

# **The LCMS and Infertility Ethics**

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## **Introduction**

This paper responds to the request of LCMS Life Ministries to examine the history of The Lutheran Church—Missouri Synod's engagement with ethical issues associated with infertility and what is commonly called reproductive technology and to offer reflections on how the church might proceed in this area for the care of God's people and in witness to the world. The suffering and temptations that come with infertility engage a grand scope of Scripture's witness and the church's theological reflection. We could, and should, say that every proclamation of God's Word, every act of mercy, and every expression of our walking together addresses, in one way or another, some aspect related to infertility and thus our understanding of marriage, family, children, and what it means to be human. The examination that comprises the first part of this paper limits itself to the most specific expressions of the Synod's engagement with infertility ethics over the last 40 years, or approximately since the first child was born as a result of *in vitro* fertilization.<sup>1</sup> My aim is to bring this examination of our Synod's engagement into conversation with other careful thinkers and apply the contribution of that dialogue in thinking about how the church might proceed. I have organized those thoughts in the second part within the framework of the Synod's emphasis "Witness, Mercy, Life Together." In all of this, I contend that the Lutheran church's engagement with infertility ethics necessarily reveals what we finally believe about God and humanity, and that confession should direct and inform our witness to the world, our mercy to the neighbor, and our life together both as the body of Christ and as fellow human creatures. The thoughts here offered are by no means a final word on these questions. Rather, my hope is that they serve simply as a further call to continue the conversation about infertility, care for couples who suffer, and the promise or threat of reproductive technology.

## **I. LCMS Engagement with Infertility Ethics**

Our survey begins with four reports of the Commission on Theology and Church Relations of The Lutheran Church—Missouri Synod (CTCR). According to the LCMS Constitution and Bylaws, the CTCR assists congregations to "conserve and promote the unity of the true faith, work through its official structure toward fellowship with other Christian church bodies, and provide a united defense against schism, sectarianism, and heresy."<sup>2</sup> The commission also aids congregations "by providing a variety of resources and opportunities for recognizing, promoting, expressing, conserving, and defending their confessional unity in the true faith"<sup>3</sup> and provides "guidance to the Synod in matters of theology and church relations."<sup>4</sup> As such, the reports of the CTCR serve as a sort of voice for the Synod and its engagement with issues such

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<sup>1</sup> This examination is far from exhaustive, and I have sought to supplement the survey, as well as the paper's second part, with a select bibliography for further reading and reflection.

<sup>2</sup> 2013 *Handbook of The Lutheran Church—Missouri Synod*, 13.

<sup>3</sup> 2013 *Handbook*, 14.

<sup>4</sup> 2013 *Handbook*, 151.

as infertility and the understanding of reproductive technology, though the CTCR is careful to recognize that faithful Christians may disagree with how the commission applies certain biblical principles by which we are all committed to be guided.<sup>5</sup> Much of the information about reproductive technology contained in these reports is, of course, quite dated. Nevertheless, the reports of the CTCR are instructive for how our Synod has publically viewed infertility and reproductive technology and how those views have shifted (or not) over time.

*Human Sexuality: A Theological Perspective*  
(CTCR Report - September 1981)

In September 1981, the CTCR published the report "Human Sexuality: A Theological Perspective." The purpose of this report was three-fold: "1) to place the order of marriage within the larger framework of human sexuality as God's creation; 2) to discuss the purposes or ends which marriage serves, as these are taught in the Scriptures and understood in the history of the church; and 3) to discuss, in the light of these purposes, certain problems or 'issues' which must inevitably engage the attention of those who think about human sexuality."<sup>6</sup> Such a "study of human sexuality from the standpoint of Christian theology," the report notes, "cannot begin with a discussion of marriage. Rather, it must begin with the creation of man as male and female."<sup>7</sup> In a footnote, the report also recognizes that "more could and needs to be said about how our creation as sexual beings affects a whole variety of relationships such as between parents and children..."<sup>8</sup>

Grounding its thought in the Lord's creative activity and design, the report notes the implications this order has for understanding human life as created for community, a fellowship of embodied creatures. Though all need not marry, the report nevertheless identifies that "awesome human significance of the encounter between a man and a woman who give themselves fully to each other in a 'one flesh' union of love. The relation between husband and wife has a significance and meaning in and of itself, distinct from any other purposes (such as procreation) which their union may serve."<sup>9</sup> This significance bears witness to important truths of our humanity, including the incompleteness of autonomy overcome by God's creative Word wherein one comes to know oneself only in relation to knowing the other in a fellowship of love.

That this reflects humanity's relation to God is not lost on the commission as the report applies the same understanding to procreation within the marriage union, noting that procreation is "an actual sharing in God's on-going creative activity...a kind of natural promise embedded within the creation: a sign and manifestation of the truth that genuine love is lifegiving and fruitful... A willingness to give birth involves a willingness to align ourselves - in wonder, humility, and hope - with that blessing embedded in the order of creation itself."<sup>10</sup> Because of

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<sup>5</sup> See, for example, CTCR, *Christians and Procreative Choices: How Do God's Chosen Choose* (September 1996), 18-19.

<sup>6</sup> CTCR, *Human Sexuality: A Theological Perspective*. A Report of the Commission on Theology and Church Relations of The Lutheran Church—Missouri Synod (September 1981), 4-5.

<sup>7</sup> CTCR, *Human Sexuality*, 6.

<sup>8</sup> CTCR, *Human Sexuality*, 6.

<sup>9</sup> CTCR, *Human Sexuality*, 13.

<sup>10</sup> CTCR, *Human Sexuality*, 17.

this willingness to align ourselves by faith to God's creative activity, the report concludes that "*involuntary* childlessness need stand under no special stigma."

While couples who are involuntarily childless can find great comfort knowing that the Child Jesus has come among us and that all Christians are members of the one family He has created, nevertheless it is still true that a childless couple may sorrow greatly at their inability to bear children. ... We need not gloss over that fact. Indeed, we do well to share their sorrow where we can. However, we ought not characterize their union as "incomplete." To do so would be to take back all that was said concerning the relational purposes of marriage. It would be to forget the profound significance of the one-flesh union. That union of husband and wife has a full and sufficient meaning in itself, and the joining of a man and a woman in marriage should not be envisaged merely as a means of reproduction. Furthermore, husband and wife, even when childless, can still engage in a common work. Their union need not turn inward solely upon itself. They can permit the absence of children itself to be creative and fruitful in new ways in their shared life...And, of course, they may seek to adopt children. It would be hard to find anywhere in our lives a more exact paradigm of *agape* (self-giving love) than the love which will move people to become parents or to provide foster care for those children who for a variety of reasons are without a family to provide for them.<sup>11</sup>

Here we do well to note how carefully the CTCR speaks about adoption in the context of infertility. The report describes adoption as an act of self-giving love, moving couples to provide care for children in need. Nowhere does the report suggest that adoption is a treatment for infertility or an answer to the infertile couple's understandable desire to bear children.

Before commenting on the report's final section concerning artificial methods of reproduction, it is worth noting that among other reasons the report cites for condemning homosexual activity it includes the truth that the human person is "more than mere freedom to define what he or she will be. There are acts or relationships to which we cannot consent without stepping beyond the limitations our Creator has set for His creatures...An unwillingness to make such affirmations is part of a 'flight from creation' which besets the contemporary world and contemporary Christendom. It ought to be resisted in the name of the Redeemer who is also our Creator."<sup>12</sup> These "acts and relationships to which we cannot consent" without rejecting what it means to be human extend beyond homosexual activity, and the CTCR concludes its report by drawing on the whole of the previous discussion to understand and evaluate artificial methods of reproduction.

Applying the insight of Leon Kass, the report observes how technology has affected the way in which we view children, cautioning that "to make procreation a technical operation, (mere reproduction) and to remove it from the context of mutual love is to deprive individuals of their role as persons in God's creative activities... To sever our acts of procreation from the personal context of mutual love would be to deface the image of God's creativity in our own."<sup>13</sup> Because of this confession, the report warns about the possible pitfalls of artificial insemination. Rejecting the practice of artificial insemination by a donor other than the husband while granting that artificial insemination may be "offered as an aid to procreation within marriage," the CTCR

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<sup>11</sup> CTCR, *Human Sexuality*, 18-19. Emphasis original.

<sup>12</sup> CTCR, *Human Sexuality*, 34.

<sup>13</sup> CTCR, *Human Sexuality*, 37-38. Citing Leon R. Kass, M.D. *Toward a More Natural Science* (New York: The Free Press, 1985), 48; and "Making Babies: The New Biology and the 'Old' Morality," *The Public Interest* 26 (Winter 1972): p. 23.

still cautions that it may also be a way of avoiding other problems within a marriage rather than addressing them.<sup>14</sup> Furthermore, insofar as artificial insemination is viewed as a treatment for infertility, the report asks what, exactly, this technology treats, identifying the path on which the use of such methods sets us and where that path might lead:

[Artificial insemination within marriage] may also be a step - even if a justifiable one - toward an attempt to transform the mystery of human procreation in love into a matter of reproductive technology. We can see this when we note that the procedure does not really accomplish what medicine seeks to do; it does not cure the underlying defect. The physician is, one might say, treating not the defect but the desire of the parents to have a baby. Suppose, however, their desires go further - suppose, for example, they desire a male baby. Is that an end which medicine ought to pursue? We think not. To turn in that direction would be a definite step away from procreation and toward reproduction.<sup>15</sup>

*Christians and Procreative Choices: How Do God's Chosen Choose?*  
(CTCR Report - September 1996)

In September of 1996, the CTCR published another report entitled "Christians and Procreative Choices: How Do God's Chosen Choose?"<sup>16</sup> Expanding on the 1981 report, the 1996 report focuses more on the methodology of moral reasoning. Drawing attention to the importance of learning to ask the right questions, the report offers tentative responses to difficult problems related to infertility and reproductive technology. The commission admits that the questions it addresses are "not easily answered, and they sometimes are so perplexing that they leave Christians in disagreement concerning God's will."<sup>17</sup> Aware of this, the report aims "not simply [at] arriving at one set of answers."<sup>18</sup> Instead, the commission tries to teach thoughtful Christians to "become more practiced and adept at biblically disciplined moral reasoning" with the hope that "we will be able to understand the significance of disagreements,...see how we can continue to reason together concerning God's guidance,...[and] be in a position to take up related questions or new issues..."<sup>19</sup>

The report first addresses the issue of surrogacy through artificial insemination by considering a case study involving at least three parties - the husband and sperm donor, his wife with whom the child born would be adopted, and a family friend who would be artificially

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<sup>14</sup> CTCR, *Human Sexuality*, 38.

<sup>15</sup> CTCR, *Human Sexuality*, 38.

<sup>16</sup> Because the language of choice is questioned later in this paper, along with the idol of autonomy such language worships, it is important to clarify that the CTCR begins this report by noting that Christians' choosing "is shaped, disciplined, and sometimes overruled by God's choice of them through their Baptism into Jesus Christ." Rather than acquiescing to the antibiblical assumptions of our culture, the CTCR seeks in this report to examine "the relationship between Christian faith and practical choices in procreative issues...[reflecting] on how Christian faith and theology inform our ethical choices." We may, in the end, worry that a religious fascination with choosing hides from view the fundamental gift of the gospel (a gift that is cherished rather than chosen), but we should also note that the report itself directs our attention to this question, clearly stating that the Christian "will not be misled by a culture that has carried out to a remarkable degree the Pharisees' vision of autonomous choice." (CTCR, *Christians and Procreative Choices*, 3, 31)

<sup>17</sup> CTCR, *Christians and Procreative Choices*, 5.

