

*The personhood of the human embryo  
can be grasped through  
careful and honest thinking*

# The personhood of the human embryo

*By Fr. Thomas Berg*

■ On August 9, 2001, Americans were ushered into a period of history offering opportunities for sustained moral reflection unlike any other in recent decades. August 9<sup>th</sup> marked the Bush decision regarding federally funded research on human embryonic stem cells. Then came 9/11, a war on terrorism, and homeland defense. Then came claims of the first successful human cloning. Then fell Enron. Then came clerical sexual abuse scandals. Then came corporate corruption scandals. Then the U.S. made preparations to launch its first war of choice in decades in an attempt to topple Saddam.

In the past twenty months, Americans have faced one moral question after another: What do we do with 'spare' embryos? How much

do we limit personal liberties in order to protect ourselves from terrorism? How do we curb corporate greed? What constitutes a 'just war'? Can an American citizen be classified as an 'enemy combatant' and be detained without trial? Should we impose limits on scientific research? Shall we clone ourselves?

Not least among these issues has been the moral and ontological status of the human embryo. On this question, most current moral reflection focuses on the pre-implantation embryo, from zygote through blastocyst stages, whether the product of natural conception, IVF, or somatic cell nuclear transfer (SCNT), otherwise known as cloning.<sup>1</sup> Reflection on this issue is no longer restricted to ethicists, theologians, and philosophers. The August 9<sup>th</sup>

Bush decision catapulted it into the public square where it appears to have become an enduring issue for the foreseeable future. By late March of 2002, it had already become the cause of not a little angst in Washington. Senators facing a vote on proposed anti-cloning legislation (in either the Brownback or Feinstein versions) realized that they could no longer bypass this question, as could the authors of *Roe*. Rather, they were being forced to proffer a square answer on the question. Matters of more immediate urgency to the Senate notwithstanding, the reluctance to proffer that answer may explain more than anything else why, in the 107<sup>th</sup> Congress, neither bill made it to the Senate floor for a vote.

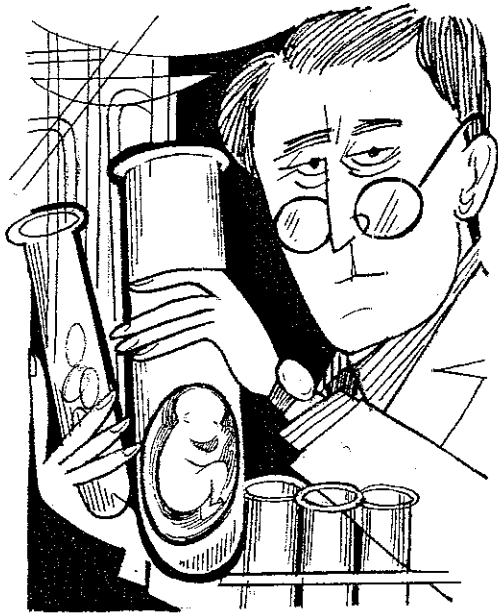
And as more and more Americans opt to face this issue squarely, they begin to realize that arriving at a sound and reasoned position has its price. It requires, above all, sustained moral reflection nourished by input from the life sciences, philosophy, theology and other disciplines. The President's Council on Bioethics is to be applauded on that score for the July 11, 2002 release of its report on human cloning—a formidable document that comes as a welcome catalyst for just such moral reflection. Arriving at an answer on the question of the moral and ontological status of the human embryo also requires the stomach to peer out over the vertiginous heights of large-scale moral consequences. And most of all, it requires the unimpassioned intellectual engagement of legislators, moralists, academics and the gate-keepers of culture inspired by an agenda-free drive to get at the truth of this matter. Is that a tall order? Undoubtedly. But preserving the health of our collective moral conscience makes rising to the occasion well worth the try. The following analysis of opinions and philosophical argument in favor of the personhood of the human embryo represents one more—I would hope—fruitful contribution to sustaining that necessary public debate.

