

## **THE MORAL STATUS OF THE UNBORN AND ITS CHALLENGES IN THE INDIAN CONTEXT**

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### **Introduction**

The term unborn here refers to every human being from the moment of fertilization to the birth. I prefer to use the term unborn, for it explicitly includes all unborn humans at all prenatal stages in comparison to the born humans. It speaks of commonality of humans and explains the difference only in the status of being born and not-yet born or unborn. The unborn includes the fertilized egg, zygote, blastocyst, embryo and foetus – the different terms – that biology uses to distinguish the various stages of development of the embryo until birth. The general public understands the term unborn with an image of a tiny baby with arms and legs inside the womb. Biologically an embryo refers to a living entity that comes into existence as a result of fertilization of human sperm and egg. This fertilization process takes place in the womb or in vitro fertilization process. The fertilized egg can develop outside the womb only for a certain period and is incapable of developing into a full human outside the uterus.

Whether in vitro fertilization (IVF), pre-implantation diagnosis, pre-natal diagnosis, research with embryonic stem cells, therapeutic/reproductive cloning or abortion, it all deals with the central question about the moral and legal status of the unborn. The modern medical technologies have a scientific value in alleviating human suffering definitely but not without negative effects. In these technologies, the unborn humans can be used as mere means to probably some good ends. But the questions arise: Do good ends justify the means? Are embryos humans or biomaterials?

### **1. The Violence against the Unborn**

Abortion is mostly known violence against the unborn. There are other technologies that cause injustice and violence against the unborn. In vitro fertilization technology not only treats humans as products, but also it creates large number of surplus embryos which would probably be discarded or stored like things in cryopreservation for future use of implantation or donation or research. Certain contraceptive devices not only prevent

conception but also destroy the unborn that has just come into life. Pre-implantation diagnosis is another technology that entails an injustice against the unborn even before being implanted into the uterus. This technology may help therapeutically eradicate genetic illness, but it could be misused to discard many unborn humans by selectively choosing the healthy or gender-preferred embryos to be implanted. Prenatal diagnosis has the similar effects with a difference that a probable abortion may take place sometime after implantation until the time of birth. The therapeutic cloning treats the unborn humans as a mere commodity. This technology creates humans only to destroy them. It is much more instrumentalizing than the reproductive cloning. The cloning of sheep Dolly<sup>1</sup> was a success only after 277 failures. On grounds of ethics and not to play god, reproductive cloning is banned in most countries including India.

The Medical Termination of Pregnancy Act (MTPA) 1971 of India, which was passed as a health measure to provide therapeutic abortions to women who were taking recourse to illegal abortions, has become a means for fertility regulation and gender selection, although many Hindus are disturbed by the selective abortion as birth control.<sup>2</sup> The law has not reduced the illegal abortions either. Female foeticide is a serious problem in India in spite of the enactment of country-wide legislation in 1994 on prohibition of sex selection through prenatal diagnostic techniques to determine the sex of the foetus. The highly uneven sex ratios in many regions indicate the scaring reality of female fetuses being aborted annually.<sup>3</sup> Speaking on implications of female foeticide Sundaramma says,

While female foeticide is bad in itself, the fact that millions of girls are 'missing' in India has profound human and social implications. If the decline in CSR (child sex ratio) continues for another 20-30 years, the number of marriageable females will be far less than that of the marriageable males. This will lead to the disappearance of the dowry problem and the old practice of giving and taking a bride price will come back into vogue. Polyandry (a woman having more than one husband at a time) may also emerge. Since monogamy is the ideal in India, many men may be required to embrace celibacy. The imbalance in sex ratio may increase violence, including rape, against women. With many men remaining unmarried, prostitution will increase substantially.<sup>4</sup>

Another serious violence against the unborn takes place in the form of embryonic stem cell research. The new term pre-embryo<sup>5</sup> sprang up in the later 20<sup>th</sup> century literally indicating that a creature that precedes the embryo

is not an embryo.<sup>6</sup> Some philosophers and scientists argued that pre-embryos are not individuals until there are implanted into the uterus or until the primitive streak takes place,<sup>7</sup> and thus it would be ethically permissible to use the IVF surplus embryos at least up to these stages to obtain embryonic stem cells for research purposes. While extracting stem cells from the embryo at the blastocyst stage, the life of the unborn embryo comes to an end. This is the key problem in this research and the unborn-human-destructive embryonic stem cell research is booming in India without any binding legal norm. The use of human embryos in stem cell research has thus once again all over the world raised fundamental questions surrounding human life: When does human life begin? Is the unborn/embryo a human? What is the moral status of the unborn?

