

Embryo Adoption and the Design of Human Nature

The Analogy between Artificial Insemination and Artificial Impregnation

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Abstract. Embryo adoption is an act of artificial impregnation. Artificial impregnation is analogous to artificial insemination. The conditions under which artificial impregnation is ethically acceptable may therefore be the same as the conditions under which artificial insemination is ethically acceptable. But artificial insemination is ethically acceptable only when it assists conjugal union to attain its natural purpose. If artificial impregnation is likewise ethically acceptable only insofar as it assists and does not replace conjugal union, then the presence or absence of the conjugal act itself is the fundamental moral criterion by which to judge whether to permit or exclude artificial impregnation. *National Catholic Bioethics Quarterly* 10.1 (Spring 2010): 111–122.

Artificial Insemination

Over twenty years ago, with the publication of *Donum vitae*, the Congregation for the Doctrine of the Faith (CDF) provided an evaluation of the morality of the act of homologous artificial insemination.¹ This form of artificial insemination does not involve any donor other than the spouses themselves, and it is not an act of in

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¹Congregation for the Doctrine of the Faith, *Donum vitae* (February 22, 1987).

vitro fertilization. Many moral theologians were arguing that homologous artificial insemination is morally licit, but in *Donum vitae* the CDF pointed out that not just in vitro fertilization but any process of fertilization separated from the act of conjugal union is morally wrong. This judgment was offered as an essential aspect of the Catholic doctrine that human conception and conjugal union are morally inseparable. Each and every act of conjugal union must respect the good of human conception, and each and every act of human conception must respect the good of conjugal union.

The CDF therefore concluded that homologous artificial insemination is morally permissible only insofar as it facilitates and does not replace the conjugal union of the married couple. The specific moral norm invoked by the CDF in this case was that any medical technique of human conception that technologically replaces the conjugal act is intrinsically wrong. Thus, any technique involving collection of the husband's sperm and its transfer into the genital tract of the wife apart from conjugal union was judged to be morally illicit and a violation of the human dignity of the spouses and the child thus conceived.²

This doctrine was more recently reiterated in *Dignitas personae*, and the CDF invoked the same fundamental moral norm found in *Donum vitae*. Techniques which substitute for the conjugal act are excluded, but “techniques which act as an aid to the conjugal act and its fertility are permitted.”³ Not all artificial techniques of assisting human conception were condemned, only those which replace or substitute for the conjugal act. Once again, the personal conjugal union of the spouses themselves was laid down as the foundation for the moral norm. The CDF asserted that the specifically personal nature of the act of conjugal union morally demands that it ought never to be replaced by a technical procedure of fertilization. In accord with this norm, acts of homologous artificial fertilization and insemination were condemned insofar as they separate human conception from the personal conjugal union of the spouses and thus substitute for the conjugal act.⁴

In both *Donum vitae* and *Dignitas personae*, the CDF cited and employed an argument that was first developed and advanced by Pope Pius XII in response to homologous artificial insemination.⁵ Pius XII argued that separating human procreation from conjugal love depersonalizes and dehumanizes it. He insisted that the marriage covenant confers a right only to fertilization within conjugal union, not to any form of fertilization that is separated from conjugal union. He condemned the act of homologous artificial insemination insofar as it achieves conception apart from the conjugal act, and he offered the same moral principle that Pope Paul VI

²Ibid., II.B.4–7.

³Congregation for the Doctrine of the Faith, *Instruction Dignitas personae on Certain Bioethical Questions* (December 8, 2008), n. 12.

⁴Ibid., nn. 12, 13, 16, and 17.

⁵See Pius XII, Address to those taking part in the Fourth International Congress of Catholic Doctors (September 29, 1949); Pius XII, Discourse to the Italian Catholic Union of Midwives (October 29, 1951); and Pius XII, Address to the Second World Congress in Naples on Human Reproduction and Sterility (May 19, 1956).

subsequently invoked in *Humanae vitae*: conjugal union and human procreation are absolutely inseparable.⁶

Artificial Impregnation

With this basic moral precept in mind, let us consider the act of human embryo adoption. Embryo adoption is not an act of artificial fertilization but an act of artificial implantation in which a woman is artificially impregnated with a child who is not her own. We might have reservations about embryo adoption because we recognize it as material cooperation in the evil of artificial fertilization and the freezing of human embryos, but this cooperation need not be immediate. And on the basis of the principle of double effect, mediate or remote material cooperation in evil is sometimes morally justified.

