

CELLS, SOULS, AND DIGNITY: A THEOLOGICAL ASSESSMENT

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Abstract: This Article addresses the concept of human dignity and its implications in the ongoing debates surrounding abortion and stem cell research. It describes a phenomenological source of human dignity based in the concept that dignity depends on a relationship in which dignity is first conferred and then eventually grasped and claimed. This phenomenological source of dignity becomes the basis of an argument against the Vatican position that genetic uniqueness is a measure of personhood, dignity, and moral protectability. This Article concludes with an argument that stem cell research does not violate human dignity, contrary to Vatican teaching and thought, because morally protectable dignity cannot exist in an *ex vivo* blastocyst.

INTRODUCTION

What do we mean by the *dignity of the human person*? This is the question I would like to answer by drawing upon phenomenological and theological resources. I will argue that phenomenologically, dignity appears in our experience when a human person is treated as an end and not merely as a means to a further end. I will argue theologically that dignity is conferred on human individual persons by God; and when we engage in such conferral we are participating in a divine work. The act of dignifying someone is an act of love, a love that is both human and divine; and the result is the dignity of the person who is being loved. Once I have made these points, I will turn to questions arising from the stem cell debate regarding the moral status of the *ex vivo* embryo at the blastocyst stage, asking whether the blastocyst in the laboratory should be treated as a person with dignity. My answer will be a cautious “no.”

At stake is public support or non-support for regenerative medicine. The most promising avenue of regenerative medicine involves experimentation with human embryonic stem cells (hES cells). The potential of such research is that it could lead to relief for those who

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suffer from heart disease, diabetes, Parkinson's disease, Alzheimer's disease, spinal cord injury, and even cancer. The future of human flowering appears to be at stake. Yet, concern over the moral status of the blastocyst condemned to laboratory destruction appears to block the way forward. The threshold we must cross in order to proceed is to answer this question: *How does our understanding of human dignity inform the way in which we negotiate the conflict between its application to those who suffer and could be helped by regenerative medicine as well as to the blastocyst in the petri dish that will be dismantled by researchers?*

Vatican moral theologians affirm the latter, while I affirm the former. Each position depends on a different theory of dignity and morally protectable personhood. Each position depends on a different assessment of the alleged connection between stem cell research and abortion. And each position depends on a different interpretation of what nature is telling us about the human genome. I will turn to these differences after a brief review of the definition of *dignity* derived from the history of personhood.

I. DIGNITY AND THE *IMAGO DEI*

When Jewish and Christian theologians think of dignity, they seem to gravitate immediately to Genesis 1:26–27, where human beings, both male and female, are created in God's image:

Then God said, "Let us make humankind in our image, according to our likeness; and let them have dominion over the fish of the sea, and over the birds of the air, and over the cattle, and over all the wild animals of the earth, and over every creeping thing that creeps upon the earth." So God created humankind in his image, in the image of God he created them; male and female he created them.¹

All human beings bear the image (*zelem*) and the capacity for likeness (*demut*) of the divine.

A *zelem* or image in ancient times connoted a statue or inscription in a local village that would represent the absent king. That royal symbolism present here is confirmed by the association of image with dominion. The Hebrew for "dominion," *radah*, is ascribed to the king, who is responsible for governance, military protection, and providing justice and compassion for the poor.² By identifying the human race

¹ *Genesis* 1:26–;27.

² *See Psalm* 72:12–;14.

with God's image, all persons become treated as kings and queens, so to speak; and, in turn, all persons become responsible for exacting God's rule of justice and compassion.

In 2004, the Vatican International Theological Commission published *COMMUNION AND STEWARDSHIP: HUMAN PERSONS CREATED IN THE IMAGE OF GOD*, a significant theological treatise.³ By placing the doctrine of the *imago dei* within "Christian revelation," *COMMUNION AND STEWARDSHIP* offers its interpretation of Genesis 1:26 and related texts. "The Old Testament understanding of man as created in the *imago Dei* in part reflects the ancient Near Eastern idea that the king is the image of God on earth. The biblical understanding, however, is distinctive in extending the notion of the image of God to include all men."⁴ This democratization of the royal image is inclusive of both genders. "The Bible lends no support to the notion of a natural superiority of the masculine over the feminine sex . . . the two sexes enjoy an inherent equality."⁵ A dignity that previously belonged only to kings and queens now belongs to each and every human being because each of us, no matter how humble, is created in God's image.

In his commentary on the book of Genesis, former chair of the U.S. President's Council on Bioethics, Leon Kass, suggests that this *imago dei* passage indicates a hierarchy in nature; and we humans sit on top of the hierarchy. "Man is the ultimate work of creation," writes Kass.⁶ We are special:

Human beings, alone among the creatures, speak, plan, create, contemplate, and judge. Human beings, alone among the creatures, can articulate a future goal and use that articulation to guide them in bringing it into being by their own purposive conduct. Human beings, alone among the creatures, can think about the whole, marvel at its many-splendored forms and articulated order, wonder about its beginning, and feel awe in beholding its grandeur and in pondering the mystery of its source.⁷

³ INTERNATIONAL THEOLOGICAL COMMISSION, *COMMUNION AND STEWARDSHIP: HUMAN PERSONS CREATED IN THE IMAGE OF GOD* (July 23, 2004), available at http://www.vatican.va/roman_curia/congregations/cfaith/cti_documents/rc_con_cfaith_doc_20040723_communion-stewardship_en.html.

⁴ *Id.* § 8.

⁵ *Id.* § 36.

⁶ LEON R. KASS, *THE BEGINNING OF WISDOM: READING GENESIS 37* (2003).