## **2. The Moral Status of the Unborn**

### **2.1. A Philosophical Perspective**

The views on moral status of unborn humans change with different assumptions on the question: when does a human begin to be a human? There are answers with a very large variability extending from the moment of fertilization to the time of being a foetus or even up to birth. Some modern philosophers argue that the protection-worthiness of the unborn grows gradually and follows the stages of biological development.<sup>8</sup>

Some philosophers consider that a human begins to exist only after the implantation into the uterus, when the maternal organism begins interacting with him and providing him with additional properties for development. However, all humans and not just the unborn need interaction, environment and food.<sup>9</sup> The mother does not add anything new to the moral status of the unborn.

Certain philosophers consider implantation to be also decisive, because the largest number of the naturally fertilized embryos dies within the first 14 days and only a maximum of 10 percent of all embryos implant into the uterus,<sup>10</sup> and therefore a lower or no protection-worthiness of the embryo can be justified at least up to this point. Survivability is thus for some philosophers a decisive argument.<sup>11</sup> Nevertheless there is a fallacy in this argument: if the nature ends up with cruel calamities (e.g. tsunami, earthquake, etc.), it does not justify the born humans to attribute a low value to the unborn.

Others consider the formation of the primitive-streak to be a criterion, when the possibility of multiplication and the formation of individuality end.<sup>12</sup> It can be however argued against this criterion that the fertilized egg is an

undivided individual before as well as after the emergence of the primitive streak. That twins can emerge from a fertilized egg does not follow that it did not have the individuality. Daniel P. Sulmasy makes the point clear: "The fact that one amoeba can split into two amoebas is not an argument that what was there before the split was not an amoeba."<sup>13</sup>

Another argument has to do with the development of nervous system. Some argue that even a newborn human is less worthy of protection, because the brain of the newborn is not yet mature to act. This argument is close to the position of philosophers like John Locke, Tristram Engelhardt, Jeff McMahan, Michael Tooley and Peter Singer who attribute the dignity of a person (personhood) only to beings of self-consciousness and of capable of making decisions.<sup>14</sup> The term personhood is mistakenly joined only to the skills of consciousness, self-reflection and ability for communication. Abilities cannot be taken as a criterion for evaluating the moral status and dignity of human beings, as this would exclude also the semi-conscious and incompetent adults.

It is also scientifically proven that the unborn has the ability to feel pain as early as day 56. The pain is more substantial and lasts longer when an invasion takes place at a later stage. John T. Noonan concludes from his research on the pain mechanism of the foetus in the context of abortions: "Whatever the method used, the unborn are experiencing the greatest of bodily evils, the ending of their lives. They are undergoing the death agony. How inarticulate or slight their cognitive powers or rudimentary their sensations may be, they are sentient creatures undergoing the disintegration of their being and the termination of their vital capabilities. That experience is painful in itself."<sup>15</sup> Unborn humans, even born but mentally disabled and coma patients, may not exercise mental abilities, but possess the in-built system for these features. Abilities or disabilities, capabilities or qualifications, or lacking them do not add or deny anything to the intrinsic moral status of humans. The human is—at all stages and always — a person.

Immanuel Kant considered it meaningless to ask when or at what stage of biological development the human turns to be a creature capable of rationality and morality. According to him, a person comes into existence from the moment of conception at the result of the procreative act. Speaking on the Parental Right §28, Kant says:

For the offspring is a *person*, and it is impossible to form a concept of the production of a being endowed with freedom through a physical operation. So from a *practical point of view* it is a quite correct and even necessary idea to regard the act of procreation as one by which

we have brought a *person* into the world without his consent and on our own initiative, for which deed the parents incur an obligation to make the child content with his condition so far as they can. They cannot destroy their child as if he were something they had made (since a being endowed with freedom cannot be a product of this kind) or as if he were their property, nor can they even just abandon him to chance, since they have brought not merely a worldly being but a citizen of the world into a condition which cannot now be indifferent to them even just according to concepts of right.<sup>16</sup>

The never married Kant spoke of obligations of the parents to look after their children and in no uncertain terms did he say that they cannot destroy the child as if it were a product. Kant himself was the fourth of the nine children. For him, A child is a person already from the moment of conception and a person can never be used merely as a means. The humanist philosopher Kant who is often attributed as an agnostic spoke in strong conviction that a child is a child always with its own rights and no one not even parents can destroy for any purpose. Kant applied the criterion of belongingness to the biological species *Homo sapiens* as bearers of an absolute moral worth from the moment of conception to explain the parental obligations towards the legal rights of children.

