

The background of the entire cover is a solid reddish-pink color. Overlaid on this background are numerous white silhouettes of people in various poses, including standing, walking, and interacting. These silhouettes are arranged in horizontal bands across the top, middle, and bottom of the cover. The title 'Conceiving the Embryo' is printed in a large, bold, black sans-serif font, with 'Conceiving' on the first line, 'the' on the second line, and 'Embryo' on the third line.

Conceiving the Embryo

Ethics, Law and Practice
in Human Embryology

Edited by
Donald Evans

A logo consisting of a yellow square with a blue border, located on the left side of the cover.

Martinus Nijhoff Publishers

Conceiving the Embryo

Ethics, Law and Practice
in Human Embryology

Editor

DONALD EVANS

Director, Centre for Philosophy and Health Care
University of Wales, Swansea
Swansea, Wales

Assistant Editor

NEIL PICKERING

Centre for Philosophy and Health Care
University of Wales, Swansea
Swansea, Wales



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To the memory of Patrick Steptoe

Clinician and pioneer of IVF services

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Donald Evans
Swansea, January 1996

CONTRIBUTORS

Stephen Beasley, Community Pharmacist, R.A. Hopkins Ltd., 152 Sundon Park Road, Luton, Beds LU3 3AH, England.

Judge Christian Byk, Associate Professor of Law, University of Poitiers, France.

Panagiota Dalla-Vorgia, Department of Hygiene and Epidemiology, University of Athens Medical School, Greece.

Prof. Dr. Drs. h.c. Erwin Deutsch, Faculty of Law, University of Göttingen, Germany.

Donald Evans, Centre for Philosophy and Health Care, University of Wales, Swansea, Singleton Park, Swansea, Wales.

Martyn Evans, Centre for Philosophy and Health Care, University of Wales, Swansea, Singleton Park, Swansea, Wales.

Simon Fishel, NURTURE, Department of Obstetrics and Gynaecology, University Hospital, Queen's Medical Centre, Nottingham, England.

Søren Holm, Department of Medical Philosophy and Clinical Theory, University of Copenhagen, Blegdamsvej 3, DK-2200 N, Copenhagen, Denmark.

Arlene Judith Klotzko, J.D., Research Fellow in Medical Law and Ethics, The London Hospital Medical College, England, Research Fellow, The Center for Bioethics and Health Law, Utrecht University, The Netherlands.

Dr. József Kovács, Semmelweis University of Medicine, Institute of Behavioural Sciences, Department of Bioethics, Budapest POB 370, H-1445, Hungary.

Wiesław Lang, Faculty of Law and Administration, Nicolas Copernicus University, Toruń, Poland.

Jaime Vidal Martínez, Profesor Titular de Derecho Civil, Departamento de Derecho Civil, Universitat de València, Spain.

Alex Mauron, Fondation Louis Jeantet de Médecine, C.P. 277, CH-1211 Genève 17, Switzerland.

Maurizio Mori, Politeia. Centro per la formazione in politica ed etica, Milano, Italy.
Editor *Bioetica. Rivista Interdisciplinare*.

Associate Professor of Law Linda Nielsen, Dr. juris, Faculty of Law, The University of Copenhagen, Denmark. Member of the Danish Council of Ethics.

Vassil Prodanov, Institute of Philosophical Research, Sofia 1000, Patriarch Evtimii 6, Bulgaria

Alicja Przyłuska-Fischer, Zakład Historii Medycyny i Filozofii, Akademia Medyczna, ul. Żłota 7, 00-019 Warszawa, Poland.

Knut W. Ruyter, Center for Medical Ethics, University of Oslo, Norway.

Judit Sándor J.D. LLM, Central European University, Budapest College, Hungary.

Zbigniew Szawarski, Centre for Philosophy and Health Care, University of Wales Swansea, Singleton Park, Swansea, Wales.

Jean-Marie Thévoz, Fondation Louis Jeantet de Médecine, C.P. 277, CH-1211 Genève 17, Switzerland.

Prof. dr hab. Eleonora Zielińska, Faculty of Law and Administration, Warsaw University, Poland.

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Introduction

1. CONCEIVING THE EMBRYO

Donald Evans
Centre for Philosophy and Health Care
University of Wales, Swansea
Singleton Park
Swansea
Wales

It might be thought a rare thing when philosophical questions have a direct bearing upon practical issues. Certainly the development of analytic philosophy during the second half of the twentieth century has apparently laid aside an interest in what might be called the big questions of nature and the world, questions with which philosophers from the time of Plato and before were very much engaged. Whether this impression is accurate or not is not a matter of concern here; suffice it to note that it is at least an understandable one. Recent developments in biology and especially in human embryology have provoked questions about the character of human life which are intimately bound up with important desires and life-plans which people have. Planning and securing one's own biological offspring are taking on new and challenging dimensions which offer both hope to many who are naturally denied the possibility of becoming parents of their own genetic heirs, and threats to long established conceptions of mankind's role in the bringing to be of new generations. At the heart of the weighty problems which confront practitioners and patients alike in the field of assisted procreation and human embryo research is the issue of the status of the human embryo.

