

# The Right to Life. Legal Status of the Human Embryo

Ana Maria NACU<sup>1</sup>

<sup>1</sup>Student, Stefan cel Mare University of  
Suceava, [nacu\\_anisoara@yahoo.com](mailto:nacu_anisoara@yahoo.com)

**Abstract:** *The goal of this paper is to review the contentious problems in the human rights field, specifically the status of the human embryo. Since the technology to create human embryos in a lab became accessible, ethical concerns have persisted, highlighting the embryo's vulnerable status. The embryo is a part of another person's body throughout pregnancy and does not have a separate legal status from his mother. Defining the right to life and who is entitled to it is the first step in contouring the special status of the human embryo considering its potential to become a human being.*

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## INTRODUCTION

Being one of the primordial social values, life is the superior form of existence that is susceptible to protection from the law. The right to life holds a dominant position concerning other subjective rights, or in the absence of an adequate protection of this right, the others lose their validity. As a result, the right to life is certified as the supreme right of the human being and as one of the fundamental values of democratic societies.

According to Article 1 of the Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations, "all human beings are born free and equal in dignity and rights", and Article 3 emphasizes that "every human being has the right to life. , to the freedom and security of his person ". The right to life has its basis in other international documents, including the Convention for the Protection of Human Rights and Fundamental Freedoms, which states that "the right to life of every person is protected by law".

As a result, the importance of the right to life and the need to regulate it in absolutely all legal texts is indisputable, but none of the international documents gives a definition of this right, which makes it difficult to establish the limits and content of this right. Another issue that gives rise to a multitude of controversies is the lack of a concise definition of the term "person" or "human being", thus preventing the exact establishment of the beneficiaries of this fundamental right.

One primary problem is that most of the human rights texts do not indicate when the protection of this right begins, arguing that it is only recognized by the "person". Therefore, to benefit from the adequate protection of this right one must already be born. The main issue of when human life begins is of particular ethical, legal, and political importance due to its implications for embryonic research and also became truly significant with the advent of medically assisted human reproduction techniques, namely in vitro fertilization.

Modern science theories indicate as the first frontier of life the moment of fertilization of the egg by the sperm, more precisely the moment when fertilization ends and embryonic development begins which begins with the preparation of the first cell division.<sup>1</sup> In another opinion, the life and moral status of the embryo begin at the eight-cell stage when the zygotic transcription begins, and whatever happens so far is driven of by maternal

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<sup>1</sup> Maureen L. Condic, *when does human life begin?* Westchester Institute White Paper series, Vol. 1, 2008.

factors.<sup>2</sup> Some authors move the beginning of life to the formation of specific structures or the beginning of specific processes.

There is a further problem with establishing the boundaries of the rights to life since a unique status of the human being was not reached before birth.

Returning to defining the first frontier of the right to life, which in most texts is a *sine qua non-condition* for acquiring the status of a person, we mention that the embryo or fetus is not granted the status of an individual, as it is not separate from the mother's body and is not capable of self-determination. Thus, it cannot be considered a person.

In decision no. 438/2008, the Italian Constitutional Court states: "the embryo is not a person because, apart from the fact that he cannot determine himself, he cannot manifest any informed and written, conscious, manifest and present consent."<sup>3</sup> In the opinion of most doctrinaires, the term person is synonymous with the term individual - the human being capable of self-determination. Since the human embryo was found not to fulfill any of the desideratum, we would be tempted to place it in the category of *res*.<sup>4</sup> The question arises whether art. Article 2 of the European Convention on Human Rights provides protection for the embryo by assimilating it to the expression "any person." We mention the lack of jurisprudence in this regard that would provide a definite answer to this question, leaving it to the discretion of the states.

The former European Commission, in the first decision in this field, stated that "the task does not concern only the field of privacy", because when a woman is pregnant, her life is directly associated with the developing fetus.<sup>5</sup>

However, the Commission acknowledged that the term "any person" can only be applied after birth, as the limitations of this right can only be applied to a person already born and not to the fetus.

As a result, art. 2 cannot be applied in an absolute way, because the protection of the mother cannot be dissociated from that of the future child<sup>6</sup>, otherwise, we would be in a situation where abortion is prohibited regardless

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<sup>2</sup> Philip G. Peters, Jr., "The Ambiguous Meaning of Human Conception," *University of California-Davis Law Review* 40 (2006):199-228.