## I.

I would begin by noting that the many voices of our popular culture weighing in on the question, whether journalists, academics, or policy makers, appear quite adept at discerning the non-personhood of the pre-implantation embryo. I would argue, however, that their approach too often lacks philosophical rigor. Whether in professional journals or op-ed columns, the literature on the topic often amounts to a hastily assorted grab bag of un-reflected ideological convictions dressed up as rigorous reflection—too often with a pretended appeal to common sense. That is *not* to say that most of academia, in denying the personal status and dignity of the zygote, has failed to do so on the ground of coherent theories of personhood. On the contrary, the theories abound.<sup>2</sup>

The mainstream theories hold that we are not born persons, but rather that we *become* persons. Some theories grant that the pre-implantation embryo, upon completion of its initial biological constitution (be it through natural conception, IVF, or SCNT) is a living organism of the human species, bearer of a unique human genome, a human *being* at least in the strict biological sense, although not yet a human *person*. Other theories will suggest that the product of conception is not *human* at all.

Each theory arbitrarily identifies the boundary point that (supposedly) marks the qualitative leap from pre-existing state (human or otherwise) to human *personhood*. They hold that this crucial passage to personhood takes place either prior to birth or at some point after birth. They look for the presence in this developing organism (whether prior to birth or after) of some specific operation, some specific degree of development or some actual ability as the significant cue of personhood, or what we might call the “person-point.” Such person-points, if not conclusive indicators of personhood, are held up as indicators



of at least some significant moral worth, perhaps sufficient to warrant treating the embryo with the same respect due to persons. On the flip side, many of these theories seem to imply (if not explicitly state) that, when such indicators cease to be present, we would be justified in excluding a given individual from the club of personal beings.

The major weakness of all these theories is the unreasonable degree of arbitrariness with which they identify the person-point. In the case of what we might call 'gestational personization,' for example, the theories hold that an unborn human being becomes a person—or at least merits the respect due to full-fledged persons—at some point during gestation. One theory posits the formation of the primitive streak as the person-point since the degree of cell specialization at this early stage of embryonic development (approximately 14 days after conception) assures the presence of a biologically human individual.<sup>3</sup> Another theory holds the person-point to be the formation of the central nervous system because only at this point does the being in question have *sentience*—a minimal capacity to experience pain or pleasure. This theory, in turn, presupposes that central to personhood is the ability to have

interests, and a minimal requisite for interests is the ability to experience pain or pleasure. Another theory points to the formation of the cerebral cortex as the person-point because it holds that personhood hinges on the actual possibility for *higher order mental activity*.

Yet another theory holds implantation in the uterine wall to be the person-point. Not all who look to this stage of gestational development as a morally relevant indicator would consider the embryo to be a person, yet they would be inclined to suggest that the embryo, once implanted, has at least some degree of moral worth, which increases as gestation advances. Adherents of this view might condone interventions against the fetus in early stages of development (such as first trimester abortion, fetal experimentation or harvesting of stem cells from early embryos), but have growing apprehension about like procedures in later stages, given the growing moral value of the developing fetus. If pressed, many a life science professional who holds to the implantation criterion is unable to explain *why* implantation ought to be considered the morally relevant state. A few know that the theory upholds implantation as the significant cue of personhood because its creators deem *relationality—the ability to engage in interpersonal relation*—to be the primary defining element of personhood. In this view, implantation constitutes an actual (albeit minimal) real relation between embryo and mother. While the implantation theory grants implanted embryos an increasing level of respect, it clearly would offer no basis for prohibiting experimentation on 'spare' embryos or their destruction for the production of stem cells.