How should the human embryo properly be conceived? If this is asked as a moral question then before we shall be able to begin to formulate an answer we shall be forced utter those selfsame words as a philosophical question. How can we know how to deal with the human embryo until we first know what it is that we are dealing with? How can we determine the ways people should be enabled to conceive human embryos, whether by use of donated gametes, surrogate wombs, technical procedures or commercial transactions before we are clear about what the implications of all these means are for the life which they facilitate or in which they intervene? If Philosophy is capable of anything then it should be capable of clarifying issues of a conceptual (*sic*) sort, that is, of helping us to get clear about what we mean when we talk of human embryos or anything else. If Philosophy can come up with some answers which are incontrovertible then such activity might make it possible for us to answer many of the questions about what we ought or ought not to do and about what we ought or ought not to allow other people to do with human embryos. But can Philosophy help us in this way? If so how far can it go? If not then how shall we decide what should or should

not be done with human embryos?

These are among the central questions which are raised in this collection of essays. Most of them were written in the course of a coordinated research action funded by the European Commission over a period of three years from 1992-1995. The project involved philosophers, social scientists, lawyers and scientists from a large number of countries in Western, Central and Eastern Europe. These scholars set out to compare the various cultural and social contexts in which talk of the human embryo occurs, the variety of practices involving human embryos in European countries and the philosophical significance of these practices for determining the status of the human embryo, and the variety of legislation and regulation which exists in Europe governing uses of human embryos. Finally in light of the fruits of this research the group were concerned to ask whether there should be public control of activities involving the human embryo and whether it would be possible and desirable for these to be harmonised throughout European countries.

Biological facts concerning the human embryo have come to light during the past twenty years or so (indeed new facts are emerging almost by the month) which force us to reconsider at least the assumptions which many of us might have made about the earliest stages of the development of human lives. It is now possible to describe the very earliest stages of the development of human lives in detail which hitherto has been unimaginable.¹ These details have had a profound impact on the way in which some observers view the human embryo but have left others unmoved. The nature of these changes or the resolution with which prior views are maintained is of interest to philosophical enquiry. What is the status of such knowledge and how is it related to the moral issues of human embryo research and manipulation? For example, in much philosophical talk about persons various criteria are called for to determine whether an entity is a person or not and most notable amongst them are rationality and sentience.² Without a developed nervous system no living entity can satisfy either of these criteria. Thus the definitive account of early embryological development of the human being which is now possible *vis-a-vis* the development of the central nervous system appears unquestionably to rule out the possibility that the very early embryo is a person, and this, it might be thought, has considerable importance in determining what can or cannot be done to such entities.³ It would appear then that there is a direct relationship between the biological facts and the moral possibilities. But things are not always as they appear to be and here we must look carefully at the nature of the argument employed by the proponent of the non-person or pre-person account of the early embryo.

There are numbers of ways in which philosophical argumentation proceeds which are illustrated in the essays which follow. Perhaps the line of argument most threatening to the position which accords the early embryo the moral status of a person from the 'moment' of fertilisation is that which endeavours to demonstrate that one of the biological facts recently brought to light dictates that we no longer regard the early embryo as *a* human life at all and that to maintain such a perception would be to fly in the face of logic. Of course people cannot be forced to think rationally and they might

in fact persist in their earlier view but that would have been shown to be a confused view and one not worthy of defence - and certainly not one on which regulation of the treatment of human embryos should be based. This argument does not simply deny to the early embryo a quality without which it could not be described as a *human* being - the kind of argument referred to above. Rather it denies to the early embryo the possibility of being regarded as *a* life at all and only consequently as being a life of a certain sort, that is a human life. The embryological fact appealed to in such arguments concerns the individuation of the embryo.⁴ Biology claims to have shown that at the four cell stage in a normal fertilised ovum each cell is both pluripotent (has the capability itself of developing into a complete embryo) and totipotent (has the capability of becoming either embryonic or placental tissue). It has also shown that at such a stage with some fertilised ova there is no potential for development into an embryo and that with others there is a possibility of splitting and the production of monozygotic twins.⁵ Each of these possibilities places a question mark over the description of the early embryo as *a* life. This is not to question that it is alive or that it is human, any more than one questions this in the case of one of my blood cells. It is to question that the cell mass constitutes a life in its own right and that therefore any moral rights attach to it or that its existence imposes any moral obligations on others. The confusion between biological individuality and human individuation is exploited by those who argue that the biological development of the early embryo into the foetus into the person demonstrates that throughout we are involved with a human life.⁶ The strongest interpretation of the label *undifferentiated cell* would commit us to the view that biology has already done enough to establish this position.⁷ Others might favour a weaker interpretation by resisting the notion of a stochastic (random) development of embryo into foetus and holding out the possibility that there may yet be more information to be yielded by biological investigation which would demonstrate that there are determining factors built into the early cells which dictate the possibility of twinning thus enabling us to talk of two human lives at the earliest stage.⁸ The notion of an undifferentiated cell employed here would simply be that there is no difference between the cells as far as is currently known - leaving open the possibility of revision in the light of later biological discovery. With respect to the fertilised cell destined for non-development into a foetus, for example one which would become a hydatidiform mole, it could be claimed that the nature of the tissue ruled it out of consideration as a human being by its not constituting a genuine human genotype.⁹

Proponents of the strong view described above might describe proponents of the weaker view as clutching at straws in order to preserve a deep-going conception of the nature of human life. Whilst this is a possibility in given cases it cannot be demonstrated that it must be so. Indeed there are many kinds of influences which not only determine which conclusions we are reluctant to draw whatever the arguments presented to us but also, more importantly, determine what considerations weigh heavily with us in argumentation. That is, whether a consideration counts as a good reason for drawing a given conclusion may vary from person to person within limits.¹⁰ These limits may be imposed by a variety of cultural or social settings which together identify