The human embryo is a person and has a natural right to its mother's womb. Given that human embryos have the right to be carried in the wombs of their own mothers and raised by their own parents, we might suppose that if the mother of a frozen embryo were available and physiologically suitable, thawing the embryo and transferring it into her womb would be morally justified by the rights of the embryo. The fact that its rights were violated in the very manner of its conception might seem to have no significant bearing on whether it ought to be artificially implanted in its mother's womb and thus be given the chance to be born, even with the risk of defects.

Similarly, we might also suppose that the artificial impregnation of a physiologically suitable woman who desired to adopt a frozen embryo would be morally justified. If the mother of the frozen embryo were unavailable or physiologically incapable of bringing the child to birth, then prenatal adoption and artificial implantation in another woman might seem to be morally justified simply by the child's right to life. Admittedly, the child would have no right to the womb of any woman besides its mother, and no woman except its mother would have the duty to provide her womb for it, but a woman who voluntarily offered her womb to the child might seem to be doing something heroically good. Even though the act which produced the child apart from conjugal union and denied it the womb of its mother was intrinsically wrong, the woman's mediate material cooperation in the evil might nevertheless seem to be morally licit on the basis of the principle of double effect, because she would have a proportionately grave reason for acting.

If the act of embryo adoption is morally wrong in itself, however, then the principle of double effect does not apply, and any such attempt to justify the act fails. And we should ask ourselves whether this might in fact be the truth about embryo adoption, especially since the CDF seems to assert in *Dignitas personae* that embryo adoption can never be morally justified. Quoting Pope John Paul II, the CDF affirmed that there is "no morally licit solution" to the problem of frozen human embryos.

⁶John R. Connery, "Technology and Human Reproduction," Secretariat for Pro-Life Activities, 1983, <http://www.usccb.org/prolife/programs/rfp/Technology&HumanRepro83.pdf>.

The thousands of frozen human embryos already in existence “represent a situation of injustice which in fact cannot be resolved.”⁷ Whether or not the CDF intended to imply that embryo adoption is intrinsically wrong remains unclear, however, and the morality of embryo adoption is still open for debate. But in the meantime we should consider the possibility that the ultimate reason why there is no morally licit solution to the problem of frozen human embryos might simply be the fact that the act of artificially impregnating a woman is morally justified only when it assists the act of conjugal union to attain its natural purpose.

A Substitution for Conjugal Union

One obvious reason why we might be inclined to evaluate the act of artificial impregnation as morally inseparable from conjugal union is that the act by its very nature is closely analogous to the act of artificial fertilization. We should consider whether artificial fertilization and artificial impregnation might be morally wrong under the same conditions and for the same reasons. Perhaps the moral fact of the matter is that human impregnation must “be brought about as the fruit of the conjugal act specific to the love between spouses.”⁸ This conclusion would be strictly analogous to the conclusion that *Donum vitae* drew with regard to human fertilization. In other words, perhaps the act of impregnation, like the act of fertilization, must by its very nature respect the good of conjugal union, because it bears an intrinsic relation to this good which it must retain. This precept could be exactly what is required by “the moral relevance of the link between the meanings of the conjugal act and between the goods of marriage, as well as the unity of the human being and the dignity of his origin.”⁹ The moral evaluation of the act of artificially impregnating a woman with her own child would thus be the same as the moral evaluation of homologous artificial fertilization. Just as human procreation and conjugal union are morally inseparable, perhaps human impregnation and conjugal union are morally inseparable, and artificial impregnation is therefore morally permissible only insofar as it supplements and does not replace the personal act of conjugal union.¹⁰ If this appraisal is true, then the presence or absence of the procreative conjugal act itself is the fundamental moral criterion by which to judge whether to permit or exclude artificial impregnation.