In the case of what we might call post-partum personization, the theories hold that, while the embryo may be considered a human being or human organism, it becomes a person only after birth. Some of these theories posit a much narrower understanding of human relationality as the primary defining element of person-

hood: the unborn human being is constituted as a person, after birth, in virtue of his relation to already-constituted persons. Another brand holds that the human being does not become a person until after birth, because only then do we become the subject of rights. Rights-based theories of personhood look to a host of cues to indicate rights-bearer status and, hence, personhood: consciousness, reasoning, self-motivated activity, the capacity to communicate, the presence of a self-concept, and so on. Since zygotes, embryos and fetuses all fail to manifest these cues (so the reasoning goes), we can neither consider them rights-bearers nor, consequently, persons. It remains to be seen, of course, as Patrick Lee has pointed out, why the manifestation of these characteristics ought to be a necessary condition for having basic moral rights.<sup>4</sup>

Common sense certainly would seem to lend support to these theories and to their endorsement of using any one or a combination of such developmental benchmarks as the criterion of personhood: persons do, in fact, engage in reasoning; they are relational; they do have self-concepts; they do think, desire, and intend. If then it were possible and appropriate to predicate personhood of the pre-implantation embryo, it seems we would be compelled to do so in virtue of one of these or of some other peculiar cue of personhood. Those who deny the personhood of the pre-implantation embryo are quick to point out that a one-hundred-cell blastocyst neither engages in rational activity nor relationships; nor does it possess consciousness or a self-concept. Therefore, such a predication would be invalid. In other words, the reasoning goes: *We know* what we mean by 'person' Persons are individuals who actually do X, Y, and Z, but principally they engage in X. If this individual lacks X, then 'common sense' tells us that this individual is not presently a person.

But it is philosophically flippant to settle on *some operation, developmental stage or actu-*

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*al ability* as the criterion for personhood. Operation-based theories of personhood percolate down from the ivory tower into tabloids, chat rooms, and op-ed columns. Here the populace is told: if it doesn't walk like a duck, quack like a duck, swim like a duck and lay eggs like a duck, then it's not a duck. Such reasoning, however, lacks the kind of philosophical rigor which intellectual honesty demands when we apply ourselves to the serious question of the moral status of unborn human beings. The most elemental philosophical rigor assures us that *being* (or the *what* a something *is*) precedes *operation* (or the *what* a something *does* or is *actually capable of doing*). A duck may be in a coma, unable to walk, quack, or lay eggs, but it's still a duck. To address the question of the ontological and moral status of the pre-implantation embryo demands that we approach it at the level of being: What *is* this reality? What can the life sciences tell me about the zygote that will assist me in a thoroughgoing philosophical reflection leading me to grasp what the zygote *is*?

## II.

Would, however, that we could simply look through a microscope at a human zygote (mentally bracketing the ethics of in vitro fertilization for just a moment), and in virtue of some particular cue inherent to the zygote, immediately arrive at the judgment: "Oh, it's a person." But we know that such is not the case. In the

vein that I have described them, no such cues are to be had when it comes to the human zygote—small enough to be contained within the period at the end of this sentence. And with so little to go on, an inductive grasp of the personhood of the zygote, a grasp *cued* by some kind of *operation* consensually deemed inherent to personhood, is simply not possible. The concept of personhood itself is not the stuff of induction; it is not arrived at by means of scientific inquiry. Nor is it a faith statement. Personhood, on the contrary is first and foremost a thoroughly philosophical category. Consequently, the role of philosophy in this debate is paramount. To arrive at the judgment that the zygote is a person will necessarily involve us in a thoroughgoing process of deductive reasoning clothed in a structure of dialectic. Such dialectic, I would suppose, can take several forms. My own articulation goes as follows.

As a starting point, we must insist that proper philosophical consideration of this question begins, not with the category of *operation* (as the preceding theories suggest) or with the actual capacity for such operation, but rather with the category of *being*. In other words, when asking ‘Is the human zygote a person?’ we start on the premise that ‘person’ is not primarily a descriptor of a set of capacities and activities, but the descriptor of a *kind of being*, specifically the kind of being that is, in turn, the basis for specifically personal operations and activities.