<sup>3</sup> <https://www.cortecostituzionale.it/actionSchedaPronuncia.do?anno=2008&numero=438>

<sup>4</sup> Laura Maria Stănilă, *op.cit.*, pag. 92

<sup>5</sup> CEDO, *Brugeremann și Scheuten c. Germaniei*, 12 iulie 1977, în D. Bogdan, M. Selegean, *Drepturi și libertăți fundamentale în jurisprudența Curții Europene a Drepturilor Omului*, Ed. All Beck, București, 2005, pag. 5

<sup>6</sup> Lector univ. dr. Nasty Marian Vlădoiu, *op. cit.*, pag. 116.

of the existence of medical imminence for the life or integrity of the mother. Thus, we would be in the situation where the life of the fetus would be superior to that of the mother, a situation not provided by art. 2 of the Convention and contrary to the object and purpose of the Convention. It is important to note that at the time of signing the Convention, most states allowed abortion in situations where it was necessary to save the mother's life, later national legislation in the field became much more permissive.

In case of *Vo v. France*, the Court noted that: "the issue that arises when the right to life begins is within the discretion of the states and should be interpreted in the light of current conditions".<sup>7</sup> The conclusions are motivated by the fact that the issue of such protection has not been resolved in most Contracting States and that no European consensus has been reached on the scientific and legal definition of when life begins.

Given the above, the Court is convinced that it is not desirable, not even possible, to answer in the abstract, the question of whether or not an unborn child is a person.

Thus, rather than imposing a uniform standard, the Commission and the Court have assessed the "beginning of life" issues marginally, on a case-by-case basis, giving states considerable freedom to regulate the elements in question as long as they do so appropriately by giving a considerable weight and carefully balancing the interests of the cases.

## THE LEGAL STATUS OF THE HUMAN EMBRYO

One issue with defining the legal status of the human embryo lays in the concept of property which "protects" objects or interests that, since the abolition of slavery, do not affect human beings. In the past, the value of property resulted from utility, and human corpses could not be considered property because of lacking utility.<sup>8</sup> As a result, the question of whether the biological material in a living or dead human body could have a greater value than the body from which it came.

In 2009, the English Court of Appeal ruled that sex gametes, sperm, and eggs that are kept for future use are legally the property of those from whom they were harvested. Another case concerns patients who, before chemotherapy treatment and in order to maintain their reproductive genetic material, stored their cryo-preserved material in a hospital, but due to problems in the storage system, they were irreversibly destroyed. The Court

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<sup>7</sup> *Vo v. France*, judgment of 8 July 2004.

<sup>8</sup> Gold R. *Body parts: property rights and the ownership of human biological materials*. Washington DC: Georgetown University Press; 1996.

of Appeal emphasized their ownership by compensating for the psychological harm of donors as well.<sup>9</sup>

## THE STATUS OF THE IN VITRO EMBRYO

Since the birth of the first child conceived through in vitro fertilization techniques, the question of the moral and legal status of the zygote in the early stages of development has become particularly controversial. From a biological point of view, the early development of the product of conception is a gradual process, and the stage at which the embryo can claim special rights for its protection varies from conception to 14 days post-fertilization.<sup>10</sup> The challenge regarding the status of the embryo implies in the lack of definition in normative acts, or most of the normative use the term embryo meaning the embryo itself and the pre-embryo and also the fertilized egg before implantation. The distinction between the terms "zygote" and "embryo" has acquired a new meaning as in some European countries the need to protect embryos takes on a legislative outline. Thus, we mention the case of Spain and Italy which have adopted/amended the normative acts aimed at more effective protection of early human life, especially regarding the risk of potential abuses.

According to the medical dictionary, the embryo is defined as an organism in the early stages of development, from conception to the end of 8 weeks.<sup>11</sup> Until the 1970s, there was no real debate about the status or definition of the human embryo. As a result, the separation of the embryo from the person as the subject of particular legislative issues took place after the decriminalization of abortion, and stem cell research has intensified contradictory debates.

From a legal perspective the embryo is the product of the act of human reproduction, and the legal status of the human embryo refers to the legal provisions applicable in legal matters relating the human embryo. The status of the human embryo is a matter of debate, with opinions varying widely on what constitutes a "thing," "person," or "biological material."

In the same vein, some authors separate the notions of person and human beings assuming that not all people are human beings and not all

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<sup>9</sup> Yearworth v. North Bristol National Health Service Trust, England and Wales Court of Appeal 37, 2009.

