The Pre-Embryo: An Illusory Category Of Convenience
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TOPICS FOR DISCUSSION
1. Is there such a thing as pre-embryo in the real world?
2. Are personhood and individuality the same thing?
3. Can the embryo really be harmed without being wronged?
4. Can benefit to others be used to justify the death of an embryo?
5. Is a purely negative morality sufficient to describe the moral life of humans?

Introduction
Goldworth has examined the ethical implications of IVF in terms of possible harms to the "pre-embryo," the participating couple, the offspring produced thereby, and the community. Using the principle of "primum non nocere" as his moral guide, he concludes that although harms may occur by the use of IVF, there are no moral wrongs. In each case, he detects sufficient good for others to override the prima facie obligation not to inflict "gratuitous" harm.

I take issue with this conclusion, the line of reasoning leading to it, the presuppositions with which it begins, and the subsidiary arguments it employs to buttress its justifications of IVF. I argue, to the contrary, that IVF does cause both harm and moral wrong to embryos and that even within the restricted moral constraints adopted by Goldworth, it is morally unjustifiable. Although I will confine myself to the embryo, my criticisms apply, mutatis mutandis, to the author's other conclusions concerning harm and wrong to the couple, the offspring, and the community.

Goldworth's line of argument starts from a single moral presupposition, namely, "... any decision is ethically permitted if it is voluntary and does not cause gratuitous harm to others..." He distinguishes "harm" (ie, death or damage to others) from wrongs, which are morally condemnable because they are "gratuitous" (ie, inflicted without adequate justifying reason). Therefore, he takes the prescription against harming as a prima facie obligation that can be trumped for a good reason, such as benefiting others. In the case of the pre-embryo, he argues further that embryos are not persons and, therefore, are not endowed with interests or rights. Thus, he concludes that embryos can be harmed but not morally wronged. He does admit that the embryo is the possessor of human life and deserves special respect, but not the respect owed to persons. The embryo, therefore, can be harmed and used to benefit persons.

Primum Non Nocere
There are flaws at several points in this chain of arguments and the subsidiary arguments and premises that feed into it. First, an historical note: The author equates his "do no wrong" precept with the oft-quoted Hippocratic injunction "primum non nocere" (ie, do no harm). This is a misleading reading of the texts for several reasons. The first truly ethical moral precept of the Oath reads: "I will use treatment to help the sick according to my ability and judgment but never with a view to injury or wrong-doing." Clearly, the first Hippocratic principle is beneficence, not nonmaleficence. This is also true in the Epidemics, which reads, "As to disease, make a habit of two things: to help, or at least do no harm..." In a different translation, the words of the Oath are: "I shall use treatment for the good of the sick to the best of my ability and judgment, and I shall refrain from using it either for harm or wrong-doing."

In other texts, including Diseases (Potter 1988), Joints (Withington 1968), and On the Art (Jones 1981), when treatment is futile (ie, when the patient is beyond medical good), the emphasis turns to not harming. Clearly, nonmaleficence comes into play only when beneficence no longer is clinically possible.

The Hippocrates were asserting that physicians always should do good and avoid evil. Most of the history of ethics has consisted of formal and systematic study of what constitutes good and evil, and how we arrive at these determinations, how we justify our decisions about good and evil and right and wrong, and what type of persons we should be to assure that we choose to do good and avoid harm.

Positive Duties
Goldworth begins with a very restricted view of the moral life that results in a negative and minimalist view of morality and ignores those positive norms of beneficence that elevate ethics above law. He leaves little room for positive duties peculiar to a person's situation in life (eg, being a physician or lawyer) for pursuit of the virtues, fostering the good of others, acting nobly, preventing harm before it occurs, acting magnanimously, or sacrificing for others. Such an ethic, based in prescriptions without prescriptions, is impoverished. From such a view, most of our obligations to contribute to the good of individuals and society would be supererogatory (ie, admirable) but not required. Special obligations to vulnerable members of our society, such as the old, the very young, the poor, and the unborn, would have little or no positive force.