Now, this kind of being—human person—necessarily entails existence as a human organism. All human persons are living human organisms. This is self-evident; its evidence is immediate to anyone capable of understanding the terms used.

The next point of consideration should be the unity and *subject identity* entailed in this kind of being. Existence as a person happens on a continuum. Granted, the comparison of discrete points along that continuum can yield

quantitative differences and even dramatic qualitative differences: Kirsten at age thirty years is qualitatively different than Kirsten at age one month; she is not different in *kind*, but rather different in the development of certain qualities. At age thirty, she enjoys a flourishing array of capacities that were yet to become actualized when she was only one month old—hence the *qualitative* difference. But what allows for the comparison in the first place is the continuation and identity of ontological subject on that continuum. Kirsten is Kirsten at age one month and at age thirty. The very intelligibility of human communities, of friendship, family ties, societal organization, of rights, duties, law and order, and falling in love is based squarely and irreversibly on this principle of subject identity. It is based squarely on it because of the manifest evidence of the truth of the continuity of the personal subject throughout the continuum of personal existence—a continuum that undoubtedly admits of considerable qualitative jumps. But prior to qualitative difference is ontological identity.

The principle of subject identity, as it concerns the human person, concerns simultaneously both the ontological and the biological as one reality: the being of the personal subject with, in, and through his or her organismal reality. Kirsten is one reality in two dimensions, the physiological-organismal dimension, and the psycho-subjective dimension. And, as I will suggest, we must consider her such throughout the entirety of the unified existence of that one whole.

As we have seen, some thinkers would disagree, suggesting that these two dimensions are wholly distinct, that the psycho-subjective reality that we will know as the self named Kirsten *happens* when superimposed at some point onto the developing organism that will be understood throughout her life as “Kirsten’s body.” Were this the case, Kirsten would not be the subject of that body prior to the ‘appearance’ of her self in relation to that body

(whether during or after gestation). But such thinking opens up an immense philosophical conundrum. Were the principle of subject identity (comprising both the physiological and the psycho-subjective dimensions) not the case, and were it the case that the personal reality "Kirsten" comes about at some point during gestation or after birth, how might these thinkers explain the immensely counterintuitive kind of—this is the only term to adequately describe it—'trans-substantiation' that would have to be worked in order to get Kirsten from what was not formerly Kirsten?

Someone may object that Kirsten does, indeed, come to be from what is *not* Kirsten, namely, from sperm and egg or from enucleated egg and somatic cell nucleus. I would be willing to grant that such is, in fact, the case. But this kind of substantial change is reasonable: in the process of normal procreation a sperm and an egg cease to exist, and in their place arises a new being (a human being, to be sure) with a genetic complement distinct from either sperm or ovum. The assertion I am here critiquing, on the contrary, is philosophically untenable: that Kirsten arises from some *thing* which is not Kirsten, even though that thing (the zygote) has a genetic complement identical with the young woman we know today as Kirsten! Such theories allow for at least two distinct *subjects* of that one biological continuum: Kirsten and some other thing

The unity we discover in Kirsten's body, however, throughout the continuum of her life indicates a unity of underlying ontological subject. It is utterly counterintuitive to deny that this body/subject unity extends all the way back to the zygote stage of her development. It is, in fact, legitimate for Kirsten to ask when she was conceived, where, and under what circumstances. In asking this, she is not asking about the conception of the preliminary organism to which her isolated Cartesian self was eventually associated! Rather, she is asking about the conception of her whole self

in the unity of physiological and psycho-subjective dimensions. The rationality of belonging to a family rests on our deeply held conviction that membership begins at conception. The very intelligibility of that conviction demands that we countenance in the human person a continuum of existence in both the physiological and psycho-subjective dimensions. Kirsten is one human personal reality in two dimensions; she is at once person and living human organism—physiologically, from zygote through adulthood, *one and the same* organism; psycho-subjectively, *the self-same subject* throughout each stage of physiological development from conception to death. That all living human organisms begin