If there existed a developmental stage that we have passed through when embryos turn to be humans, then the question arises: Were we as embryos not yet humans? How could we ever become humans if we were not humans from the beginning? Is it not an internal contradiction that we say to our existence as an adult "we" today on the one hand and therefore (must and should) maintain continuity with our embryonic existence; on the other hand deny the humanity and moral status to our existence at all prenatal stages?<sup>17</sup>

The claim of certain philosophers to determine the moral status of the embryo on norms is justified. The moral status is certainly defended independently of the ontological status, but it practically results always in the recourse to biological facts for its inevitability of knowing when the moral status begins to exist. The surest beginning point of biological and ontological existence of a human life is the moment of fertilization. Thus, the recognition of the moral status of the embryo is only then possible and meaningful if it takes the ontological status into account. Hence, the careful establishment of the ontological status of the unborn gains a great significance.

We come back to the question: when does the human begin to be a human? My answer is: the human begins to be a human with the fertilization already. But the German biologist and philosopher Johannes Seidel comes up with a puzzling statement: "The human does not begin with the fertilization,"<sup>18</sup> but only from the four cell stage. According to him, the human germline genome begins to express only at the four cell stage and only after this stage the mother identifies the embryo as an independent organism. It is nevertheless questionable whether this stage marks the beginning of a new individual or rather it concerns only about a characteristic variation in an already existing organism passing from a stage of one-cell into two cells then into four cells. His position is thus not tenable.

Undoubtedly, biology<sup>19</sup> by itself is not enough for ontological and moral claims, thus the moral status of the unborn is further substantiated by the SCIP (Species-Continuity-Identity-Potentiality) arguments: The human embryo is human from the moment of fertilization. He grows always as a member of the human *species* and nothing else. The face of the unborn is not only human; but it also expresses human individual specific features.<sup>20</sup> He will never become a member of a non-human species.

The human development does not have any break up in-between but follows *continuity*. There isn't any ethically-relevant difference in his ongoing development and between his various developmental phases like childhood, adulthood, etc. All new forming and differentiating molecular-biological structures are continuously happening from the existing structures. Therefore, the development of a human being is to be always understood as a continuous process.<sup>21</sup>

Genetics clearly shows that the genome of each individual is a human genome.<sup>22</sup> This human genome is also always unique or individual specific from the moment of fertilization. This unique *identity* is never lost. The unborn remains the same and identical with himself during the whole development.<sup>23</sup>

The unborn has the inbuilt potentiality to become an adult human. This potentiality is inherent from the moment of fertilization for a complete human development. Under normal circumstances, the unborn would grow only into an adult human. It is certain. This potential is not passive but active, real and inherent.

Against each of the SCIP arguments there are a number of objections mostly based on either naturalistic fallacies or falsely understood concept of personhood. For example, it is argued what I am today has only similarity with what I was yesterday; therefore it is not identical or continuous. Such or

similar arguments are based on personal qualities, not to the very being of the individual.

No one denies the worthiness of protection of born-humans. A born infant or a grown-up adult is worthy of due protection on the basis of their moral status which is based on freedom and morality. It is normative and no one would dare challenge it today. Can the unborn humans be denied such protection, in so far born humans are the same in their *Identity* and *Continuity* in relation to their unborn humanity? In the same line we can speak of the real *potentiality* of the unborn humans who *will* only grow into adult humans. It is the same being which belongs to the same species that grows into its own category. Does an unborn grow as human or grow unto human? If he is not a human from the moment of fertilization, then what is he? How is it possible for "something" to grow unto "somebody"? The unborn human does not and will never grow unto a non-human being animal. In all its developmental stages during pregnancy the unborn is always human and a human. My defense therefore is that all unborns are humans and also persons. All humans, by virtue of their humanity, have the same moral status and human dignity irrespective of any specific level of development. Any demarcation is equivalent to an arbitrary selection.<sup>24</sup>

