

5. Notes

Embryo mens vanaf conceptie

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

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Notes

1. This is what the American Nobel prize winner, Harold Varmus, asserts. In his view one cannot provide an answer to the question as to the moment when a human being begins to exist. He agrees with the idea proposed by those who see the embryo as a human from the moment the neurons begin to develop, the blood begins to circulate, and the embryo can then survive outside the womb. 'One can state that there is full individuality only after birth', see the interview with him in 'Ich sehe eine moralische Pflicht zum Embryoverbrauch', Frankfurter Allgemeine Zeitung (2001), 25 August, p. 43.
2. Tweede Kamer (Dutch Parliament), vergaderjaar 2000-2001, 27 423, n. 5, pp. 4-6. This assessment of the status of the embryo is also very widespread in the Protestant world, see M. Honecker, 'Divergenzen in der evangelischen Ethik beim Untergang mit Embryonen', Zeitschrift für Medizinische Ethik 49 (2003), n. 2, pp. 123-136, especially p. 127.
3. Avortement et respect de la vie humaine (Colloque du Centre catholique des médecins français, commission conjugale) (Editions du Seuil, Paris, 1972), pp. 93-104, 174-184, 194-204.
4. F. Böckle, 'Um den Beginn des Lebens', Arzt und Christ 14 (1968), p. 70; P. Sporcken, Voorlopige diagnose. Inleiding tot een medische ethiek, (Ambo, Utrecht, 1969), pp. 68-69 (Sporcken uses other arguments to indicate that nidation is the initial moment of human life: the possibility of the division of embryos which then gives rise to twins and the large loss of embryos prior to nidation – these are subjects to which I will return later in this paper. In his book Ethiek en Gezondheidszorg, (Ambo, Baarn, 1977), p. 118 he moderates this idea and argues that nidation is a first, albeit fundamental step, in the gradual process of the hominisation of the embryo side by side with the stage of the differentiation of the neurons of the brain.
5. F. Böckle, 'Um den Beginn des Lebens'; P. Sporcken, Voorlopige diagnose. Inleiding tot een medische ethiek, op. cit., pp. 94-97; P. Sporcken, Ethiek en Gezondheidszorg, pp. 154-158.
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7. 'Von Caesar lernen heißt forschen lernen', Frankfurter Allgemeine Zeitung (2001), 25 June, p. 52.
8. The Dutch Rabbi Evers, for example, is convinced that the human embryo, on the basis of this particular translation of the text of Genesis 9:6, when outside the womb does not deserve to be protected: 'Analysing the text one reads only 'whoever sheds the blood of man in man, his blood will be shed'. The obligation to protect life is subordinated to staying in the maternal womb'. see R. Evers and A.P. Evers, 'Bijbel positief over klonen van embryo's', Trouw (2004), 19 February, p. 14. The authors see the embryo before forty days after conception as 'inanimate life'. In vitro embryos, because they cannot go on living without artificial aid, are thus said not to be living humans. As regards the experimental use of in vitro embryos being inanimate is not, however, important – embryos within the maternal womb are not yet animated. What is important is the translation of Genesis 9:6 in which the authors see a law that attributes the right to protection only to the embryo that is in the maternal womb.
9. Taken from Bibbia di Gerusalemme (Edizioni Dehoniane, Bologna, 1996; 14a ed.).
10. W.J. Eijk, 'Therapeutisch' kloneren nog problematischer dan reproductief kloneren: een bijdrage

vanuit katholiek-bijbels perspectief', *Pro Vita Humanae* 12 (2005), n. 2, 47-53.

11. Cf. J. Connery, *Abortion: The Development of the Roman Catholic Perspective* (Loyola University Press, Chicago, 1977), p. 13.

12. Gen 6:3; 9:6 ; Ex 8:13,14; 9:10; 13:2 ; Num 8:17; 17,15; 31:11,26 ; Lev. 24:20; 2 Sam. 23:3 ; Jer. 32:20; 9:15; Mic. 7:2; Ps 68,18; 78,60; 118,8; Qo. 2:24. On this point I have consulted J. Liesen, Professor of Exegesis at the Higher Seminary of Rolduc and member of the International Theological Commission who bases his reply on Abraham Eben-Shoshan, *Qonqordantsia chadasha* (Kiryat-Sefer, Jerusalem, 1986).

13. W.J. Eijk, 'Embryo en christelijke mensvisie: wanneer wordt het embryo een menselijke persoon?', *Pro Vita Humana* 1 (1994), n. 3, pp. 107-116.