⁷ *Id.* at 38.

Kass adds an interesting item to his interpretation. We human beings are not done yet. Our future is still open. “Precisely in the sense that man is in the image of God, man is not good—not determinate, finished, complete, or perfect. It remains to be seen whether man will *become* good, whether he will be able to complete himself (or to be completed).”⁸ Perhaps what Kass the Jewish commentator is suggesting here corresponds to the Eastern Orthodox Christian emphasis on the likeness as something future. Even though we are born with the image of God, say the Orthodox, we must with the help of God’s grace grow increasingly toward a likeness of God.⁹

If one wishes to retrieve the origin of our concept of dignity in the ancient Hebrew scriptures, then the concept of the image of God in Genesis 1:26–27 seems to sow the seed. Each person, no matter how humble, is likened unto a king or queen. The “Latin root (*dignatas*), is that of worthiness, elevation, honor, nobility, height—in short excellence or virtue,” writes Leon Kass.¹⁰ The *imago dei* applies an otherwise aristocratic principle universally. Jürgen Moltmann puts it this way:

When the Bible calls human beings the image of God, this constitutes a fundamental criticism of the divinization of the rulers and their ideologies of rule. Not the king, but the individual human being alone is mediator between God and the people. Human beings do not exist for the sake of rule; rule, rather, exists for the sake of human beings.¹¹

Yet, this appeal to the *imago dei* is insufficient to account for the strong support for dignity emerging from the Bible, in my judgment. Something more happens in scripture. What happens is that the Bible reports that God is searching for us. God takes an initiative toward the human race out of divine love. “Bold as a lion you hunt me.”¹² This divine yearning for a relationship with us results in a concrete experience of being considered worthy. God’s love for us confers dignity upon us. “This is the mysterious paradox of Biblical faith,” writes Abraham Joshua Heschel, “*God is pursuing man.*”¹³

⁸ *Id.* at 39.

⁹ See 5 IRENAEUS, IRENAEUS AGAINST HERESIES 16 (2004).

¹⁰ LEON R. KASS, LIFE, LIBERTY, AND THE DEFENSE OF DIGNITY: THE CHALLENGE FOR BIOETHICS 15 (2002).

¹¹ JÜRGEN MOLTSMANN, ON HUMAN DIGNITY: POLITICAL THEOLOGY AND ETHICS 23 (M. Douglas Meeks trans., 1984).

¹² *Job* 10:16.

¹³ Abraham Joshua Heschel, *God in Search of Man*, in CONTEMPORARY JEWISH THEOLOGY: A READER 81, 87 (Elliot N. Dorff & Louis E. Newman eds., 1999).

II. FROM THE PALACE TO THE PERSON

Dignity once belonged to those living in the palace, to the king and his family. Now it belongs to the person, every person. What accounts for this universalizing change?

In the ancient Roman world a wealthy member of the royal family or someone in a position of rank in society would be given *dignitas*: respect and honor in public. Peasants and servants would defer, give place, run errands, pay obeisance, and perform whatever tasks are necessary to make the life of the person with *dignitas* secure and comfortable. Dignity distinguished the powerful in society from the marginal, those who get served from those who serve them.

With the Greek philosophers, the Roman stage had been partially set for an egalitarian turn. The Greeks saw each human being as having an inherent capacity to reason, and reason opened the individual mind to the divine mind. The human *logos* within each one of us, regardless of social rank, is attuned to the divine *logos*, they said. This recognition did not lead immediately to a doctrine of human equality, however. The Stoics could acknowledge that slaves, like the rest of us, could access the universal *logos* through their reasoning; yet, socially, they would remain slaves. This shared transcendental capacity did not in itself provide sufficient warrant for emancipation.

Eventually, this turn inward to establish a connection with God that no outward worldly status could affect grew in social significance. Yet, before dignity could become fully universalized, the turn inward needed a complement, namely, love. The individual relation to God needed a communal interaction characterized by love, in which each person regardless of social status is loved as an end and not as a means. Reason coming from within and love coming from without set the stage for the appearance of individual human dignity for all persons. The Greeks gave us reason. The Christians gave us love. Protestant theologian Paul Tillich reads history this way:

Personal standing has been denied to slaves, children, women. They have not attained full individualization in many cultures because they have been unable to participate fully; and, conversely, they have been unable to participate fully because they have not been fully individualized. No process of emancipation was begun until the Stoic philosophers fought successfully for the doctrine that every human being participates in the universal *logos*. The uniqueness of every person was not established until the Christian church acknowledged the universality of salvation and the potentiality of every hu-

man being to participate in it. This development illustrates the strict interdependence of individuality and participation on the level of complete individualization, which is, at the same time, the level of complete participation.¹⁴

The picture Tillich paints is this: human personhood is the product of a dynamic interaction between individualization and participation.¹⁵ Personhood is not strictly the private property of the autonomous reasoning individual. Participation in a social network that confers worth—that loves—enhances the development of personhood in the life of the individual.

I am working here with the following historical hypothesis: the treatment of the individual person as having inherent value and as worthy of being loved is a key move we find with the spread of Christianity in the Roman Empire. Adolph von Harnack described the Christian innovation in terms of the infinite value of the human soul:

The idea of the inestimable inherent value of every individual human soul, already dimly appearing in several psalms, and discerned by Greek Philosophers, though as a rule developed in contradiction to religion, stands out plainly in the preaching of Jesus. It is united with the idea of God as Father, and is the complement to the message of the communion of brethren realizing itself in love. In this sense the Gospel is at once profoundly individualistic and Socialistic.¹⁶

Dignity and a community of love come together in a single package.¹⁷

¹⁴ 1 PAUL TILlich, *SYSTEMATIC THEOLOGY* 175–76 (Simon & Schuster 1967) (1951).

