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Assisted Reproductive Technology and the Catholic Church:

Latin America and Beyond

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I have been asked today to discuss the Catholic church's position on assisted reproductive technology—known as ART for short. Most of you are well aware of the Catholic church's opposition to procedures and medications that can be used to prevent conception or end pregnancy. Around the world, the Catholic church is one of the most vocal opponents of contraception and abortion. But you may not be aware that the Catholic church is similarly opposed to most forms of ART, which seems surprising given its avowedly pro-natalist positions. After all, you would think the church would be eager to have as many babies born as possible. But as with abortion and contraception, the church's opposition to ART stems from its failure to recognize the primacy of conscience, the autonomy of women and couples in reproductive health decisions and the need for a compassionate sexual ethic that takes into account the realities of peoples' lives.

The Catholic church first laid out its official teaching on the use of ART in the encyclical *Donum Vitae* (The Gift of Life) in 1987 and updated it recently in the encyclical *Dignitas Personae* (The Dignity of the Person). The teachings on ART in both these encyclicals

refer to the central teaching of the infamous *Humanae Vitae* encyclical that banned the use of modern contraceptive methods by Catholics. *Humanae Vitae* stated that all acts of sexual intercourse must have both unitive and procreative aspects. The unitive aspect refers to the uniting of the married couple in the act of sexual intercourse. Obviously, the procreative aspect refers to the openness to conceive a child in the act of sexual intercourse. Accordingly, the Catholic church finds illicit any form of ART that separates the unitive and procreative aspects of sex. So both artificial insemination and in vitro fertilization are forbidden by the Catholic church because conception is separated from the act of intercourse. Similarly, any form of ART in which sperm are obtained by masturbation is forbidden because the collection of genetic material is separated from the act of intercourse.

Secondly, the Catholic church states that the “human being is to be respected and treated as a person from the moment of conception,” which also causes it to forbid in vitro fertilization on the grounds that many embryos, in their opinion, are destroyed in the process or frozen for later use, which the church finds objectionable. The church also forbids any ART procedure in which a third party is utilized, whether it be genetic material (egg or sperm) from a donor or the use of a surrogate mother.

So if the Catholic church bans artificial insemination, in vitro fertilization and surrogacy, what types of ART does it allow. According to *Dignitas Personae*, allowable procedures are those “techniques which act as an aid to the conjugal act and its fertility,” in which the “medical intervention respects the dignity of the persons when it seeks to assist the

conjugal act either in order to facilitate its performance or in order to enable it to achieve its objective once it has been normally performed.” Generally this is taken to mean that low-tech procedures to assess fertility, such as sperm counts or diagnostic imaging of uterine and tubal structures, are acceptable, as is the treatment of problems with normal ovulation, including the use of the birth control pill to regularize menstrual cycles. Specifically, “techniques aimed at removing obstacles to natural fertilization” are allowed, such as hormonal treatments for infertility, surgery for endometriosis, and removing a blockage in a fallopian tube. If surgery cannot restore tubal function, transfer of an egg past the point of blockage into the uterine cavity—called low tubal ovum transfer (LTOT)—preceded by normal intercourse during the fertile phase is acceptable, according to the U.S. Conference of Catholic Bishops.

Less clear is the status of Gamete intra-fallopian transfer (GIFT), a procedure in which sperm and an egg obtained from an act of intercourse between a couple are transferred to the woman’s fallopian tube, where fertilization can take place. Some Catholic theologians argue that this procedure is acceptable if the sperm are obtained through a “licit” method (i.e., not masturbation) because the conception occurs in the woman’s body. This procedure is limited to women who have normal fallopian tube structure and to men who have normal sperm count. The recent papal encyclical did not rule on the acceptability of this procedure, which is offered by some Catholic medical centers in the United States as the only form of ART allowed by the Catholic church, and the U.S. Conference of Catholic Bishops says the technology is “under discussion.”

Also under discussion, according to the U.S. Conference of Catholic Bishops is artificial insemination in which a woman is inseminated with sperm obtained following a natural act of intercourse with her husband and technologically prepared (washed, etc.) prior to insemination. *Dignitas Personae* seems to leave the door open on this procedure, noting: “Homologous artificial insemination within marriage cannot be admitted except for those cases in which the technical means is not a substitute for the conjugal act, but serves to facilitate and to help so that the act attains its natural purpose.”

