



Alabama's Court Decision Sparks Debate Over Ethics of IVF

Written by Fr. Shenan J. Boquet, reprinted from Spirit & Life blog

“In a time of deceit telling the truth is a revolutionary act.”

— George Orwell

A few days ago, the Alabama Supreme Court surprised the country by doing something that is all too rare in today's culture, i.e. it spoke the truth.

In a blockbuster 8-1 decision, the Court ruled that human embryos preserved cryogenically in in vitro fertilization (IVF) clinics are “extrauterine children,” and are therefore protected under the state's “wrongful death” law.

The case that elicited this decision, with such sweeping implications for the rapidly growing IVF industry, was brought forward to the courts by three couples who had human embryos preserved in an Alabama IVF clinic.

In 2020, a client at the clinic entered the cryogenic storage center and removed some of the embryos. The client then accidentally dropped the embryos, with the result that the embryonic children died.

The couples who had preserved the embryos subsequently sued the IVF clinic for “wrongful death.” However, the clinic argued that Alabama's “Wrongful Death of a Minor Act” does not apply to preserved embryos.

A circuit court judge initially agreed with the clinic, and ruled to throw out the case, arguing that frozen embryos are property, not persons. The couples then appealed, and the case ended up before the state's Supreme Court. In a strong ruling, the Court resoundingly affirmed that the Wrongful Death of a Minor Act does indeed apply to embryos preserved in IVF clinics.

In the majority ruling, Alabama Supreme Court Justice Jay Mitchell ruled that the Wrongful Death of a Minor Act “applies to all unborn children, regardless of their location.” He added:

It applies to all children, born and unborn, without limitation. It is not the role of this Court to craft a new limitation based on our own view of what is or is not wise public policy. That is especially true where, as here, the People of this State have adopted a Constitutional amendment directly aimed at stopping courts from excluding 'unborn life' from legal protection.

Republicans and Democrats Denounce Ruling

Perhaps the most telling thing about the reaction to the Court's decision, is how widespread the outrage is.

The fact is, we live in a world in which reproductive technologies like in vitro fertilization have been almost completely normalized. So normalized are they, in fact, that few people even ponder whether there might be any ethical problems with such technologies.

While one would naturally expect pro-abortion activists and Democrats to denounce the rule, it is telling that among those strenuously distancing themselves from this ruling are many so-called "pro-life" Republicans.

Indeed, Republicans such as Donald Trump and Kari Lake are not only distancing themselves from the ruling, but they are also actively coming out in support of IVF, suggesting that they should be made more readily available.

Lake, for instance, promised that she would "advocate for increased access to fertility treatment for women struggling to get pregnant." She added that "IVF is extremely important for helping countless families experience the joy of parenthood. I oppose restrictions."

Using explicitly pro-life language, GOP Senate candidate Bernie Moreno stated that he supports IVF because his "goal is to promote a culture of life." "We have a crisis in this country of people not having enough kids at replacement levels," Moreno wrote on X. "I'm in favor of anything that promotes people having more babies & strong families."

In a post reacting to the Court's ruling, President Trump called for "an immediate solution."

"We want to make it easier for mothers and fathers to have babies, not harder!" said the former president. "That includes supporting the availability of fertility

treatments like IVF in every State in America.” Trump added he supports IVF, like “the VAST MAJORITY of Republicans, Conservatives, Christians, and Pro-Life Americans.”

IVF Is Not Pro-life

However, I can assure President Trump that he is wrong on one score: the large majority of pro-life leaders, i.e. those who are the most educated on the life issues, do not support IVF.

If you asked them, most would say that they oppose IVF for one simple reason: IVF is an intrinsic evil that transforms human procreation into a method of production, manufacturing our offspring — a process that dehumanizes and commodifies human life, leading to the creation and destruction of many human embryos, i.e. human persons in the earliest stages of their development.

As the [Catechism of the Catholic Church](#) notes:

A child is not something owed to one but is a gift. The ‘supreme gift of marriage’ is a human person. A child may not be considered a piece of property, an idea to which an alleged ‘right to a child’ would lead. In this area, only the child possesses genuine rights: the right ‘to be the fruit of a specific act of the conjugal love of parents,’ and ‘the right to be respected as a person from the moment of conception.’

In IVF, eggs harvested from a woman are combined with sperm harvested from a man, to create human embryos, i.e. genetically unique, living human beings. These are then implanted in the mother’s womb. However, because the embryos often fail to implant successfully in the mother’s womb, it is common practice to create more embryos than will be used. The “leftovers” are then frozen indefinitely in a cryogenic chamber or destroyed.

Frozen Embryos are Children Too

While the Alabama Court’s decision has horrified even many on the political right, who are clearly afraid that opposing IVF is a political loser, in reality the Court was simply acknowledging basic biological facts and applying consistent logic to the state’s pro-life laws. If the state recognizes the rights of preborn children, then it must recognize the rights of embryos frozen in the state’s IVF clinics.