¹⁵ *See id.* at 174–78.

¹⁶ 1 ADOLPH HARNACK, *HISTORY OF DOGMA* 70 (N. Buchanan trans., Williams & Norgate 1900) (1885).

¹⁷ As we have noted, it is customary in theology to appeal first to the *imago dei* or image of God within the human race, as described in *Genesis* 1:26–29, to establish human dignity. “Rightly . . . the Christian tradition sought the basis of personal dignity in our creation in the image of God,” writes Wolfhart Pannenberg. 2 WOLFHART PANNENBERG, *SYSTEMATIC THEOLOGY* 176 (Geoffrey W. Bromiley trans., Eerdmans 1991). The role the *imago dei* plays in Christian thought complements, if not duplicates, the role the *logos* plays in Greek thought by universalizing the value of human persons. What I argue here is that the activity of loving a person as an end is what constitutes the phenomenon of dignifying. Love is the particular Christian contribution. Pannenberg would agree. “The divine likeness . . . declared individual life to be sacrosanct (Gen. 9:6). Yet this did not yet imply that each individual human life in its uniqueness has infinite worth for God. The decisive breakthrough to this insight came with the message of Jesus that God reaches out to each of his creatures with eternal love, which we see pointedly in his love for those who have gone astray and are lost. Only in Christian thinking does this characterization of human life then come into relation to the concept of person.” *Id.* at 199.

When Christianity appeared on the scene, the ethic of dignifying one who is humble became lifted up; and the dignity that previously belonged to only the select elite could be given to each member of the human race. God became the servant in Jesus Christ, paying obeisance to those whom God loves. Jesus came not to be served, but to serve, he said. Thereby, God's incarnation dignifies us, all of us and each of us, making us an end to which divine humiliation in Jesus Christ is the means. Or, to say it another way, the participation of God in the human plight through the incarnation is God's way of conferring worth and value to the human person; and this conferral is the decisive testimony to our dignity.

As the idea of personal worth accompanied by a growing ethic to confer such worth wormed its way through Western history, like a germinating seed it sprouted and flowered with implications such as human equality and liberation for those living under undignified circumstances. Love for those on the margin and compassion for those who are suffering became hallmarks of Christian ethics; and such values gave birth in the Enlightenment to a new generation of ideals such as equality, democracy, justice, and human rights.

The concept of universal human dignity, which we associate with morally protectable personhood, has been formulated by the 18th Century giants we now associate with the European Enlightenment. Immanuel Kant, for example, words it this way: "dignity . . . is an intrinsic, unconditioned, incomparable worth or worthiness."¹⁸ Kant adds that a person should be treated as an "end" and not "used merely as a means."¹⁹ This secular Enlightenment formulation represents a maturing of nascent ideas previously conceived in antiquity by the Greek notion of universal *logos* combined with Christian commitments to the sanctity of the human person due to God's plan of salvation. Dignity today is a secular ethical principle with roots in the Greek understanding of our capacity to reason along with the Christian understanding of the human person as an everlasting object of God's love.

III. FROM PHENOMENOLOGY TO THEOLOGY: DIGNITY AS CONFERRED, THEN POSSESSED

We in the post-Enlightenment period assume that the concept of dignity refers us to the intrinsic value of a human person. The value of

¹⁸ IMMANEUL KANT, *GROUNDWORK OF THE METAPHYSIC OF MORALS* 36 (H.J. Paton trans., Harper 1956) (1785).

¹⁹ *Id.* at 96.

a person cannot be reduced to his or her instrumental worth, we say. This implies that we are always worth more than our possessions or our reputations or our function in the economy. As persons with dignity no one dares reduce us to the subjective value of those who like or dislike us. We are confident we can claim our rights even when everyone around dislikes us. Dignity applies to individual persons. And as individual persons we are always an end and never merely a means to some other greater value. It is this dimension of intrinsic value that constitutes human dignity as we know it in the modern West.

We think of dignity as intrinsic. We even say it is inborn. "All human beings are born free and equal in dignity and rights," we find in Article 1 of the Universal Declaration of Human Rights passed by the United Nations on December 10, 1948. Now, we might ask, just what makes us believe dignity is intrinsic? Why do we assume it to be innate, inborn?

To get at this, let us ask a phenomenological question: do we experience dignity as intrinsic or conferred? To my observation, both apply. A newborn welcomed into the world by a mother and father who provide attention and affection develops a self-consciousness that incorporates this attention and affection as evidence of self-worth. As consciousness becomes constituted this sense of worth can be claimed for oneself, and individual dignity develops. We are first treated with dignity, then we claim it for ourselves. Dignity is first conferred, then possessed.

Theologically, we believe our human dignity is ultimately conferred by God. Furthermore, because we have experienced God treating us with dignity, we now confer it on one another. Once we have conferred dignity on someone we love, we treat that person as having intrinsic value. This is the nature of love, namely, to treat the beloved as an end and not a means to some further end.

One of the ways that we have learned about God's conferral of dignity on us is through the ministry of the incarnate Son. Jesus' ministry took him to the most humble of persons in first century Israel: the beggars, the lepers, those crippled or blind from birth, and to social outcasts such as adulterers or traitorous tax collectors. Jesus took a special interest in those among us who suffer marginalization, or who just plain suffer. Jesus was particularly concerned about children. "Let the little children come to me, and do not stop them;" he said,

“for it is to such as these that the kingdom of heaven belongs.”²⁰ Conferring dignity is an ethical activity for Jesus.

