

## **2. Extrinsic criteria**

### **Embryo mens vanaf conceptie**

Gepost door: mgr.dr. W.J. Eijk

Geplaatst op: 28-02-2006

#### **Extrinsic criteria**

*Human relationships: the embryo becomes a human individual when it establishes relationships with other human individuals*

In the philosophy of the twentieth century, and especially in structuralism, there exists a strong tendency to look for the specific character of man not in what he is but in his relationships. Some thinkers even see the relationships of man as the only specific characteristic that distinguishes man from other living beings.

In the view of the French moralists Ribes, Pohier and Roqueplo, the embryo reaches a fully personal and human status only by having human relationships. The example is that of an embryo that previously was wanted by its parents and in a certain sense by society as well. When there is not this intentionality on the part of the parents to conceive the child, and they have also tried to prevent conception, the embryo is said not to have a specifically human status.[3] For this reason, the stages of the biological development of the embryo, in this vision, have no relevance.

Obviously, there are important objections to this approach. It implies that one could deny all respect even to an unwanted new born child, with the possibility of eliminating him or her. Indeed, one could not indicate a precise moment when the embryo begins to acquire a human status. In this way one could also deny the status of being human to certain adults. What should we thus think of the elderly Indian woman of Calcutta who was dumped in a garbage heap in a sack of plastic by her daughter? Did she for this reason cease to be a human person? And did she become a human person again when she was brought by the sisters of Mother Teresa to one of their homes to be looked after with love?

On the basis of its obvious shallowness and the extreme conclusions to which it leads, the reduction of the human being to pure rationality does not find many adherents.

Others are of the view that the status of a human being and the personality of the individual emerge at the moment of nidation: nidation, because it implies the beginning of a close relationship with the mother, makes clear transcendence towards the other, which is considered essential for the human person. The human body, in fact, is the foundation and the real symbol of this transcendence towards the other.[4] On the basis of this, Böckle and others, during the 1960s and 1970s, justified the use of interceptives and the day after pill: the fact that before nidation the embryo, not having human relationships, is not yet to be considered a human individual makes possible a comparative assessment of the values involved: the value of the embryo who is not yet a human person, on the one hand, and the welfare of the mother in situations of emergency, on the other. This implies that the use of the day after pill is acceptable in the case of rape and the use of the coil is also acceptable when there are grave reasons for birth control, such as the need to prevent a pregnancy, or

demographic reasons.[5]

However, it is not correct to assign too much importance to the moment of nidation, as though an existential relationship did not exist between the mother and the embryo before this event. Such a relationship is already created with the fusion of the spermatozoon and the ovule following the sexual relationship of the parents. In addition, even before nidation the embryo receives necessary nutriment and oxygen for its growth from its mother. Thus nidation is not the beginning of a transcendental relationship with the mother that is said to characterise the embryo as a truly human individual.

*The embryo becomes a human individual when it is recognised as such by positive law*

It appears evident that positive law guarantees and protects the objective rights of every human individual. In our pluralistic society the only practical solution to the controversy about the status of the human embryo in the opinion of many is that the status of the embryo should be defined through democratic consensus. Thus whether the embryo merits respect is said to depend exclusively on what has been established in this field by law.

In the majority of cases procured abortion is allowed within the limit of a certain period of time and on certain conditions. In some countries experiments with human embryos before the time when they are implanted in the womb in natural conditions, that is to say up to fourteen days after conception, have been legalised (for example in England and the Netherlands[6]). In our society many people do not dwell upon the question of the objective status of the embryo but adapt to the positive law in force.

Hubert Marktl, formerly head of the Max-Planck-Gesellschaft, who presents as alternative the ideas that a human being is a purely biological fact or a concept that is recognised from a cultural point of view, refers to an act of recognition by which the living being during its development becomes a human being in the full sense.[7]

*Civil law*

In a democracy, compromise is often inevitable and in many cases acceptable. However, the truth, including that about the status of the embryo, cannot be established by means of a statistical inquiry. It would be extremely dangerous for a society to determine what status should be attributed to human persons or to certain stages of development through the establishment of a consensus. Even if in a nation, in line with a law accepted by the majority, expulsions were to take place, we would not conclude that the members of persecuted ethnic minorities were not persons with a moral status and connected rights.

