

ETHICS & MEDICS

JULY 2021 VOLUME 46, NUMBER 7

A Commentary of The National Catholic Bioethics Center on Health Care and the Life Sciences

■ Also in this issue: “Philosophical Puzzles about Transgenderism,” by Edward J. Furton ■

FROZEN EMBRYOS ARE NOT RESEARCH MATERIAL

Derek McDonald



In the United States alone, there are likely more than one million embryos in cryopreservation.¹ It is estimated that biological parents have abandoned hundreds of thousands of cryopreserved embryonic children across the more than five hundred US facilities.² Embryos are kept from aging and decay in vats, treated with fluid to prevent the formation of cell-destroying ice crystals, and cooled with liquid nitrogen. Spurred by the great need to house embryonic humans not selected for implantation, storage facilities have ballooned. We have now subjected nearly two generations to this fate, tearing our privileged participation in the work of the Creator away from “His loving design.”³

Whatever the public’s moral opinion may have been of in vitro fertilization in 1978, just thirty-five years later only 12 percent of adults in the United States viewed the process as morally objectionable.⁴ From 2006 to 2016, the number of US births increased by nearly sixty thousand, and in 2018, “a third of U.S. adults [said] they have used fertility treatments or know someone who has.”⁵ The rate appears to have trended downward in recent years, but a brief downward trend does little to diminish the problems resulting from swift acceptance and forty years of implementation.

The problem was brought strikingly to the fore in 2018 when two storage facilities in different states suffered unrelated malfunctions, resulting “in the catastrophic loss of thousands of human ova (eggs) and embryos.”⁶ As one may imagine, “news of the tank failures, which resulted in the loss of eggs and embryos belonging to people who had paid these facilities to safeguard them” was devastating to many. The parents’ “heartbreak” and cries for justice suggest the subconsciously understood dignity of embryonic humans as well as the unalterable connection between parents and their biological children.⁷

The Congregation for the Doctrine of the Faith has stated that “the thousands of abandoned embryos represent a situation of injustice which in fact cannot be resolved.”⁸ It bears repeating that in the United States, we are now faced with hundreds of thousands of embryos who have lost all connection with their biological parents. Elsewhere the Congregation emphasizes, “In consequence

of the fact that [the embryos] have been produced in vitro, those embryos which are not transferred into the body of the mother and are called ‘spare’ are exposed to an absurd fate, with no possibility of their being offered safe means of survival which can be licitly pursued.”⁹ With those arresting words, we arrive at a question: What is the best way to care for, and honor the dignity of, the abandoned cryopreserved embryonic humans that have amassed over time?

The Destructive Research Proposal

In a letter to the editor of *Natural Biotechnology*, Norbert Gleicher and Arthur Caplan present arguments to address this question. They show some appreciation for the special dignity of embryonic humans in their statement, “Disposal of abandoned embryos, in itself, devalues embryos, and contradicts the assumption of special consideration for human embryos, long a cornerstone of reproductive ethics.” However, the deficiency of their appreciation is displayed as their letter progresses: “Neither continued maintenance of thousands of abandoned embryos nor their destruction makes moral sense or represents the most respectful use of human embryos. Making abandoned embryos available for research that enhances fertility and reduces the impact of diseases represents, in contrast, a purpose exemplifying a solid moral foundation.”¹⁰

These and similar comments permeate the letter, circling around existing guidelines concerning the handling and treatment of cryopreserved embryos, including those abandoned.¹¹ Notably, the current secular guidelines do not allow for the destruction of embryos, nor may they be subject to research, without explicit “contemporaneous consent” of the respective biological parents.¹²

Caplan and Gleicher call for changes to the guidelines so that they be less restrictive and allow storage facilities to destroy or otherwise dispose of abandoned embryos as they see fit. They propose a “practical solution”: “The establishment of non-profit human embryo banks for abandoned and other embryos donated for research purposes.”¹³ But this alternative does not satisfactorily address the question of how to best care for abandoned embryonic children from the Catholic moral perspective. Maintaining the cryopreservation of an abandoned embryonic child is obviously superior to subjecting that child to lethal research. Indeed, I believe we have a duty to provide such support.