Observable is that love as an activity produces consequences. Love evokes a sense of dignity in the humble. To be the object of someone’s love is to be made to feel valuable, to gain a sense of self-worth. Once we feel this sense of worth imputed to us by the one who loves us, we begin to own it. We begin to claim it. Worth is first imputed, then it is claimed.

What I would like to underscore here is that dignity and personhood cannot be extricated from the relationships that make it possible. Greek Orthodox theologian John Zizioulas argues that personhood requires an “openness of being,” an ecstatic relationship beyond the individual. A person is a self in the process of transcending the boundaries of the self. This self-transcendence is the root of freedom. Only relationship makes such self-transcendence, and hence freedom, possible. On the one hand, a person is an integrated unity, a self. On the other hand, a self who fulfills personhood is ecstatically open for communion.²¹ Such thinking leads the late Notre Dame theologian Catherine Mowry LaCugna to assert: “Person indicates relationship.”²²

Now, we might ask: how can this relationalist understanding of dignity be reconciled with the idea that dignity is innate? The value and significance of dignity understood as innate—inborn or inherent in the individual person—for our legal system is obvious. Such a dignity doctrine permits us in court to defend the rights of every individual regardless of how humble he or she might be. Every person has a right to *dignitas* before the law. We don’t want to surrender this. Still, we need to ask about the connection between individual dignity and the community of relationships upon which it depends. Even though we are in the habit of assigning dignity to individuals who, on the basis of dignity, can make a claim against the rest of society, this is possible only because of a prior communion which cedes dignity to the individual.

²⁰ *Matthew* 19:14.

²¹ See John D. Zizioulas, *Human Capacity and Human Incapacity: A Theological Exploration of Personhood*, 28 SCOT. J. OF THEOLOGY 401, 408 (1975).

²² Catherine Mowry LaCugna, *The Trinitarian Mystery of God*, in 1 SYSTEMATIC THEOLOGY: ROMAN CATHOLIC PERSPECTIVES 149, 180 (Francis S. Fiorenza & John P. Galvin eds., 1991).

IV. IS DIGNITY GENETIC?

What, then, can we say about the belief that dignity and personhood are innate, inborn, inherent in nature? To speak of dignity as innate is to say that we are born with it. If so, then what is its origin? Does it come with our biology? Is dignity in the genes?

Some theologians lodge dignity and personhood in the uniqueness of an individual's genome combined with the divine impartation of a spiritual soul. This is the position developed over the last two decades at the Vatican and by some Eastern Orthodox theologians. A team of Roman Catholic ethicists recently put it this way: "We argue that a zygote with a human genome must be considered a human individual, who is thus made in the image and likeness of God, with all the inheritance of human dignity that this implies."²³ Once the genome is set in the zygote, then the capacity for rationality and the warrant for protectable dignity are set. The genome and the soul come in a single package. "The genome is the part of the body that is formed by the soul."²⁴

This connection between the genome and the soul becomes relevant to stem cell research. Here is how the Vatican poses a question and answers it: "*Is it morally licit to produce and/or use human embryos for the preparation of ES cells? The answer is negative.*"²⁵ This is the question as formulated in the "Declaration on the Production and the Scientific and Therapeutic Use of Human Embryonic Stem Cells" document. The Vatican explains: "the ablation of the inner cell mass of the blastocyst, which critically and irremediably damages the human embryo, curtailing its development. is a *gravely immoral* act and consequently is *gravely illicit.*"²⁶ Richard Doerflinger, a policy developer for the U.S. National Conference of Catholic Bishops, puts it this way: "intentional destruction of innocent human life at any stage is inherently evil, and no good consequence can mitigate that evil."²⁷

When the Pope and the Congregation for the Doctrine of the Faith and moral theologians oriented toward Vatican policy weigh in on cloning and stem cells and related issues, they appeal again and

²³ Nicholas Tonti-Filippini et al., *Ethics and Human-Animal Transgenesis*, 6 NAT'L CATH. BIOETHICS Q. 689, 692-93 (2006).

²⁴ *Id.* at 702.

²⁵ PONTIFICAL ACADEMY FOR LIFE, DECLARATION ON THE PRODUCTION AND THE SCIENTIFIC AND THERAPEUTIC USE OF HUMAN EMBRYONIC STEM CELLS (2000), available at http://www.lifeissues.net/writers/doc/doc_03embryostemcells.html.

²⁶ *Id.*

²⁷ Richard Doerflinger, *The Policy and Politics of Embryonic Stem Cell Research*, 1 NAT'L CATH. BIOETHICS Q. 135, 143 (2001).

again to two precedents, *Donum Vitae* (1987) and *Evangelium Vitae* (1995). The central tenet is that morally protectable human personhood becomes applied to the zygote, the egg fertilized by the sperm:

The Church has always taught and continues to teach that the result of human procreation, from the first moment of its existence, must be guaranteed that unconditional respect which is morally due to the human being in his or her totality and unity in body and spirit: “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 human being to life.”²⁸

Personhood with a right to life is established at fertilization, at the zygote stage when a new genome is established. The Vatican believes that the coming together of the genetic code of the mother with that of the father produces, for the first time, the genome of an individual. This individual genome then precipitates the impartation by God of a spiritual and immortal soul. The Vatican does not commit itself to an actual time of ensoulment; but it does commit itself to the warrant for ensoulment established by the individuality of the new genetic code. Even if ensoulment is delayed, genetic individuality establishes the zygote as a potential person if not an actual person. Moral protectability begins at conception.