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to exist at natural conception or as the result of IVF or SCNT is a matter not only of philosophical evidence, but biological fact, fact that the life science academician will deny at the risk of jeopardizing his own intellectual integrity and credibility

It is quite amazing, nonetheless, to come across life science literature so often suggesting that the product of IVF, cloning (and, we are to assume, the product of natural conception) is something “other than” the person who will eventually be—it’s hard to find the proper wording—associated to, or stem from, this “other” kind of organism. This is the thinking that underlies the language of “pre-embryo” and “potential person.” Ron Green of Dartmouth has gone so far as to declare that he and other members of the ethics board of Advanced Cell Technology would consider a cloned organism to be a “new type of biological entity”<sup>25</sup>—a view that many ethicists would likely project onto the pre-implantation embryo no matter what its manner of creation. Could Green really hold that there is no biological continuum from zygote to fully developed adult? Yet he and any sound philosopher must realize the stupefying philosophical and biological conundrums such thinking invites. How would Green reconcile this view with his further contention that, if nonetheless implanted in a womb, this new biological creation can become a full-fledged human person? How to explain philosophically that the human person in his biological reality stems from a non-human or pre-human thing that possesses the identical genetic payload as that latter-evolved person? The only real way to explain that kind of trans-substantiation is by denying the category of substance all together. If pressed, many of these philosophers, Green included perhaps, would own up to the fact that they do not look out onto a world of natural substances, but rather onto a universe of utterly material beings to which they simply apply the names and constructs that seem to best help us make sense of

it all—‘person’ included. That’s called nominalism. And I would dare say that an intellectually dim nominalism underlies the theories of “personhood” explored earlier and accounts almost exclusively for their thinness and arbitrariness.

It is not surprising that philosophers of this stripe label the principle of subject identity as so much “folk psychology,” a category better left to be deconstructed by our philosophical elites. But abandon that principle and you necessarily take culture where we know we would rather not go. The cultural dualism and practical nihilism so characteristic of our age are the direct consequence of the abandonment of an anthropological view which holds that we are one substantive, unified and identical reality in two dimensions, the psycho-subjective (or, spiritual) and the physiological. We abandon the principle of subject identity only at the cost of rendering interpersonal relations and societal living utterly unintelligible.

### III.

My contention that the full dignity of human personhood is to be accorded to the zygote in view of the principle of subject identity can be met with three objections. The first objection is that the principle cannot possibly hold during the first fourteen days of gestation due to the possibility of monozygotic twinning. During that period of time, it is argued, we do not know how many individuals may arise from the early embryo. It is, in fact, entirely reasonable to argue that the individuality (and, therefore the subject identity) of the zygote is hard to maintain given the possibility of monozygotic twinning, a phenomenon which can occur within the first two weeks of gestation and in which two unique individuals (identical twins) arise from and have as point of biological origin one and the same zygote. But let me also suggest that the possibility of there being present more than one individual during this time-frame does not argue against treating the orig-

inal zygote as an individual. Over the past several years solid and well-reasoned philosophical responses have been given to this objection which insist that the divisibility of the zygote need not lessen or place its unique individuality in doubt. While it may be the case that the zygote possesses its own possibility of generating another life, this does not warrant us (neither morally nor *logically*) to cease treating the zygote as an individual.

The second objection is an off-spin of the first. Most embryologists believe twinning occurs somewhere between the two-cell and eight-cell stage of development, when one of these early blastomeres, still totipotent, separates and begins its own biological and existential journey toward full-fledged human existence. Objectors will then tell us that, if we are to accord personhood to the zygote, we must accord it to each and every one of the first four to eight totipotent blastomeres that constitute the early embryo, since any one of them could potentially be on the way to full human existence. First I would respond that the best embryologists tell us that the totipotentiality of those blastomeres probably only remains up to, but not beyond, the four-cell stage. While we must grant the possibility that any one or all of these four cells could be on its own ontological itinerary to constitute a unique human individual, sound embryology also tells us that these four cells, to the extent they do not separate, constitute parts of a whole. They work and interact together under the overarching plan of one organism which is this early embryo constituted by these four cells. And each of its four cells is rapidly on its way toward engendering a whole array of specialized cells. To the extent they do not separate, they do not constitute individual organisms, but are *part of one organism*. That is biological fact. It is that one organism, not its parts, which must be accorded the respect due to persons.