The *Ethical and Religious Directives for Catholic Health Care Services* define care as ordinary, and thus obligatory, when it offers “reasonable hope of benefit and [does] not entail an excessive burden or impose excessive expense on the family or the community.”¹⁴ Maintaining cryopreservation certainly offers a reasonable hope of benefit, as it is life sustaining. Without it the embryo would perish. In terms of burdensomeness, the process of monitoring embryo storage containers and liquid nitrogen levels does not seem to place

significant burdens on a facility or community.¹⁵ One organization that handles embryo storage estimates that annual storage fees for multiple embryos range from \$350 to \$1,000.¹⁶ For comparison, annual per person health care costs for life-sustaining treatments such as hemodialysis and percutaneous endoscopic gastrostomy (for tube feeding) are \$90,000 and \$32,000, respectively.¹⁷ Maintaining cryopreservation appears relatively inexpensive.

Caplan and Gleicher “suggest ... that eternal preservation is not reflective of the special respect human embryos deserve.”¹⁸ Setting aside the question of duration, I argue that maintaining the cryopreservation of embryonic children is an obligatory form of care insofar as (1) the patients (human embryos) ought to be treated as persons, (2) maintaining cryopreservation is ordinary and proportionate, (3) providers may licitly treat the embryos given their emergent status, and (4) “there is no indication that the patient would refuse consent to the treatment.”¹⁹

Caplan and Gleicher call for new nonprofit organizations whose sole mission would be to receive and dispose of abandoned embryos so that they may be put to use. They claim that “making abandoned embryos available for research ... [represents] a purpose exemplifying a solid moral foundation,” repeatedly stating that using abandoned embryos for research is better than keeping them in cryopreservation or destroying them.²⁰ Their arguments reflect a utilitarianism in which human beings have value only according to their usefulness. Their solution is tantamount to killing the embryos which they profess to value. Subjecting abandoned embryos to research treats human beings as *things* to be used rather than *persons* to be cared for.

Responding to this kind of rhetoric, *Donum vitae* teaches, “Every human being is to be respected for himself, and cannot be reduced in worth to a pure and simple instrument for the advantage of others. It is therefore not in conformity with the moral law deliberately to expose to death human embryos obtained ‘in vitro.’”²¹ The Church in her wisdom defends embryos and other vulnerable human beings “because even the most severely debilitated and helpless patient retains the full dignity of a human person and must receive ordinary and proportionate care.”²²

Witness to the Dignity of Human Life

What if there were nonprofit storage facilities whose purpose was to accept abandoned embryos, not to destroy them under the guise of research but to care for them? What if these facilities were visible, well-known, inviting places where people from the local community could pray for the abandoned embryos and their biological parents? Might these facilities also offer education to raise awareness of God’s plan for human fertility and sexuality?

The gravely regrettable situation of abandoned embryonic children, and the uncertainty around their future, would remain. At least such facilities would offer a promise to care. By caring for them openly, these institutions would afford the embryos the possibility of being seen rather than merely stored. Caring openly may also “appeal to the conscience of the world’s scientific authorities ... that the production of human embryos be halted.”²³ Such facilities would uphold and witness to the dignity of human life at its earliest stages and may serve as a powerful prophetic call to further the culture of life.

Derek McDonald is the director of Family and Respect Life Ministries and the Bishop’s delegate for Catholic health care in the Diocese of Manchester, New Hampshire.