The unborn, as every human, is an end in himself and therefore should never be used as a mere means to any end. The exception would only occur when a life would stand against another life, for example, when the continuation of the life of the unborn would turn to be a threat to the life of the mother or both.<sup>25</sup> Similarly, Suceruta, an Indian philosopher and surgeon of the early centuries of the common era, also known as "Father of Surgery" recognized that only in an unavoidable situations or in extreme cases of a medical problem where the mothers' life was in danger and the life of the mother had to be weighed against that of the unborn, an induced abortion or removal of the unborn was permitted.<sup>26</sup> For this reason, the king had to be informed to avoid subsequent charges of homicide.<sup>27</sup> Removal of the unborn was permissible in classical Hinduism only as a last resort to save the life of the mother. Suceruta tolerated the destruction of dead or poorly positioned foetuses for the sake of saving the endangered mothers. He performed caesarean operations to save the unborn lives in cases of difficult labour and removed surgically the living unborn from the womb of a dead mother.<sup>28</sup> Throughout his work, the lives of both mother and the unborn in the womb are highly respected and are given supreme protection. This principle should be applied to all unborn humans in the same way.

There is an argument worldwide that the artificially-fertilized (IVF) embryos – who are orphaned or destined to death because they would die anyway –

may be used at least for research in service of high ranking noble goals. The prominent German moral theologian Eberhard Schockenhoff refutes such arguments. He says that the extracorporeal supernumerary embryos are innocent humans. Non-implantation has already deprived them of opportunities for development. This itself is a moral wrong. This persisting injustice cannot serve to justify further harm. Absence of need for implantation does not reduce the unborn embryos into objects. All unborn humans are equally bearers of moral rights and claims for protection.<sup>29</sup> We do not allow any experiment on adult or aged dying patients either, because they are going to die anyway, although there may be good reasons from the point of view of the research.

There are serious dangers in seeking to define some point in prenatal development at which the life of a child begins to command full respect, and which strengthens the grounds for sustaining his life. Any attempt to define one single, non-arbitrary moment at which a developing child acquires full moral status is likely to fail. Since every child develops at a different pace, a judgement may have to be made afresh in each individual case.

Neither age (whether at an earlier or later time ontogeny) nor the locations of an unborn (whether *in vitro* or *in vivo*) provide a valid differentiation-criterion that could legitimize the use of the unborn for research purposes for the benefit of others. For the recognition of his right to life, it is immaterial whether a new person exists as a zygote, as an embryo, as a new-born human, as younger adult or an aging man. Some civil rights (e.g. the right to vote) are due to humans only above a certain age, other rights (e. g. the right to personal management) can be revoked due to illness or accident under legally controlled circumstances. The gradation of the civil law status does not affect the moral status as such but forms the basis for the recognition of human rights for every human individual, regardless of all other distinctions.<sup>30</sup>

Hence, all unborn embryos from the moment of conception are humans whether created of IVF technology, are therapeutically cloned or are fertilized in the womb of a mother: firstly, they are all not-yet born or unborn humans, and there is no biological and ontological difference between them. It would be both scientifically and rationally correct to accept that a human life begins after fertilization. Secondly, the unborn is a potential person from its very beginning by virtue of being human, and finally, this potential human life is a human individual and has an inherent absolute moral status and dignity. The unborn, thus, has a fundamental right to live, protection of its life and non-violability of its inherent moral status and inalienable dignity. A violation of dignity can only be indirectly tolerated, in extreme exceptional situations,

while saving a life against life when the life of the mother against the life of the unborn in the womb.<sup>31</sup>

## 2.2. A Catholic Perspective

The biblical concept of image and likeness of God in humans is the first principle that plays a great role in giving inviolable right and protection to all human lives. The human life is given an inviolable character reflecting the inviolability of the Creator himself.<sup>32</sup> The second fundamental biblical principle that stands against inviolability of human life is the commandment of Christ to love one's neighbor with a preferential option to care for the vulnerable ones like the unborn.