As the court noted, the Alabama State Constitution is very clear that “it is the public policy of this state to recognize and support the sanctity of unborn life and the rights of unborn children, including the right to life,” as well as to “ensure the protection of the rights of the unborn child in all manners and measures lawful and appropriate.”

In light of this, “The central question,” wrote the Court’s chief justice, “...is whether the act contains an unwritten exception to that rule for extrauterine children – that is, unborn children who are located outside of a biological uterus at the time they are killed. Under existing black-letter law, the answer to that question is no: the Wrongful Death of a Minor Act applies to all unborn children, regardless of their location.”

Rather than running frightened from this decision, so-called “pro-life” American politicians should be asking themselves how it is they missed something so glaringly obvious, i.e. that IVF involves the industrialized commodification and destruction of human life in a way that clearly violates fundamental pro-life principles.

Related: [Ethical Issues of IVF and Alternative Infertility Treatment Options](#)

A Good End Doesn’t Justify Evil Means

It may come as a surprise to some people (though it certainly shouldn’t), but the Catholic Church has consistently maintained and taught that IVF is a grave evil, precisely because it distorts human procreation by assaulting the ends of marriage ([Humanae vitae](#), no. 12) and ignores the right of the child to be begotten through a mother and father’s act of love (i.e., marital act), failing to see the child as equal in dignity to his or her parents.

The Church is despised by so many people not because it is imposing a religious view on the science, but rather because it is the only institution that acknowledges the science, and then consistently applies fundamental ethical principles to the science. “We all say we agree that all human beings have human rights,” states the Church. “But we alone have the courage of conviction to be consistent and to apply this in all cases.”

In the [Declaration on Procured Abortion](#), the Congregation for the Doctrine of the Faith (CDF) states that, “from the time that the ovum is fertilized, a life is begun which is neither that of the father nor the mother; it is rather the life of a new

human being with his own growth. It would never be made human if it were not human already. This has always been clear, and ... modern genetic science offers clear confirmation...”

In [Donum vitae](#), the CDF draws out the sweeping ethical implications of this scientific fact:

Thus, the fruit of human generation, from the first moment of its existence, that is to say, from the moment the zygote has formed, demands the unconditional respect that is morally due to the human being in his bodily and spiritual totality. The human being is to be respected and treated as a person from the moment of conception; and therefore, from the 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.

Children Born Through IVF Still Have Dignity

Unfortunately, the public debate on IVF is often extraordinarily shallow and uninformed. As we saw above, many people, including self-proclaimed “pro-life” politicians, view the Church’s position as self-contradictory. “You say you’re pro-life,” such people will say, “and yet you are opposed to infertile couples being given the gift of having children through this marvelous technology.”

Even more dishonestly, some people will suggest that by opposing IVF, the Catholic Church is somehow rejecting the children who are born through IVF.

It can be infuriating dealing with such grotesque misrepresentations of the Church’s position. In many cases, these misrepresentations seem to be motivated by nothing other than a perverse desire to confuse and mislead. However, in other cases it stems simply from ignorance, and our own failure to teach clearly.

In responding to the kind of misrepresentations we saw above it is important that, in the first place, we emphasize that children who are born through artificial reproductive technologies are, in every single respect, as worthy as any other human being. After all, the children conceived through IVF had no part whatsoever in the choice of the mode of their conception. They bear no guilt, and the mode of conception clearly has no bearing whatsoever on their dignity and worth.

The Vatican clearly affirmed this principle in *Donum vitae*, writing, “Although the manner in which human conception is achieved with IVF ... cannot be approved, every child which comes into the world must in any case be accepted as a living gift of the divine Goodness and must be brought up with love.”

Secondly, it is important that we emphasize the ethical principle that a good aim or intention does not make an evil act good. Yes, many couples who resort to IVF desperately desire children — a desire that is, in and of itself, a good thing. The children that come about through IVF are also good. However, the means that the parents have chosen to pursue the good aim of having children is evil, regardless of their intentions. As such, it must be opposed.

We Must Pray for the Protection of All Human Life

The Vatican’s teaching in documents like *Donum vitae* and *Dignitas personae* guide us concerning reverence for the dignity of the human person from the moment of conception and respect for the marital act in its unitive and procreative dimensions. They explain the various reasons why IVF is not acceptable, i.e. it destroys the unitive dimension of a couple’s love by conceiving their child in a lab through the actions of a third party, commodifies human life by turning it into a product to be bought, and results in the destruction of untold embryonic humans.

Right now, it is estimated that over one million embryonic human beings are in cryogenic suspended animation in U.S. IVF clinics. Many millions more are preserved in clinics elsewhere on the globe or are being created and experimented upon (and destroyed) in many universities. Tragically, our consciences have been dulled to this industrialized destruction of human life.

Let us pray that the Alabama Court’s decision will provide an occasion for some serious soul-searching about our society’s premature and unjustified acceptance of IVF. And in the meantime, let us educate ourselves on these complex issues by reading the Church’s rich teaching documents, so that we are better equipped to respond to the many distortions on this topic in the media and popular culture.

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