<sup>10</sup> Bahadur G 2003 *The moral status of the embryo: the human embryo in the UK Human Fertilisation and Embryology (Research Purposes) Regulation 2001 debate*. *Reproductive BioMedicine Online* 7, 12–16.

<sup>11</sup> Stendman's medical dictionary for the health professions and nursing. 7<sup>th</sup> edition, Wolters Kluwer Health, Lippincott Williams & Wilkins, Philadelphia, 2012, 541.

human beings are people invoking examples such as embryos or people in a serious comatose state.<sup>12</sup> Moreover, there is the problem of the existence of a moral difference between human beings and human persons, or in most cultures, any human being who is born, lives and behaves like us, is a person. Philosophically, the concept of the human person was approached in medieval times through theology, and one of the first proponents of the distinction belongs to the saying: "We must consider what the person means ... who, I think, is an intelligent and thinking being, who has reason and reflection and can identify as herself in different times and places; something she can do only through that inseparable consciousness of thinking and, as it seems to me, essential for it " As a result, in the perception of certain authors, the human being is reduced to their reason and reflection.

In a similar view, the basic criterion that defines a person is the ability to assess their own existence, and the moral difference between a person and a human being is the value they can attribute to their own life, and whereas through language a person can communicate and declare self-awareness, the opinion is imposed that the beings who possess it are people. As a result, referring to these arguments, pre-embryos and embryos, fetuses and even newborns are not human beings, which is why these definitions are incompatible with the moral reality of society.

Proponents of the potentiality argument consider that any trait specific to the adult individual has its origin in the beginning, or what the individual may become is a possibility based on pre-existing conditions. As a result, if the product of conception becomes a person, this possibility is based on the fact that they are "genetically human beings." Considering "fertilization" as the moment that imposes the most contradictions, scientists, philosophers, and theologians sought a transition point for defining the person.<sup>13</sup> We mention as important points in embryological life fertilization, implantation, physical formation, and viability, but the philosophers of the early centuries supported the existence of the spiritual side of the individual and argued that the meeting of spirit and entity physical occurs with bodily formation.

Today, the stage of physical formation of the embryo is given more attention and the question "when does the embryo become a human being?" we mention the answer of an important embryologist, as follows: "Science considers that the embryo has always had a human potential since the beginning of fertilization due to its human chromosomal constitution. Two

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<sup>12</sup> Maffettone S. Valori comuni. A. Montadori, Milano, 1989.

<sup>13</sup> Dr. Sahin Aksoy, *The beginning of human life and embryos: a philosophical and theological perspective*. Reproductive BioMedicine, vol 14, 2007, pag. 87

things are defined: (1) human development starts from fertilization and (2) the zygote and the early embryo are living organisms. My personal opinion is that the embryo becomes a human being in the 8th week when it acquires distinctive human characteristics. "<sup>14</sup>

Questions about the beginning of human life or the differences between a person and a human being contain a complicated philosophical feature, which is why no single answer can be formulated or depending on the prism from which we look at the question the answer is different.

## **THE MORAL STATUS OF THE HUMAN EMBRYO**

The moral status of the human embryo in the early stages of its embryological development is still a pressing issue in the field of bioethics due to medical reproductive techniques, as well as some forms of contraception that prevent embryo implantation. Also, the moral status of the human embryo in the late stages of embryological development involve other ethical issues, the most commonly discussed of which is abortion. As a result, if human embryos have the moral status of human beings, then they have the full range of human rights, including the right not to be killed in medical experiments and the right not to be sacrificed by the reproductive acts of others.<sup>15</sup> Moral status is a basic concept in the field of bioethics, and its attribution to certain entity results in major consequences on the treatment applied to it. Thus, "To have a moral status means to be morally remarkable or to have a moral position, an entity to which moral agents have, or may have moral obligations. If an entity enjoys a moral status, then we cannot treat it the way we want, but we are obliged, in our deliberations, to give weight to its needs, interests, or well-being."<sup>16</sup>

In order to outline the moral status of the human embryo we have to relate to the differences between a human being and a human person, or the characteristic of personality is what defines a human person. The moral status of the embryo inevitably intertwines with the need to establish the beginning of human life, at what point in development the being appears with a serious right to life, and if the mere potential of the person is sufficient for it.