This assumption is at work in Pope John Paul II’s 1996 elocution on evolution: “It is by virtue of the spiritual soul that the whole person possesses such a dignity even in his or her body. Pius XII stressed this essential point: If the human body takes its origin from pre-existent living matter, the spiritual soul is immediately created by God.”²⁹ Please note the logic here, because it is the philosophical hook on which everything else hangs. The logic goes like this: first, God creates a new soul and imparts it to the genetically unique zygote; second, the presence of the soul establishes dignity; therefore, third, dignity prevents the use of the zygote for research purposes. And, here is a subtle point. Even if the soul is not yet present when the early embryo is de-

²⁸ JOHN PAUL II, *Encyclical Letter “Evangelium Vitae”* (25 Mar. 1995), 87 ACTA APOSTOLICAE SEDIS 401, 522 (1995) (quoting CONGREGATION FOR THE DOCTRINE OF THE FAITH, *Instruction on Respect for Human Life in Its Origins and on the Dignity of Procreation “Donum Vitae,”* 80 ACTA APOSTOLICAE SEDIS 70, 78–79 (1987)).

²⁹ John Paul II, *Evolution and the Living God in SCIENCE AND THEOLOGY: THE NEW CONSONANCE* 149, 151 (Ted Peters ed., 1998).

stroyed in the laboratory, it is still morally protectable because its unique genome is calling for the impartation of that soul. Its potential personhood has the same moral status as its actual personhood.

This position holds that dignity is established in the zygote directly by God without reference to surrounding human relationships. One who holds this position would find my picture of dignity as first conferred and then claimed to be unacceptable. Renee Mirkes articulates both the contemporary Roman Catholic position and the 18th Century Enlightenment position on innate dignity while opposing what he dubs the “social contract theory of personhood.” He argues that “Human personhood inheres in the human being naturally. Therefore, the role of an extraneous moral agent is to discover human personhood in someone based on the individual’s humanhood, not to arbitrarily construct and impute it to another.”³⁰ With dignity lodged in the early embryo even outside a mother’s body (*ex vivo*), the relationship to the mother necessary for a child to become born is eliminated from the moral equation. Stem cell research becomes a form of abortion.

V. IS STEM CELL RESEARCH A FORM OF ABORTION?

Much of the energy in the stem cell debate is borrowed from the memory of the abortion debate in the 1970s, where the dignity of an unborn child in a woman’s body was contested. The logic of America’s Presbyterians calls this earlier debate to mind. “The General Assemblies of the Presbyterian Church (U.S.A.) have consistently supported women’s right to choose an abortion based on conscience and religious beliefs. . . . We believe that the use of tissue derived from fetuses is morally and ethically acceptable.”³¹ We see here that the Presbyterians share with other churches the assumption that the focal question in the stem cell debate has to do with protecting the dignity of the zygote. Yet, Presbyterians make a commitment that is just the reverse of the Vatican. Because this church body denied moral protection to the fetus during the abortion controversy, it feels it is being consistent when approving destruction of the blastocyst for hES cell research. Whether pro or con on embryo protection, the controversy presumes that the dignity question will be answered by what is bio-

³⁰ Renee Mirkes, *NBAC and Embryo Ethics*, 1 NAT’L CATH. BIOETHICS Q. 163, 185 (2001).

³¹ 213TH GENERAL ASSEMBLY OF THE PRESBYTERIAN CHURCH, RESOLUTION ENUNCIATING ETHICAL GUIDELINES FOR FETAL TISSUE AND STEM CELL RESEARCH (2001), *available at* <http://www.pcusa.org/ga213/business/OVT0150>.

logically innate, by a quality inherent or absent in the status of the unborn.

Now, we might ask: is the abortion debate the same as the stem cell debate? Here are some of the salient differences. Whereas in the earlier abortion controversy the competition was between the right of the unborn child to be born over against the woman's right to choose what happens to her own body, no such battle of competing rights is at stake in the stem cell controversy. Whereas in the earlier abortion controversy the unborn child exists in the mother's womb (*in vivo*) with the potential of a healthy birth and a normal life, the extra-utero blastocyst (*ex vivo*) in stem cell research has no potential for birth because it will never see the inside of a mother's womb. Whereas in the earlier abortion controversy the existence of a fetus in the mother's womb could be identified only after many weeks of gestation, the early embryos used in research are restricted to the pre-implantation stage, prior to the time when they would be capable of adhering to the uterine wall and prompting a pregnancy. Finally, whereas in the earlier abortion controversy an abortion was understood as the sundering of the relationship between the mother and her child, in the stem cell controversy no such relationship exists that could be sundered.

What the two controversies share in common is that the embryo protection party advocates morally protectable personhood at conception. The lines that divided the pro-life from the pro-choice sides in the earlier abortion controversy need not divide in the stem cell controversy, in my judgment. Despite the logic of the Presbyterians and the logic of the Vatican, one could in principle approve of stem cell research and still remain pro-life on abortion. In this article, I am not arguing for the pro-choice position on abortion. Rather, I am arguing that those who are pro-life could become supporters of hES cell research and still maintain their pro-life commitments.

VI. DOES GENETIC NOVELTY ESTABLISH DIGNITY?

In addition to the residuals of the abortion debate, some in the stem cell debate rely on a version of naturalism. The Vatican, among others, presumes that nature tells us what is right. It presumes that what happens in nature has a purpose, and that what is morally licit conforms to the purpose inherent in nature. If nature decrees that babies should be born from one mother and one father and exist with a unique genetic code, then this must be what God has ordained. It becomes our moral task to see to it that these purposes inherent in

nature be carried out. And efforts to thwart or sidestep or modify nature become dubbed morally illicit.