Thus, in the case where the embryo or fetus was procreated by conjugal union but failed to implant in its mother’s womb or became detached after implantation, the use of a medical technique to preserve the embryo or fetus and artificially implant it in its mother’s womb would be morally justified. The use of the technique would be morally justified specifically because it would be assisting the conjugal act to attain its natural objectives and would not be replacing the conjugal act. But in the case where the embryo or fetus was not the fruit of conjugal union, the act of artificially impregnating the mother with the embryo or fetus would not be morally justified.

⁷CDF, *Dignitas personae*, 19.

⁸*Ibid.*, n. 12; CDF, *Donum vitae*, II.B.4c.

⁹CDF, *Donum vitae*, II.B.4c.

¹⁰*Ibid.*, II.B.6; and CDF, *Dignitas personae*, nn. 12, 16.

The act would be morally illicit, not because the technique is artificial, but because the use of the technique in this case would be a substitution for the conjugal act and thus be intrinsically disordered. There is an essential moral difference between the two cases: in the former, the act of artificial impregnation assists the conjugal act; in the latter, the act of artificial impregnation replaces the conjugal act. This moral distinction respects the laws written by God in human nature.

Furthermore, the act of artificially impregnating a woman who is not the mother of the embryo or fetus would never be morally permitted, specifically because the act would always be a substitution for conjugal union. Even if the embryo or fetus were the fruit of the natural conjugal act performed by its mother and father, artificially implanting the embryo or fetus in a woman other than the mother would still be an act of human impregnation dissociated from conjugal union. If the presence or the absence of the personal conjugal act is the fundamental moral criterion by which to judge whether to permit or to exclude artificial impregnation, then artificial impregnation is morally licit only when the woman being artificially impregnated is the woman who engaged in the conjugal act that procreated the embryo or fetus. There is no moral problem with removing an embryo or fetus from the womb of its mother for therapeutic purposes and then putting the embryo or fetus back into the womb of its mother, but there is a moral problem with removing an embryo or fetus from the womb of its mother and then putting the embryo or fetus into the womb of another woman.

The moral problem with the act of impregnating a woman with an embryo or fetus she did not conceive through conjugal union is that the act by its very nature is a substitution for the conjugal act as the means by which to make the woman pregnant. If I have identified the fundamental moral criterion correctly, then the only person who has the moral right to make a woman pregnant is her husband, and the only moral means by which he can make her pregnant is through a loving conjugal union. Thus, medical technicians are permitted to assist the conjugal act and the pregnancy that results from it, but they must not replace the conjugal act and thereby produce a pregnancy in a woman who has not already conceived through conjugal union. No woman has the right to be impregnated by anyone who is not her husband or by any means that replaces conjugal union with her husband. It is true that every human embryo or fetus is a person and possesses the right to life regardless of how it was conceived, but it is also true that a morally good end must never be obtained through means which are intrinsically disordered.

With regard to adopting frozen embryos, then, the ultimate reason why the CDF asserted that we are left with “a situation of injustice which in fact cannot be resolved” might simply be the fact that “it is never lawful, even for the gravest reasons, to do evil that good may come of it.”¹¹ Given that the situation of injustice was brought about by disregard for the moral law in the first place, perhaps the situation simply has no morally acceptable solution. Undoubtedly some future statement published by the CDF will explicitly define the specific nature of the moral problem with embryo

¹¹CDF, *Dignitas personae*, n. 19; and Paul VI, *Humanae vitae* (July 25, 1968), n. 14, referencing Romans 3:8.

adoption, but in the meantime we should not hesitate to indicate and appreciate the significance of the analogy between artificial insemination and artificial impregnation. Any act of artificial impregnation that substitutes for the conjugal act might very well be absolutely unsuitable to the bodily and spiritual nature of the human person. Prevalent cultural attitudes toward artificial insemination and contraception turned out to be morally misguided, and a similar cultural phenomenon could easily occur with regard to artificial impregnation and embryo adoption.