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<sup>14</sup> Moore KL 1989 *Before We Are Born: Basic Embryology and Birth Defects*. WB Saunders Company, Philadelphia, USA, 72.

<sup>15</sup> Brown M.T., The moral status of the human embryo, *Journal of Medicine and Philosophy*, 43: 132–158, 2018, pag. 132

<sup>16</sup> Warren, M.A., 1997. *Moral Status. Obligations to Persons and Other Living Things*. Oxford University Press, Oxford-New York.

From another perspective, if the mere potentiality confers to the fetus an indisputable right to life, we could assume that the only reasons why it would be possible to terminate a pregnancy would be the risk to the mother's life/health or the presence of an incurable defect that would be depriving the future born from the prospect of becoming a person. Under these conditions, we could assume that the contraceptive method as the morning-after pill would have the effect of a "murder". Many philosophers of the last century have argued that neonatal infanticide is morally permissible, and the view that there is a right to life from conception often belongs to religious cults.<sup>17</sup> The views set forth above seem implausibly exaggerated, and the attempt to find a "middle way" refers us to the comparison already analyzed in this work, that of distinguishing between a living human organism, a person, and a human being.

To delve into the essence of the need to assign a concise moral status, I consider it necessary to analyze the bioethical implications that would result from the case of the blastocyst. Thus, if we are talking about the blastocyst, in the 7th or 8th day after fertilization, its moral status would be comparable to that of transplantable organs or tissues. The granting of such a status implies the prohibition of sale and purchase and therefore could not be considered as part of a heritage, nor could it be the subject in the case of a divorce division process. The policies governing the disposal of blastocysts or which parents no longer need should be formulated like organ allocation protocols.<sup>18</sup> The differences between these two categories are indisputable, but in both cases, their disposal should be transparent, fair, and bioethically justified. Moreover, such a status allows the establishment of a permissive regulation compatible with any form of contraception, the multitude of medical reproduction procedures, scientific research on both existing preembryos and creation for research purposes, or blastocysts are in no sense human beings and does not enjoy the right to life.

## PHILOSOPHICAL PERSPECTIVES

The way that scientists and philosophers investigate the nature of things is by examining their material or physical conformation, behavior, and capacities. It is wrong from a scientific and philosophical standpoint to try to reduce the human embryo only to a living material. Although life is a

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<sup>17</sup> Michael Lockwood, *The moral status of the human embryo: implications for IVF*, Reproductive BioMedicine, pag.17-20, 2005.

<sup>18</sup> Crockin, S. and J. Howard. 2010. *The Evolving Law and Policy of Assisted Reproductive Technology*. Baltimore: Johns Hopkins Press.



continuous process, the physical existence of the individual is finite, but the human being is left with something that transcends the physical barrier and makes us who we are. According to Parfit, the person is that entity that must be viewed separately from his brain, body or experiences, and what makes a person one and the same person at two different times is the psychological connection and continuity along with the right kind of cause.<sup>19</sup> The psychological connection consists in having special psychological connections, while psychological continuity consists in having overlapping chains of strong connection.<sup>20</sup>

Monotheistic religions and some philosophers believe that the entity that characterizes a person is the "soul", which is why the living being is composed of body and soul. Without a body, the soul cannot manifest its existence, and without the soul, the body cannot live or be animated. Consequently, in the absence of the soul, the human body can no longer be recognized as a person.

The great thinkers of past centuries were firmly convinced of the existence of the soul and the indissoluble connection between it and the body, Pythagoras: Plato, another philosopher of antiquity, accepted enlivening as the exact moment when human life begins, but denying the life of the fetus in the womb, or considering the soul as a divine entity, he it had to enter the body from the outside with the newborn's first breath.<sup>21</sup>

Aristotle was the first to explicitly address the question of when human life begins, considering "the soul as the cause and the first principle of the existence of the living body" Thus, in the opinion of Aristotle, the animating and differentiating into distinct parts has a term of 40 days for the males and 90 days for the females, the formation of the person taking place in these intervals of time.

## **HUMAN EMBRYOS SEEN AS PROPERTY**

The product of human conception - the embryo, is inevitably pursued by controversial issues related to their in vitro creation. The status of cryopreserved human embryos was the main issue in the 1983 case, in which the Rios couple from California who had two cryopreserved embryos in Melbourne, Australia, died in a plane crash. The husband had a favorable financial situation and had children from a previous marriage, and this

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<sup>19</sup> Parfit D 1984 *Reasons and Persons*. Clarendon Press, Oxford, UK, 200, pp. 203–4

<sup>20</sup> *Ibidem*.