On the list of divine intentions expressed in nature, according to the Vatican, is that each human person should be unique—genetically unique—and result from the natural mating of one man and one woman. The genomes of these two combine to create a new first time genome, a novel genome; and this is the moment God blesses by imparting an immortal soul. The impartation of the immortal soul is what defines an individual person as having morally protectable dignity.

Now, just how did this situation arise? We see in *Donum Vitae* and elsewhere how the merging of sperm and egg is considered natural. Also, the establishment of a unique single genome is considered natural. And, further, the Vatican sees what is allegedly natural as divinely intended. The message nature appears to be giving us—a message that the Vatican hears as the voice of God—is that, when the genetic code of the father and the genetic code of the mother combine into a single new genome, a historically unique person is for the first time established. This apparently awesome moment seems just right for God to honor it with the impartation of a freshly created soul. A new soul for a new individual. That is the Vatican logic.

This logic is shared by others. John Breck, an Orthodox theologian, makes this clear. Breck reports that “The Orthodox Church has always taught that human life begins at conception, when a sperm unites with an ovum to produce a genetically unique, living being.”³² Breck assumes here a connection between three items: fertilization, genetic uniqueness, and moral protection.

The problem is that nature just does not operate the way the Vatican and Father Breck think it does. The moment of conception may be the moment in which a unique genome is established, to be sure; but it is not the moment in which a new individual person is created. Nor, is it the case that each new human person possesses a single unique genome.

Three phenomena occurring within nature are relevant. First, fetal wastage. The mother’s body does not necessarily honor this allegedly awesome moment with as much respect as the moral theologi-

³² JOHN BRECK, *THE SACRED GIFT OF LIFE: ORTHODOX CHRISTIANITY AND BIOETHICS* 259 (1998). For additional Orthodox contributions to the discussions of cloning and stem cells, see Demetri Demopoulos, *A Parallel to the Care Given the Soul: An Orthodox View of Cloning and Related Technologies*, in *BEYOND CLONING: RELIGION AND THE REMAKING OF HUMANITY* 124, 124–36 (2001) and Archimandrite Makarios Griniezakis, *Bioethical Dilemmas Through Patristic Thought*, 8 *J. HUM. REPROD. & GENETIC ETHICS* 32, 32–37 (2002).

ans do. Estimates have been made that 50–80% of naturally fertilized eggs are flushed from the mother’s body before they can adhere to the uterine wall. Consider how many unique genomes get flushed right out of the system! We have learned from the theory of evolution that nature is profligate with regard to offspring—that is, each species produces far more offspring than is needed for sustaining the species. Nature seems almost prescient that most will die and only a percentage survive to reproductive age. Nature seems quite content to eliminate the vast majority of fertilized ova and retain only a few to bring to birth. If the Vatican is serious about associating a divine soul with each and every zygote, and if the mother’s body by nature eliminates the majority of ensouled embryos, then theologically it would be difficult to see God’s intentions as carried out by natural processes.

As one can imagine, it would give a Roman Catholic nightmares to think that God would be flushing ensouled persons so egregiously from a mother’s body. This would be intolerable. This leads some ethicists such as Benedict Ashley, O.P. and Kevin O’Rourke, O.P., to speculate: “Probably many of these imperfectly fertilized ova were never prepared for ensoulment.”³³ Note what they assume. Flushed ova are “imperfect.” Does this imply those retained are perfect? Or, at least ensoulable? Apparently, something about the physical character of the embryo becomes here a necessary prerequisite for God to create a special soul; and the flushed embryos do not meet the specifications warranting ensoulment. This appears to be a tendentious grasping at metaphysical straws, inconsistent with the stated assumptions of Vatican ethical deliberation to date. It would be so much easier to admit that nature herself does not communicate to us what such moral theologians think it does.

Second, twinning. The early embryo is preformed. Each cell is totipotent—that is, each cell can make not only any tissue in the body, it can also make an entire person. In the first few days, the agglomeration of cells can divide into twins, quadruplets, octuplets, or even rarely into sixteen individual embryos. All of these would have the same genetic code, even if they become separate individuals. Monozygotic twins—what we call “identical” twins—are the result of such cell division. If identical triplets are born, we know that the early embryo had split into four and one of them was flushed from the mother’s body at some point. Further, during these early stages which can last

³³ BENEDICT M. ASHLEY & KEVIN D. O’ROURKE, *HEALTH CARE ETHICS: A THEOLOGICAL ANALYSIS* 235 (4th ed. 1997).

up to twelve or fourteen days, these divided embryos can recombine. Twins can become a single person again. It is possible that each person reading this was once a twin at an early stage of embryonic development, even though now we are individuals. All this is possible because the cells that are dividing during early embryo development are preformed, not yet differentiated, not yet committed to making one or more individual human being.

The result of the twinning process, of course, is that two or more babies can be born with identical genomes. Nature does not connect genetic uniqueness with the uniqueness of being a human individual. The connection between genetic uniqueness and individual personhood is not a scientific judgment; it is a theological overlay. This overlay has led some radical Roman Catholic ethicists to suggest that twinning is unnatural, that twins are aberrations or freaks. To be a twin, according to this logic, is to be ontologically outside God's intention. Such extreme Catholic interpretations represent a minority view; but their logic demonstrates the basic incongruity between what Catholic theology says is "natural" from what actually occurs in nature. If one would like theologically to declare that identical twins violate God's will, this should be considered a partisan theological judgment; we should avoid attributing it to some sort of aberration of nature.