A third objection (taking the second to its extreme) counters that, if we are to accord per-

sonhood to the zygote, then we must accord it to each and every cell of our bodies since time and technology will one day allow us to reprogram any somatic cell in our body and restore it to a state of totipotentiality, after which it can be cloned and give rise to a full-fledged human organism. In other words, the argument goes, thanks to advances in biotechnology, the skin cell off my nose is as much a potential human being as the zygote, as much a human life as the zygote.

To this we can respond that the skin cell off my nose cannot be correctly described biologically as a 'living human organism.' 'Organism' bespeaks an overarching directionality, an overarching plan toward a human wholeness of existence that the somatic cell in and of itself is lacking. The somatic cell does certainly enjoy its own degree of completeness and unity, but that unity is overridden by an overarching functionality by which that somatic cell exists as, and only as, a *part of a whole*.

When we behold a human zygote, on the other hand, no embryologist worth his salt would deny that we grasp a *human organism*. Enter here the valuable knowledge that the life sciences bring to this debate. No embryologist is going to deny that the product of natural human conception, IVF, or SCNT is a human organism. When I see a human zygote, I am grasping neither a whole human body, nor a *part*, of a human body; rather, I am grasping a whole human organism which is necessari-

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ly at the beginning stage of what will later be that same biological organism in a state of full flourishing. I grasp a whole organized, self-directing organism that the life sciences tell me is totipotential. I grasp a whole, not a part

True, a frenzy of research is now rapidly uncovering the tools that will allow us to reprogram virtually any cell in our body, rendering it totipotential. That potential cannot be used as an argument, however, to suggest that any somatic cell is just as potentially a whole human being as the zygote. Any somatic cell may, indeed, have some kind of potential for independent existence given that it could be reprogrammed, recover a state of totipotentiality and then be cloned. But what kind of potential is that? Thank goodness that sound moral philosophers like Robert George and Patrick Lee are inviting enlightened readers to reconsider that old fashioned (Aristotelian to be sure) notion of 'active' vs. 'passive' potential. They have convincingly argued on this point and I believe I reiterate their thought here. The zygote possesses a potential for fully flourishing organismal existence in and of itself; that potential is not "passive," meaning that it can be released only if exercised upon by some external agent as would be the case of the somatic cell. Rather, the zygote's potential is best labeled 'active,' meaning that such potential is *present* as the immediate source of all the auto-development of the zygote. As the zygote develops, implants, and grows during further stages of gestation, that potential becomes more and more actualized. That potential is not simply actualized in virtue of implantation or in virtue of the influence of the mother; that potential is primarily actualized in virtue of what the zygote *is* in and of itself.

#### IV.

The foregoing objections and the responses I offer bring my argument to a close for now. Enmeshed within my dialectic the careful reader will have discovered the elements

of a piece of deductive reasoning: All persons are living human organisms; but all living human organisms begin to exist at natural conception or as the result of IVF, or SCNT; it follows, then, *that all persons begin to exist* at natural conception or as the result of IVF, or SCNT. In other words, if existence as a human organism begins at natural conception or by artificial means of reproduction, and all persons are organisms, and the organism that person X is today is the same organism that began with the conception that has been biologically, historically and logically identified as the beginning of his or her existence, then, by the very principle of subject identity, we can grasp that the organism which began at that conception was, and continues to be, the person that person X is today