<sup>21</sup> Carrick P 1985 *Medical Ethics in Antiquity*. D Reidel Publishing, Dordrecht, The Netherlands, p. 110.

situation sparked speculation about his inheritance, in the sense of inheritance only by those children or if the "orphan embryos" in this condition or after their birth the living could have a right to this inheritance.<sup>22</sup> The main legal challenge of this case was not the right of inheritance which, hypothetically, the embryos could benefit from, but whether the embryos are part of the succession asset. Thus, to help manage the case, a specialized commission was set up consisting of theologians, philosophers, scientists, and lawyers who recommended thawing cryopreserved embryos and letting them disintegrate naturally, motivating that the Rios spouses did not have consented to the donation of embryos, but consented to their use for research purposes.

Given the controversial and unprecedented nature of the case, its debate resulted in a massive protest that the government was forced to reject the commission's recommendation and required their cryopreservation. The reasoning behind the opponents of disintegration is both from a religious point of view and the attribution of these embryos the status of persons and the rights arising from the possession of such a status.

In the cases that followed, the legal approach was different, and the closest to recognizing the human embryo as a person was the decision of a 1989 Tennessee judge, named the Davis case. This is the case of a couple who, having cryopreserved embryos, divorced, and the ex-husband refused to transfer them to his ex-wife or any other woman. The judge favored his ex-wife's claim that "the embryo is a human being that exists in the form of an in vitro embryo".<sup>23</sup> The approach that was rejected on appeal by the Tennessee Supreme Court for refusing to legally identify embryos as persons, but did not go so far as to consider them property or mere objects. Thus, the court described them as part of a "provisional category" which is governed by sui generis rules, recognizing the interests of the husband by invoking his property right which gives him the full right to oppose the implantation of embryos.

From a legal and historical point of view, the right to property presupposes the existence of the right of disposal and destruction, and referring to human biological products, the courts recognize the donors of sexual gametes the right to prohibit the use or suspend cryopreservation of embryos resulting from sampling their genetic material. This right to "dispose" of the resulting embryos is possible due to the fact that normative acts do not give the embryo a specific status but rather focus on the rights of

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<sup>22</sup> Smith GP. *Australia's frozen orphan embryos: a medical, legal and ethical dilemma*. J Family Law 1985-6; 24(1): 27-41.

<sup>23</sup> Davis v Davis, Tennessee Circuit Court, 1989.

individuals in general and human rights in particular to decide on maternity / paternity issues.

As a result, when those who contributed to the in vitro creation of human embryos are undecided about their fate, their right not to become parents usually prevails over claims to become parents.

The claims that embryos are persons usually belong to religious authorities even if they have little legal support. Despite this, the legislation in some European countries offer legal protection to human embryos from conception, and some Latin American courts have invoked the beginning of human life from the moment of conception to protect or prevent the loss of embryos. In many countries, courts and legislators consider human embryos in vitro worthy of special respect as a form of human life, which is why they regulate their creation/use in medically assisted human reproduction techniques or in scientific research.<sup>24</sup> Referring to the Davis case, the intention of the courts to treat cryopreserved embryos and stored through the prism of property rights. Another approach involves recognizing the negative emotional impact that the loss of embryos can have on those who planned to implant them. Thus, in the case of *Del Zio* (1978) a doctor deliberately disposed of the embryo of a couple that was created in vitro, and the jury in New York offered as moral compensation the amount of 50,000 USD for the intentional cause of emotional stress, avoiding placement a monetary value on the embryo itself.<sup>25</sup>

Another significant case concerns the situation of a couple who underwent in vitro fertilization at the Norfolk clinic, and after their husbands moved to California, they asked the clinic to send the embryo to Los Angeles, where they planned to complete the treatment by implanting the embryos. In turn, the clinic offered many reasons for refusal, including the risk of loss or theft in transit, the lack of approach from the ethics and research committee of the institute. Notwithstanding the above reasons, the Norfolk Federal Court approved the spouses' application emphasizing their status as owners and creditors, and in the absence of a contrary agreement, the clinic would be obliged to ensure the requirements of the rightful owners of the embryos. In short, the Court has applied the legal principles of the delivery of goods in one's possession.<sup>26</sup>

At another extreme is the view that the embryo could be classified as simple body tissue, but one thing is certain, embryos should be classified as

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<sup>24</sup> Dickens BM, Cook RJ, The legal status of in vitro embryos, *Int J Gynecol Obstet* 2010, 91-94.