As you can see, the ART techniques that the Catholic church does approve of, at least tacitly, such as LTOT, GIFT and homologous artificial insemination, are not beneficial to the majority of infertile couples because they require basically normal genetic material or reproductive anatomy. They are at best helpful for couples who suffer from fairly minor fertility problems. But beyond the problem of the Catholic church denying approval of modern ART techniques to Catholic couples who desperately want a baby is the further problem of the church’s political attempts to ban anyone, no matter what their religious persuasion, from receiving ART, and to single out gay, lesbian and bisexual people as undeserving of the benefits of ART.

In 1987, with the publication of *Donum Vitae*, the Vatican called on governments around the world to limit ART procedures of which it disapproved. The Vatican said, “new technological possibilities which have opened up in the field of biomedicine require the intervention of the political authorities and of the legislator. ... Recourse to the

conscience of each individual and to the self-regulation of researchers cannot be sufficient for insuring respect for personal rights and public order.”

Vatican spokesman Joaquin Navarro-Valls confirmed at the time that the Vatican was asking “government leaders, be they Catholic or not, to firmly impose moral norms on certain medical and scientific activities.” In addition to asking civil leaders to ban technologies of which it does not approve, such as in vitro fertilization and surrogacy, the Vatican took pains to single out nonmarried and nontraditional couples as outside its moral norms and said they should be banned by law from receiving ART. The Vatican said, “Civil law cannot legalize the donation of gametes between persons who are not legitimately united in marriage.”

Since that time, the Catholic church has continued to assume the right to request that governmental bodies limit access to ART for Catholics and non-Catholics alike based on its moral norms. The fertility law passed in Italy offers a chilling example of what happens when the Catholic church becomes involved in reproductive decisions traditionally made by women, men and their doctors. In February 2004, at the urging of the Vatican, Italy passed a law drastically limiting the use of ART. ART is now allowed only for reproductive problems arising from infertility in married or cohabitating couples. ART procedures are illegal for single people and GLBT people and for the purposes of averting genetic problems in people who are otherwise fertile. Donated eggs or sperm cannot be used and preimplantation diagnostic procedures to detect genetic problems are banned.

The law also limits the number of embryos that can be transferred to a woman's uterus in in vitro fertilization to three—which may affect the success of the procedure for older women—and bans the freezing of embryos, which means that if an attempt at in vitro fertilization is not successful, the couple must start all over again to create new embryos. This subjects the woman to more potentially dangerous rounds of hormonally induced egg production. However, the law also insists that all embryos that are created must be implanted, so if three embryos are successfully created, all three must be implanted, even if that number of embryos is too high for a younger woman and likely to lead to a multiple-order pregnancy. The law completely removes the discretion of doctors to decide what procedures are best for their patients and how many embryos should be implanted in any given woman. All of the points of the Italian law are designed to suit the Vatican's limitations on the use of ART. It is, as *Slate* journalist William Saletan noted, as if the law is intended to “make IVF as much like natural conception as possible”—exactly what the Vatican desires, drastically limiting the usefulness of ART for couples who need it while making it more dangerous and expensive for those who are still able to access it.

The Italian law is the most dramatic example to date of the Vatican dictating its preferred moral structure through the civil law of a country, effectively denying access to medical care for whole classes of people and dictating the practice of medicine to doctors—often at the expense of the health of the women involved. According to an article in the *British Medical Journal*, the law resulted in a judge ordering a doctor to implant all the embryos

created in one couple's attempt at in vitro fertilization in the woman, even though the embryos potentially carried a deadly blood disorder. Under the law, the doctors were forbidden to test for the genetic disorder, even though the couple wanted the test, and eliminate any affected embryos. A month later, the woman was hospitalized for a gastric hemorrhage—which she said she believed had been caused by the stress of the ordeal—and she miscarried. The same article notes an increase in multiple-order births among younger women and a decrease in the success of in vitro fertilization among older women as a result of the law in Italy.

When a referendum was held in 2005 to overturn the ban, Pope Benedict XVI called on Italian voters to boycott the vote. Only about one-quarter of eligible voters turned out to vote on the referendum, which failed, keeping Italy's terrible law in place.