Third, chimerism. A phenomenon within nature that forcefully undercuts the Vatican association of an individual human person with a unique genome is chimerism. A chimera is a single individual with two or more genomes. Within the woman's body, *in vivo*, frequently two or more eggs can be fertilized at the same time. If two separate fertilized eggs develop simultaneously and each creates its own pregnancy, two babies will be born at the same time. We know these as "fraternal" twins—that is, twins with different genomes. Fraternal twins are the equivalent of any other pair of brothers and sisters.

However, something else can take place during the first few days of embryonic development. This pair of zygotes can combine to form a single embryo. If brought to term, the resulting baby is a chimera, a single person with two genetic codes. If the two fertilized ova are of the same gender, then the baby girl or baby boy may grow up, live a normal life, and never know that they began as fraternal twins. If, however, a male and female combine, then the resulting baby is a rare form of

hermaphrodite.³⁴ The term ‘hermaphrodite’ combines the names of two Greek gods, the male Hermes with the female Aphrodite. Doctors may look at such a newborn baby and wonder, “now, just what is it? A boy? A girl?” Frequently early surgery steers the newborn in the direction of one gender or the other. In such a case, a genetic test is likely to reveal two genomes, one with a Y chromosome and the other with two X’s.

How should we handle this theologically? If God allegedly creates a unique soul for a unique genome, what happens here? Does God create two souls, one for each zygote? Or, does God create one soul, a single soul for a single person? One must admit that the Vatican position simply unravels at this point. What could strengthen the Vatican position, in my opinion, is to identify ensoulment with the human person and not with the genome. A unique genome is not in itself a person, nor even a potential person. Personhood requires a complex dynamic of individuation and relational participation at a level of development well beyond the mere establishment of a genetic code.

Hermaphroditism may eventually have implications for criminal prosecutions. Courts these days seem to rely increasingly on the unquestioned scientific veracity of DNA testing. If police forensics can match the DNA of the suspect with blood or semen or other body parts left at the crime scene, this seems conclusive for a verdict. Conversely, if police forensics finds separate genetic codes in the evidence and in the suspect, the suspect is considered exonerated and frequently acquitted. However, the matter may not be so simple. If it is unknown that the suspect is a chimera, the genetic code of the blood left at the scene may not match the genetic code in semen or other cells. DNA testing could become more complicated than is presently assumed. Both the Vatican and our forensics laboratories should take note.

VII. THE LOGIC OF MORALLY PROTECTABLE DIGNITY

Here again is the logic of the Vatican a bit more fully. Seven principal commitments appear discernable: (1) the moral concern regarding stem cell research registered here is the same as that of abortion, namely, the voluntary destruction of an unborn individual life with potential personhood; (2) procreation requires heterosexual intercourse and consists of the merging of two gametes, an egg from the mother

³⁴ This form of chimera is very rare, even though it does occur in nature. Hermaphroditism is usually caused by a failure on the X chromosome receptors to handle all Y chromosome signals.

and a sperm from the father, combined with the impartation by God of an immortal soul,³⁵ what some label the doctrine of *creationism*; (3) God creates and imparts a soul to a unique individual person, to a person with a unique genome; (4) the merging of sperm and egg requires a father and a mother; and, further, requiring both father and mother is something natural, thereby making it both the natural norm and the moral norm; (5) because it is natural and because the immortal soul is present, the embryo from conception on claims morally protectable human dignity; (6) dignity requires that the early embryo at the blastocyst stage be treated as an end and not as a means for a further end; and (7) this implies that it is morally illicit to sacrifice the life of the blastocyst on behalf of some further end, no matter how noble is that further end. It is morally illicit to sacrifice the innocent life of a person in a petri dish for the purpose of developing medical therapies to benefit others. When applied to stem cell derivation, these assumptions yield a proscription against research with human embryonic stem cells. To be a laboratory scientist working on stem cell research is to be an abortionist.

I do not find this logic persuasive. It is my judgment that genetic uniqueness simply cannot count as a measure of personhood, dignity, or moral protectability. As we have seen, naturally occurring monozygotic twins share identical genomes and possible future cloned persons would as well; and it would be absurd to deny such persons their personhood or dignity. Nature does not honor genetic uniqueness to the extent that the Vatican does; so it does not seem to me that an appeal to what nature does could build a strong case here.

Nature is more relational than individualistic. DNA does not make a person a person all by itself. Fascinating to me is the observation that once the embryo attaches to the mother's uterine wall about the fourteenth day, it receives hormonal signals from the mother that precipitate the very gene expression necessary for growth and development into a child. *TIME* magazine once offered a cover story, "Inside the Womb," that illustrates the importance of this observation. The child's "genes engage the environment of the womb in an elaborate conversation, a two-way dialogue that involves not only the air its mother breathes and the water she drinks but also what drugs she takes, what

³⁵ Conception here follows two philosophically discernable stages: *active conception*, wherein the sperm penetrates and ovum and establishes genetic uniqueness; and *passive conception*, wherein God imparts the spiritual soul. Some Roman Catholics will assert that both occur at the same time, at the alleged "moment of conception." What we see in the papal documents is a disjoining of the two stages.

diseases she contracts and what hardships she suffers.”³⁶ Biological uniqueness does not imply independence; we are who we are because of our relationships. If we want what nature does to enter into our theological construction, then this observation about the *in vivo* relationship of mother to potential child appears most instructive.