<sup>18</sup> CTCR, *Christians and Procreative Choices*, 5.

<sup>19</sup> CTCR, *Christians and Procreative Choices*, 6.

inseminated as a nonpaid surrogate.<sup>20</sup> Welcoming the work of Oliver O'Donovan in evaluating how couples respond to infertility, the commission reports that "O'Donovan argues that when reproductive technologies divorce procreation from sexual intimacy in marriage, we risk turning children into projects and products."<sup>21</sup> Instruction on the method of moral reasoning follows, wherein the commission considers "how we might make use of the Small Catechism's discussion of matters relevant to surrogacy and family life" and reminds the reader that "confessional Lutherans are committed to framing questions about surrogacy in [the Small Catechism's] light."<sup>22</sup>

The commission concludes its thought on the case study by stating that "the weight of considerations concerning surrogacy is against the plan" to artificially inseminate a nonpaid surrogate with the husband's sperm. The key considerations of the commission in reaching this conclusion are presented in two categories. The first concerns the "practical complexities in family relationships" and the fact that surrogacy will introduce complications that threaten to damage these relationships, which also include how the child is viewed and the relationship to the community before whom this would unfold. The second category concerns faith in God that follows His "guidance about marriage and family." Citing the CTCR's 1981 report that described God's intention for conception to take place within the one-flesh union of husband and wife, the commission concludes that the current case study would disturb that union by introducing a third party into the conception of a child.<sup>23</sup> Even though *in vitro* fertilization using gametes from the married couple with a surrogate might be used in an attempt to preserve the one-flesh union, the commission maintains "the implantation of the embryo and the gestation of the child in another woman's womb continue to locate some of the most intimate features of marital and parental relationships outside the one-flesh union of husband and wife."<sup>24</sup>

The second case study the commission considers involves artificial insemination by donor, used by a married couple because the husband is sterile. Unique considerations mentioned in this case begin with concern about reducing the "donor's role simply to that of providing the initial genetic material," a proposal that troubles the commission on Scriptural grounds by minimizing the role of fatherhood in relation to children.<sup>25</sup> The report also considers the "psychological and emotional risks" both for the couple and for the child in concluding that "the weight of considerations thus comes down against the practice of artificial insemination by donor... [and] the considerations that lead to a rejection of artificial insemination by donor *apply equally to human egg and embryo donation*."<sup>26</sup>

A third case study in this report considers a couple deliberately and voluntarily choosing not to conceive a child in marriage. Allowing for rare and truly exceptional circumstances, the commission puts forward the thesis that "both God's Word and practical considerations that arise counsel against voluntarily choosing not to conceive a child in marriage." The following biblical

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<sup>20</sup> Though not often counted in these considerations about "third party" reproduction, the child conceived takes the number of persons involved to four.

<sup>21</sup> CTCR, *Christians and Procreative Choices*, 12.

<sup>22</sup> CTCR, *Christians and Procreative Choices*, 16.

<sup>23</sup> CTCR, *Christians and Procreative Choices*, 17.

<sup>24</sup> CTCR, *Christians and Procreative Choices*, 17.

<sup>25</sup> CTCR, *Christians and Procreative Choices*, 22.

<sup>26</sup> CTCR, *Christians and Procreative Choices*, 22. Emphasis mine.

reasons support this thesis: 1) "God's Word rejects making marriage a function of indefinite and inconstant human choices;" 2) "a child 'makes physical and represents in the flesh' the unique relationship of a man and woman who come together sexually;" and 3) "the creation narrative explicitly links the creation of man and woman with God's command to be fruitful and multiply."<sup>27</sup> The practical observations that support the commission's thesis include the strong link between marriage and parenting, and the report laments "one of the most persistent and pernicious lines of attack on God's guidance concerning marriage...the one that seeks to separate the relationship of husband and wife from the relationship of parents and children...The unity of the family is then fractured - the union of husband and wife and the relationship of parents and children, contrary to God's intent, are both severed."<sup>28</sup>

These observations attend also to questions surrounding infertility, for, the report continues, "however strongly we share the sorrow of infertile couples, we are all cautioned against consciously choosing to separate the conception of children from the one-flesh union of marriage" as is done by "third party intrusion into procreation" just as much as by couples who voluntarily choose to be childless. When considering the church's witness to the world, which includes very public witness about contemporary issues such as homosexuality and marriage, we should observe carefully where certain assumptions lead. Should we assume that "being a parent has little to do with the one-flesh union of the child's father and mother," as many arguments in favor of assisted reproduction do, we may suddenly find it difficult to disagree with others who share this assumption.<sup>29</sup> Among those who share this assumption the report lists two women who "compact together to have a child by contriving to arrange for one of them to become pregnant; two men...[who] arrange for a surrogate to carry the child that they think they have a right to parent in their own way; and single women and single men [who] decide purposely to bring a child into existence through the use of artificial insemination or surrogacy."<sup>30</sup>

Moreover, the report observes, "once the nature of the union of husband and wife is made a separate question from that of the relationship of parents and children, then the essence of marriage can be significantly obscured."<sup>31</sup> Marriage may be seen as a tenuous contract of convenience or companionship, easy to dissolve when circumstances change. God's Word becomes difficult to trust, for "when sexual intimacy and parenting in this way become separate issues," the commission worries that "people also begin to doubt God's guidance concerning lifelong commitment in marriage."<sup>32</sup>

On a separate but related note, this obscuration of marriage's essence begins, I think, to identify the tension and conflict that so often arise in a marriage when children are absent. "When Rachel saw that she bore Jacob no children," Genesis 30 records, "*she envied her sister*. She said to Jacob, 'Give me children, or I shall die!' *Jacob's anger was kindled against Rachel*, and he said, 'Am I in the place of God, who has withheld from you the fruit of the womb?'"<sup>33</sup> The

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<sup>27</sup> CTCR, *Christians and Procreative Choices*, 29.

<sup>28</sup> CTCR, *Christians and Procreative Choices*, 29.

<sup>29</sup> CTCR, *Christians and Procreative Choices*, 30.

<sup>30</sup> CTCR, *Christians and Procreative Choices*, 30.

<sup>31</sup> CTCR, *Christians and Procreative Choices*, 29.

<sup>32</sup> CTCR, *Christians and Procreative Choices*, 29.

<sup>33</sup> Gen 30:1-2. (ESV) Emphasis mine.

envy and anger prowling near infertility's door should not be overlooked as the church considers how to care for today's Rachels and Jacobs.

The report also responds to claims that "procreative choices are simply a variation on the morally praiseworthy practice of adoption," contending that welcoming an adopted child into the one-flesh unity of marriage correlates to assisted reproduction involving third parties.<sup>34</sup> Reiterating respect for the one-flesh union of marriage in procreation, the commission makes the rather casual observation that "the practice of adoption does not involve a choice to conceive a child outside of the one-flesh relationship of marriage."<sup>35</sup> Indeed, the report describes the direction of adoption's aim as quite the opposite. Rather than choosing in favor of a couples' desire adoption has the child's well-being in view, responding "to the absence or disruption of a family context in a child's life by welcoming the already present child into a new home."<sup>36</sup> As in the 1981 report, the CTCR does not suggest adoption as a cure for the couple's desire. Quite the opposite, the commission mentions adoption as a response to the child's needs, adding that adoption "is one way for some infertile couples to serve God and the world by responding to the needs of a child through parenting."<sup>37</sup>

In the report's fourth and final case study, the CTCR considers *in vitro* fertilization. Although this report marks the first time the synod has responded directly to *in vitro* technology, the commission recalls that synodical representatives contributed to the 1985 report by the Division of Theological Studies of the Lutheran Council of the U.S.A. Those LCMS representatives suggested at that time that any use of *in vitro* technology should be limited to the sperm and egg of a husband and wife without the use of a surrogate. Additionally, the LCMS representatives insisted that all embryos must be implanted in the wife, precluding any experimentation, destruction, or storage of "unneeded or defective fertilized eggs" and rejecting any termination of an IVF pregnancy "other than to prevent the death of the mother."<sup>38</sup>

Because of common practices associated with *in vitro* fertilization, to which the limitations just mentioned sought to respond, the commission expresses concern that "*in vitro* fertilization is such a complete technological intrusion into the mystery of the creation of new human beings that use of this technology may inevitably lead to practices no Christian could affirm."<sup>39</sup> Though troubled "about potential for abuse opened up by this technology," the

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<sup>34</sup> CTCR, *Christians and Procreative Choices*, 30.

<sup>35</sup> CTCR, *Christians and Procreative Choices*, 30.

<sup>36</sup> CTCR, *Christians and Procreative Choices*, 30.

<sup>37</sup> CTCR, *Christians and Procreative Choices*, 30.

<sup>38</sup> CTCR, *Christians and Procreative Choices*, 36-37: "Because the biblical injunction to be fruitful and multiply was given by God to a man and a woman united in the one-flesh union of marriage (Gen. 1:28; 2:21-25), only the sperm and egg of a man and woman united in marriage may be employed. Any use of donor sperm or eggs involves the intrusion of a third party into this one-flesh union and is contrary to the will of God. For the same reason surrogate wombs must not be used. Because the unborn are persons in God's sight from the time of conception (Job 10:9-11; Ps. 41:5; 139:13-17; Jer. 1:5; Luke 1:41-44), all fertilized eggs must be returned to the womb of the woman. Any experimentation with, destruction of, or storage of unneeded or defective fertilized eggs fails to accord respect and reverence for new life brought into being by God at the moment of conception and is contrary to his will. The same considerations preclude any agreement to permit the interruption of an IVF pregnancy for any reason other than to prevent the death of the mother."

<sup>39</sup> CTCR, *Christians and Procreative Choices*, 37.

commission explains that it is "reluctant to locate the problems that arise simply in the medical technique itself and to suggest that Christians could never faithfully use it." <sup>40</sup>

Still, the CTCR concurs with the 1985 synodical representatives that if *in vitro* fertilization is able to be used faithfully, it "will involve sperm and eggs only from within the marriage" and that surrogacy raises troubling questions "regarding the implications...for the one-flesh union of a married couple."<sup>41</sup> Regarding the care and fate of embryos made through *in vitro* technology, the commission recognizes that "these arguments deserve careful attention because they raise questions about the status of the unborn from the time of conception" and that "respect for the unborn at every stage can be enhanced also by reflection on the biblical themes concerning marriage and procreation."<sup>42</sup>

The report mentions four themes in response to fertilizing more eggs than are intended for implantation, genetic screening prior to implantation, attempts to see an analogous relationship between *in vitro* and *in vivo* loss of embryos in attempts to conceive, and selective reduction of implanted fetuses: 1) Because human dignity and worth are received as gifts from God rather than calculated on the basis of capacity, choosing not to nurture an embryo signifies rejecting a gift of God; 2) God often acts in ways that we are not given to act, and that which the Lord permits does not enable us to aim at the separation of what God has joined, destroy a relationship God has created or exclude a life the Lord has given, even when that "life seems problematic to us;" 3) Welcoming medical science that cures and cares does not commit us to "technologies that cut embryonic lives short in the name of caring, regardless as to whether the care is for couples thought to be infertile or for embryos affected by genetic disease;" and 4) Because of the intimate relationship between procreation and the one-flesh union of marriage, denying embryos "nurture in the womb that God created to receive them" risks distorting and diminishing "the unique and sacred expression in the embryo of the one-flesh union of marriage."<sup>43</sup>

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<sup>40</sup> CTCR, *Christians and Procreative Choices*, 37.