Thus also the objection to that effect that unborn children, unwanted children or handicapped children have a low quality of life or will constitute a grave burden for their parents is not an objective reason to refuse them a moral status acknowledged by the law. Even people who request asylum in another country in which they have sought refuge are not always well accepted, nor can they expect an easy future. Despite this fact, even if forced to flee from their countries, they remain persons with the right to be aided and helped by the countries that receive them.

In this area one may notice that a doctrine such as the doctrine of the Church, which is based upon objective reality, is neither authoritarian nor intolerant. Ethical relativism, which is held by many to be

an essential pre-condition for democracy, on the other hand, is. According to the encyclical *Evangelium Vitae*: It is precisely the issue of respect for life which shows what misunderstandings as contradictions, accompanied by terrible practical consequences, are concealed in this position. It is true that history has known cases where crimes have been committed in the name of 'truth'. But equally grave crimes and radical denials of freedom have also been committed and are still being committed in the name of 'ethical relativism'. When a parliamentary or social majority decrees that it is legal, at least under certain conditions, to kill unborn human life, is it not really making a 'tyrannical' decision with regard to the weakest and most defenceless of human beings? (n. 70).

Ethical relativism is not only a threat to the life of the weakest human beings, especially the unborn, who have no opportunity to vote, but also to democracy itself. Democracy is not an end in itself, but, like every other form of government, a means by which to ensure the common good. Obviously, the common good, which involves all the conditions that are necessary for each individual member of society to be able fulfil his or her destiny, requires respect for life, which is a fundamental good. Although freedom is a higher good than that of physical life, a human being cannot exercise his or her own freedom without being alive. Life is therefore is a fundamental good as regards freedom. The non-recognition of life as a fundamental good constitutes a grave threat to freedom and democracy: The value of democracy stands or falls with the values which it embodies and promotes. Of course, values such as the dignity of every human person, respect for inviolable and inalienable human rights, and the adoption of the 'common good' as the end and the criterion regulating political life. If as a result of the tragic obscuring of the collective conscience, an attitude of scepticism were to succeed in bringing into question even the fundamental principles of the moral law, the democratic system itself would be shaken in its foundations, and would be reduced to a mere mechanism for regulating different and opposing interests on a purely empirical basis. (ibid.).

### *Positive divine law*

Amongst those that invoke Holy Scripture there are some who base the moral status of the embryo on a law held to be revealed, which in turn is based upon a specific translation of Genesis 9:6, that is to say: 'whoever sheds the blood of man in man, his blood will be shed',<sup>[8]</sup> instead of the usual translation 'whoever sheds the blood of man, by man shall his blood be shed' (my italics).<sup>[9]</sup> Genesis 9:6, translated in the first way, implies a prohibition on procured abortion. In combining a literal exegesis of isolated Biblical texts with a biological criterion, as some groups of Orthodox Jews do, there is an affirmation of the licit character of scientific research with embryos created by means of in vitro fertilisation, but not transferred into the maternal womb, in order to develop therapies for illnesses which as yet cannot be cured by man. The translation 'the blood of man in man' requires, in fact, only respect for the intrauterine embryo and not for the extrauterine embryo. In this way, the creation of human embryos for the purposes of research and 'therapeutic' cloning is also assessed as being admissible.

Does Genesis 9:6 justify therapeutic cloning? The usual translation 'whoever sheds the blood of man, by man shall his blood be shed' implies a general prohibition on the killing of human beings. The 'by man' in Hebrew is 'ba'adam.' The prefix 'be' can have two meanings: 'in', as a preposition to indicate a location, or 'by' in a causal sense. Which is the more correct translation?<sup>[10]</sup> First of all it is necessary to observe that the original text allows, in principle, both translations.<sup>[11]</sup> The translation 'by man' in the context of Genesis 9:6 is, however, more evident and is used by practically all the

versions of Holy Scripture. Two arguments in favour of this interpretation are the following: 1) The phrase 'ba'adam' is found nineteen times and nowhere does it mean 'in man';[12] 2) secondly, Genesis 9:6 is constructed in the original Jewish text with a chiasm, a rhetorical device that involves the crossed arrangement of two words that are connected, like a mirror image: whoever sheds the blood of a man; by man shall his blood be shed. The words 'blood' and 'man' are used in an upside down way. This implies that the second part of the word 'man' does not apply to the relative, as appears in the translation 'bled of man in man', but to the principal sentence 'by man shall his blood be shed'.