The Apostles of Jesus Christ (94 AD) condemned violence against the unborn: "...thou shalt not use magic; thou shalt not use drugs; thou shalt not procure abortion, nor commit infanticide" (*Didache* II, 2). One of the earliest Fathers of the Church Tertullian (c. 160 – c. 220 AD) was a forceful opponent of abortion and infanticide. He said: "A future human being is a human being too," and, therefore, "murder is once for all forbidden; so it is not lawful for us to destroy even the child in the womb."<sup>33</sup> There is condemnation of the "medicine," which was used to prevent conception, in the patristic traditions, especially in the writings of Jerome (c.347-420)<sup>34</sup> and John Chrysostom (347–407).<sup>35</sup> Caesarius of Arles (470-542) condemned abortion and called it a crime: "If women attempt to kill the children within them by evil medicines, and themselves die in the act, they become guilty of three crimes on their own: suicide, spiritual adultery, and murder of the unborn child."<sup>36</sup> The destruction of human life any time before birth was thus considered to be homicide and parricide.<sup>37</sup>

Since the time of Augustine (AD 354-430), the Aristotelean belief, that the foetus received the spiritual soul sometimes (about 40<sup>th</sup> day) after conception was prevalent among theologians.<sup>38</sup> Thomas Aquinas (AD 1225-1323)<sup>39</sup> held a position similar to the Aristotelean idea of ensoulment, i.e. for the male foetus after the 40<sup>th</sup> day and the female foetus after the 90<sup>th</sup> day.<sup>40</sup> This was very much in practice from Augustine through the nineteenth century (in official Church teaching), that the unformed embryo lacked a human soul and its destruction amounted to a sinful contraception rather than to a homicidal act.

With the modern advanced scientific knowledge, today the Church believes in simultaneous ensoulment at fertilization, as John T. Noonan, Jr. notes, "*Finally, in 1869, the authoritative Roman Catholic view came to be that it was morally safer to assume that ensoulment occurs at the time of*

*fertilization. Abortion at any time of pregnancy was not, therefore, morally justified.*"<sup>41</sup> This remains the official teaching of the Roman Catholic Church. The Magisterium expresses this official teaching in many documents. The second Vatican Council (1965) says that "from the moment of its conception, life must be guarded with the greatest care while abortion and infanticide are unspeakable crimes."<sup>42</sup> The *Declaration on Procured Abortion* (1974) explains clearly:

In reality respect for human life is called for from the time that the process of generation begins. From the time that the ovum is fertilized, a life is begun which is neither that of the father nor of the mother, it is rather the life of the new human being (= *novi viventis humani*) with his own growth. It would never be made human if it were not human already.... 'The one who will be a man is already one.'<sup>43</sup>

The Instruction *Donum vitae* says, "The human being is to be respected and treated as a person from the moment of conception; and, therefore, from that same moment his rights as a person must be recognized, among which in the first place is the inviolable right of every innocent being to life."<sup>44</sup> It cautions, "how could a human individual not be a human person?"<sup>45</sup> The Instruction *Dignitas personae* reiterates, "The human embryo has, therefore, from the very beginning, the dignity proper to a person,"<sup>46</sup> and in fact, opens with the statement: "The dignity of a person must be recognized in every human being from conception to natural death."<sup>47</sup> The unborn possesses dignity and rights of a human person and therefore as with medical treatment with adult patients, one must use only licit procedures dealing with due respect to its life and integrity.<sup>48</sup> Any technology or research that threatens bodily or spiritual integrity and dignity of the unborn should not be permitted even for a noble objective.<sup>49</sup> *Evangelum vitae* no. 60 states that a mere probability that a human person is involved would suffice to justify an absolute prohibition of any intervention that might kill the unborn.

A renowned Catholic moral theologian Bernard Häring asserts: "The child in the mother's womb is alive and has almost the same qualities before being born as it has after birth."<sup>50</sup> According to him, the destruction of an embryo would risk the recognition and protection of the fundamental right to live, the preservation of a right understanding of motherhood, and the ethical code of the physician as a protector of human life and never as a destroyer of human life.<sup>51</sup> Cardinal Lehmann says it concisely: The unborn is human from the beginning.<sup>52</sup>

The central beliefs of the Catholic Church on the unborn humans can be summarized as follows: (i) A human life begins at conception. (ii) A human life that begins at conception is a complete human being; (iii) this human being is sacred and created in image and likeness of God. (iv) this unborn human being is a human person; (v) being a human person, the unborn has the same moral status, human dignity and rights like any adult human being; (vi) thus it is morally wrong to take away the life of the unborn even for noble causes in benefit of humanity.