<sup>41</sup> CTCR, *Christians and Procreative Choices*, 37-38.

<sup>42</sup> CTCR, *Christians and Procreative Choices*, 38-39.

<sup>43</sup> CTCR, *Christians and Procreative Choices*, 39. "First, in the biblical perspective the dignity and worth of the members of a family are not based on their inherent genetic properties or developed talents. Instead, God gives us to one another and commends us to mutual care for each other. One's spouse is loved as that person to whom one has been joined by God. One's children are received as gifts from the same God. One's parents are honored because God has placed them in that role. A conscious decision not to nurture an embryo procreated from within a marriage is tantamount to a decision not to nurture a gift given by God. Such a decision would seem to encourage the notion that familial relationships are conditioned primarily on human choice rather than on God's gifts. Second, God does and permits many things that we are not permitted to do. God permits marriages to end through untimely illness or accident. Sometimes illness or accident take a young child from loving parents. In the mystery of the beginnings of life God does in fact permit natural causes to end pregnancies. None of these events yet establishes that spouses are to separate what God has joined, or that parents or children are permitted to end their human relationship, or that we may consciously choose to exclude from the womb an embryo or fetus whose life seems problematic to us. Third, we are sympathetic to the argument that the church should welcome medical technology that expands our ability to cure and to care. But we do not see how this commits us to technologies that cut embryonic lives short in the name of caring, regardless as to whether the care is for couples thought to be infertile or for embryos affected by genetic disease. In our "culture of death" Christians must be alert to and must reject arguments purporting to show that actively ending a human life is the best way to express our care for one another. Fourth, we believe that the biblical witness puts the highest premium on the institution of marriage and on the closely related mystery of procreation within this one-flesh union. When embryos explicitly created from within a marriage are denied the possibility of



The CTCR summarizes these themes by stating that Christians who recognize Scripture's witness regarding unborn children and marriage will likewise recognize limitations to the practice of *in vitro* fertilization along with the temptation it brings "to act without trusting God and to pursue goals the world holds before us without sufficient attention to God's Word."<sup>44</sup> In conclusion, the CTCR acknowledges that "the future portends rapid change and development in both technology and society concerning marriage, family, and procreation," and the commission therefore prays that "the Lord of the church will keep his people faithful to his will as we greet and reflect on each new choice presented to us."<sup>45</sup>

*What Child Is This? Marriage, Family and Human Cloning*  
(CTCR Report - April 2002)

Five years after the announcement of the first cloned mammal (Dolly the sheep) and five months after American researchers claimed to have cloned the first human embryos, the CTCR published its report *What Child Is This? Marriage, Family and Human Cloning*.<sup>46</sup> In this report

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nurture in the womb that God created to receive them, then the unique and sacred expression in the embryo of the one-flesh union of marriage is subject to distortion and diminution."

<sup>44</sup> *Christians and Procreative Choices*, 40.

<sup>45</sup> CTCR, *Christians and Procreative Choices*, 40. I think it is worth noting that the report concludes all but the last case study with a section labeled "Disagreement?" "Not all Christians will agree with the conclusions to which the Commission came," the report acknowledges before asking, "What is the significance of disagreements that may arise on issues like this within The Lutheran Church-Missouri Synod?" The observations of the commission which respond to this question are: "1. We are together pledged not to disagree on our basic strategies for approaching difficult ethical questions. For example, we are pledged to give God's Word the central place in our deliberations, and we are agreed that Lutheran confessional documents such as the Small Catechism are reliable guides for finding our way in the Scriptures. "Walking together" in our Synod means that we together agree on the key resources available for Christian guidance. We also agree to pray together in the midst of our deliberations. We together trust that the Holy Spirit will strengthen our faith. 2. Ethical reasoning often includes reflection on somewhat unpredictable aspects of human life. In the case of surrogacy, for example, we reflect on possible emotional and psychological implications for the parents and children who are involved. Judgments concerning such implications often leave room for honest disagreement among Christians. For example, not everyone will agree with Oliver O'Donovan that surrogacy and other reproductive technologies lead people to view a child more as a project or product than as a unique human being. We may find ourselves disagreeing about the risks involved in a relatively rare arrangement such as surrogacy. Insofar as our reasoning turns on the assessment of such risks we may find ourselves disagreeing about the acceptability of surrogacy. 3. In its discussion of surrogacy the Commission put special weight on its 1981 conclusion that the proper context for the conception and gestation of a child is the one-flesh union of husband and wife. Faithful Christians will not disagree with the commitment to be guided by God's Word. Some may, however, disagree with how the Commission has applied the scriptural "one-flesh" principle to the question of bringing a child into the world. The Commission's own words in the 1981 document leave some room for considered disagreement: "Although the Scriptures do not deal directly with the subject of artificial insemination by a donor other than the husband (AID), it is our opinion that such a practice must be evaluated negatively.... the process of fertilization is removed from the personal context of the one-flesh union of husband and wife in a way that not even their consent can allow." In our synodical life together there are a variety of ways for responsible pastors and congregations to communicate and work through disagreements concerning how God's Word speaks to complicated contemporary issues" (18-19). The commission offers the report itself as a resource for congregations to discuss how God's Word and the Christian faith relate to the difficult questions of procreative ethics and assisted reproduction.

<sup>46</sup> The report begins with a call to patience. Citing G.K. Chesterton, who saw in 1933 that "private theories about what the Bible ought to mean, and premature theories about what the world ought to mean, have met in loud and

the commission introduces several considerations important to the present conversation about infertility and reproductive technology, among which is the commission's aim "to make a contribution to the ability of Christians to discern when to celebrate emerging gifts and when to witness against looming evils."<sup>47</sup> Also helpful for our present purposes, the commission introduces the significance of personhood and human dignity to the conversation. Though speaking specifically to the question of origin when discerning personhood, we can nevertheless extrapolate the commission's conclusion that personal dignity belongs to each human, regardless of origin, simply because such a one is human. Certainly this personal dignity belongs to each parent as much as to the child. It belongs no less, then, to a husband and wife who lack the capacity to conceive.<sup>48</sup>

Expanding on this significance, the report observes from Scripture that because Christ has come, "we are now called to be children of God, persons drawn into the life of the Holy Trinity and thus finally beyond the reach of the futility of life toward death."<sup>49</sup> Marriage, the commission reminds, provides "a fundamental created setting in which God desires to transform children of the flesh - both parents and children - into children of God."<sup>50</sup> Therefore,

Fathers and mothers and their children are to learn to see each other not as objects and resources for fulfilling their goals in life, but as persons given to each other by God to be loved as God loves...Marriage is understood biblically as a relationship in which wife and husband, parents and children, are challenged to live by faith in God rather than by confidence in their own abilities to protect themselves from their vulnerabilities to each other. This means that for Christians marriage and family press beyond themselves to a reality that transcends this life. Marriage has roots in our biological and flesh-oriented existence, but it images a richer spiritual reality - the community of persons born of the Spirit...Marriage is thus a created image and analogy of relationships in the church, the Body of Christ. Our principle then is that marriage is to be held in the highest regard as the context in which children born of the flesh are best brought into the world. Marriage is the context where wife, husband and children may perhaps find, as one of the church's prayers says, "a foretaste of our eternal home." It is in this light that we consider how Christians enter sexual relationships and how they understand themselves as parents.<sup>51</sup>

The implications of the report's principle that marriage, family and children teach us what it means to be human surely include that we should beware any activity that would lead us to unlearn the lessons that marriage, family and children teach. "From this perspective," the commission hopes, "we will also be able to provide wisdom to the world at large, though we will not expect that persons who choose to continue living life only in the flesh will necessarily be persuaded by a vision that calls them to repentance and new life in the Spirit."<sup>52</sup> Rather than

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widely advertised controversy." Chesterton calls that controversy a "clumsy collision of two very impatient forms of ignorance...known as the quarrel of Science and Religion." The report wants no part in any clumsy collision, insisting instead on "patience both to discover the genuine promises and to recognize the real threats that arise in modern science's study of genetics and cloning." (CTCR, *What Child Is This? Marriage, Family and Human Cloning*. A Report of the Commission on Theology and Church Relations of The Lutheran Church - Missouri Synod [April 2002], 5. G.K. Chesterton. *St. Thomas Aquinas* [New York: Sheed & Ward, 1933], 98.)

<sup>47</sup> CTCR, *What Child Is This?*, 6.

<sup>48</sup> For a helpful discussion on personal dignity, see Gilbert Meilaender, *Neither Beast nor God: The Dignity of the Human Person* (New York: Encounter, 2009).

<sup>49</sup> CTCR, *What Child Is This?*, 13.

<sup>50</sup> CTCR, *What Child Is This?*, 14.

<sup>51</sup> CTCR, *What Child Is This?*, 14-15.

<sup>52</sup> CTCR, *What Child Is This?*, 15.

despairing over the Christian vision's perceived persuasiveness, which inevitably leads to that panic which departs from Scripture's vision, the church is given patient faith that sees wisdom in the cross and suffering the world calls folly, and the works that incarnate that faith bear witness to the world of the reality that transcends this fallen life. Thus, the "no" the church may wish to speak to certain exercises of human freedom, proclaims a resounding "yes" in Christ to the neighbor precisely because the world finds it peculiar.

Another insight offered by this report that contributes to our conversation about infertility is the commission's observation that even in marriage procreative potential can become the temptation "to add one more selfish project to [the couple's] list of accomplishments...not an opportunity for love but one more occasion for engineering our own self-fulfillment."<sup>53</sup> God's design for procreation, the one-flesh union of a husband and wife who are significantly "other" and, we might add, whose act of love in sexual intercourse draws them outside of themselves and their plans, reminds the couple that any fruit of their union is also a unique "other" who can only then be received as a gift that bears no obligation to fulfill the parents' projects or goals.<sup>54</sup>

Applying this perspective to reproductive technologies described by the report as "developed primarily to help rectify problems of infertility in marriage," the commission includes the following evaluations: 1) artificial insemination introducing the husband's sperm into the body of his wife "is considered a possible approach to overcoming infertility" while artificial insemination by donor is "an inappropriate remedy for infertility;" 2) "surrogacy is discouraged;" 3) *in vitro* fertilization using the sperm and eggs of husband and wife "does not seem to be a disturbance of the marital relationship and the relationship between the parents and the child" though when *in vitro* fertilization uses sperm and/or egg donors "the violation of the purposes of marriage seems once again to occur;" and 4) "cloning human beings is a fundamental assault on the created order of God."<sup>55</sup>

Finally, as with the two previous reports considered, the CTCR again responds to proposed analogies to adoption, this time describing how adoption relates to the question of genetic origin. Since the accepted practice of adoption means welcoming a child who originates outside of the one-flesh union of husband and wife, some wonder why the church would reject reproductive methods that use gametes originating outside the marriage. Again, the commission reorients the focus of adoption as compared to reproductive technology. "In adoption," the report explains, "a couple typically is rescuing a child who lacks a family, rather than purposely creating a child in a way that goes beyond the marriage."<sup>56</sup> Additionally, while some would argue that the analogy of our adoption by God in Christ suggests a less limited perspective regarding the union of sperm and egg of husband and wife, the commission insists that the "biblical analogy of adoption suggests most persuasively the opposite. Couples who are not so focused on reproducing some of their own DNA are likely to be more prepared to share their love with the world in whatever way God calls them."<sup>57</sup> The CTCR also includes a footnote to

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<sup>53</sup> *What Child Is This?*, 16.

<sup>54</sup> See Gilbert Meilaender, "Procreation versus Reproduction" in *Bioethics: A Primer for Christians* (Grand Rapids: Eerdmans, 2013), 10-25.