Where this leads is to the observation that dignity is relational before it becomes innate. Dignity is first conferred relationally, then it is claimed independently. Where this leads, theologically speaking, is to the observation that dignity is the result of grace, both human and divine grace. Moral theologian Richard M. Gula, makes this clear: “As long as God offers divine love (i.e., grace), humans will ever remain God’s image and enjoy a sacred dignity whether in sin or not, whether acting humanly or not.” This dignity is the gift to us from God’s love. It is reinforced by saying we can do nothing to warrant it or merit it. “Human dignity does not depend ultimately on human achievements, but on divine love.”³⁷ Our dignity cannot be grounded in one’s genetic code, rational capacity, moral achievement, or contribution to society. Dignity is a gift.

Now, if I place myself in the shoes of a Vatican moral theologian for a moment, I would grant some of this reliance upon grace. I would further press the point that it is the responsibility of society to grant the gift of life to the unborn as an expression of our commitment to dignify tomorrow’s children.

Now, let me point out the weakness of my position here. If I place the origin of dignity on the granting of dignity as a relational gift, does this weaken the role of innate dignity as a claim an individual person can make against society when that dignity is not adequately recognized? The strength of the Vatican position as well as the secular humanist position is that dignity is innate and, therefore, valid even when social relationships ignore it. This ontology of the person provides a solid foundation upon which to build an ethic of strong moral resolve. It provided the metaphysical dock from which Pope John Paul II could launch his crusade on behalf of human dignity against the threats of a “culture of death.” There is admirable moral strength here; and I would not wish to compromise it by the arguments I raise.

Yet, I am uneasy at locating the origin of morally protectable dignity in genes rather than persons, and in petri dishes rather than in

³⁶ David Bjerklie et al., *Inside the Womb*, TIME, Nov. 11, 2002, at 68.

³⁷ RICHARD M. GULA, REASON INFORMED BY FAITH: FOUNDATIONS OF CATHOLIC MORALITY 64 (1989).

mothers' bodies. My own position, in contrast to that of the Vatican and its fellow travelers, is that morally protectable dignity is better applied to the potential person-in-relation, in relationship to the mother when the early embryo adheres to the uterine wall and becomes distinguishable as an individual. The appearance of an individual with potential personhood happens only in a woman's body, *in vivo*, somewhere between the twelfth to fourteenth day after conception. If we are going to listen to nature speaking to us as one voice among others in rendering a theological judgment, then the establishment of this primal relationship of fetus to mother seems to speak loudly to the question of morally protectable dignity.

What remains as the sticking point is whether the blastocyst, the *ex vivo* embryo at four to six days old, should be gifted by us in the wider society with morally protectable dignity. I cautiously answer in the negative. Instead, I answer that the dignifying gift of love we offer should go to the thousands, millions, and perhaps billions of living persons in our world who could benefit from regenerative medicine. Widespread social support for human embryonic stem cell research indirectly confers dignity on those persons who suffer from maladies that regenerative therapies could help.

CONCLUSION

What I have not been able to do in this article is provide a precise point in time where the biological development of the early embryo *ex vivo* crosses a threshold and attains the status of morally protectable dignity. Nor, could I find in any aspect of an individual's genome or other biology an element that could provide an ontological basis for establishing innate or inherent dignity. This is because dignity as we experience it is the product of the phenomenon of dignifying. Dignity is first conferred through acts of love; and then dignity is claimed and owned by the person so treated.

Having observed this phenomenologically, I still honor and respect the need for a social contract in which we impute dignity to all persons, to every person, regardless of how humble they are. The social fabric would tear itself apart without being sewn at the seams by the doctrine of human dignity. The moral value of the modern doctrine of innate dignity gives testimony to our social responsibility to confer dignity on each and every individual person. We cannot avoid a kind of circularity here: we confer dignity in such a way that we treat persons as if their dignity is inborn; and this inborn moral status warrants our constant conferring of dignity. So, my phenomenological

observation of the role dignifying acts of love play is not intended to undermine this ontological attribution of innate dignity.

When it comes to the stem cell controversy, I believe our society along with the medical scientists within it are showing the equivalent of love by following research paths that could lead to life-saving and life-enhancing therapies for so many persons who suffer. Public support for stem cell research is a form of dignifying those who suffer. It is a form of conferring dignity.

Our Vatican moral theologians might counter, of course, that, even though it is a good thing to pursue medical research, to do so at the cost of denying dignity to the *ex vivo* blastocyst is morally unacceptable. The destruction of the blastocyst in the laboratory is a form of abortion; and our society needs to protect the life of every living embryo from conception onward, even *ex vivo* embryos outside a woman's body. The denial of life and hence the denial of dignity to the early embryo compromises our social commitment to the protection of all. In the words of the late Pope John Paul II, stem cell research adds to the "culture of death."

The passion of the Vatican commitment to defend human dignity has been admirable. Yet, the question I raise in this article is this: should morally protectable dignity apply to the *ex vivo* blastocyst in the petri dish? My answer is "no," it should not apply. Arguments that a laboratory embryo has dignity because it has a unique genome that warrants God's infusion of a spiritual soul are not persuasive. A sufficient case has not been made for this position, in my judgment.

This leads me to return to observation: just where do we find dignity and what does it look like? Phenomenologically, dignity is relational. It depends on a relationship in which dignity is conferred and then eventually grasped and claimed. This cannot happen to a laboratory blastocyst. It can happen to the millions if not billions of patients living in our world and yet to be born who might benefit from the advances in medical therapy that stem cell research might bring. Science and society have a relationship to those who suffer, and supporting stem cell research is a form of conferring today a dignity that in the future could be claimed and owned and appreciated.