

ISSUES IN PERSPECTIVE

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The Right to Be a Father

Modern technology is changing the definition of fatherhood and the rights that go with it. Consider two cases: (1) A pregnant woman wants an abortion. Her husband does not. Should he have a say in her decision? (2) A woman wants to become pregnant with frozen embryos. Her ex-husband opposes the decision. Should he have a say in the decision? Legally, the answer is no to the abortion case and yes to the frozen embryo case. The 1992 Supreme Court case, *Planned Parenthood v. Casey*, effectively left the decision of whether to have an abortion entirely up to the woman. In that case, when it was under the Court of Appeals review, Judge Samuel Alito wanted to uphold a Pennsylvania law that required women to notify their husbands when seeking an abortion. The Supreme Court did not agree with his position. Listen to the logic of the Court's position as summarized by Marsha Garrison of the Brooklyn Law School: The courts recognize that the "embryo is in the woman's body, it's within her and can't be separated from her, so it's not just her decision-making about whether to bear a child, it's about her body." In the matter of frozen embryos, the situation changes in the eyes of the law. June Carbone, law professor at the University of Santa Clara writes, "There's nothing that involves her physical integrity and there is a notion that this would be a violation of the parenthood of the father" not to take his wishes into account. The watershed case was a 1992 decision by the Tennessee Supreme Court, which ruled that a man could prevent his ex-wife from using or donating embryos that they had created during their marriage in an attempt to have children. Arguably, there is a clear dichotomy in the courts as they view abortion and frozen embryos. This dichotomy is reflected in the comments by Michael McCormick of the American Coalition for Fathers and Children: "A mother can terminate a pregnancy and the father has no say. On the other hand, a mother's able to make a unilateral decision to keep the child and saddle the father with 18 years of child support." McCormick's group is attempting to get the courts to accept the centrality and the simple logic of the father in both abortion and frozen embryo cases.

There is one faulty piece of logic in the comments by Marsha Garrison cited earlier. The issue is not "about her body;" it is about the life growing inside her body. The horror of *Roe v. Wade* is that it set the legal boundary that the life growing in the mother's womb has no recognized rights or protection. The 1992 Casey case reinforced this by arguing that the father has no rights either. Once again, the Bible gives us clear guidelines to follow. God's design is for a male and female to come together in marriage and have children. Both are important in the process and both are of equal value. In addition, the child growing in the mother's womb is of infinite value and worth as well (see Psalm 139). Currently, US courts are ignoring the simple yet profound guidelines of God's Word. Until and unless the courts return to those guidelines, confusion will reign.

One final thought on the ethical issue of frozen embryos mentioned above. Typically, when

in vitro fertilization (IVF) is used, excess embryos result and those not implanted into the mother's womb are then frozen and stored in a growing number of clinics throughout the United States. Most estimates now suggest that there are over 500,000 frozen embryos in the United States alone. But the existence of these frozen embryos raises profound ethical and legal challenges. For example, in the spring of 1998, two couples—one divorced, one in the process—had been fighting over what to do with their fertilized ova—four-to-eight celled embryos—that were processed and frozen in happier times. In one case the wife wanted the embryos implanted in her womb and, in the other case, the wife wanted the embryos destroyed. In both cases the husbands fought in court to deny their wives' wishes. As this practice grows, the legal and ethical issues associated with frozen embryos become more complex. For example, the United Kingdom has a law that frozen embryos cannot be kept frozen for longer than five years. In 1997 over 3000 frozen embryos were nearing that five year threshold and faced destruction. The Vatican condemned the imminent destruction; couples and organizations from all over the world offered to "adopt" the embryos. They were destroyed. In Australia, a couple had previously frozen several embryos, produced through in vitro fertilization, but were tragically killed in a car accident. The legal authorities struggled to determine whether the embryos could legally inherit their parents' estate.

I believe that a human embryo is a person of value and worth. Therefore, the existence of frozen human embryos requires reflection and serious biblical thinking. Two conclusions seem warranted:

1. Since one of our goals as Christians must be the protection of embryonic life, if "spare embryos" are produced through IVF and they are not used for implantation, it is ethically acceptable for these embryos to be frozen, provided that they are used, via future implantations, to produce a baby, not for experimentation. (This, however, should not be understood to condone IVF, which I believe is ethically wrong. Once human embryos are produced through IVF, their existence is not an ethically neutral issue. Since God is concerned about the human embryo (see Psalm 139:16), as good stewards, we must be too.)
2. Once the embryos are frozen, the major ethical guideline must be to protect them from harm. It is ethically unacceptable to permit these frozen embryos to be used for experimentation of any kind. Rather, the only ethically sound option for frozen embryos is quick implantation in a mother's womb. Ethicists John and Paul Feinberg write that ". . . while we believe an IVF-conceived embryo has been produced by immoral means, once it exists, there is still an obligation to treat it morally. Killing it or allowing it to die is immoral. Freezing it and later implanting it . . . at the current state of our technology . . . seem the most likely ways to protect the child, and that must be the overriding concern.

See Pam Belluck's editorial in the *New York Times* (6 November 2005); Robert P. George and Christopher Tollefsen, *Embryo: A Defense of Human Life*, pp. 19-26; James P. Eckman, *Christian Ethics* (2013 Revised Edition), pp. 50-51.