14. Carol A. Tauer, 'Personhood and Human Embryos and Fetuses', *The Journal of Medicine and Philosophy* 10 (1985), p. 264.

Ibid., pp. 263-264.

16. This conclusion is based upon the seven intrinsic and relational criteria advanced by Warren to indicate the moral status of every being: 1) the living being should not be killed without good reason; 2) a feeling being should not be treated cruelly; 3) moral agents have full and equal rights to life and freedom; 4) human beings who can feel but not act have the same moral rights as those human beings who act morally; 5) ecologically important (living or non-living) entities have a stronger moral status than the status they would have if they were independent of the eco-system; 6) animals that are a part of human community have a stronger moral status than the status they would have on their own; and 7) within the framework of the first six criteria moral agents must respect the recognition of moral status by other ('transitivity of respect'), see Mary Anne Warren, *Moral Status: Obligations to Persons and other Living Things* (Oxford University Press, Oxford, 1997), pp. 148-177.

17. M.J. Meyer and L.J. Nelson, 'Respecting what we Destroy. Reflections on Human Embryo Research', *The Hastings Center Report* 31 (2001), n. 1, pp. 16-23.

18. Ulpian, *Digesta*, 25,4,1,1: 'Partus, antequam edatur, mulieris portio est vel viscerum'.

19. J. Connery, *Abortion: the Development of the Roman Catholic Perspective*, pp. 22-23.

20. Tertullian, *De Anima*, 25,2 (CSEL 20, pp. 340-341).

21. J. Wilke and B. Wilke, *Abortion: Questions and Answers* (Hayes Publishing Company, Cincinnati, 1988), pp. 5-6.

22. The Warnock Report, nn. 11.5 and 11.22, in M. Warnock, *A Question of Life. The Warnock Report on Human Fertilisation and Embryology* (Basil Blackwell, Oxford, 1985), pp. 59 and 66.

23. N.M. Ford, *When Did I Begin?* (Cambridge University Press, Cambridge, 1988); T.A. Shannon and A.B. Wolter, 'Reflections on the Moral Status of the Pre-embryo', *Theological Studies* 51 (1990), pp. 612-614; L.S. Cahill, 'The Embryo and the Fetus: New Moral Contexts', *Theological Studies* 54 (1993), pp. 127-130.

24. B. Häring, *Medical Ethics* (St. Paul Publications, Middlegreen, 1991, 3rd revised edition), p. 73.

25. Some are of the opinion that the term 'pre-embryo' does not suggest this because according to classic embryology one can speak of an embryo only after its implantation in the mucous of the womb. Before that moment one should speak about blastogenesis and subsequently of the genesis of the embryo. However, the term 'pre-embryo' was never used in classic embryology and was introduced recently.

26. B.M. Ashley and K.D. O'Rourke, *Health Care Ethics. A Theological Analysis* (The Catholic Health Association of the United States, St. Louis, 1989, 3rd ed.), p. 212.

27. Online edition of Science: www.sciencemag.org/cgi/content/abstract/1094515; G. Vogel, 'Scientists Take Step Toward Therapeutic Cloning', *Science* 303 (2004), 13 February, pp. 937-938.