<sup>55</sup> CTCR, *What Child Is This?*, 18-19.

<sup>56</sup> CTCR, *What Child Is This?*, 20.

<sup>57</sup> CTCR, *What Child Is This?*, 21.

their comments on adoption, noting that the commission considers embryo adoption "to be similar to regular adoption and therefore morally permissible," adding that "just as we can approve and recommend regular adoption, so we can recommend and approve embryo adoption."<sup>58</sup>

Concluding their report, the CTCR reminds the church that in order for Christians "to recognize the grave moral dangers inherent in the practice of cloning they will need to reflect carefully on the use of contraception and reproductive technologies."<sup>59</sup> Finally, the commission explains, as the church engages "in this task of assessing contemporary technologies of reproduction, our foremost concern is to ask what these technologies mean in light of Christ's promise of new birth from above through water and the Spirit."<sup>60</sup>

*Christian Faith and Human Beginnings: Christian Care and Pre-implantation Human Life*  
(CTCR Report - September 2005)

The fourth and final CTCR report taken up here is the 2005 publication *Christian Faith and Human Beginnings: Christian Care and Pre-implantation Human Life*. The commission explains its goals for this report as helping people move toward consensus on questions about pre-implantation human life and finding ways to articulate the pro-life position and its strategies that will lead to "progress in the context of the political realities of our pluralized society."<sup>61</sup>

The CTCR recalls how in 1984 O'Donovan identified the moral problems introduced by *in vitro* technology, suggesting the most prudent response would be "to abandon IVF so we are no longer presented with the profoundly troubling ambiguity."<sup>62</sup> O'Donovan's counsel, of course, was not heeded, and the commission's report concedes that "we cannot escape pondering the significance of human life presented to us in Petri dishes in an IVF clinic...Upon examination, the Commission on Theology and Church Relations has remained convinced that both biblical and philosophical perspectives support the wisdom of protecting pre-implantation embryos from the time of conception."<sup>63</sup>

To support this conviction, the commission further develops the significance of personhood, a consideration introduced in the CTCR's 2002 report *What Child Is This?* Citing O'Donovan's book, *Begotten or Made?* the report connects the idea of personhood to what the church fathers wrote about the Trinity and the two natures of Christ. Based on the early church's discussion, O'Donovan understands that "a person is a substance, and a nature is the 'specific' property of a substance; it is not the case (as supposed by heretics on all sides) that to every nature there corresponds a person. In other words, the distinctive qualities of humanity are

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<sup>58</sup> CTCR, *What Child Is This?*, 20.

<sup>59</sup> CTCR, *What Child Is This?*, 21.

<sup>60</sup> CTCR, *What Child Is This?*, 21.

<sup>61</sup> CTCR, *Christian Faith and Human Beginnings*, 9.

<sup>62</sup> CTCR, *Christian Faith and Human Beginnings*, 9.

<sup>63</sup> CTCR, *Christian Faith and Human Beginnings*, 10.

attributable to persons, not persons to the qualities of humanity."<sup>64</sup> On this basis, in part, O'Donovan argues for the "full moral/spiritual status of pre-implantation human life."<sup>65</sup>

Worth noting is the report's observation that "O'Donovan also seems to want to argue that the ultimate decision [regarding the status of pre-implantation human life] must be made on grounds other than science."<sup>66</sup> "We discern persons only by love," O'Donovan writes, "by discovering through interaction and commitment that this human being is irreplaceable."<sup>67</sup> According to O'Donovan, the wrong in destroying pre-implantation human life

should not be the old-fashioned crime of killing babies, but the new and subtle crime of making babies to be ambiguously human, of presenting to us members of our own species who are doubtfully proper objects of compassion and love...When we start making human beings [in IVF] we necessarily stop loving them; that which is made rather than begotten becomes something that we have at our disposal, not someone with whom we can engage in brotherly fellowship...There is no road which leads us from observation first to fellowship second, only a road which leads us from fellowship first to discernment second...Unless we approach new human beings, including those whose humanity is ambiguous and uncertain to us, with the expectancy and hope that we shall discern how God has called them out of nothing into personal being, then I do not see how we shall ever learn to love another human being at all.<sup>68</sup>

The commission concludes that O'Donovan's approach is helpful for understanding personhood on the basis of the Trinity and Christ's two natures, demonstrating that more is at stake than the Fifth Commandment alone. The CTCR's report commends further reflection on this approach, suggesting that it will "carry the discussion beyond an exclusive focus on an isolated individual's 'right to life'... into a consideration of the meaning of human fellowship with God and with one another."<sup>69</sup>

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<sup>64</sup> Oliver O'Donovan. *Begotten or Made?* (Oxford: Oxford University Press, 1984), 54. Cited in *Christian Faith and Human Beginnings*, 27.

<sup>65</sup> CTCR, *Christian Faith and Human Beginnings*, 27.

<sup>66</sup> CTCR, *Christian Faith and Human Beginnings*, 27. Also helpful is the essay of C.S. Lewis, "Christian Apologetics": "We have to answer the current scientific attitude towards Christianity, not the attitude which scientists adopted one hundred years ago. Science is in continual change and we must try to keep abreast of it. For the same reason, we must be very cautious of snatching at any scientific theory which, for the moment, seems to be in our favour. We may mention such things; but we must mention them lightly and without claiming that they are more than 'interesting.' Sentences beginning 'Science has now proved' should be avoided. If we try to base our apologetic on some recent development in science, we shall usually find that just as we have put the finishing touches to our argument science has changed its mind and quietly withdrawn the theory we have been using as our foundation stone" (C.S. Lewis, "Christian Apologetics," in *God in the Dock: Essays on Theology and Ethics*, ed. Walter Hooper [Grand Rapids: William B. Eerdmans, 1970], 92). See also Francis Pieper, *Christian Dogmatics* vol. I: "We are certain that there cannot be or ever is a real contradiction between Christian theology and true science, science *in abstracto*. But we are equally certain that it is not nor can it be the task of a theologian to reconcile our Biblical theology and science *in concreto*. The charge is indeed valid that in our efforts to lead the present unbelieving generation back to faith we make no attempt to demonstrate to the world the harmony of faith with science. But we see no reproach in this charge; rather, we glory in it, and we will not, by the grace of God, permit anyone ever to rob us of this glorying. For we are very certain that it is not possible to help the present apostate world with the lie that the divinely revealed truth is in perfect accord with the wisdom of this world; only the preaching of the divine foolishness, of the old unadulterated Gospel, can help the world" (Francis Pieper, *Christian Dogmatics*, vol. 1 (St. Louis: Concordia, 1950), 164.

<sup>67</sup> Oliver O'Donovan. *Begotten or Made?*, 59.

<sup>68</sup> Oliver O'Donovan. *Begotten or Made?*, 65-66. Cited in *Christian Faith and Human Beginnings*, 27-28.

<sup>69</sup> CTCR, *Christian Faith and Human Beginnings*, 27.

The report continues with an extended discussion of the biblical witness concerning pre-implantation human life and the scientific and philosophical perspectives surrounding its protection. Among the commission's conclusions, the report is adamant that "we can and must pray and hope that God will guide our society, both Christian and non-Christian, toward consensus on moral truth concerning pre-implantation human life. Meanwhile, because God has entrusted His church with the clear message of reconciliation centered in Jesus Christ through whom God has reconciled us to Himself (2 Cor. 5:19), we dare not let societal disagreement on a moral and political question cause us to lose our focus on the Gospel-centered mission of the church."<sup>70</sup>

Nevertheless, the respect for and protection of human life for which the commission calls means renouncing the destruction of embryos for research. The commission also urges "couples and their medical advisers to aim toward the practice of transferring all embryos" created through IVF, adding that "the practice of freezing embryos for future attempts at pregnancy can be a life-affirming practice...We consider that respect for human life can also be expressed by making embryos available for adoption by couples willing to provide the opportunity for life."<sup>71</sup>

Recalling the 1996 report's conclusion that "considerations that lead to a rejection of artificial insemination by donor apply equally to human egg and embryo donation," we might begin to see a distinction, at least for the church and discussed further below, between embryo *donation* and embryo *adoption*.<sup>72</sup> That is, we might understand from these reports that the CTCR discourages the practice of embryo *donation*, defined here for the purpose of this distinction as the creation of embryos through IVF with the intention or even potential that they be implanted in the womb of someone other than the biological mother. On the other hand, the commission seems to suggest that embryo *adoption* may be a moral option for the sake of rescuing embryos that already exist. Either way, we will need to attend more closely below to the question of freezing embryos and its description as a "life-affirming practice."

In closing, the commission urges Christians to "familiarize themselves with the current and changing state of debate concerning embryonic stem cell research." Thus informed, Christians are encouraged to embrace the "opportunity and responsibility to participate in the political processes" that affect attitudes and actions toward pre-implantation human life.<sup>73</sup>

### *Other LCMS Writers*

Several other LCMS writers have significantly contributed to The Lutheran Church - Missouri Synod's engagement with infertility ethics and reproductive technologies.<sup>74</sup> In *Holy People Holy Lives: Law and Gospel in Bioethics*, Richard C. Eyer offers a straightforward

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<sup>70</sup> CTCR, *Christian Faith and Human Beginnings*, 43.

<sup>71</sup> CTCR, *Christian Faith and Human Beginnings*, 46.

<sup>72</sup> CTCR, *Christians and Procreative Choices*, 22.

<sup>73</sup> CTCR, *Christian Faith and Human Beginnings*, 47.

<sup>74</sup> Again, this survey is far from exhaustive. See the select bibliography for other LCMS writers and resources that have responded to infertility and reproductive technology.

summary of the issues and considerations mentioned thus far, enlightening their truth and significance with the "worldview revealed by God and envisioning a heavenly reality."<sup>75</sup> By unfolding the meaning of marriage as an image and paradigm of the church's relationship with God, Eyer reveals "what is at stake in the solutions proposed by reproductive technologies for resolving the problems of infertility."<sup>76</sup> As understood from Genesis 2, the one-flesh union of husband and wife is not lost when infertility precludes the one-flesh expression of children. Rather, Eyer contends, "the one flesh significance expresses itself also in the unique intimacy and companionship of marriage as well as in the possibility of children. Children are a gift of God, but the gift is not given to all. This, too, is a hard truth for many to accept but implies no lack of God's love and favor toward a childless couple."<sup>77</sup> On the other hand, Eyer continues,

producing children artificially in a laboratory to fulfill a woman's right, to satisfy a researcher's morbid scientific curiosity, or to comply with a desperate couple's demand defiles God and the meaning of children as a gift from God to be given only in the fullness of time. If the command given by God to 'have dominion' over living things does not apply to domination of spouse over spouse, neither does 'subdue the earth' apply to the production of children in a laboratory without regard for marriage.<sup>78</sup>

Eyer also contributes to the conversation by pointing out problems of method with certain reproductive technologies.<sup>79</sup> For example, while artificial insemination between husband and wife may not disrupt the one-flesh union by introducing a third party, the way in which the husband's sperm is collected remains troublesome.<sup>80</sup> Surrogacy also raises a number of methodological questions, in addition to the relational questions, including the practice of paying the surrogate, the plan to create a child with the planned purpose of giving the child away, and the documented examples of legal battles over custody and care.<sup>81</sup>

*In vitro* technology raises the question of expense - a cost the couple pays with their currency, with their emotions, with their connection to the child they hope to bear, and with their bodies. Moreover, Eyer notes, "embryos which are not used are eventually either destroyed or used for experimentation in research," neither of which are acceptable options.<sup>82</sup> Regarding embryo adoption as a solution to this problem, Eyer notes five concerns: 1) the industrialization of embryo exchange; 2) the commodification of embryos; 3) the tendency to think of embryos as possessions saved for future use; 4) the regularization of IVF should embryo adoption become normative; and 5) the risk of producing a population incapable of understanding "any need for or connection between the biological and the relational in marriage and conception."<sup>83</sup> Eyer's

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<sup>75</sup> Richard C. Eyer, *Holy People, Holy Lives: Law and Gospel in Bioethics* (St. Louis: CPH, 2000), 103.