The Object of the Act

Before I read *Dignitas personae*, my own sense was that a human embryo's right to life would morally justify prenatal adoption and implantation, but I learned a long time ago that my moral intuitions are somewhat unreliable. Indeed, before entering the full communion of the Catholic Church, I had supposed that married couples were morally justified in using contraception. It seemed to me that contraception served the overall good of married couples. Now I realize that I was mistaken. Moral issues are often more complicated and delicate than we initially realize, and to be a Catholic is to be open to ongoing moral formation. Recognizing the divine assistance given to the successors of the apostles, and acknowledging the fallibility of our personal moral judgments, we are happy to proceed cautiously and to weigh carefully the moral norms invoked by the Church.

Many theologians who are completely faithful to the magisterium and have carefully weighed the moral norms invoked in *Dignitas personae* are still struggling to evaluate the morality of embryo adoption. But perhaps the fundamental issue here is essentially the same issue that Pius XII raised with regard to artificial insemination. On the basis of this comparison, the basic question can be formulated in various ways. If conjugal union is a good that ought to be present in the act of human procreation, then is it not also a good that ought to be present in the act of human impregnation? If the act of human procreation must never be depersonalized, then does moral coherence not require us to acknowledge that the act of human impregnation must never be depersonalized? If an act of artificial insemination that substitutes for conjugal union cannot be justified by the good that results from it, then how can an act of artificial impregnation that substitutes for conjugal union be justified by the good that results from it?

In accord with the development of the natural processes that originate in conjugal union, human impregnation is obviously just as inseparable from the nature and purpose of conjugal union as human procreation is. The fact that not every completed conjugal act is followed by impregnation is no more relevant than the fact that not every completed conjugal act is followed by conception. The natural order that exists between conjugal union and human conception is specifically what makes the act of human conception apart from the act of conjugal union intrinsically evil. And the specific nature of the conjugal act as a personal act of the couple is what makes it a good that ought to be present in every act of human conception. Since this same natural order obviously exists between conjugal union and human impregnation, the conjugal act of the couple seems to be a good that ought to be present in every act of human impregnation.

Donum vitae and *Dignitas personae* teach us not that the act of artificial fertilization is evil in itself, but that a certain species of artificial fertilization is evil in itself. An act of artificial fertilization is evil in itself only if it specifically lacks a good that ought to be present in it, such as conjugal union. The specific form of artificial fertilization that substitutes for conjugal union has an object that is essentially different from the object of the act of artificial fertilization in general. Homologous artificial fertilization is thus condemned only insofar as it substitutes for the conjugal act. According to the CDF, separation from conjugal union is the fundamental element that morally specifies the act as evil. A human act is evil in itself only if it specifically lacks a good that ought to be present in it. The essential question, then, is whether the specific form of artificial impregnation that substitutes for conjugal union has an object that is evil, just as the specific form of artificial fertilization that substitutes for conjugal union has an object that is evil. We must answer this question on the basis of a judgment about what is suitable to our bodily and spiritual nature as human persons.

There is nothing mysterious about the object of the act of artificially impregnating a woman apart from conjugal union. The object of any act is constituted by the necessary and sufficient conditions that make the act what it is. The act of lying, for example, was defined by St. Augustine as the act of speaking a falsehood with the intent to deceive, and practical reason tells us that this act is unsuitable to our nature.¹² There are an infinite number of ways to tell a lie. The object is simply the form of the act, i.e., the specific kind of act intended by the agent. We do not have a particular word in our everyday language for the species of act that we are currently appraising, but objectively we must include artificial impregnation and separation from conjugal union as essential elements of its definition. And regardless of the motive, the circumstances, and the consequences of the act, substituting an artificial form of impregnation for conjugal union is in itself either a suitable thing to do, an unsuitable thing to do, or a morally indifferent thing to do.