28. W.J. Eijk, *The Ethical Aspects of Genetic Engineering of Human Beings* (Kerkrade, 1990), pp. 37-39.

29. A. Hellegers, 'Fetal Development', *Theological Studies* 31 (1970), p. 5.

30. T.A. Shannon and A.B. Wolter, 'Reflections on the Moral Status of the Pre-embryo', *Theological Studies* 51 (1990), p. 608.
31. E. Pergament, M. Fiddler, N. Cho, D. Johnson, and W.J. Homgren, 'Sexual Differentiation and Preimplantation Growth', *Human Reproduction* 9 (1994), pp. 1730-1732; M. Fiddler, B. Abdel-Rahman, D.A. Rappolee, and E. Pergament, 'Expression of SRY Transcripts in Preimplantation Human Embryos', *American Journal of Medical Genetics* 55 (1995), pp. 80-84.
32. N.M. Ford, *When Did I Begin?*, pp. 170-177.
33. Hippocrates, *Du foetus de sept mois*, 7 (E. Littré, Paris, 1851), tome 7, p. 492.
34. Aristotle, *The Generation of Animals*, ed. and transl. by A.L. Peck (Harvard University Press/William Heinemann, Cambridge/London, 1979) (The Loeb Classical Library no. 366), I, XIX-XX, 727 a -729 a, pp. 95-111
35. *Ibid.*, II, IV, 738 b, pp. 184/185.
36. *Ibid.*, II, III, 736 b, pp. 170/171.
37. Aristotle, *De Anima*, II, I, 412 a 27 - 412 b 1, and 4-6, in *Aristotelis de anima*, ed. and transl. by Paulus Siwek, Romae: apud sedes Pont. Universitatis Gregoriana 1954, vol II, (Series Philosophica 9), pp. 92/93.
38. Aristotle, *De animalibus historiae*, VII, III, in *Aristo-telis, Opera omnia* (Paris, 1927), vol. III, pp. 137-138.
39. St. Thomas discusses these issues in the following works: *Scriptum super libros sententiarum Petri Lombardi*, 2, d. 18, q. 2, a. 3; *De potentia*, q. 3, ad 9; *Summa contra gentiles*, 2, 87-89; *Summa Theologica*, 1, q. 76, a. 3, ad 3, and 1, q. 118, a. 2, ad 2; *De spiritualibus creaturis*, a. 3, ad 12.
40. *Sacra Studiorum Congregatio*, 'Theses quaedam, in doctrina Sancti Thomae Aquinatis contentae, et a philosophiae magistris propositae, adprobantur,' no. XV, AAS 6 (1914), p. 385: 'Contra, per se subsistit anima humana, quae, cum subiecto sufficienter disposito potest infundi, a Deo creatur, et sua natura incorruptibilis est atque immortalis', DH n. 3615. Cf. Hyacinthus-M. Hering, 'De tempore animationis foetus humani', *Angelicum* 28 (1951), 18-29; Antonio Lanza, *La questione del momento in cui l'anima razionale è infusa nel corpo* (Istituto Grafico Tiberino, Rome, 1939).
41. J.P. Gury, *Compendium theologiae moralis*, Romae/Taurini, 1866 (17e ed.), vol. I, p. 431; E. Genicot, I. Sals-mans, *Institutio-nes theolo-giae moralis* (Leu-ven/Brussel, 1931), 12th ed., vol. I, n. 375; D.M. Prümmer, *Manuale theologiae mora-lis* (Her-der, Barcelona, 1945), 10th ed., vol. II, n. 138.
42. J.F. Donceel, 'Immediate Animation and Delayed Homini-za-tion', *Theological Studies* 31 (1970), pp. 76-105.
43. *Ibid.*, p. 101.
44. Karl Rahner, 'The Problem of Genetic Manipulation', in *Theological Investigations* (Darton, Longman and Todd, London, 1981) 2nd ed., vol. IX, p. 226, footnote on page 2. Cf. J.F. Don-ceel, 'Immediate Animation and Delayed Hominization', pp. 99-100; J.J. Diamond, 'Abortion, Animation, and Biolo-gical Hominization', *Theological Studies* 36 (1975), pp. 312-313.
45. Anselm, *De conceptu virginali*, 7 (PL 158, 440): 'Quod autem mox ab ipsa conceptione rationalem animam habeat, nullus humanus suscipit sensus. Sequitur enim ut quoties susceptum semen humanum, etiam ab ipso momento susceptionis perit antequam perveniat ad humanam figuram; toties damnetur in illo anima humana; quoniam non reconciliatur per Christum: quod est nimis absurdum.'
46. N.M. Ford, *When Did I Begin?*, p. 180-181.
47. *Ibid.*, pp. 170-177.
48. C.A. Tauer, 'Personhood and Human Embryo and Fetuses', pp. 253-266.
49. J. McMahan, 'Cloning, Killing, and Identity', *Journal of Medical Ethics* 25 (1999), n. 2, pp. 77-86, quotation from p. 83.