Notes

1. Tamar Lewin, “Industry’s Growth Leads to Leftover Embryos, and Painful Choices,” *New York Times*, June 17, 2015, <https://www.nytimes.com/2015/06/18/us/embryos-egg-donors-difficult-issues.html>; and Elissa Strauss, “The Leftover Embryo Crisis,” *Elle*, September 29, 2017, <https://www.elle.com/culture/a12445676/the-leftover-embryo-crisis/>.
2. Mary Pflum, “Nation’s Fertility Clinics Struggle with a Growing Number of Abandoned Embryos,” NBC News, August 12, 2019, <https://www.nbcnews.com/health/features/nation-s-fertility-clinics-struggle-growing-number-abandoned-embryos-n1040806>.
3. Paul VI, *Humanae vitae* (July 25, 1968), n. 8.
4. Pew Research Center, “Abortion Viewed in Moral Terms: Fewer See Stem Cell Research and IVF as Moral Issues,” August 15, 2013, <https://www.pewforum.org/2013/08/15/abortion-viewed-in-moral-terms/>.
5. Gretchen Livingston, “A Third of U.S. Adults Say They Have Used Fertility Treatments or Know Someone Who Has,” *Pew Research*, July 17, 2018, <https://www.pewresearch.org/fact-tank/2018/07/17/a-third-of-u-s-adults-say-they-have-used-fertility-treatments-or-know-someone-who-has/>.
6. Ellen Trachman, “New Jersey Is the First State to Regulate the Storage of Human Embryos,” *Above the Law*, March 4, 2020, <https://abovethelaw.com/2020/03/new-jersey-is-the-first-state-to-regulate-the-storage-of-human-embryos/?rf=1>.
7. Erika Edwards and Rich Gardella, “Heartbreak, Anxiety, Lawsuits: The Egg-Freezing Disaster a Year Later,” NBC News, March 4, 2019, <https://www.nbcnews.com/news/all/heartbreak-anxiety-lawsuits-egg-freezing-disaster-year-later-n978891>.
8. Congregation for the Doctrine of the Faith (CDF), *Dignitatis personae* (September 8, 2008), n. 19.
9. CDF, *Donum Vitae* (February 22, 1987), I.5.
10. Arthur L. Caplan and Norbert Gleicher, “An Alternative Proposal to the Destruction of Abandoned Human Embryos,” *Natural Biotechnology* 36.2 (February 2018): 139–141, doi: 10.1038/nbt.4070.
11. See Caplan and Gleicher, “Alternative to the Destruction of Embryos,” 141. The authors reference documents from the American Society for Reproductive Medicine, the Society for Assisted Reproductive Medicine, the American College of Obstetricians and Gynecologists, and the International Society for Stem Cell Research.
12. See Caplan and Gleicher, “Alternative to the Destruction of Embryos,” 140.
13. Caplan and Gleicher, “Alternative to the Destruction of Embryos,” 141.
14. US Conference of Catholic Bishops, *Ethical and Religious Directives for Catholic Health Care Services* (Washington, DC: USCCB, 2018), dir. 56.
15. *CBS in the Morning*, “Inside Look at How a Fertility Lab Protects Frozen Embryos,” March 13, 2018, <https://www.youtube.com/watch?v=1FzsC9xUQZA>.
16. ReproTech Limited, “Embryo Storage Costs,” accessed April 19, 2020, <https://www.reprotech.com/embryo-storage-costs.html>.
17. The Kidney Project, “Statistics,” University of California San Francisco, accessed April 19, 2020, <https://pharm.ucsf.edu/kidney/need/statistics>; and N. N. Buchanan et al., “Healthcare Costs associated with Percutaneous Endoscopic Gastrostomy among Older Adults in a Defined Community,” *Journal of the American Geriatrics Society* 49.11 (November 2001): 1525–1529, doi: 10.1046/j.1532-5415.2001.4911248.x.
18. Caplan and Gleicher, “Alternative to the Destruction of Embryos,” 140.
19. USCCB, *Ethical and Religious Directives*, dir. 26.
20. Caplan and Gleicher, “Alternative to the Destruction of Embryos,” 140–141.
21. CDF, *Donum vitae*, I.5.
22. USCCB, *Ethical and Religious Directives*, part 5, intro.
23. John Paul II, cited in CDF, *Dignitatis personae*, n. 19.

PHILOSOPHICAL PUZZLES ABOUT TRANSGENDERISM

Edward J. Furton



The most remarkable feature of the fifth edition of the *Diagnostic and Statistical Manual of Mental Disorders* is that its description of gender dysphoria strongly implies that the human mind can exist in the wrong body.¹ Because of this, the *DSM-5* does not recommend a psychiatric cure for this condition. Instead, it recommends that the body be altered to conform to the patient's (apparently correct) mental perception.² In earlier editions, psychiatric measures were considered the norm for treating gender dysphoria (listed under another name), but the *DSM-5* now says that the distress experienced by these patients does not result from any underlying illness.