### **Conclusion**

Science, technology and medicine are at the service of humans. Science and technology bring about progress, but they should not go beyond limit. They are blind without ethics. Scientific and technological progress without ethics can be disastrous. The primary purpose of medical science is to heal and the primary aim of medical ethics is not to harm first. The medical practitioner has thus the duty first not to harm before healing. A medical professional cannot bring about the death of someone in order to save someone else's life. The medical profession should operate within parameters of medical ethics, that is, *primum nil nocere* (first do no harm) before healing and saving lives. Nonmaleficence has precedence over beneficence. Anything that contributes to promote human life is good and anything that destroys human life is bad. Violence against the unborn who cannot defend his rights is a grievous crime and sin. An unborn human embryo is always human and a human and must be allowed only to grow into a baby and should never be used even for a noble end as a means. Unborn humans have the same moral status like adult humans.

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### **Endnotes**

<sup>1</sup> I. Wilmut, A.E. Schnieke, J. McWhir, A.J. Kind and K.H. Campbell, "Viable offspring derived from fetal and adult mammalian cells," *Nature* 385 (1997): 810-813.

<sup>2</sup> William A. Young, *The World's Religions and Contemporary Issues* (NJ: Prentice Hall, 1995), 128. M. A. Warren, *Gendercide: The Implications of Sex Selection* (Totowa, NJ: Rowman & Allanheld, 1985), 16, curiously attributes abortions in India to Hinduism's silence in this matter.

<sup>3</sup> This is the reality despite the fact that the determination of sex being criminalized by Indian law of the Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 [PNDT Act]. This law (amended as Preconception and Prenatal Diagnostic Techniques (Prohibition of sex selection) Act, 1994 [PC& PNDT Act]) was further stiffened with penalties in 2002: up to three years in Jail and a Rs. 10,000 fine for the offense of ultrasound scanning and five years imprisonment and Rs.50,000 for sex determination. The 2011 Indian Census shows that there are only 914 girls per 1000 boys up to the age of six. Indiscriminate abortion of female fetuses is clearly the reason for this skewed ratio.

<sup>4</sup> P. Sundaramma, „Does Abortion Law abet Female Foeticide?“ *The Hindu* (May 27, 2012). Accessed from the Web [<http://www.thehindu.com/opinion/open-page/article3459939.ece?css=print>]

<sup>5</sup> Günter Rager, *Die Person: Wege zu ihrem Verständnis*, Studien zur theologischen Ethik 115 (Fribourg i. Ue: Academic Press Fribourg/Freiburg i. Br.: Verlag Herder, 2006), 197. Hereafter: Rager, *Die Person*. Cf. K. V. Hinrichsen (ed.), *Humanembryologie* (Berlin: 1990), 128. I do not accept the concept of „pre-embryo,“ for it is an imaginary concept. Edmund D. Pellegrino, a famous Catholic physician and theologian at the Georgetown University Medical Center questioned the use of the term calling it an illusory category of convenience, which does not have any corresponding reality in nature. See his article, „The Pre-Embryo: An Illusory Category of Convenience,“ *Pediatrics in Review* 20 (1999): 32-34. The term „pre-embryo“ was originally invented by Clifford Grobstein in 1979 and endorsed by the Ethics Committee of Fertility and Sterility (of America) in 1986, of which Grobstein was a member.

<sup>6</sup> Rager, *Die Person*, 197.

<sup>7</sup> Cf. John A. Robertson, „What we may do with preembryos: A response to Richard A. McCormick,“ in: *Kennedy Institute of Ethics Journal* 1 (1991): 293-305.

<sup>8</sup> Cf. Rager, *Die Person*, 206.

<sup>9</sup> Cf. Christian Kummer, „Stammzellkulturen – ein brisantes Entwicklungspotential“, in: *Stimmen der Zeit* 218 (2000), 547-554, 551.

<sup>10</sup> Rager, *Die Person*, 204-205.

<sup>11</sup> W. Vossenkuhl, „Der ethische Status von Embryonen,“ in: *Neue Zürcher Zeitung* (17. Sept. 2001): Nr. 215, 27.

<sup>12</sup> Cf. Norman M. Ford, *When did I begin? Conception of the human individual in history, philosophy and science* (Cambridge, 1988); R. McCormick, "Who or what is the preembryo?" in: *Kennedy Institute of Ethics Journal* 1 (1991): 1-15.

<sup>13</sup> Daniel P. Sulmasy O.F.M., "Dignity and Bioethics: History, Theory, and Selected Applications," in: *Human Dignity and Bioethics: Essays Commissioned by the President's Council on Bioethics*, Chapter 18. 469-501 (Washington: March 2008), 492.