This type of minimalist ethic in medicine diminishes or removes the positive duties that traditionally have distinguished medicine as a moral...
enterprise of a special kind, including suppression of self-interest, compassion for the sick and the poor, abstinence from sexual relations with patients, and the primacy of beneficence and benevolence. These all would become supererogatory, making them admirable if practiced, but not requisite for being a physician. They might even be prima facie duties that could be expunged for reasons of exigency, self-interest, or convenience. There could be no intrinsic wrongs. If patients are harmed, reasons always could be adduced that would remove the moral taint to make that harm a wrong.

The Construct of Personhood

In the second stage of his argument, Goldworth applies his prima facie nonharm principle to the human pre-embryo, arguing that it has an absolute moral claim to protection from harm because it is not a person. He admits that it is a human life but not a person until it is born. According to this view, personhood somehow is conferred when traversing the birth canal and, therefore, partial birth abortion could be considered a harm and not a wrong. He argues further that the embryo is not an embryo until totipotency of embryonic cells is lost, presumably at 3 weeks’ gestation. Only then does the embryo become an individual. Before that, it is dubbed a “pre-embryo.” This implies that one step in biologic individuality per se confers personhood.

There are serious flaws with this stage of the argument. First, it relies on social construction as a valid method of defining an entity or state such as personhood. If personhood is a social construct and conforms to no objective nature, then we are free to define humans into and out of humanity as well as personhood at will. Some already classify retarded persons, patients in permanent vegetative states, persons who have poor quality of life, or infants who have cerebral damage as nonpersons. A further malignant step of this social construction could allow differences in ethnicity, political belief, color, or religion to be used to define someone out of personhood. The recent history of genocide, ethnic cleansing, racial segregation, and enforced sterilization makes this danger abundantly clear.

One may argue that these are “wrong” social constructions or constructions of bad societies, but this begs the question of how to distinguish good from bad social constructions without some criterion beyond the social construction itself. If a particular social construction is justified as good based on coherence with other accepted beliefs, how do we justify the criteria by which we deem an idea coherent? Is not coherence simply another social construct? If the human person is a social construct, are we willing to subject the Universal Declaration of Rights of the United Nations or the “inalienable rights of man” to social deconstruction? That which has been constructed by society can be deconstructed by the same society. Unless certain moral claims of humans transcend culture and social preference, no human person is safe from being defined as a nonperson.

Although it is purported to be a scientific fact, even Goldworth’s definition of individuality is a social construct. Individuality is not the same as personhood; it is a necessary, but not sufficient, condition. Many individual substances are not persons. Scientific evidence cannot resolve the dilemma of ontology, as even Goldworth admits. Nor is the underlying science sufficient to support an arbitrary division of the line of development of the embryo into a stage called a “pre-embryo.” If, as Goldworth agrees, the embryo is a human life, then it is set on a specific course of continuous, active development beginning with conception. At each stage, embryo and fetus exhibit the physical and functional properties proper to a human life at a particular chronologic stage in the actualization of its potentialities. Creating a category of “pre-embryo” is both biologically and ontologically arbitrary. It seems contrived to allow embryonic experimentation and destruction in accordance with the utility of the destruction for other persons. The design for embryonic and fetal development and personhood is in the embryo from the beginning. Embryology studies the chronologic actualization of all the potentialities in that design. Whether we call the embryo a person or not, when we destroy it, we destroy and willingly interrupt the unfolding of a design that carries the opportunity for fulfillment of life as an infant, child, and adult. Surely this is gratuitous harm and a wrong that no amount of good for others can eradicate. Calling the embryo by another name does not alter the objective fact of interrupting a built-in process of development whose telos is a full-grown human being.