50. H. Tristram Engelhardt, 'Viability and the Use of the Fetus', in *Abortion and the Status of the Fetus*, ed. W.B. Bondeson, H. Tristram Engelhardt et al., (D. Reidel, Dordrecht, 1983) (*Philosophy and Medicine*, vol. 13), pp. 184-191; H. Tristram Engelhardt, *The Foundations of Bioethics* (Oxford University Press, New York/Oxford, 1996), 2nd ed., pp. 135-140.
51. R.D. Truog and J.C. Fletcher, 'Brain Death and the Anencephalic Newborn', *Bioethics* 4 (1990), pp. 199-215.
52. J. McMahan, 'Cloning, Killing, and Identity', p. 83.
53. G.R. Dunstan, 'The Human Embryo in the Western Moral Tradition', in *The Status of the Human Embryo. Perspectives from Moral Tradition*, ed. by G.R. Dunstan and M.J. Seller, (King Edward's Hospital Fund for London, London, 1990), p. 55.
54. Tertullian, *Apologeticus adversus gentes pro christi-anis*, c. IX (PL 1, 319-320): 'Nobis vero, homicidio semel interdicto, etiam conceptum utero, dum adhuc sanguis in hominem delibatur, dissolvere non licet. Homicidii festinatio est prohibere nasci; nec refert natam quis eripiat animam, an nascentem disturbet: homo est, et qui est futurus; etiam fructus omnis jam in semine est.'
55. Ambrose, *Expositio Evangelii secundum Lucam*, I. I, 44 (PL 15, 1632): 'Ad cohibendam petulantiam tuam, manus quasdam tui auctoris in utero hominem formantis advertis. Ille operatur, et tu sacri uteri secretum incestas libidine?' An indication of this thought is already to be found in the first Christian texts, for example in the Letter of Barnabas (between the first and second centuries) XX, 2, in which the author says that those who follow 'the way of the shadows' are, amongst other things 'killers of children, destroyers of the plasma created by God' (PG 1,1230; here quoted from *I Padri Apostolici*, translated by A. Quacquarelli (Città Nuova Editrice, Rome, 1986) 5th ed., [Collana di Testi Patristici 5], p. 213). Cf. Didachè (+ 100 d.C) V,2: on the way of death there walk amongst others 'killers of children, destroyers of the creatures of God' (PG I Padri Apostolici, p. 33).
56. Augustine, *Sermo CLVI*, c. II (PL 38, 851): 'Et tamen in omnibus qui nascuntur infirmis Deus quod bonum est operatur, formando corpus, vivificando corpus, alimenta praebendo' Cf. Idem, *Contra Julianum Pelagianum* I. V, 34 (PL 44, 804): 'Ut autem concipiatur fetus atque nascatur, divini est operis, non humani.'
57. Augustine, *De anima et ejus origine*, I. I, c. XVI (PL 44, 488-489).
58. Thomas Aquinas, *Scriptum super libros sententiarum Petri Lombardi*, 2, d. 18, q. 2, a. 3; *De potentia*, q. 3, ad 9; *Summa contra gentiles*, 2, 87-89; *Summa Theologica*, 1, q. 76, a. 3, ad 3, en 1, q. 118, a. 2, ad 2; *De spiritualibus creaturis*, a. 3, ad 12; *De anima*, a. 11.
59. Augustine, *De nuptiis et concupiscentia*, I. I, c. XV (PL 44, 423-424): 'Produntur autem quando eo usque progrediuntur, ut exponant filios, qui nascuntur invitis. Oderunt enim nutrire vel habere, quos gignere metuebant. Itaque cum in suos saevit, quos nolens genuit tenebrosa iniquitas, clara iniquitate in lucem promitur, et occulta turpitudine manifesta crudelitate convincitur. Aliquando eo usque pervenit haec libidinosa crudelitas, vel libido crudelis, ut etiam sterilitatis velenam procuret; et si nihil valuerit, conceptos fetus aliquo modo intra viscera exstinguat ac fundat, volendo suam prolem prius interire quam vivere; aut si in utero jam vivebat, occidi antequam nasci. Prorsus si ambo tales sunt, conjuges non sunt: et si ab initio tales fuerunt, non sibi per connubium, sed per struprum potius convenerunt. Si autem non ambo sunt tales, audeo dicere, aut illa est quodammodo meretrix mariti, aut ille adulter uxoris; Petrus Lombardus, *Sententiae*, I. IV, d. 31, c. 3-4; Thomas Aquinas, *Scriptum super libros sententiarum Petri Lombardi*, IV, d. 31, *Expositio textus*.
60. J. Connery, *Abortion: The Development of the Roman Catholic Perspective* (Loyola University Press, Chicago, 1977), pp. 142-148.
61. G. Grisez, *Abortion: the Myths, the Realities, and the Arguments* (Corpus Books, New York, 1970), pp. 165-184.
62. Congregation for the Doctrine of the Faith, *Donum vitae*, I,1, AAS 80 (1988), pp. 78-79.
63. A. Serra and R. Colombo, 'Identità e statuto dell'embrione umano: il contributo della biologia', in *Identità e statuto dell'embrione umano*, J. Carassco de Paula, R. Colombo. M. Cozzoli, L. Eusebi, J.

Lafitte, S. Leone, R. Lucas Lucas, L. Melina, L. Palazzani, A. Pessina, E. Sgreccia (Task-Force of the Pontifical Academy for Life) (Libreria Editrice Vaticana, Vatican City, 1998), pp. 143-146.