<sup>76</sup> Eyer, *Holy People, Holy Lives*, 104.

<sup>77</sup> Eyer, *Holy People, Holy Lives*, 108.

<sup>78</sup> Eyer, *Holy People, Holy Lives*, 109.

<sup>79</sup> Eyer, *Holy People, Holy Lives*, 117-127.

<sup>80</sup> Eyer, *Holy People, Holy Lives*, 118.

<sup>81</sup> Eyer, *Holy People, Holy Lives*, 121-122.

<sup>82</sup> Eyer, *Holy People, Holy Lives*, 120.

<sup>83</sup> Eyer, *Holy People, Holy Lives*, 120-121. "First, whenever such social transactions occur in a free-market economy as ours, an industry seems to arise. In the case of reproductive technology, the very problem we seek to avoid is encouraged. Second, children as embryos could tend to be treated more as commodities than as human beings just as the fetus is already referred to in abortion clinics as a 'product of conception.' Third, it is difficult for parents not to think of their stored embryos as possessions banked for the future, further commodifying children. Court battles over the ownership of stored embryos attest to this. Fourth, it seems to be true that what we as society permit we

concerns were published in his book fourteen years ago. Today, every one of his concerns has been realized. As will be discussed further in the second part of this paper, the embryo industry has arrived, wherein embryos are designed, purchased, and regulated as property, created and stored for future plans, and IVF is no longer uncommon.

Commenting on the distinction between reproduction and procreation, particularly as it concerns *in vitro* fertilization, Eyer helps the church's conversation by considering reproductive technology from the perspective of the child conceived, identifying the connection this thinking has to our witness against abortion. "Seldom is serious consideration given to the good of the child conceived," Eyer laments; "one feminist even argues that to ask what is best for the child with regard to the use of reproductive technologies is to undermine the right of a woman to abort by asking her the question, 'What is best for the child within me?'"<sup>84</sup>

Moreover, because *in vitro* fertilization requires no physical relationship between husband and wife Eyer worries that the intimacy of marriage suffers. "The child does not come into being as a result of our lovemaking," Eyer observes, "but as a result of a technician's skill."<sup>85</sup> No wonder, then, that Eyer reports that couples who use such technologies "indicate much strain on the marriage during this process...There is an exhaustive weariness and desperation that grows with each failed attempt at pregnancy by reproductive technology. That desperation often turns into bitterness and blaming between husband and wife...The marriage relationship, where lovemaking is burdened with the weight of reproductive technology rather than with unhindered love for each other, may have become secondary, while the arrival of a child is expected to set all things right again."<sup>86</sup> Eyer reminds us that "our deepest needs can only be met by God and the only human being to whom we can turn in our desperation is the God-become-Man, Jesus Christ. Only the Gospel of Jesus Christ can transform the desires of a childless couple for fulfillment-through-a-child into the desire for one Child born in Bethlehem. He alone can give meaning and fulfillment to our lives."<sup>87</sup>

The Small Catechism speaks about that life as it is given meaning and fulfillment by our Triune God. In providing a companion volume to the Small Catechism that engages questions about humanity, marriage, and mercy, John T. Pless has provided the church with a helpful resource in his book *A Small Catechism on Human Life*.<sup>88</sup> The CTCR's 1996 report, *Christians and Procreative Choices*, wondered how we might make use of the Small Catechism when considering and evaluating issues like reproductive technology, and Pless' volume illustrates and begins to facilitate that very thing. Allowing the Six Chief Parts to speak in Law and Gospel to the reader, Pless mines the treasures of the catechism, turning that particular gem so that the light

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also encourage. If adoption of embryos were to become a trendy norm, particularly among a sub-cultural elite which already despises marriage, *in vitro* fertilization itself might become normative, being justified on the grounds of it being for a good cause, namely to help childless couples. Fifth, the adoption of embryos for implantation by strangers might add to the as yet unknown risk of producing a new generation of persons who are no longer capable of seeing any need for or connection between the biological and the relational in marriage and conception."

<sup>84</sup> Eyer, *Holy People, Holy Lives*, 124.

<sup>85</sup> Eyer, *Holy People, Holy Lives*, 125-126.

<sup>86</sup> Eyer, *Holy People, Holy Lives*, 126-127.

<sup>87</sup> Eyer, *Holy People, Holy Lives*, 127.

<sup>88</sup> John T. Pless. *A Small Catechism on Human Life* (St. Louis: LCMS Life Ministries, 2006).



of God's Word shines on its hearers, enlightening their understanding of a life marked with the cross of Jesus and lived in response to his forgiving love. Through the framework of the catechism, Pless' book shows how God's Word evaluates issues of life and death, speaking specifically to questions about procreation and reproductive technology.

Perhaps the most specific and extended engagement with infertility from an LCMS writer comes from the life and the hand of Katie Schuermann, who pulls the subject of infertility deeply into the flesh with her book *He Remembers the Barren*.<sup>89</sup> By not allowing the subject of infertility to remain abstract and theoretical, Schuermann identifies the suffering infertility brings in order to understand this very real and very difficult suffering in light of the biblical narrative, thus directing the reader's focus to the God who overcomes suffering not by removing it from this fallen life but by entering it and suffering Himself. Schuermann also identifies the temptations and even lies that are often offered by reproductive technology, observing that "it is in fear and doubt, the antithesis of faith, that we try to solve our own problems, carry our own burdens, and keep them hidden from God."<sup>90</sup> Moreover, Schuermann follows the example of Martin Luther in his devotional writing to women who have had a miscarriage by inviting those who suffer from infertility to pray and receive the Lord's gifts in Word and Sacrament.<sup>91</sup> Her book is certainly a gift to couples who face infertility. More than that, it is a valuable resource for the parish pastor, the deaconess, and the whole congregation they serve not only for understanding infertility in biblical perspective, but for understanding suffering in view of the cross.

## II. Witness, Mercy, Life Together - Where Do We Go From Here?

Seeking to walk together as Synod, the LCMS currently emphasizes three phrases - Witness, Mercy, Life Together - to "illustrate how the church lives and works together to proclaim the Gospel and to provide for our brothers and sisters in Christ in our congregations, communities and throughout the world."<sup>92</sup> Bringing the LCMS's engagement with infertility ethics into conversation with other careful thinkers, we here consider our synod's witness both to the church and to the world, our mercy both to those who suffer infertility and to the children conceived by means of artificial reproduction, and our life together both as the body of Christ and as fellow human beings.

### *Witness*

Regarding the first part of the synod's emphasis, Synod President Matthew Harrison writes that "the fundamental gift and task of the Lutheran Church is to bear witness to Jesus

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<sup>89</sup> Katie Schuermann. *He Remembers the Barren* (Fort Wayne: Lutheran Legacy, 2011).

<sup>90</sup> Schuermann, *He Remembers the Barren*, 29.

<sup>91</sup> Martin Luther. *Devotional Writings II*. Vol. 43 of *Luther's Works*, edited by Gustav K. Wiencke (Philadelphia: Fortress, 1968), 247-250.

<sup>92</sup> <http://www.lcms.org/wmlt>.

Christ - to His Gospel and all its facets (AC VII 2; FC EP X 7).”<sup>93</sup> Concerning our witness regarding infertility and reproductive technology, Brian Brock reminds us in his book *Christian Ethics in a Technological Age* that although “the proposal that we ought to roll back or freeze technological advance is not only an impossibility, but ridiculous,” embracing or rejecting new technologies “is always a step of faith.”<sup>94</sup> Brock writes to ask “if and when the church of Jesus Christ might wish to share the world's faith in the promise of technology, or if and when its own proper faithfulness might set it in opposition to the faith and order of its age.” Complicating this consideration is Gilbert Meilaender's observation that our thoughts and ideas about matters such as the meaning of human life, marriage, suffering and death “are shaped by reasoned argument and reflection less often than we like to imagine.”<sup>95</sup> Because these “background beliefs,” as Meilaender refers to them, “are commonly held at a kind of prearticulate level,” it is necessary “to call to mind simply and straightforwardly certain basic elements in a Christian vision of the world - to remind ourselves of how contrary to the assumptions of our culture that vision may be.”<sup>96</sup>

Luther's Small Catechism provides that Christian vision, calling to mind simple and straightforward truths that the faith of a child can confess. As the CTCR has insisted and Pless has exemplified in his book mentioned above, the church's witness to her members about infertility and reproductive technology begins not with the science of *in vitro* fertilization or moral claims about it, but with the First Commandment and Creed. “The creeds describe a formed faith,” Brock explains, “that reveals creation as it truly is. God gives a faith that has form and through it new sensitivities; these are exercised and explored in the ways we live.”<sup>97</sup> Indeed, as Charles Arand has observed, catechesis “constructs a narrative”—“a way of life to guide the Christian this side of eternity and by which the Christian learns the art of living by faith.”<sup>98</sup> The Christian not only lives by this narrative, but is taken up by it, made a member of it in such a way as to make “the hearer a participant. It is empathetic in that it draws the hearer into the story in such a way that he or she becomes a part of the communal story itself.”<sup>99</sup>

The catechism's narrative establishes a world view in what Albrecht Peters calls the first theological center, the Ten Commandments and First Article - You shall have no other gods. “By tying the Ten Commandments to the First Article and the Third Article to the Lord's Prayer,” Arand explains, “Luther has brought the three chief parts into a thoroughly Creedal and Trinitarian framework. In doing so, he has provided a way for Christians to make sense of their lives with God in light of the Baptismal Creed and the triune salvific work in creation and history.”<sup>100</sup> In the Large Catechism, Luther teaches that the intention of the First Commandment “is to require true faith and confidence of the heart, which fly straight to the one true God and

<sup>93</sup> Matthew Harrison. <http://blogs.lcms.org/2010/witness-before-god-and-to-the-world-10-2010> (October 5, 2010).

“This is our task toward each other. This is our task over against those who do not know Jesus. This is also the sacred vocation and ecumenical task of the Missouri Synod to world Christianity. We exist to bear witness - even to the point of suffering and death ... - to salvation by grace alone, through faith alone, on account of Christ alone.”

<sup>94</sup> Brian Brock. *Christian Ethics in a Technological Age* (Grand Rapids: William B. Eerdmans, 2010), 2.

<sup>95</sup> Gilbert Meilaender. *Bioethics: A Primer for Christians* (Grand Rapids: William B. Eerdmans, 2013), 1.

<sup>96</sup> Meilaender, *Bioethics*, 1.

<sup>97</sup> Brock, *Christian Ethics*, 4.

<sup>98</sup> Charles P. Arand. *That I May Be His Own: An Overview of Luther's Catechisms* (St. Louis: CPH, 2000), 150-152.

<sup>99</sup> Arand, *That I May Be His Own*, 106.