A second point, which is more important, concerns the use of Holy Scripture in theology in general and in moral theology and bioethics in particular. Even if the translation 'man in man', and thus the unborn human being in the maternal womb, were correct, Genesis 9:6 would not anyway constitute a justification for the killing and the exploitation of human embryos outside the womb:

1. Genesis 9:6 would then say explicitly that it is not licit to kill human embryos outside the maternal womb. But the fact that this is not explicitly said does not mean that it is licit to kill embryos outside the maternal womb. Such a conclusion is a logical error: one cannot draw a positive conclusion from a negative premise.

2. However much the human authors of the Bible were inspired by the Holy Spirit, the Bible is not a source for the natural sciences. For the authors of the Bible the possibility did not exist of creating embryos and saving their lives outside the maternal womb. In Revelation it was not realised that biotechnology would arrive at the point of generating humans outside the womb, in a laboratory. To make a comparison: the principles of the social doctrine of the Church are formulated on the basis of the social questions and issues of the nineteenth century which were characterised by industrialisation and the emergence of the proletariat. These principles without doubt have a Biblical foundation but as they are they were not formulated in Holy Scripture.

3. Biblical texts cannot be interpreted on their own – they must be interpreted in relation to the whole context of the Bible. Holy Scripture does not give a univocal answer to the question of what the status of the human embryo is.[13] Given that within the Bible we do not find explanatory criteria, supplementary criteria are required for a sound interpretation. In the Catholic Church the most important criteria are offered by Tradition and by the documents of the Magisterium.

#### *The choice of giving an embryo created through in vitro fertilisation the possibility of further development*

An embryo conceived through in vitro fertilisation which is not then implanted in the womb but which remains in the laboratory will live for at most nine or ten days given current technical possibilities. Only if the embryo is transferred into the womb will it have a possibility of developing. The decision not to implant it has important consequences for the status of the embryo, as Tauer observes: The question of 'normal conditions' for a zygote in a test tube, if one does not intend to proceed with the transfer of the embryo and its implantation, raises doubts. If the normal conditions of a zygote in a laboratory are essentially the same as the oocyte before fertilisation, something that appears to be true, then the zygote will never develop as a person. Thus it would be better to classify it as a 'possible' person, a person who could become such only on certain conditions that are possible from a causal point of view.[14]

If the embryo were destined to be transferred into the uterus it would have a higher status. This

means that it should be classified as a 'potential person' because it has a real possibility of developing. It would then have a value that is greater than a purely instrumental value.[15]

After concluding that a human embryo in a test tube, given that it is not able to feel and to act and is not conscious, has a weak moral status,[16] Meyer and Nelson conclude that the status of the embryo is determined by the gametes from which it comes, that is to say from its genetic parents. These last have the exclusive right to decide whether the embryos are to be used for the procreation of their own children, of the children of other people, for research, or whether they must be simply thrown away. The use of embryos created in a laboratory for more than fourteen days must be avoided because some people consider this moment as constituting the morally significant beginning of the individuation of the embryo.[17]

The status of the embryo, understood in this way, is determined according to the will of people, that is to say in a way that depends on the choices of others, first and foremost the researcher and the parents. One could argue that this choice can be made only during the stage prior to the implantation of the embryo and that in this case the intrinsic possibilities of the embryo are taken into consideration. However, an extrinsic criterion, that is to say the arbitrary decision taken by others, conditions judgement on the question as to whether the embryo has the same status as a gamete or whether it has a superior status. The intrinsic possibilities are thus decidedly denied.

#### *Assessment*

The extrinsic criteria are not suitable for indicating the moral status of an embryo because they are secondary to what an embryo is. Only on the basis of intrinsic criteria can one have an objective judgement on the respect due to an embryo. Apart from this and apart from the criticisms expressed above, there is yet another fundamental objection: in the extrinsic criteria biological factors either have no role or have only a marginal role. However, this is inadmissible given that a human being is a substantial unity with a spiritual and material dimension. The material aspect is an intrinsic dimension of a human being and thus it is impossible both to identify a human being with this dimension and to conceive of a human being in a way that leaves aside his or her physical/biological dimension and does not attribute to that dimension an intrinsic role.