64. This Aristotelian-Thomist thesis was taken up by the doctrine of the Catholic Church during the Council of Vienna of 1312 (DS n. 902), during the Lateran Council of 1512-1517 (*ibid.*, n. 1440) and in the encyclical *Veritatis Splendor* (nn. 48ss).

65. Many people, hearing the word 'identity', spontaneously think of identity cards or police records. This meaning of identity involves data such as skin colour, hair colour, eye colour, height and weight, physical size and possible mental characteristics. Sociology makes a distinction between 'natural identity' and 'conventional' identity. By natural identity is meant the ability of people to say 'I', to see all things in relationship to themselves and to enter into conversation with other people. Conventional identity or role identity is the result of the social integration of a human individual which makes him or her a member of a community. A third concept of identity could be added to these two, that is to say the concept of the 'identity of the autonomous self', which is derived from the Kantian conception of an autonomous person: this concerns the identity of the person who manages to subject himself or herself freely to the laws and the general conventions of society. All the various kinds of identity hitherto listed which we think of spontaneously or which are employed by sociology do not apply to the embryo before implantation. For this reason the early embryo, because it cannot appeal to a feeling of solidarity between individuals or to society with other human beings in general is in a situation that in a certain sense is disadvantaged. The foundation of solidarity, in fact, is that one recognises in one's neighbour something of oneself. However, all these types of identity cannot be seen as being totally independent of what the embryo is: they do not concern, in fact, the deepest level of the identity of the human person. The physical and mental characteristics of police records, the natural and social identity of the description provided by sociology, and also the identity of the autonomous self, which must grow in all of us, can change and indeed they do change during life. These types of identity are accidental. It is necessary to find the ontological identity of the person who is the subject of all these changes. The concept of identity of the social sciences and the ontological concept of Boethius complete each other. The human individual is perhaps able to develop various social identities but only thanks to his or her generic identity and numeric identity, which also provide the limits to the possibilities of developing a social identity. In limiting oneself to social identity and forgetting about ontological identity one runs the risk of attributing being a person only to those people who are able to achieve a social identity in line with a certain standard.

66. In relation to this whole question Thomas Aquinas has fascinating and inspired ideas. For him, the subsistent form is the same for all human persons. Indeed, beings with a different form belong to different species. However, although it is true that all men have the same form, how then can the differences between them be explained? This question is a fascinating one and concerns above all else the evident difference between human beings in their capacity to understand things, a capacity that is directly linked to the spiritual form of man. The answer of Thomas Aquinas is that the difference in form between men can only be accidental: 'There is a dual formal variety. There is the variety of the form in itself as regards its essential contents; and such diversity leads to a variety of species: However, there is also a variety of the form not in itself, but in an accidental way, which derives from the variety of matter, in the sense that a better arranged matter will participate in the form in a more worthy way; and such variety does not cause a distinction between species and this is the variety of souls' (*Scriptum super libros sententiarum*, II, d. 32, q. 2, a. 3, ad 1). This provides the basis for his explanation of the differences between individuals within the same species, that is to say the 'numeric distinction' of individuals: 'the difference of form that comes solely the different arrangement of matter does not make a diversity according to the species but only according to the number. Indeed, there are different forms of different individuals, diversified according to matter' (*Summa Theologica*, 1, q. 85, a. 8, ad 3: "... differentiae formae quae non provenit nisi ex diversa dispositione materiae, non facit diversitatem secundum speciem, sed solum secundum numerum;

sunt enim diversorum individuorum diversae formae, secundum materiam diversificatae”). Thus it is also explains why a man can understand himself better than someone else, even though they have the same spiritual form: intellectual capacity also depends on the disposition of the lower faculties which the intellect needs for its activity, that is to say the imagination, the cognitive faculty and the sense memory (Summa Theologica, 1, q. 85, a. 7 in c.).

67. A. Lanza, La questione del momento in cui l’anima razionale è infusa nel corpo, pp. 230-231; J.F. Donceel, ‘Immediate Animation and Delayed Hominization’, p. 101.

68. A. Chollet, ‘Animation’, in Dictionnaire de Théologie Catholique (Paris, 1923), vol. I, 2, p. 1314.

69. R.D. Truog and J.C. Fletcher, ‘Brain death and the Anencephalic Newborn’. Bioethics 4 (1990), n. 3, pp. 199-215; J.W. Walters, ‘Anencephalic Infants as Organ Sources’, Bioethics 5 (1991), n. 4, pp. 326-341.

70. J. McMahan, ‘The Metaphysics of Brain Death’, Bioethics 9 (1995), n. 2, pp. 91-126