of human persons. But the main point I wish to make here is the difference between "making" and "doing." Making is a transitive action proceeding from an agent to some product in the external world. Doing is an immanent action which abides in the agent.

When human life is given through the marital act, it comes, as we have seen, as a "gift" crowning the act itself. The marital act is not an act of making. It is not a transitive act issuing from the spouses and terminating in some object distinct from them. Rather, it is an act freely chosen by them to express their marital union, one open to the gift of life. As such, it is inwardly perfective of them as spouses, ennobling and enriching their marital life, the life of which they are co-subjects, such as they are co-subjects of the marital act itself. Even when they choose this act with the ardent hope that, through it, new human life will come to be, the life begotten is not the product of their art but is a "gift supervening on and giving permanent embodiment to" the marital act itself.¹³ Thus, when human life comes to be through the marital act, we can rightly say that the spouses are "procreating" or "begetting". Moreover, the act they choose is and remains an immanent act, not a transitive one; it is an act abiding in them and inwardly participating in their marital union.

But when human life comes to be as a result of in vitro fertilization, it is the end product of a series of actions, transitive in nature, undertaken by different persons. The spouses "produce" the gametic materials which others then manipulate in order to produce the end product — the child. As the authors of a report commissioned by the Catholic bishops of Great Britain correctly noted, as a result of the process the "child comes into existence, not as a gift supervening on an act expressive of the marital union . . . but rather in the manner of a product of a making (and, typically, as the end product of a process managed and carried out by persons other than his parents)".¹⁴

But a child is not a product inferior to its producers and subject to quality controls; rather, as I noted already, it is a person equal in dignity to its parents. Thus a child ought not be treated as a product. But a child is so treated when it is "made" in the laboratory, and this is precisely what is done when the child comes to be as a result of in vitro fertilization. The husband and wife are not capable of participating in this procedure *because* they are husband and wife. Rather, they are capable of participating in this process of making *because* they are the producers of materials which others use in order to produce the product desired. "Making" babies in the laboratory changes the generation of human life from being an act of procreative love to being a transitive act of "reproduction". But human beings who are, as it were, the created words of God, the created words that His uncreated Word made His brothers

and sisters when He became incarnate, ought, like the uncreated Word of God, to be "begotten, not made."

I believe that these words — "begotten, not made" — taken from the Nicene Creed, give us the ultimate reason why it is wrong, morally wicked, a sinful offense against God, to "make" babies in the laboratory. For human babies are not things or products which others are to make. Rather, they are beings created in the image and likeness of the all-holy God. Like His eternally begotten Word Who is one in being with Him, they too ought to be begotten, not made, and they ought to be begotten in the one-flesh union of men and women who have made themselves, by getting married, capable of receiving the gift of human life.

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6. For a fuller discussion of this matter, see Ronald Lawler, O.F.M. Cap., Joseph M. Boyle, Jr., and William E. May, *Catholic Sexual Ethics: A Summary, Explanation, and Defense* (Huntington, IN.: Our Sunday Visitor Press, 1985), pp. 176-209.
7. Here see St. Augustine, *De genesi ad literam*, 9.7; PL 34:397.
8. Here see *Gaudium et Spes*, n. 48.
9. Here see *Gaudium et Spes*, nn. 50, 51; Pope Paul VI, *Humanae Vitae*, n. 9.
10. On this see *Humanae Vitae*, n. 9; cf. Lawler, Boyle, and May, *op. cit.* pp. 172-173.
11. A full discussion of this is given by Lawler, Boyle, and May, *op. cit.* pp. 151-167.
12. Classic sources for the difference between transitive and immanent activity and the significance of this difference are: Aristotle, *Metaphysics* Bk. 9, c. 8, 1050a23-1050b1; St. Thomas Aquinas, *In IX Metaphysicorum*, Lect. 8, n. 1865; *Summa Theologiae*, I, 4, 2, ad 2; I, 14, 5, ad 1; I, 18, 1.
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