<sup>25</sup> *Del Zio v Columbia Presbyterian Hospital*, 1978.

<sup>26</sup> Dickens BM, Cook RJ, *op.cit.*, 2010, pag. 92.

the "property" of their parents. Although it is preferable to have a special status, in reality the law does not distinguish too much the capacity of human embryos to reproduce and it is quite possible that the law avoids classifying the embryo as just a group of cells without a special moral status for fear of acute controversy. However, when courts state that, in the case of unused embryos, the contractual clauses are those that govern their disposition, human embryos are treated as property.

## CONCLUSIONS

Technological progress has opened up new dimensions for research in the field of biotechnology and as in most fields, the law is a few steps behind progress, which is why international treaties governing human rights are yet not adapted to these realities. Nowadays, the access to reproductive technologies offers possibilities that seemed impossible a few decades ago, but these new options present legal difficulties in interpreting existing human rights regimes. At the same time, the creation and use of embryos for scientific purposes lead to ethical difficulties because of the fact that these embryos lose their potential to develop into a person. The same thing happens with embryos that are diagnosed with severe genetic diseases.

The latest reproductive technologies enable the interference in every stage of human development, from conception to the formation of personality traits like sexual preference, which, in a society governed by moral principles, would only be advantageous, but in practice can be exploited as an instrument of discrimination.

In order to outline the human embryo with both a legal and a moral status it is important to analyze it from the perspective of possessing some rights, starting with the right to life. According to Article 1 of the Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations, "all human beings are born free and equal in dignity and rights", and in Article 3 emphasizes that "every human being has the right to life", to the freedom and security of his person ". The right to life is also based on other international documents, including the Convention for the Protection of Human Rights and Fundamental Freedoms, which states that "the right to life of every person is protected by law".

None of the international documents that protect the right to life have come to define it, despite the right's unquestionable significance. Furthermore, the terms "person" and "human being," which are the actual holders of the right to life, are not universally understood.

Intrauterine life begins at conception, and legal consequences don't become apparent until the embryo develops into a fetus. Until then, the

embryo's right to life is subservient to the pregnant woman's indisputable right to life. Given its uncertain nature defined by the absence of a unanimous opinion, the status of the human embryo oscillates between its definition as “biological material”, “item” or “person.” Thus, the human embryo benefits from the following definitions: a person who has the inalienable right to life, agglomeration of cells with a status similar to other human cells to which the prerogatives of the right of ownership apply or a potential person who should have a special legal status given his ability to become a person in the future.

In a highly controversial decision, the Tennessee Supreme Court refused to legally identify embryos as persons but did not consider them to be their property or mere objects. Thus, the Court described them as belonging to a "provisional category" which is governed by sui generis rules. In fact, if we considered the embryo as a person, respect for his right to life would be as important as the mother's right to life. In the same vein, the right to discontinue both an unwanted and a medical pregnancy would be compromised.

Due to the embryo's ambiguous legal status—it is neither *res* nor part of the person category—many discussions and inconsistencies arise from the lack of key definitions that would make it easier to define the status of embryos. It should go without saying that the demands of the modern society do not coincide with the classification of human embryos in either of the two main categories. Because of the repercussions of being a component of the commercial cycle and being a subject of sale, the embryo's inclusion in the category of goods is undesirable.

The challenge is the multitude of opinions that are hard to balance even with the pressing need for a single, globally regulated viewpoint on this challenging subject.

Personally, my opinion is based on the conclusions formed after analyzing an imaginary case launched in an experiment by George Annas: supposing a fire breaks out in the laboratory of a fertilization clinic and in one corner of the laboratory in a vessel are 10 embryos aged 10 days, and in the opposite corner is the 6-month-old son of the laboratory assistant. The firefighter who enters the laboratory realizes that he can only save the embryos or the newborn. To the question of who should be saved, the answer seems to be beyond any reasonable doubt: in every conceivable circumstance the child is the one who must be saved, any other solution being a serious moral error. This answer would be incompatible if the embryo enjoyed equal legal status.

Human embryos, through their potential to become human beings, are a powerful symbol of human life, but it is not possible to grant it an equivalent status to individuals, or any direct collision with the interests of already born human beings would deprive it of any legal protection.

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