

## 1. Introduction

### **Embryo mens vanaf conceptie**

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#### **Introduction**

One of the central subjects in the discussion about whether abortion, experiments on embryos and so called therapeutic cloning is licit is that of the status of the embryo. The reaching of the status of a human individual or human person means that the embryo has a connected moral status, a dignity from which come the rights attributed to all human beings. Before reaching this status it is said to be licit to abort the embryo or use it as material for experiments, thereby eliminating it.

The difficulty is that many divergent opinions exist regarding the moment when one should attribute a moral status to the embryo. Thus indicators when an embryo becomes a real human being or a human person are variously identified as conception, nidation (after about two weeks), the beginning of cerebral activity, the ability to feel pain, having life outside the womb (in general from the twenty-fourth week of pregnancy),[1] birth, or a stage of development after birth.

In recent years there has been an increasingly widespread tendency to indicate a precise moment when an embryo is said to become a human individual and thus reference is made to a gradual progressive humanisation or a gradual growth in the dignity of the embryo. This means that a duty is said to exist to protect the embryo that is proportionate to its level of development. This was, amongst other things, the argument used by the Dutch government to legalise experiments with human embryos in 2002 – the early embryo has a dignity of such a character that the advance of medicine can compensate the loss of embryos for research.[2]

Apart from conception, the moments listed above concede few possibilities of attributing to the embryo before implantation the dignity of a human individual. The moments listed above, however, are conclusions that draw their validity from criteria employed to assess the status of the embryo. The criterion used depends upon the vision of man that is adopted as a point of departure. It is therefore necessary to make a net distinction between: 1) the moment when one attributes to the embryo the status of a human individual with all connected rights; 2) the criterion used to assess the status of the embryo; and 3) the anthropology that is the foundation of this criterion.

The great variety of moments that are seen as the beginning of the existence of the human individual makes the discussion about the status of the embryo rather difficult. When it is not clear which criterion is used and which anthropology is taken as a point of departure, the discussion, inevitably, becomes marooned. For this reason, we must first of all consider the various criteria employed, first and foremost in relation to the relevant biological data.

The distinction between extrinsic and intrinsic criteria helps us to clarify the terms of the question. The extrinsic criteria are those that do not derive from the embryo as such but from external factors. Both in the past and still today the following extrinsic criteria are to be encountered in the discussion about the status of the human embryo: 1) human relationships: the embryo becomes a human

individual when it establishes relationships with other human beings; 2) positive law: the embryo becomes an individual when it is recognised as such by positive law; and 3) the decision to give to an embryo that has been created through in vitro fertilisation the possibility of further development. The intrinsic criteria, on the other hand, refer to certain characteristics of the embryo itself, namely: 1) independence from the body of the mother: the embryo becomes a human individual when it is no longer part of the organism of the mother; 2) human biological nature: the embryo is a human individual because of the simple fact that it is in biological terms a human being; 3) individuality: the embryo becomes a human individual only when it can no longer divide itself, thereby giving life to a twin or uniting itself to another embryo; 4) being a person: the embryo becomes a human individual with all connected rights when it becomes a human person; and 5) intrinsic finality: the embryo, even though it is not yet a human individual, must be respected as such because of its intrinsic finality, that is to say because of the fact that it will become a human individual.

Only after establishing the criterion to be employed can one indicate the moment in the development of the embryo when the embryo receives the moral status of being human: conception, the beginning of cerebral activity, the moment of birth or the moment when society recognises it as being a subject of rights. One should bear in mind that the criteria that have been listed above do not exclude each other. Certain currents of thought apply some of them contemporaneously. To achieve a detailed assessment, however, it is necessary to analyse them separately.