<sup>100</sup> Arand, *That I May Be His Own*, 136.

cling to him alone” (LC 386). James Nestingen observes that “here the Lutheran paradigm hits its stride by attacking all mythologies of fulfillment, self-transcendence through self-actualization, creating a new world through product relationships—the secular pieties and all their religious counterparts—by telling the truth about the limits and impingements of creaturely life.”<sup>101</sup>

Commenting on what Reinhold Niebuhr characterizes as “the juncture of nature and spirit,” Meilaender explains that “duality—but not dualism—is the mark of narrative, and, in particular, of the biblical narrative. We may be free spirits made to transcend all that is finite and to rest in God, but we are just as truly bodies subject to the relentless temporality of human experience...There are limits that ought to bind us, that we ought not to seek to transcend, but it is difficult to specify these in advance.”<sup>102</sup> The narrative of the catechism, despite its infinite depth and sufficiency for Christian knowledge, provides no specific casuistry to questions about artificial insemination or embryo adoption, but it does provide a world view ordered by the reality that God is Father, Son, and Spirit, and we are His created beings. At the very least, then, as the church confronts troubling answers to the world’s desires, the catechism orients our thought toward the right questions.

Brock worries, though, that theologians have not always been so inspired to ask those right questions, being perhaps confused or distracted instead by the devil's question, "Did God really say?" "On questions of technological development," Brock suggests,

moral theologians have all too often joined the world in asking the prototypical moral question of the juvenile: 'How far can I go?' This question hides a fatal narrowing of moral vision because it in fact assumes the further clause 'before I get into trouble?' The appearance of moral questioning that takes this form is an alarm notifying us that human attention and thought are no longer directly harnessed to overcoming barriers to the embodiment of love of neighbor, but have become trapped by some middle-distance goods such as profit or corporate survival...To ask 'How far can we go?' is to jettison the idea of limits on human action in the pharisaic guise of self-justification. To construe moral deliberation as a question of locating limits assumes that ethics is about choice, that we freely choose within certain boundaries, and that the task of morality is to designate the outer limits of this freely exercised choice. But there is no boundary for autonomous humanity.<sup>103</sup>

As a church body, we do well to remember the CTCR's exhortation that confessional Lutherans are committed to framing questions about reproductive technology in light of the catechism. By receiving and embracing its narrative, the church will be led to ask questions about infertility and reproductive technology that respond to God's address rather than questions that unwittingly assume the devil's lies and false promises. The inevitable disagreements as well should serve as a call to further conversation about the catechism's narrative and what faithful participation in its story means. “This emphasis on seeking the divine claim and faithfully responding to it” Brock adds, “gives Christian action a new assurance, lending a peacefulness to the Christian life...In being bound to concrete neighbors by Christ, we are freed from returning to ask whether it is too costly or risky to love them and can instead ask much more seriously what it would take to love them well.”<sup>104</sup> Thus, though we may not consider ourselves free to produce a child, whatever the

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<sup>101</sup> James Arne Nestingen. “Preaching the Catechism.” *Word and World*. 10, no. 1 (1990) : 41.

<sup>102</sup> Meilaender, *Limits of Love*, 42-44.

<sup>103</sup> Brock, *Christian Ethics*, 188-190.

<sup>104</sup> Brock, *Christian Ethics*, 190.

cost, for every infertile couple, Meilaender nevertheless notes that, "we can and should assure them that the story of Jesus is true - that the negative and destructive powers of the universe are not the ultimate powers whom we worship."<sup>105</sup>

Because the Christ child has been born, and because the barren husband and wife have been born again from above into that Christ child, the metaphysical weight of their being and doing is lifted. Capacity and accomplishment no longer condemn. "Without in any way undervaluing the presence of children," Meilaender adds, "we should also be free of the idolatrous desire to have them at any cost - as our project rather than God's gift.... God blesses in many different ways, and the task he does not lay upon us may be replaced by other tasks less open to those who have children and equally significant for the care and preservation of creation."<sup>106</sup> So does the catechism direct the Christian to confess with Mary, "Behold [in this time, this place, and this circumstance], I am the servant of the Lord; let it be to me according to your word" (Luke 1:38). Understanding that suffering can have meaning, even though we would not choose suffering for ourselves, the church finds occasion to offer a mysterious and profound witness to the world.<sup>107</sup>

A humble faith that acknowledges there is suffering we *could* end (by, for example, eliminating the one who suffers or simply by employing evil means to accomplish a good end) but *ought not* end, sets before the world a better way than the path of autonomy, that idol worshiped by choosing.<sup>108</sup> While we sorrow with those who suffer, including those who suffer from infertility, we sorrow in hope, renouncing the kind of despair that gives up on God, his word and his grace by seeking to be a god unto oneself. In the church we call this apostasy. In the world, we call it poor public policy, leading to pressures and ultimate responsibilities that no one should desire. As O'Donovan, Eyer, Meilaender, Brock, and others have shown, the church's public witness, given maturity and insight by the church's history since the world's foundation, includes an appraisal of where the use and/or regularization of reproductive technologies will lead and the effect they will have on how we think, or do not think, about their meaning for our shared humanity.

While the possible trajectory of such technology does not in itself insist on its rejection, it does insist that the church not remain silent about its significance. The regularization of prenatal screening (and pre-implantation genetic diagnosis), for example, which has affected the meaning of pregnancy and motherhood in peculiar and troubling ways, has led Meilaender to conclude that "Christians could do the world a considerable favor and could bear substantial witness to the meaning of God's own love for the world if they would simply say no to routinized prenatal screening - thereby saying to their children and, by implication, to all others: 'It's good that you

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<sup>105</sup> Meilaender, *Bioethics*, 8.

<sup>106</sup> Meilaender, *Bioethics*, 25. "It is a question about what sort of people we wish to be and ought to be. At least for Christians, procreation is primarily neither the exercise of a right nor a means of self-fulfillment. It is, by God's blessing, the internal fruition of the act of love, and it is as task undertaken at God's command for the sustaining of human life. Those who desire children, but, it turns out, can have none are understandably saddened. Nevertheless, we must learn to pursue our projects in faithfulness to God's creative will. A couple unable to have children can - and should - find other ways in which their union may, as a union, turn outward and be fruitful."

<sup>107</sup> See Meilaender, *Bioethics*, 7-8.

<sup>108</sup> At the time of this writing, we have seen this most recently in the life and public witness of Maggie Karner. See <http://blogs.lcms.org/2014/karner-responds-to-suicide>.

exist."<sup>109</sup> The church in her witness as well as her mercy therefore understands that the weakest and most vulnerable, those society deems "defective" are, as Brock suggests, "precisely the humanity through whom God will confront a world come of age. In them is revealed again what it means to be creatures, those whose very being is *received*. We either project our definitions and plans onto others or we discover and receive ourselves as persons as we lower our defenses to love the given other."<sup>110</sup> The church bears witness in the world to the love of God in Christ for sinners, the least and lowliest, by loving those whose life is judged by the world to be worthless.<sup>111</sup>

Even if some share the CTCR's reluctance to reject methods of assisted reproduction that do not use third parties, the church is nevertheless called to witness about the effect their use has on our thinking and our relationships, especially on the meaning of the one-flesh union of husband and wife which must be more than a measure for how far we can press our procreative potential. "We have already gone a long way in medicine toward losing the sense that the living body *is* the person," Meilaender notes, "toward separating person and body. Assisted reproduction, however compelling and understandable its lure, leads us still further in that direction."<sup>112</sup> As the Lutheran church continues the conversation about reproductive technology, we will do well to think carefully about how our public witness regarding marriage and abortion should influence and affect our public witness about infertility and reproductive technologies, for it seems certain that our witness about reproductive technology will, in the end, influence and affect what we can say about marriage and abortion. Here we do well to heed the counsel of the CTCR's 1981 report that more should be said about how our creation as sexual beings, male and female, affects (or should affect) relationships such as between parents and children.

Recognizing the deep and profound connection between procreation, marriage, and the meaning of our humanity, and recognizing this in the midst of a world increasingly hostile to God's creative design, the Lutheran church will surely want its public witness about reproductive technology to reflect clearly its confession of the triune God and His address to the world in Christ. In the words of the CTCR in 1981: "To hold up before people once again the human, personal significance of our fundamental fleshly relationship, to explore the mysterious image of God's love in the one-flesh union of husband and wife, and to recognize in wonder and humility the limitations which our creaturely condition places upon us - all this is part of fidelity to that God who has redeemed us, not that we may flee from His creation but that we may cherish it and find in it intimations of His love."<sup>113</sup> In this way, the church and her children are called to bear witness to one another and to the world, a witness that reveals the crucified and risen Christ and incarnates his love in mercy.

### *Mercy*

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<sup>109</sup> Meilaender, *Bioethics*, 56.

<sup>110</sup> Brock, *Christian Ethics*, 369.

<sup>111</sup> See Romans 3:10-12, 23-24.

<sup>112</sup> Meilaender, *Bioethics*, 21.

<sup>113</sup> *Human Sexuality*, 39.

The synod's three-fold emphasis reminds the church that she is also called to be a servant of mercy to those suffering physical need. As God's mercy embraced the whole world on the cross, the church's life of mercy extends both to couples facing infertility as well as to the children that couples desire. The CTCR's 2002 report expressed that the commission's foremost concern is to ask what new reproductive technologies mean in light of Christ's promise of Baptism, and the thought of Oswald Bayer is especially instructive for the church's consideration of that question, thus also for informing her corporate life of mercy.<sup>114</sup>

For the church's life of mercy to find appropriate expression today, Bayer asserts that it must first confess the existence of the "old world" as it is, what Brock calls the "modern technological world," without being deceived by its false assumptions and lies regarding love, tolerance, and compassion.<sup>115</sup> To ignore this realistic perspective is to forget the place of the church in this world, resulting in either a pessimistic antinomianism or optimistic legalism. Bayer contends that

this realistic perspective distinguishes Luther sharply from the harmlessness of modern theologians of love. The theologians of love transform the original Christian confession, God is love, into a principle of both knowledge and systematic construction in order to build an internally coherent dogmatic system. The price paid for this transformation is to render harmless the enemies referred to in the prayers of the Psalms, to let them fade into paper tigers. They are allowed to disappear through the effort of subsuming evil under a theory of love. Luther's life and work, contrary to what modern theologians of love think, is determined throughout by the trials and temptations (Anfechtungen) suffered at the hands of these enemies and by the fight against them.<sup>116</sup>

To avoid either extremes of ignoring the conflict or making an idolatrous attempt at its eradication, a redirection of focus is needed.

According to Bayer, God's address to the world "redirects our eyes to Christ crucified on the cross, who 'was assailed by the images of death, sin, and hell just as we are.'"<sup>117</sup> Rather than a conflict or rupture between two historical ages, Bayer explains the conflict in which the church engages is "the rupture of the times between the new and the old eon" which "has occurred once and for all on the cross of Jesus Christ" where the old world meets its end and the new world, the renewed creation, breaks in.<sup>118</sup> For the Christian life, baptism is the place and means of this

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<sup>114</sup> CTCR, *What Child Is This?*, 21.

<sup>115</sup> Such words find important place in the church's theology of mercy, but with christological meaning and implication. Words are important—so much so, in fact, that the fourth evangelist, in agreement with Genesis' creation account, proclaims that all that is was created through the Word: "What God says, God does. The reverse is also true. What God does, God says; his doing is not ambiguous. God's work is God's speech. God's speech is no fleeting breath. It is a most effective breath that creates life, that summons into life. It is the 'nature' of God to create out of nothing, to be the Creator by the Word alone. This is not a speculative thought, for those who confess the one who creates out of nothing and gives life to the dead are those who have experienced the truth that God justifies the ungodly by his Word, creating a new self for the old Adamic self" (Oswald Bayer, *Living By Faith: Justification and Sanctification*. Cambridge: William B. Eerdmans, 2003, 43). Bayer continues this thought by noting the emphasis Luther places on the written word and even higher rating of the oral word, by which God creates faith.