In the act of embryo adoption, an essential part of the moral object is to implant an embryo in the uterus of a woman in a manner which is completely separated from conjugal union. The motive of the act is variable; it may be altruistic, egoistic, or somewhere between. Some moral theologians have argued that the act of embryo adoption is objectively suitable to our nature as human persons and thus morally praiseworthy in itself. Other moral theologians have argued that the act of embryo adoption is objectively unsuitable to our nature and thus morally illicit. Many secular philosophers regard the act of embryo adoption as morally neutral in itself, and thus they appraise it solely on the basis of its motives, circumstances, and consequences. The specific nature of this disagreement regarding the morality of embryo adoption becomes much clearer when we reflect on certain aspects of the fundamental nature of practical reason, the intellectual faculty with which we judge our acts as intrinsically good, evil, or indifferent.

¹² Augustine, *De mendacio* 4.5, in *Patrologia Latina*, ed. J.P. Migne (Paris: 1841–1855).

The Self-Evidence of Moral Precepts

One of the main difficulties in moral reasoning is that the principles by which we judge our acts as intrinsically good, evil, or indifferent are self-evident and are therefore not subject to direct proof. Ralph McInerny has explained this very well in his book *Aquinas on Human Action: A Theory of Practice*.¹³ After pointing out that primary precepts of natural law, such as “good ought to be done” and “evil ought to be avoided,” are known through themselves and are therefore indemonstrable, he argues that secondary precepts of natural law, such as “do not lie” and “do not murder,” are likewise known through themselves and are indemonstrable. This view about the status of secondary precepts of natural law seems to be a minority position in the history of commentary on St. Thomas Aquinas, but McInerny’s exegesis of the relevant texts supports the contention that the interpretation is quite probable. McInerny encourages us to approach natural law as a hierarchy of precepts, like “the axioms in plane geometry.”¹⁴ This does not mean that our knowledge of natural law is autonomous and separate from our knowledge of human nature, but it does mean that our knowledge of natural law is a grasp of indemonstrable truths. If this view is correct, then any proof that the act of human embryo adoption is contrary to natural law will necessarily be indirect.

Those who deny a self-evident precept of natural law often ask for some proof of its truth, but there is nothing prior to the precept itself which could provide any sort of justification for it. We might consider, for example, the familiar difficulty of convincing someone that the act of lying is intrinsically evil. A person may ask, “Why should I think that lying is absolutely wrong when sometimes a lie is the very thing necessary in order to save someone’s life?” We typically find the debate goes nowhere. “Lying is wrong by its very nature, for it thwarts the purpose of speech,” we may offer. And the person will persist in the same judgment: “But if a lie will save someone’s life, then there’s nothing wrong with it.” Those who maintain that an act of lying can be morally justified by a significant good that results from it are failing to recognize that lying is always wrong by reason of what it is in itself. No description of the kind of action that lying is in itself constitutes a demonstration of its intrinsic wrongness.

Perhaps the same is true of every other precept of natural law. A precise definition of the object of an intrinsically evil act does not necessarily help us to recognize that the act is intrinsically evil. In addition to the act of lying, we might also consider the act of *in vitro* fertilization or the act of contraception. It is not uncommon to understand the definitions of these acts quite well and then to fail to see anything intrinsically wrong with them. And of course there have always been alluring systems of thought which fail to see anything intrinsically wrong with any act.

As McInerny reminds us, however, something more can be done, even when someone demands a justification for a principle that cannot be demonstrated.

¹³Ralph McInerny, *Aquinas on Human Action: A Theory of Practice* (Washington, D.C.: Catholic University of America, 1992), 108–157.

¹⁴*Ibid.*, 131.