<sup>14</sup> Cf. John Locke, *Essay Concerning Human Understanding: with Thoughts on the Conduct of the Understanding*, Book II, Chap. 27 on: "Of Identity and Diversity," (Edinburgh: Mundell & Son, Royal Bank Close, 1801), 54; Tristram Engelhardt, "Some Persons are Humans, some Humans are Persons, and the World is What we Persons Make it," *Philosophical Medical Ethics* (Boston: Reidel, 1977): 183-194, 138-139; J. McMahan, "Cloning, Killing, and Identity," *Journal of Medical Ethics* 25 (1999): 83; Michael Tooley, *Abortion and Infanticide*, (Oxford: Clarendon Press, 1983), 167; Michael Tooley, *Abortion and Infanticide*, (Oxford: Clarendon Press, 1983), 167; Peter Singer, *Practical Ethics*, Second ed. (New York: Cambridge University Press, 1993), 86-87.

<sup>15</sup> John T. Noonan, "The Experience of Pain by the Unborn," in: Jeff Lane Hensley (ed.), *The Zero People*, 141-156 (Ann Arbor, Michigan: Servant, 1983), 151-52.

<sup>16</sup> Kant, *The Metaphysics of Morals* (trans. & ed.: Gregor), 64. MS VI: 280f. Underline is mine.

<sup>17</sup> Cf. Rager, *Die Person*, 192.

<sup>18</sup> Johannes Seidel, *Schon Mensch oder noch nicht? Zum ontologischen Status humanbiologischer Keime* (Stuttgart: Kohlhammer, 2010), 402.

<sup>19</sup> Biology alone cannot make value statements on ontological as well as moral status of human embryos.

<sup>20</sup> Cf. Rager, *Die Person*, 201, 203.

<sup>21</sup> Cf. Rager, *Die Person*, 202, 203.

<sup>22</sup> In general, every cell of a human body contains the entire genome of the organism. It does not however mean that every cell is a human. Only a fertilized egg is totipotent and thus has active potentiality to develop as a human.

<sup>23</sup> My identity today is exactly the same from the beginning. I am today same that I was.

<sup>24</sup> C. Starck, Der moralische Status des Embryos, in: *NZZ* 14./15. April 2001, Nr. 87, 89.

<sup>25</sup> E. Schockenhoff, Die Ethik des Heilens und die Menschenwürde, in: *Zeitschrift für medizinische Ethik* 47 (2001): 235-257.

<sup>26</sup> Suæruta, *The Suæruta SaChitâ*, 2.8.9, in K.K. Bhishagratna (trans.), *An English Translation of the Suæruta SaChitâ*, (Varanasi: The Chowkhamba Sanskrit Series 30, 1964) 2, 58-60. See Laale, H. Willer, "Embryology and Abortion in Indian Antiquity: A Brief Survey," *Indian Journal of History of Science*, Vol. 31, No.3 (1996): 246, 257.

<sup>27</sup> Katherine K. Young, "Medical Ethics through the Life Cycle in Hindu India," in: Robert B. Baker and Laurence B. McCullough, (eds.) *The Cambridge World History of Medical Ethics* (Cambridge, New York, et. al: Cambridge University Press, 2009), 101-112, 103.

<sup>28</sup> Ibid. see Laale, "Embryology and Abortion in Indian Antiquity," 246, 257. See also P. Ray, H. Gupta and M. Roy, *Suæruta SaChitâ: A Scientific Synopsis*, (New Delhi: Indian National Science Academy, 1980), 22.

<sup>29</sup> E. Schockenhoff, *Ethik des Lebens: Grundlagen und neue Herausforderungen* (Freiburg i. Br./Basel/Wien: Herder, 2009), 455.

<sup>30</sup> Cf. E. Schockenhoff, „Der Moralische Status des Embryos,” in Rainer Beckmann/Mechthild Löhr (eds.), *Der Status des Embryos: Medizin – Ethik – Recht* (Würzburg: J.W.Naumann Verlag, 2003), 77.

<sup>31</sup> See Ludger Honnefelder, "Pro Kontinuumsargument," 78-79: „daß das Leben des menschlichen Lebewesens die fundamentale Bedingung für das Vermögen ist, Subjekt zu sein, zu dem Ergebnis, daß ein uneingeschränkter Lebensschutz als geboten zu betrachten ist und eine Einschränkung nur in dem Ausnahmefall zulässig ist, daß Leben gegen Leben steht."