<sup>116</sup> Oswald Bayer, "Rupture of Times: Luther's Relevance for Today," 38.

<sup>117</sup> *Ibid.*, 40.

<sup>118</sup> *Ibid.*, 45.

rupture, when God creates one to be His child through participation in the death and resurrection of His Son. The whole of the Christian life—and here included is the church's corporate life of mercy—proceeds from and is lived within this baptism.<sup>119</sup> In the words of Bayer, it is life lived in “freedom in response” to God's promise—“for human action does not start with itself; it draws its life from freedom that has already been given.”<sup>120</sup> The promise of God is therefore a gift of space which permits our movement, our action in response to this Word, “discerning the gift and praising the Giver of all things good,” and this is called faith.

In the third chapter of *Living By Faith*, “The Passive Righteousness of Faith,” Bayer notes that because faith is entirely the work of God, “we experience it in that we suffer it...The passive righteousness of faith takes place when justifying thinking (metaphysics) and justifying doing (morality), together with the unity of both that some seek, are all radically destroyed.”<sup>121</sup> In this death, our need “to gain recognition by what we can afford and accomplish” is also destroyed.<sup>122</sup> Bayer's thinking thus asserts that meaning is given to one's life, not earned or appropriated by oneself, one's alliances, or one's place in society. While Luther's doctrine of the three estates articulates the “three basic forms of life that are God's disposition for humanity,”<sup>123</sup> even these institutions, sanctified though they may be, are not a path to salvation. Nor might one earn meaning or standing before God by a life lived within them. Such things are first of all granted, and then life in church, family and society is lived from what has been accomplished by Christ.

Bayer adds that “the course of this world and that of their own lives are so concealed even from those who are justified by faith that they cannot conceive or experience the divine and the human concern for the world as a harmonious relationship. This ambiguity extends even to the works of the justified done in the new obedience.”<sup>124</sup> Rather than condemning the Christian to a life of inactivity or quietism, this truth frees the Christian to live and perform works of mercy as the need arises and is discerned. Concern over the “success” and permanency of active faith—love—does not plague the Christian's action, for their justification has already been accomplished and their deeds are joyful response. This, Bayer importantly notes, means that any progress is ethical progress freed from metaphysical pressure—“as ethical progress, progress divorced from the question of salvation is really secular progress. It is never absolute and total.”<sup>125</sup> Luther's “apocalyptic perception of the times” excludes, counter-culturally, both the modern legalism of progress and the postmodern antinomianism of “tolerance.” Against the

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<sup>119</sup> Cf. Luther's *Large Catechism*, “Fourth Part: Concerning Baptism”—baptism as the means by which God creates His church, His holy community that works together in responsive freedom.

<sup>120</sup> Oswald Bayer, *Freedom in Response*, 1. God's continuous creative activity and His preservation and nourishing work in this creation, as it gives form and content to the church's life of mercy, finds ground in Bayer's fundamental premise that “human freedom is the result of God's promise: ‘I am your God. And therefore you are my people.’” This promise is delivered in baptism and both places the Christian in the rupture between the old and new worlds with Christ on the cross and gives this life its content by informing a perception of the world consistent with the “interweaving of times” and communicating the freedom and works which are in the first place received as gift and only then lived and given in response.

<sup>121</sup> —*Living By Faith: Justification and Sanctification*, trans. Geoffrey W. Bromiley (Cambridge: William B. Eerdmans Publishing Company, 2003), 20-21.

<sup>122</sup> Oswald Bayer, *Living By Faith*, 21.

<sup>123</sup> Oswald Bayer, *Living By Faith*, 61.

<sup>124</sup> —*Living By Faith*, 38.

<sup>125</sup> *Ibid.*, 67

former, Bayer writes human action is ambiguous; against the latter, he insists such works are not arbitrary.

For the infertile couple this means they are not condemned to create their own family at any and all cost. The church's mercy to the infertile couple therefore means listening, suffering and groaning in prayer with them, interceding in prayer for them, and redirecting their focus to Christ on the cross. Mercy does not mean recommending an endless and possibly dehumanizing list of solutions or distracting from their loss with pious platitudes. May medical science be praised for its penultimate treatment of sin's ravages, but may the Christian couple be comforted that medical science is not the medicine of immortality that overcomes sin's wages. The theologian of the cross calls a thing what it is, Luther reminds us, and as Katie Schuermann expresses in her book, the infertile couple needs no other fix than forgiveness.<sup>126</sup>

No longer occupied by the desperate attempt to manufacture a neighbor to love, the couple is free instead to discern the neighbor the Lord gives them to love. As noted above, for some infertile couples this will include the consideration of adoption, and for this very reason adoption must be understood correctly. Since the infertile couple does not need to be fixed, adoption should not be understood as a fix for infertility. Neither is adoption an answer to the infertile couple's desire to have a child. Should we think that adoption is to provide children to infertile couples who cannot conceive them, Meilaender warns that "some of the dangers of assisted reproduction will lie near at hand: Potential adoptive parents will want not just a child to care for but the best child, a certain kind of child."<sup>127</sup> As Bayer explains, human thought and action this side of Christ's return will always be ambiguous, struggling with the *simul* of sin's motivations and righteousness' love. Still, our works, freed from the pharisaic fascination of self-justification, are not arbitrary, so rather than capitulate to the old adam's selfishness the Christian prays for the faith that takes action for the sake of the neighbor.

This faith, therefore, understands adoption as that love called charity - the selfless self-giving that acts to rescue a child.<sup>128</sup> "The aim of adoption," Meilaender explains, "should be to serve and care for some of the neediest among us. It may, of course, also prove fulfilling for couples who have been unable to have biological children, and there is no reason to object if their interests and the interests of potential adoptive children should coincide. But adoption must remain an emergency measure, aimed chiefly at caring for children whose biological parents have not, cannot, or will not care for them."<sup>129</sup> Brock adds that Christians who live by this faith "are rendered nurturers in appreciating the givenness of creation and their own adoption into God's family. Adoption cannot then be a stopgap or last resort when technique has failed, but for believers becomes a positive lived reflection of the experience of being adopted as God's children."<sup>130</sup>

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<sup>126</sup> Schuermann, *He Remembers the Barren*, 49-54.

<sup>127</sup> Meilaender, *Bioethics*, 18.

<sup>128</sup> See Brent Waters. *Reproductive Technology: Towards a Theology of Procreative Stewardship* (Cleveland: Pilgrim, 2001), 70-75.

<sup>129</sup> Meilaender, *Bioethics*, 18.

<sup>130</sup> Brock, *Christian Ethics*, 372.



Indeed, such was the thinking and practice of the early Christian church as they adopted into their families foundlings, children who had been exposed and abandoned to an uncertain fate. Some of the motives for abandoning children during the time of the early church were poverty, shame concerning disability or parentage, preferred family size, self-interest regarding available resources, undesirability because of gender or physical condition, and outright indifference for their well-being.<sup>131</sup> In his First Apology, Justin Martyr informs us that most of the children exposed or sold became slaves, adding that “to expose newly born children is the part of wicked men...because we see that almost all so exposed (not only the girls, but also the males) are brought up to prostitution.”<sup>132</sup> The early church responded to this wickedness by calling those who were rejected and abandoned their own, saving them from the fate to which their parents had consigned them, and adopting them into loving families. One historian describes how the early church's ideas about adoption “could exert a considerable influence on the willingness of parents to adopt, on how people viewed and reacted to abandoned children, and on how the children viewed themselves. Though subtle, they were widespread: unlike any previous ethical system, Christianity strove to be both universal and exclusive.”<sup>133</sup>

We may, perhaps, see in the pagan practice of exposure and abandonment an analogy to the practice of freezing embryos, consigned by their makers to what the Roman Catholic instruction *Donum vitae* calls “an absurd fate, with no possibility of their being offered safe means of survival which can be licitly pursued” (I, 5). Gene Vieth has noticed that as we enter this new age “biblical Christians will find themselves in exactly the position of the ancient Israelites and the early church—having to hold on to their faith in the midst of hostile pagan neighbors,” adding that “they will also face the same temptations.”<sup>134</sup> Hundreds of thousands of frozen embryos currently await either expiration or future use, whether by implantation or experimentation, and the church now is faced with the question of how to show mercy to these smallest of neighbors.

Believing these embryos to be human life demanding protection, some have argued that Christians may “hold on to their faith” by adopting them - the only act, other than the inactivity of leaving them frozen, that would not necessarily aim at the embryo's death. As the church considers embryo adoption, thus drawing a parallel to the foundlings of the early church, we would do well to wonder if blessing this act as rescue might not also require condemning the embryos' treatment thus far as abandonment, what Martyr calls “the part of wicked men.” In addition to the many questions and concerns raised simply by the use of *in vitro* technology, as many as 50% of embryos die through the freezing and thawing process, and as few as 30% survive with all cells viable.<sup>135</sup> Moreover, as discussed further below, some couples experience profound guilt over consigning their frozen embryos to this “absurd fate,” not unlike the woman or couple who later comes to repent of an abortion.<sup>136</sup> Condemning such treatment of human life,

<sup>131</sup> John Boswell. *The Kindness of Strangers* (New York: Pantheon, 1988), 100-110, 151-152.

<sup>132</sup> Martyr, Justin. “The First Apology of Justin.” *Ante-Nicene Fathers* (Peabody: Hendrickson, 2004), 172. See also Boswell, *The Kindness of Strangers*, 111-112.

<sup>133</sup> Boswell, *The Kindness of Strangers*, 178-179.

<sup>134</sup> Gene Edward Veith, Jr. *Postmodern Time: A Christian Guide to Contemporary Thought and Culture* (Wheaton: Crossway, 1994), 201.

<sup>135</sup> See <http://www.ivf.com/cryo.html> and <http://www.givf.com/fertility/embryofreezing.shtml>.

<sup>136</sup> See Dr. James I. Lamb's presentation, “IVF: From Created to Creator” *Infertility Ethics Symposium* (Nov. 8, 2014): <http://www.lcms.org/life>.

along with the acts and circumstances that lead to its necessity, may actually be a great act of compassion, directing couples considering it away from this ethical quagmire and the remorse that often follows and directing couples who regret it to confession and absolution.

Condemning such treatment of human life does not mean condemning the life itself. Eyer's thought again is helpful for understanding that children made through artificial reproduction "are no less the children God Himself created."<sup>137</sup> This by no means undermines the grave concerns raised by the use of reproductive technology, nor does it suggest that a good end justifies any and all means. Rather, such an understanding confesses that God can bring good even through evil while also confessing that we are not given to continue in sin that grace may abound.<sup>138</sup>

To be sure, the church will want to be clear to couples considering embryo adoption and to the world that such an act, if understood as adoption, ought not to be done to satisfy a couple's desire for a child "of their own" or a woman's individual desire to experience pregnancy. Though writing about embryonic research, Meilaender's insight still applies: "The very fact that these embryos are leftovers from someone's attempt at IVF suggests not that they may now be used, but, rather, that they should not be used. After all, these embryos have already been used once in the service of someone else's project...They have been produced and used in an attempt to satisfy the desires of others. Is being used once not enough?"<sup>139</sup> Thus adoption, even of embryos, must be understood as an act of charity for the sake of the neighbor's life, to rescue them from the absurd fate of either death by exposure or death by that exploitative prostitution called embryonic experimentation and research.