Aristotle and Aquinas define an approach that is quite effective with those of us who occasionally need help recognizing that which is absolutely unsuitable to our nature as human persons. Precepts of natural law are the first principles of practical reason. With regard to first principles in general, what we sometimes need is a greater clarity about what we already implicitly know, and we generally obtain this clarity by some indirect means. Whenever someone fails to recognize the truth of a first principle, one of the most effective things that we can do is to help the person recognize that there is something incoherent about denying its truth. With regard to first principles of practical reason, we can point out that there is something incoherent about denying, for example, that the act of telling a lie or using a technique of contraception is intrinsically wrong. The philosophical challenge is to make the incoherence apparent.¹⁵

The Problem of Incoherence

As we evaluate the morality of embryo adoption, then, perhaps the most effective thing we can do is to ask ourselves whether we will fall into incoherence if we deny that the act of implanting a human embryo in the uterus of a woman in a manner which is completely separated from conjugal union is intrinsically wrong. In an intellectual exercise of this sort, we must be guided by what we already know and by what we presuppose when we evaluate the morality of similar acts. Anyone who says that the act of human impregnation dissociated from conjugal union is morally licit is saying in effect that the act in itself is either morally good or morally indifferent, and that the design of human nature, according to which human pregnancy is the natural end of conjugal union and the perfective good of the human sexual faculty, has no specific bearing on the evaluation of the morality of the act in itself. And as we consider this proposition, we recognize that we have once again run up against the fundamental issue. Some of us maintain that suitability to the design of human nature in its full bodily and spiritual totality is the objective norm by which to evaluate the morality of acts, and some of us do not.

If we do believe that the design of human nature is the fundamental norm of morality, then we must consider whether it would be coherent for us to affirm that the design of human nature with regard to impregnation has no specific bearing on the objective morality of the act of impregnation dissociated from conjugal union. Those of us who affirm that the promotion of the perfective good of the human person entails respect for the essential elements of human nature are committed to condemning acts that are intrinsically unsuitable to human nature. If we do not condemn the act of impregnation dissociated from conjugal union as intrinsically unsuitable to human nature, then we are affirming that human pregnancy is a good that can be pursued apart from its intrinsic natural relation to conjugal union. But apart from the conjugal exercise of the human faculty that exists in order to achieve pregnancy, human impregnation is incapable of perfecting human nature and is therefore unsuitable to it.

¹⁵Ibid., 130–132.

The perfection of human nature cannot coherently be separated from the exercise of the faculties that exist in order to attain the natural goods that define human perfection. Thus the suggestion that the act of human impregnation dissociated from conjugal union is morally licit appears to be incoherent. If there were nothing intrinsically wrong with achieving the purpose of the conjugal act by means of a technique that replaces the conjugal act, then human impregnation and human procreation would both be morally separable from conjugal union.

On the other hand, we may happen to believe that the evaluation of the morality of the act of impregnation dissociated from conjugal union should not be based on our common knowledge that the natural end of the act of conjugal union is the impregnation of the woman who engages in it. If so, then we can consistently maintain that the act of impregnation dissociated from conjugal union is morally permissible under certain conditions. This is the approach taken by John Finnis, among others, and it is not necessarily incoherent but, like most modern moral theories, it does attempt to ground morality in some standard besides our knowledge of the design of human nature.¹⁶ Any such attempt to ground morality in some standard besides our knowledge of the design of human nature appears to be incongruent with the reasoning employed by the CDF in its condemnation of the act of human conception dissociated from conjugal union, a condemnation which was based on our knowledge that conception is the natural end of the act of conjugal union. Indeed, the CDF's condemnation of the act of conception dissociated from conjugal union is a paradigm case of deriving a moral precept from our knowledge of the design of human nature.

Critique of John Finnis's Interpretation

In his contribution to the recent symposium on *Dignitas personae* published in the *NCBQ*, Finnis argues that embryo adoption is morally permissible under certain conditions, and he attempts to contextualize *Donum vitae*'s apparent condemnation of surrogate motherhood as such and *Dignitas personae*'s apparent condemnation of embryo adoption as such.¹⁷ Having explained how these documents perhaps did not intend to teach that surrogate motherhood and embryo adoption are intrinsically evil, Finnis concludes with a criticism of the argument by which Mary Geach and others have evaluated the morality of surrogate motherhood and embryo adoption and asserted that these acts are never licit.¹⁸ Magisterial documents are subject to interpretation, but the expectation that the CDF will eventually declare surrogate motherhood and embryo adoption morally acceptable under certain conditions seems rather misguided. The CDF is clearly committed to drawing moral conclusions on the basis of common knowledge of the design of human nature, and for this reason it would be incoherent for the CDF to allow surrogate motherhood or embryo adoption for the sake of saving human lives. Saving human lives is a praiseworthy motive, but

¹⁶Ibid., 184–192.