The Catholic church is similarly advocating in other majority Catholic countries for limits on ART. The Catholic Bishops of Poland recently condemned in vitro fertilization, even for married couples and especially for gay people. The bishops said, “We advise infertile marriages to pray all the time and wait in hope. The best thing they can do is to adopt a child. There is not any right to have a child. What is more we think that homosexual partners have no right to have a baby. It destroys humanity and is an affront to common decency.”

Polish Cardinal Stanisław Dziwisz called on Members of Parliament to “save our morality and the moment of conception” by banning in vitro fertilization, adding, “There

is no place for any compromise in this.” In early 2009, the Polish bishops authorized a petition campaign calling for the criminalization of in vitro fertilization. The “Contra In Vitro” Committee For Legislative Initiative is seeking 100,000 signatures to compel the lower house of Parliament to change current law to make in vitro fertilization illegal and punishable by up to three years in jail.

Catholic legislators in the United States have also moved to put Vatican order into law. In 2006, a Catholic state legislator in Virginia, Bob Marshall, introduced a bill that would have banned single women—including by the exclusionary definition of marriage any lesbian woman—from receiving artificial insemination or in vitro fertilization from any licensed medical practitioner in the state. The measure never progressed, but the language was straight out of the Vatican’s playbook in its insistence that no medical technology replace the act of sexual intercourse. The said, “no individual licensed by a health regulatory board shall assist with or perform any intervening medical technology, whether in vivo or in vitro, for or on an unmarried woman that completely or partially replaces sexual intercourse as the means of conception.”

Also in the United States, the United States Conference of Catholic Bishops promote the *Ethical and Religious Directives for Catholic Healthcare*, which govern what services may be offered in Catholic hospitals or hospitals run by the Catholic church. The *Directives* prohibit heterologous fertilization, homologous artificial fertilization “when it separates procreation from the marital act in its unitive significance,” surrogacy, and techniques of assisted conception that “involve the destruction of human embryos, or

their deliberate generation in such numbers that it is clearly envisaged that all cannot implant and some are simply being used to maximize the chances of others implanting,” which refers to in vitro fertilization. As a result, no individual, whether Catholic or non-Catholic, may receive these ART services at Catholic-run hospitals in the United States, which account for 12 percent of all U.S. hospitals and care for one in six Americans.

Catholic church-induced controversy over ART has been more muted outside of the United States and Europe, most likely because rates of ART procedures are historically lower in other parts of the world. Latin American in particular has less ART than other regions. According to the European Society of Human Reproduction and Embryology, less than 0.1 per cent of all births in Latin America are a result of ART, the lowest rate of ART-related births in the world. However, ART is offered throughout Latin America, mainly in private hospitals. According to an analysis of the Latin American Registry of Assisted Reproduction of all ART procedures performed between 1990 and 2004, there were 150,000 embryo transfer cycles and 33,500 deliveries, with a total of 44,978 babies born. The authors of the study note that ART in Latin American is limited to the middle- and upper-income brackets. But with the increasing development of Latin America and its increased independence from the Catholic church on matters of sexuality and human reproduction, ART in this region is likely to gain increased scrutiny from the Catholic church. It has already succeeded in banning most ART procedures in Costa Rica, making this the first country in North or South America to succumb to Vatican pressure on this issue.

In 2000, the highest court in Costa Rica sided with the Catholic church in the predominantly Catholic country when it ruled that the government had a duty to protect life from the moment of fertilization. It said that in vitro fertilization should be banned because of the unacceptable destruction of embryos. Costa Rica had passed a law allowing in vitro fertilization in 1994. In 1995, the Catholic Conference of Bishops of Costa Rica filed a claim against the law, asserting it was unconstitutional. The high court parroted the language of the Vatican when it ruled in 2000: “The principle of the sanctity of human life...embodies a right that belongs to everyone without exception...any exception or limitation destroys the very essence of that right.”

Costa Rica also only allows homologous artificial insemination, forbidding sperm from third-party donors. Beyond Costa Rica, only Mexico and Brazil have laws regarding ART, generally limiting it to married couples or those in stable relationships. Informally throughout Latin America, a consensus appears to have emerged to limit ART to infertile heterosexual couples and to not challenge the Catholic church in a manner that would prompt additional legislation. Informally, observers of the Catholic church and reproductive rights in Latin America have suggested that the influence of the church and its condemnation of ART have limited the spread of fertility options in this region.