Americans seeking the truth on this matter will get little help from squeamish politicians with no stomach for the intricacies of moral philosophy. And their search will be as impeded by agenda-driven liberals too quick to make superficial appeals to common sense, as by agenda-driven conservatives too quick to undermine reasoned argumentation with emotional outbursts and misplaced pontificating. Yet, it is by no means impossible to get beyond these two extremes, and we would be wise to do our utmost to sustain a lively public discussion of this issue. Silence, apathy, and flippancy on such a monumental moral issue will only further incapacitate the mechanisms of moral demise. Sustained, thoroughgoing and rational consideration of this issue, on the other hand, will be a welcome sign that Americans still understand that our nation's moral health hinges on a vibrant moral culture. Of course, our moral health depends on more than lively debate; it depends on grasping moral truth and living in accord with it. ■

<sup>1</sup> My discussion presupposes that sooner or later SCNT will successfully yield an embryo that sur-

vives at least to the blastocyst stage. I exclude reference to other cloning technologies, as well as any reference to attempts at successful human parthenogenesis, a form of asexual reproduction in which a human egg with a full genetic payload (a diploid oocyte), is stimulated in order to develop into an embryo. In the life sciences community, the jury is still out on whether biotechnology will one day enable mammals to sustain a 'parthenote' (the name given to activated oocyte as it undergoes early cell division) to full term. In the philosophical community, the jury is still out on the ontological and moral status of the parthenote. Because of their very peculiar genetic constitution, mammalian parthenotes are unable to survive beyond a few cell divisions. This is an indication to some ethicists that the parthenote may be so severely deformed and biologically incapacitated as to not constitute genuinely human life.

<sup>2</sup> For a more in-depth introduction to a number of these theories an excellent resource is Patrick Lee's *Abortion and Unborn Human Life* (CUA, 1996).

<sup>3</sup> Of all the theories I will mention in this section, this one presents some formidable challenges to the argument I will formulate further ahead. Many who uphold the primitive streak criterion do so on the ground of serious and detained moral reflection. Such effort is often laudable for its genuineness and principled character. Well known in

this regard is the work of Norman Ford, S.D.B., *When Did I Begin?* (Cambridge University Press, 1988). While in the present article I offer only a brief and more generalized response to this position, I would nonetheless suggest that my argument constitutes a serious challenge to Ford's position or to any theory which gives priority to the categories of operation, activity, or potential for activity (in Ford's regard, for example, the potential for monozygotic twinning) over the category of being.

<sup>4</sup> *Abortion and Unborn Human Life*, 11.

<sup>5</sup> On November 25, 2001, Advance Cell Technology (ACT) announced publication of its research on human somatic cell nuclear transfer and parthenogenesis. According to the press release, the company reported to have used parthenogenesis to create a number of "many-celled embryos resembling blastocysts." By means of SCNT, the company also claimed to have created at least one human embryo which developed "to the six-cell stage." In January 2002, Michael West, CEO of ACT, published the story of their attempted cloning in *Scientific American*. Ron Green is director of the Ethics Institute at Dartmouth College and chair of the ethics advisory board of ACT. His comment is taken from a side-bar in that article in which he discusses the ethics of ACT's attempted cloning. See Jose B. Cibelli, Robert P. Lanza and Michael D. West, "The First Human Cloned," *Scientific American*, January 2002, 48.



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*Reverend Thomas Berg, I.C., joined the Legionaries of Christ in 1986. He served for two years as professor of Classical Humanities at the Legionary novitiate in Cheshire, Conn. He earned a Ph.D. in philosophy in 1999 at Rome's Pontifical University, Regina Apostolorum. He specializes in natural law theory, moral theology, and phenomenological personalism. Currently he is professor of philosophical ethics at the Center for Higher Studies of the Legion of Christ in Thornwood, N.Y. He is also founder and Senior Fellow of the Westchester Institute, a non-sectarian think-tank dedicated to fundamental research on the Western moral tradition.*