¹⁷In "Symposium on *Dignitas personae*," ed. E. Christian Brugger, *National Catholic Bioethics Quarterly* 9.3 (Autumn 2009): 461–483.

¹⁸Ibid., 476–477.

it is irrelevant to the question of whether the act of human impregnation dissociated from conjugal union is morally licit.

By way of conclusion, it might be helpful to take the moral principle I have invoked and apply it to the two cases considered by Finnis in his contribution to the symposium. The first case supposes that a married couple has achieved pregnancy naturally and wants to transfer the baby to an artificial uterus because the mother cannot carry the baby to term.¹⁹ In this case the procedure is morally licit because it technologically assists the act of conjugal union to attain its natural objectives in a situation where there is a genuine physical defect in the body of the mother. Sustaining the life of a human baby artificially outside its mother's body is morally permissible whenever the life of the baby cannot be sustained naturally. Such a procedure will be either obligatory or supererogatory, depending on whether it is an ordinary or extraordinary means to preserving the baby's life.

The second case that Finnis considers, however, is one where a married couple has achieved pregnancy naturally, and again the mother cannot carry the baby to term, but they want to transfer the baby to the womb of a friend.²⁰ Contrary to the analysis offered by Finnis, in this case the procedure is morally illicit because it technologically substitutes for the act of conjugal union insofar as it impregnates the friend artificially apart from conjugal union and thus thwarts the design of human nature. The friend of the couple is becoming pregnant without engaging in the act of conjugal union, which depersonalizes and dehumanizes the act of impregnation just as effectively as *in vitro* fertilization depersonalizes and dehumanizes the act of procreation. If the presence or absence of the procreative conjugal act is the moral criterion by which to judge whether to permit or exclude artificial impregnation, then artificial impregnation is permitted only in the case where the baby has been conceived through conjugal union and is being put back into the womb of its mother after some medical complication led to its temporary evacuation.

Finnis denies that the act of impregnating the friend with a baby who is not her own substitutes for conjugal union, but his denial follows from a method of moral evaluation which antecedently repudiates the relevancy of the fact that the conjugal union that conceived the baby was naturally directed toward the impregnation of the mother, not toward the impregnation of the friend. Whether the CDF regards such a fact as irrelevant to the moral evaluation of embryo adoption remains to be seen, but the CDF has already derived moral norms from the fact that the act of conjugal union has natural objectives in accord with the design of human nature.

Finally, we should also note that Finnis's remark about the consent of the Blessed Virgin Mary to impregnation by the power of the Holy Spirit likewise seems rather misguided and contributes nothing to his argument. We need not suppose that the Blessed Virgin Mary, as the Spouse of the Holy Spirit, consented to an act of impregnation dissociated from conjugal union. On the contrary, we can propose that the Son of God was conceived as man through an act of conjugal union that

¹⁹Ibid., 474.

²⁰Ibid., 475.

was not genital but miraculous, in which the Blessed Virgin and the Holy Spirit gave themselves to one another as spouses specifically for the purpose of conceiving the Son of God as man. As the power of the Holy Spirit overshadowed the Blessed Virgin, the Blessed Virgin freely consented to be overshadowed by the power of the Holy Spirit, knowing that she would thus conceive the Son of God, as the angel Gabriel had told her. The specific intention of this union was conjugal, and that intention was the object that determined the nature of the act. Supernatural agency intervenes in the physical order but does not violate or abrogate the physical order. Every good that ought to have been present in the conception of the Son of God as man was present in it, including the good of the personal conjugal union of God and the Blessed Virgin. Jesus Christ is the Son of God and the Son of Mary. As the Son of God and Mary, Jesus Christ “is the living image of their love, the permanent sign of their conjugal union, the living and indissoluble concrete expression of their paternity and maternity.”²¹

²¹CDF, *Donum vitae*, II.A.1.