

# Respect for the human embryo (2)

Opinion

14 June 2009 | Emmanuel Agius |  0

 5 min read



Times of Malta

Europe's historic pluralism is a key factor in understanding the divergent status given to human embryos in different member states and the lack of a commonly accepted definition of the moral status of the human embryo. This fact has led to fundamentally divergent regulations on human embryo research in European countries.

Until now, European countries have taken contrasting approaches, not only on human embryo research but also on other subjects such as abortion and new reproductive technologies. Although it is up to each European state to decide upon the legality of human embryo research, in those countries that authorise it, it must be conducted in line with the regulations imposed by European authorities - that is, the Council of Europe and the EU.

In today's secular Europe, conflict continues between the divergent views on the status of human embryos: those who believe that the embryo should be respected as a person from fertilisation onwards, those for whom it is just a collection of cells, and those who take what is called the 'gradualist approach', which recognises - as did the Warnock Report - that the embryo is worthy of some respect, and that the level and nature of that respect increases as the human embryo develops.

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The stance on human embryo research taken by member states ranges from a complete ban on destroying embryos and using human embryonic stem cells (Malta, Ireland, Italy, Slovakia, Poland), to a limited admission of research with human embryonic stem cell lines created before a certain cut-off date in the past (Germany, Austria), to a much more permissive policy allowing the use of so-called supernumerary human embryos (France) or even the creation of embryos for research purposes, and the derivation of stem cells by 'therapeutic cloning' technology (UK, Sweden, Belgium, Spain).

Among these approaches on the moral status of the human embryo, Dignitas Personae chooses to take the position of granting maximum protection from fertilisation onwards since "the human embryo has... from the very beginning, the dignity proper to a person".

It repeats the position of Donum Vitae, namely that "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 recognised, among which in the first place is the inviolable right of every innocent human being to life".

For this reason, the Church's ethical approach categorically prohibits any research project involving the destruction of human embryos or derivations of embryonic stem cells. The destruction and manipulation of nascent human life is a grave violation of human dignity.

Furthermore, Dignitas Personae makes it clear that the morning-after pill, RU-486, and intrauterine devices (IUDs), which either intercept the embryo before implantation or eliminate it after implantation, "fall within the sin of abortion". While embryonic stem cell research is "a grave moral disorder", the document notes that parents may make use of a "vaccine which was developed using cell lines of illicit origin" when the health of a child is at stake, as long as they voice their disapproval and request alternatives, and when the public authorities require it for public health reasons.

Though not all European countries follow the position of Dignitas Personae on embryo research, this does not mean that European legislation permits embryonic research without any limit or restrictions. The EU's Charter of Fundamental Rights prohibits different kinds of practices possibly related to embryo research, namely "eugenic practices, in particular those aiming at the selection of people" and "the reproductive cloning of human beings".

At EU level, although there is no legislative competence to regulate bioethics, some directives refer to the issue of embryo research. For instance, the directive on the legal protection of biotechnological inventions (patenting on life) stipulates that "processes for cloning human beings" and "uses of human embryos for industrial or commercial purposes... shall be considered unpatentable". Article 6 of this directive prohibits patentability inventions when their commercial exploitation would be contrary to ordre public or morality.

An important decision was taken by the Enlarged Board of Appeal (EBoA) of the European Patent Office (EPO) in December 2008. It refused an application for a patent from the Wisconsin Alumni Research Foundation for a method of deriving stem cells from human embryos - on the basis that commercial exploitation of the patent would be "contrary to public order or morality" and hence not permissible according to their own convention.

It is evident that the principle of human dignity is stronger in Europe than the principle of unrestrained freedom of research. Even if positions differ on the moral status of the embryo and embryonic research, there is general agreement on the need for some level of protection. The tendency, however, goes towards consensus on the lowest common denominator. This explains why there is a general ban at European level on reproductive cloning and on human germ line modifications, both in the EU directive on the Legal Protection of Biotechnological Inventions and in the EU decision to refuse funding for such research.

However, it is clear that the paucity of protection of human embryonic life in the Convention on Human Rights and Biomedicine may endanger human dignity. An additional protocol to the Oviedo Convention for the protection of the human embryo has been envisaged for several years, but it is practically excluded that the member states of the Council of Europe would agree on this question.

Council of Europe and European Union legislation, based on fundamental ethical principles, does exist for specific issues, such as prohibition against producing human embryos solely for research purposes and against any commercial exploitation, and the forbidding of reproductive cloning and of modifications of the human germ line.

In a speech delivered on December 9, 2008, Pope Benedict XVI urged Europe to defend human life "at every stage".

Human embryo research ultimately depends on European citizens' values. Let's hope that Dignitas Personae will inspire all people of goodwill in Europe to resolve this paradox in the area of human embryo research to bequeath to future generations a culture of life that truly respects the dignity of every human being.

Concluded

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