The psychological distress is caused, instead, by the extraordinary fact that the mind finds itself in the wrong body. A secondary cause of distress, the manual adds, is society's reaction to the patient's correct estimation that he or she is indeed in the wrong body. The denial that a person is wrongly sexed causes the patient further harm.

Consider the case of a husband who tells his spouse and children that he is in the wrong body and so plans to transition to the opposite sex. He will soon become a woman. He tells the family that he expects them to address him as such. This announcement, not surprisingly, generates great shock and dismay. The wife understands that this is the end of their wedding vows. The children understand that this is the end of their relationship with their father.

The *DSM-5* asks us to believe not only that the decision of the father in this case is correct but that the family is partly at fault for exacerbating his condition. From a human standpoint, the reactions of the spouse and children would seem to be completely natural, but according to the manual, they are contributors to psychological harm. The correct response would be for them to accept that the mind of their father, indeed, should be in the body of a woman.

The medical literature offers no evidence that it is possible for a mind to be in the wrong body. The description of gender dysphoria given in the *DSM-5* rests not on empirical data but on philosophical premises. These premises appear to be incoherent and dangerous.

What Evidence Counts?

If it is possible for the mind to be in the wrong body, facts must be presented. The purpose of the *DSM-5* is not to provide the scientific data that verify the accuracy of any of the various psychiatric conditions it lists but to help practitioners identify the signs of illness so that they can give their patients appropriate treatment. We need to go elsewhere if we are to find confirmation of the view that the mind can be in the wrong body. Hopefully, the American Psychiatric Association does not think that a person's mere say-so makes this true. The anorexic believes that she is fat, but that is obviously false. Liposuction would not be a recommended treatment.

Beyond the mere fact that some say they are members of the opposite sex, there must be some evidence that shows that the mind can indeed be in the wrong body. Some hypothesis would need to be proposed, tested, and proved by empirical means. Not only is there is no such proof in the literature, but it is difficult to imagine what kind of evidence would be confirmatory. What we find instead are studies on whether those who have undergone sex transitioning have improved psychological health. There are few of these, and they do not show clear benefits.

One example of a testable research question is, Do the brains of men who feel that they are women show distinctive female characteristics?³ Are there physiological aspects of certain brains that indicate that a female mind might exist in a male body? Scientists, by carrying out brain scans, might be able to identify those features and so supply evidence that this person's mind is indeed in a body that is wrongly sexed. When did the dysphoria originate? If the mind is currently in the wrong body, was this true from birth, or was it true even earlier in fetal or embryological development, or does it occur at puberty when sexual changes begin to exert themselves?

The oddity of looking at this problem from a temporal perspective is that the mind must be in the wrong body before it realizes the fact. Otherwise, it would be nothing more than a mental projection. But this is not permissible according to the *DSM-5*. Gender dysphoria is not a mental illness. The suggestion that it is only causes the sufferer further distress. Yet given the priority of bodily development over mental development, we would expect the mind to conform to bodily reality. This expectation is hard to avoid, because the mind sees itself as an embodied being over the course of a lifetime. In the case of gender dysphoria, however, the mind comes to see the body as the wrong sex. The problem, therefore, exists within the mind-body relationship. Yet this simple observation once again leads to the conclusion that the mind's perception is the problem. The body is not aware of the mind. The mind is aware of the body. The fault, therefore, would seem to be an error in judgment. Yet the *DSM-5* rejects any conclusion of mental error. According to its authors, the body is at fault and needs to be changed.

Some Recent Studies

Some preliminary studies of this sort have been done. One used brain scans to search for differences between those with gender dysphoria and a control group not so afflicted. The authors state, "Our findings suggest that the neuroanatomical signature of transgenderism is related to brain areas processing the perception of self and body ownership."⁴ If true, this would support the view that gender dysphoria is a false perception that is reflected in an unusual structuring within the brain. As with all such studies, the question of cause and effect is critical. Does incorrect thinking about one's gender cause the brain to develop this variant structure or is that structure the cause of the incorrect thinking? Either way, this is not empirical evidence that the brain is in the wrong body. It is evidence that the mind perceives the body incorrectly.