Philosophically, this is a revival of the idea of nominalism, which holds that “the common features of things are some kind of creation of human responses…” (Blackburn 1994) and have no real, objective existence. Social construction defines things not in terms of some universal reality, but in terms of the language and names we impose on them.

It is important to note in passing that merely quoting scholars who are Catholic is not synonymous with quoting an official teaching of the Catholic Church on in vitro fertilization.

Conclusion

The central argument that IVF is morally permissible because embryos can be harmed but not wronged is faulty for several reasons:

1. It is based in a minimalist theory of morality that reduces the moral life solely to negative precepts. On this point, Goldworth misconstrues the Hippocratic ethic and reduces it to nonmaleficence when its central theme is beneficence.

2. Personhood is reduced to biologic individuality, which is a part but not the whole of the idea of a human person.

3. It depends on social construction to define personhood with all the logical disabilities inherent in that notion.

4. It ignores the objective reality of the embryo, which is, in fact, a
COMMENTS

human life imprinted with a design from its earliest moments—a telos that, unless frustrated by abortion or embryo destruction, will become a fully developed human person.

SUGGESTED READING


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The Ethics, Not the Legality of IVF

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TOPICS FOR DISCUSSION

1. Does IVF cause unacceptable risks to women’s health?
2. Do the costs and limitations of IVF violate the principle of justice?
3. Do the procedures of IVF inflict unacceptable damage on embryos and fetuses?

Introduction

This response to “The Ethics of In Vitro Fertilization” will address several issues: social and physical stresses on women, avoiding harm and doing good, questions of autonomy and justice, personhood, and the treatment of embryos and fetuses, especially multifetal pregnancy reduction.

Pressures on Women

Donchin has hard words about pressures on women: “With the advent of new fertility technologies, social pressure to produce biologically related children is again intensifying,” “...infertile women are urged to fulfill their ‘full reproductive potential’ regardless of economic, psychological or bodily cost,” and “...feminist analyses frequently show how the market for these techniques is socially constructed.” (Donchin, 1996) Nevertheless, Donchin maintains that there is a strong emotional need that is not influenced by social pressures. This need even has been called instinctual, which is reminiscent of the famous “maternal instinct” that supposedly endows women with an inborn knowledge of nurturing behavior, but that actually is learned. New mothers, after all, must be taught how to nurse their infants!

Infertility is not simply a biologic problem to be solved by the appropriate technology. It is a “... socially defined and interpreted category...” (Sherwin, 1992) Neither Donchin nor Sherwin deny that women desire biologic children, but they emphasize the social and economic pressures that far too often are downplayed or ignored. Men also are pressured to father biological children, especially now that research has shown that the problem of infertility is not always the woman’s.

The actual procedures of in vitro fertilization (IVF) tend to be described in a rather detached manner. One seldom hears details such as: “...some number of the newly fertilized eggs are transferred directly into the woman’s womb, with the hope that one will implant itself into the uterus. This procedure

requires that a variety of hormones be administered to the woman (often leading to dramatic emotional and physical changes), that her blood and urine be monitored daily at three-hour intervals. In some programs the woman is required to remain immobile for forty-eight hours... (including up to twenty-four hours in the head-down position). This procedure may fail at any point and, in the majority of cases, it does. Most women undergo multiple attempts.” (Sherwin, 1992)

Much of this passage describes discomfort and inconvenience, and one hopes that the technology will be improved with time, but the administration of drugs with unknown long-term effects and potential for harm to the women receiving them is a continuing problem. Repeated endocrine “storms” may not be benign therapy.

The Harm Principle

The harm principle, which probably is being violated in the use of infertility therapies, is entirely insufficient as a basis for the ethics of health-care professionals. Doing good should be the central principle guiding their behavior. The central question then becomes: What good will come of the procedure? Will unacceptable harms be inflicted in the process of achieving that good? The low success rate of IVF and the actual and potential harms involved suggest that these questions are particularly appropriate.

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