As with its other policies on reproduction, the Catholic church’s position on ART is not designed to minister to the needs of the Catholic population, to help the faithful make sense of the new options offered by science and technology and to explain how these options might fit into the lives of Catholics. Instead, the Vatican offers a completely

inflexible, illogical policy to which it demands total, unquestioned adherence. It is completely unsympathetic to the needs of men and women struggling with infertility, leaving the promise of ART to dangle before them while denying them the opportunity to use it.

Even the justification the Vatican offers for its policies regarding ART deny logic. On one hand, the Vatican condemns ART because it takes fertility out of the hands of God and into the realm of science and technology. But by that logic, any advanced technology that gives man the power of life and death—be it open-heart surgery or kidney dialysis—could be condemned as “playing God.” The Vatican’s insistence that life only be created by a natural act of intercourse unsullied by science denies the ability of man, provided by God, to use medicine and science to solve health care problems from infertility to blocked arteries. To the millions of people who take advantage of the miracles of science and medicine every day, the singular denial of ART by the Catholic church makes no sense.

Secondly, the Vatican’s insistence that legislatures around the world ban in vitro fertilization because it considers the creation or destruction of excess embryos unacceptable is paramount to the institutional Catholic church forcing its minority belief system on people of all religions and no religion. From the United States to Latin America to Europe, only a minority of people—and a minority of Catholics—truly believe that embryos in Petri dishes are the same thing as born human beings. No one is forced to take part in ART if it is against their belief system, nor should they be. But to

deny ART to people who would otherwise be childless because of a minority belief system that finds no support in science or medicine is truly heartless.

It is this denial of ART to couples struggling with infertility, to women without partners who desire a family, and to gay, lesbian, bisexual and transgendered (GLBT) people that is the most hurtful and mystifying part of the Vatican's position. After all, this pope, as well as the previous pope, has spoken movingly about the meaning of family and the many way that children enrich people's lives. It would seem an absolute good that science and medicine have found ways to extend the gift of fertility and family to those who would otherwise be denied it. It seems the highest calling of medicine to use technology to enhance the lives of women and men around the world. Despite the Vatican's calls to ban ART, to date more than 3 million babies have been born by in vitro fertilization since the first "test tube" baby 30 years ago. As with the Vatican's ban on contraception, around the world Catholics and non-Catholics alike have largely ignored the church's direction and substituted their own much wiser, more compassionate judgment about the morality of ART.

This is not to say that we should not discuss an ethical framework for ART. As the case of the so-called "Octomom" in the United States shows—the woman who already had six children who gave birth to octuplets as a result of in vitro fertilization—there is a desire for a moral framework to help individuals and society deal with emerging technologies such as ART. It is in providing a compassionate, flexible framework to help individuals and families make decisions about the uses of new technologies that Catholic teaching

can be useful. Catholics for Choice has given a great deal of thought to ART and how it fits in with our views on reproductive health care from a Catholic perspective and our progressive understanding of Catholic teaching. CFC's position will give you some idea of how religious thought can be useful to frame these complicated emerging biotechnology issues in a compassionate, holistic manner.

First and foremost at CFC we believe in the primacy of conscience. Catholic tradition requires Catholics to follow their own well-formed consciences even if it conflicts with church teaching. As the Catechism notes, "a human being must always obey the certain judgment of his conscience." Catholic thinkers from St. Paul through St. Thomas Aquinas to the Vatican's own 1965 Declaration on Religious Freedom have consistently held that Catholics have a duty to follow their conscience and that no one should be forced to act contrary to their conscience. In his widely respected book *Catholicism*, theologian Father Richard P. McBrien sums it up: "If...after appropriate study, reflection, and prayer, a person is convinced that his or her conscience is correct, in spite of a conflict with the moral teachings of the church, the person not only may but must follow the dictates of conscience rather than the teachings of the church."