A review study from 2020 surveyed available research on the broader topic of the brain and sexual differentiation. It reports that "the evidence suggests that the sexual dimorphic brain could be the anatomical substrate of psychosexual development, on which gonadal hormones may have a shaping role during prenatal and pubertal periods."⁵ The broad character of this conclusion shows how preliminary such studies are, yet it supports the view that the



ETHICS & MEDICS

VOLUME 46, NUMBER 7

JULY 2021

The views expressed here are those of the individual authors and may advance positions that have not yet been doctrinally settled. Ethics & Medics makes every effort to publish articles that are consonant with the magisterial teachings of the Catholic Church.

body takes precedence in sexual development and should normally produce mental perceptions that correspond to given sexual form.

Materialism and the Brain

Catholic philosophy sees the spiritual soul as the source of life, motion, and intelligence within the body, but science and psychiatric practice are dominated today by the philosophy of materialism. Medicine reduces thought and mental functioning to the processes of the physical brain. If the mind is reducible to the electrochemical activity of the brain, as the materialists say, then those who suffer from gender dysphoria have wrongly sexed brains. One part of the body, namely, the brain, is at odds with the rest of the body, which is in opposition to itself as a whole.

But this is also an unacceptable view according to the *DSM-5*. The brain cannot be wrongly sexed, because the mind of one who suffers gender dysphoria is healthy. The person experiences discomfort not because the brain is wrongly sexed but because he or she is physically in the wrong body. The earlier suggestion, therefore, that one might look for feminine traits within a male brain or masculine traits within a female brain now turns out to be a false approach. According to the materialist premise, if the mind is healthy, then the brain must also be healthy because the mind is reducible to the brain.

We must look instead to the rest of the body to discover how it happens to be wrongly sexed. What errors or deformities can be empirically identified in the body of a person suffering gender dysphoria? The authors of the *DSM-5* suggest that these problematic elements are the male characteristics of a man who thinks he is a woman or the female characteristics of a woman who thinks she is a man. Yet it is obvious that there is nothing defective about the sex characteristics of their male and female bodies. They are healthy and functioning correctly.

We, thus, reach another impasse. We are searching for evidence that those who suffer from gender dysphoria experience mental distress because their bodies do not have the appropriate sexual characteristics. There is no evidence in the literature that explains

how such a gross error in physiological development could have happened or when it might have occurred. The difficulty lies not only in the lack of evidence but in the apparent incoherence of the very claim that this is possible. Every effort to make sense of the description given in the *DSM-5* brings us back to the conclusion that it is not the body that is at fault, but rather the mind.

We are led to conclude, therefore, that the treatment suggested for gender dysphoria in the *DSM-5* is erroneous and dangerous. Not only is there no evidence that it is possible for a mind to be in the wrong body, but the effort to describe what kind of evidence might be produced in favor of this thesis leads to contradictory conclusions. Judged by the materialists' own standards, the effort fails. Unless some coherent explanation can be given for the extraordinary claim that it is possible for the mind of a person to develop within a body of the wrong sex, we are obliged to reject the treatment advice given for gender dysphoria in the *DSM-5*. The advice is incoherent, false, and damaging to families.

Edward J. Furton, MA, PhD, is the director of publications at The National Catholic Bioethics Center.

Notes

1. American Psychiatric Association (APA), *Diagnostic and Statistical Manual of Mental Disorders*, 5 ed. (*DSM-5*) (Washington, DC: American Psychiatric Publishing, 2013), 455, 457–458.
2. APA, *DSM-5*, 455. “Such distress may, however, be mitigated by supportive environments and knowledge that biomedical treatments exist to reduce incongruence.” *Supportive environments* refers to settings that affirm that the person is indeed a member of the opposite sex. *Biomedical treatments* refers to cross-sex hormones and sex reassignment surgery.
3. APA, *DSM-5*, 457. The text vaguely suggests that gender dysphoria is “a form of inter-sexuality limited to the central nervous system.”
4. Sarah M. Burke et al., “Structural Connections in the Brain in Relation to Gender Identity and Sexual Orientation,” *Scientific Reports* 7 (December 20, 2017): 1, doi: 10.1038/s41598-017-17352-8.
5. Jiska Ristori et al., “Brain Sex Differences Related to Gender Identity Development: Genes or Hormones?,” *International Journal of Molecular Sciences* 21.6 (March 2020): 1, doi: 10.3390/ijms21062123.