On the other hand, some still worry that however well-meaning the motivation embryo adoption either cannot or will not be viewed as an analogy to adoption's historic understanding. Eyer worries that "whenever such social transactions occur in a free-market economy as ours, an industry seems to arise."<sup>140</sup> That industry is here. Not only are clinics selling embryos, they are custom making them according to the preferences of the prospective parents.<sup>141</sup> Meilaender grants that Christians could understand embryo adoption as rescue, but, he adds, "if we are looking for needy children to rescue, they are, alas, all around us in our foster care system. Pre-birth embryo adoption is not likely to signal similar attempts at rescue. It is far more likely to be one more way of exercising quality control, of finding the child whom we want - rather than loving the child we have been given."<sup>142</sup>

If Meilaender is right, then embryo adoption will be perceived, at least by society as it is already if not also eventually by the church, as an option for treating infertility. In his book *Reproductive Technology: Toward a Theology of Procreative Stewardship*, Brent Waters maintains that "perceiving adoption as a reproductive option distorts its charitable character,

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<sup>137</sup> Eyer, *Holy People, Holy Lives*, 127.

<sup>138</sup> Romans 6:1-14.

<sup>139</sup> Meilaender, *Bioethics*, 122-123.

<sup>140</sup> Eyer, *Holy People, Holy Lives*, 120.

<sup>141</sup> I. Glenn Cohen and Eli Y. Adashi, "Made to Order Embryos for Sale - A Brave New World?" *New England Journal of Medicine* (June 27, 2013).

<sup>142</sup> Gilbert Meilaender, "A Child of One's Own: At What Price?" *The Reproduction Revolution: A Christian Appraisal of Sexuality, Reproductive Technologies, and the Family* (Grand Rapids: Eerdmans, 2000), 44.

implying a reciprocal exchange or collaboration between natural and adoptive parents." This distortion seems all the more amplified, and even more likely, in the case of embryo donation and adoption. Waters argues that the various parties involved

seemingly enter a joint venture of meeting each other's needs in which the natural parents perform an equally charitable act in surrendering their child to an infertile couple. This portrayal, however, misrepresents the situation as a coincidence of interests rather than a tragedy; i.e. the natural parents' inability to care for their offspring. Suppressing this tragedy opens the door to a market-driven approach to procreation, suggesting that a fertile couple have reproduced for the purpose of supplying an infertile couple with a child. However much adoption may solve the respective problems of infertile and unfortunate couples, to cast it as a reproductive option corrupts the inalienable character of parenthood. In this respect, it must be stressed that natural parents 'do not act for adoptive parents; adoptive parents act for them'. The overriding consideration is the welfare of the child, not the plight of natural or adoptive parents. The intent is not to relieve natural parents of a burden they are unable to bear or to satisfy the parental desires of an infertile couple, but to find a suitable place of timely belonging for a child who would otherwise have none. This is why adoption is not restricted to infertile couples, for its purpose is not to obtain children but to place them in families.<sup>143</sup>

As the church continues to discuss the question of embryo adoption as merciful rescue, we should consider carefully its implications for the technology that created these embryos in the first place. That is, we should ask in earnest if a distinction should be declared, at least for the church and as mentioned above, between embryo *donation*, the creation of embryos outside the womb with either the intention or potential that they be gestated by someone other than the biological mother, and embryo *adoption*, suggested by some to be an act of rescue for embryos that already exist. We should also show mercy to the couple considering embryo adoption by encouraging them to identify why they consider themselves called to adopt an embryo out of its frozen state rather than a child out of her foster home, a consideration that should affect the methods embraced in embryo adoption.

In considering both the church's witness and her mercy to the world, we must think seriously not about how far we can push the limits of our creaturely existence, but how we might live as embodied creatures in merciful witness to the world. Again, Meilaender:

When we remember again the number of needy children who go unadopted precisely because of their needs, when we consider the degree to which new reproductive technologies have - in very short time - begun to teach our society to think about reproduction as a right to which everyone is entitled, when we ponder the implications of these technologies for our society's understanding of children, we must ask whether Christians should not call a halt - at least for themselves. We do not have a story that teaches us to think of children as our entitlement or our possession. Indeed, the story we tell goes even beyond that of Hannah, Elkanah, and Samuel. For knowing as we do that God has already provided the Child, we can free ourselves of the feverish need to have a child of our own, whatever the cost. Perhaps the greatest service we can perform for our own children and for the world into which they will be born is to live in such a way that we remind ourselves and others that each child is indeed not our product, our project, or our possession, but a "blessing" that "love gives again into our arms."<sup>144</sup>

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<sup>143</sup> Water, *Reproductive Technology*, 73.

<sup>144</sup> Meilaender, "A Child of One's Own," 45.

### *Life Together*

The third phrase, Life Together, of the synod's three-fold emphasis, refers to the fellowship of Christ's body, the church, created and sustained by God's Word and Sacraments, even as the body of Christ also discerns the life together we share with all fellow, embodied creatures.<sup>145</sup> The divine service locates the church's life together as the primary place and creative center of her fellowship. It is the primary place of pastoral care for the couple experiencing infertility, where the Christian vision is given a glimpse of the feast and joy to come and our creaturely existence as finite and free is oriented by and toward eternity. The Lord's divine service to his people is, in the end, the only way forward for the church in this world that leads to resurrection and life everlasting. Forgetting this means failing to serve suffering couples with the lasting peace and true fulfillment Jesus offers through Word and Sacrament. Thus, David F. Wells contends that the contemporary church

needs to recover some old habits now much discarded, like learning to think of sin as moral failure before God and the self as needing to be restrained, displaced, and forgotten, and seeing God not for his value to us as consumers but for the value he has in himself...Humility is that freedom from our self which enables us to be in positions in which we have neither recognition nor importance, neither power nor visibility, and even experience deprivation, and yet have joy and delight. That is the pattern of humility modeled in the incarnation (Phil. 2:5-11). It is the freedom of knowing that we are not the center of the universe, not even in the center of our own private universe. Those who have best learned this kind of godliness know that what may seem like the most awful loss is actually true freedom.<sup>146</sup>

In *Worship as Pastoral Care*, William Willimon recalls these "old habits" that Wells begs the church's servants to recover: "In an earlier time, a pastor caring for his flock, engaging in the activities related to the cure of souls meant, in great part, leading them in worship...A major difference in the pastoral care of previous ages of the church and that of our modern era is the switch from care that utilized mostly corporate, priestly, liturgical actions to care that increasingly limited itself to individualistic, psychologically-oriented techniques heavily influenced by prevailing secular therapies for healing, personal fulfillment, and self-help..."<sup>147</sup> Referencing Willimon's insight about this peculiar change in pastoral care, Pless reminds the church and her servants of the primary place of word and sacrament, including confession and absolution, in caring for souls: "The pastoral care of the individual is done in the context of the congregation gathered around word and sacrament...In catechizing his people the pastor will need to make it clear that confession/absolution is the ordinary means of pastoral care in the church. It need not be reserved only for extraordinary circumstances or situations."<sup>148</sup>

This gift of God's address, Bayer notes, is "more than simply a motivation for Christian living. It contains within itself certainty of a material and ethical kind."<sup>149</sup> It provides not only

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<sup>145</sup> Matthew Harrison. <http://blogs.lcms.org/2011/life-together-what-is-it-we-actually-share-2-2011>.

<sup>146</sup> David F. Wells, *Losing Our Virtue: Why the Church Must Recover Its Moral Vision* (Grand Rapids: Eerdmans, 1998), 204.

<sup>147</sup> William H. Willimon, *Worship as Pastoral Care* (Nashville: Abingdon, 1979), 35-36.

<sup>148</sup> John T. Pless, "Your Pastor Is Not Your Therapist - Private Confession: The Ministry of Repentance and Faith" (paper presented at the Seventh Annual Symposium on Catechesis, Sussex, WI, June 15, 2000). Available here: [www.ctsfw.edu/document.doc?id=305](http://www.ctsfw.edu/document.doc?id=305).

<sup>149</sup> Ibid., 20.

the world view from which a Christian's life is lived but also its form and content as well as its place in relation to the world and fellow humanity. One who understands the creative action of God in baptism, absolution, and the Lord's Supper as *creatio ex nihilo* will therefore "discern their own fellow human beings simply as those who find themselves in the same situation. Thus the least of our brothers and sisters (Matt. 25.40) will not just be *the others*, strangers, with whom we are called to show solidarity. Rather, from the very outset *we are those people*." This, indeed, is how the Christian learns to relate to the world—by living in one's baptism, or at least being constantly returned by God to one's baptism through confession and absolution. In fact, that is where baptism finds the Christian at the end of Luther's catechism—in the world, in need of forgiveness. "The gospel liberates," Brock adds, "by informing humans that they are not responsible to empirically define humanity, and can therefore gratefully receive human life as a gift...Only a community that has 'tasted and seen' resources beyond itself can embrace such a claim, and only such a community is given the faith to ask for the wherewithal to care for those who have been given."<sup>150</sup>

Confession and absolution, then, is the ordinary means of pastoral care for couples suffering from infertility. As in the story of Jacob and Rachel and the many stories of today's infertile couples, temptations to sin against God and the neighbor, in particular the neighbors of husband, wife and child, come with the suffering of infertility. Not only are there temptations to transgress the limits of our created existence, but the old adam who remains in need of daily drowning lashes out in envy and anger when he does not get his way. The Lord's divine service to his people brings his people up against the absolute God, and, as Forde has well explained, "the only solution to the problem of the absolute is absolution...That is to say that the only solution to this systematic problem is the *pastoral* one, the move from the abstract to the concrete, from the hidden to the revealed God, from, we might say, the lectern to the pulpit, font, and altar. Only if the absolute actually absolves here and now can our bondage be broken and we be *saved*."<sup>151</sup>

All other expressions of pastoral and diaconal care flow from this divine service of God to his people *and direct them back to it*. This rhythm of the Christian life, as Luther called it, cannot be escaped on this side of the resurrection. Efforts to overcome or move past the need for forgiveness, to have a measurable answer to every question and secular solution for every problem, seek ultimate meaning in penultimate actions. "This need not and should not mean a rejection of the penultimate healing that scientific and clinical medicine offer us," Meilaender adds; "the best physicians know, however, that their art at its highest must cooperate with powers beyond their own. We should give them our respect and gratitude, but not our devotion - and they, of course, should seek no more. Instead, we place our ultimate hopes for Health and Wholeness in the God who himself has been broken by death - and who nevertheless lives."<sup>152</sup>

Meeting us in his word and sacraments, that crucified and risen Christ frees us from the desperate need to be like God and raises us to live from the forgiveness of sins, not as a god but as children of God who "can experience deprivation and yet have joy and delight."<sup>153</sup> In that

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<sup>150</sup> Brock, *Christian Ethics*, 371.

<sup>151</sup> Forde, *The Preached God*, 155. Emphasis original.

<sup>152</sup> Meilaender, *Bioethics*, 131.

<sup>153</sup> Wells, *Losing Our Virtue*, 204.

encounter with the incarnate Lord who did not insist on equality with God but rather humbled himself for the sake of his neighbor, the church's witness, mercy, and life together finds its most profound expression of the reality that transcends this life. For both the church's conversation about reproductive technology and her care for infertile couples who together ask "Where do we go from here?" we may find no better antiphon than the song of the Psalmist: "I was glad when they said to me, 'Let us go to the house of the Lord'" (Psalm 122:1). There we find a foretaste of the feast to come that, as the church prays, blesses our earthly homes to be "a foretaste of our eternal home."

Peter J. Brock  
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All Saints' Day 2014

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