While Catholics are required to take church teaching seriously, as in the case of ART, they are also allowed to make up their own minds after serious reflection. Catholics the world over do this on the issue of contraception, and if the rates of ART in the United States and Europe are any indication, they are also doing this in when it comes to ART. As with contraception, the Catholic church has refused to recognize the lived reality of Catholics and to craft an ethic that helps Catholics navigate their lives, instead offering

uncompassionate dictates that alienate the majority of Catholics, leaving them to forge their own paths.

Catholics for Choice is also pro-science. Medical technology has brought miraculous advances that have allowed us to prolong life, add quality to life, and, in the case of ART, create life. Religion need not be anti-science, but unfortunately much of the Catholic church's positions against ART read like a screed against scientific advancement. The Vatican's illogical insistence that all conceptions be "natural" blinds them to the needs of infertile couples and the promise of treatments for sterility. In fact, the Catholic church seems obsessed with the technical nature of ART and unable to see it as a natural extension of a couple's love, rather than some sort of monstrous replacement for human love. The Pontifical Academy for Life, an arm of the Vatican, insists that "far from being a real treatment for the sterility of a couple," ART "constitute[s] an unworthy method for the coming forth of a new life, whose beginning thus depends in large measure on the technical action of third parties outside the couple and takes place in a context totally separated from conjugal love."

This is clearly untrue for the millions of families that have been created through ART. The Vatican, obsessed with the process by which these children were created, see them as an unacceptable creation of a cold, impersonal laboratory experiment, while their parents see the endpoint of the process: their children.

Catholics for Choice is in favor of women and families having choices. Just as no one can tell another woman or family when is the right time for them to have children or what is the right size family for them to have, we trust families to make the right judgments for themselves about ART. We trust women and families to understand the implications of making use of ART procedures, to discuss their options with their health care providers and to consult the teaching of their faith tradition to determine if ART is right for their lives. It is only through the exercise of choice within the context of their own lives that individuals can be said to be living their faith, not merely following the dictates of a faith institution.

We also support the right of LGBT individuals to have equal access to ART. We believe that parenting is not hindered by sexual orientation and that all people have the right to experience parenthood. Despite this, Catholic health care facilities continue to deny ART services to GLBT people. In South Africa in 2005 for example, the Catholic-run Vincent Pallotti Hospital denied in vitro fertilization to a surrogate mother hired by a gay couple, citing the Vatican's ban on providing in vitro fertilization to unmarried couples. It is not clear how denying parenthood to this couple—or any GLBT couple or individual—could in any way contribute to a better, more moral world.

We also believe that people living in poverty should have access to ART, because income level should not be a determinate of who does and does not receive treatment for infertility. This is especially true in the developing world. The World Health Organization estimates that there are more than 186 million couples in the developing

world who are affected by infertility. But few public health services in developing countries make ART services available, leading to an inevitable two-tier system where the wealthy receive ART at expensive private facilities and the poor suffer the stigma and social and economic burdens of childlessness. In the United States, Medicaid, the health care program for the poor, does not cover infertility treatment.

We believe that surrogacy, when done ethically and with conditions that are agreed to by all parties involved, can be a moral option. Given the nature of surrogacy, it is particularly important that both legal and ethical considerations be fully explored before any arrangement is made and that all parties be ethical in their dealings with one another. However, surrogacy is an important option for many people who would not be able to create a family in any other way and we believe that it can be a great gift.

Finally, we believe that embryos are life and should be handled respectfully and with care befitting the potential that they carry within them. Individuals and couples embarking on any ART procedure that results in the creation of embryos should give thought to their creation and, if necessary, disposal, and make appropriate plans beforehand. Embryos, however, are not persons. They do not have personhood and need not be treated as if they do nor should laws be established to place them on the same footing as born persons.

Clearly, Catholics can be in favor of ART and should welcome its use to help infertile couples and nontraditional families. As a matter of both conscience and choice, ART falls squarely within the mainstream of Catholic ethical thought and practice. God has

provided us through the wonders of science and medicine the potential to cure infertility. To deny people the ability to use these technologies to express their love through the creation of families is to deny our very humanity, as well as our gift from God. We have, however, a duty to make these cures available to all regardless of income or sexual orientation. ART is a life-affirming, generative process that adds to the happiness and wholeness of individuals and couples around the world. The Vatican is on the wrong side of both science and the needs of contemporary society in attempting to deny the benefits of ART to Catholics and non-Catholics alike.