<sup>32</sup> See John Paul II, "Encyclical Letter *Evangelium vitae* on the value and inviolability of human life (25 March 1995)," in: *AAS* 87 (1995): no. 53

<sup>33</sup> Quoted in: John T. Noonan, Jr. *Contraception: A History of Its Treatment by the Catholic Theologians and Canonists* (Cambridge, Massachusetts: The Belknap Press of Harvard University Press, 1965), 104. Hereafter: Noonan,

*Contraception*. Tertullian, *Apology*, 9: 8. *Homo est et qui est futurus; etiam fructus omnis iam in semine est.*

<sup>34</sup> Ibid. Jerome, *Letters*, 22: 13 (Q396 AD).

<sup>35</sup> Ibid. John Chrysostom, *Homilies on Romans 24* (A.D.391).

<sup>36</sup> Ibid. *Sermon 51, 4*; CC 103, 229).

<sup>37</sup> Noonan, *Contraception*, 127; see Pius XI, "Encyclical *Casti connubii*," in: *Acta Apostolicae Sedis* 22 (1930): 539-592.

<sup>38</sup> Augustine thought that the human soul cannot live in an unformed body. See Augustine, *On Exodus*, 21, 80. The concept of simultaneous animation gained acceptance both in the Church and in medical fields in the 17<sup>th</sup> century.

<sup>39</sup> Wolfgang Kluxen, "Thomas v. Aquin," in: Walter Kasper u.a. (Hg.), *Lexikon für Theologie und Kirche*, Bd. 9 (Freiburg i. Br.: Verlag Herder, 2009<sup>3</sup>): 1509-1517.

<sup>40</sup> See Adrian Holderegger, "Die 'Geistbeseelung' als Personwerdung des Menschen: Stadien der philosophisch-theologischen Lehrentwicklung," in: Konrad Hilper/Dietmar Mieth (Hg.), *Kriterien biomedizinischer Ethik: Theologische Beiträge zum gesellschaftlichen Diskurs*, 175-197 (Freiburg i.Br./Basel/Wien: Verlag Herder, 2006), 190f

<sup>41</sup> John T. Noonan, Jr. "An Almost Absolute Value in History," in: John T. Noonan, Jr. (ed.), *The Morality of Abortion: Legal and Historical Perspectives* (Cambridge, MA: Harvard University Press, 1970), 39..

<sup>42</sup> The Second Vatican Council, *Gaudium et Spes: Pastoral Constitution on the Church in the Modern World*, (Vatican: 7 December 1965): n. 51. See also Holy See, "Charter of the Rights of the Family (22 October 1983)," *L'Osservatore Romano*, (Vatican: 25 November 1983): Article 4.

<sup>43</sup> Sacred Congregation for the Doctrine of the Faith, "Declaration on Procured Abortion," nos. 12-13 in: *AAS* 66 (1974): 738.

<sup>44</sup> Congregation for the Doctrine of the Faith, "Instruction *Donum vitae* on respect for human life at its origins and for the dignity of procreation (22 February 1987)," in: *AAS* 80 (1988): 79. Here after *Donum vitae*. See also John Paul II, "Encyclical Letter *Evangelium vitae* on the value and inviolability of human life (25 March 1995)," in: *AAS* 87 (1995): 401-522. Hereafter: *Evangelium vitae*

<sup>45</sup> *Donum vitae*, no. 78-79.

<sup>46</sup> *Dignitas Personae*, 5.

<sup>47</sup> *Dignitas Personae*, 1.

<sup>48</sup> *Donum vitae*, I.3. In the following no.I.4, it says, "If the embryos are living, whether viable or not, they must be respected just like any other human person; experimentation on embryos which is not directly therapeutic is illicit."

<sup>49</sup> *Dignitas Personae*, 32; *Donum vitae*, I.4; *Evangelium vitae*, n. 58, n. 60, n. 63.

<sup>50</sup> Bernard Häring, "A Theological Evaluation," in: John T. Noonan, Jr., et. al. (eds.), *The Morality of Abortion: Legal and Historical Perspectives*, 123-145 (Cambridge, Massachusetts: 1970), 125.

<sup>51</sup> *Ibid.* 126.

<sup>52</sup> Karl Kardinal Lehmann, *Das Recht, ein Mensch zu sein: Zur Grundfrage der gegenwärtigen bioethischen Probleme* (Bonn: DBK, 24. September 2001), 10: "Der Embryo ist von Anfang an Mensch." Although the life of a human is not the highest good, it is but the fundamental good of humans. *Ibid.* 27.