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TISCHENKO Pavel

HUMAN'S EMBRYOS AND FETUSES: WHAT OR WHO? (OUTLINE OF CONSTRUCTIVIST ANSWER)

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Pavel Tischenko –

Dr. Philos. Sc.,
Chief Research Fellow
of the Dept. for Evaluations
in the Humanities and Bioethics,
Institute of Philosophy,
(Russian Academy of Sciences)

<https://orcid.org/0000-0001-7304-7027>

E-mail: pavel.tishchenko@icloud.com

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Abstract: Technologies to edit human embryo genome have been developed recently but, according to some developers, have already proven efficient and safe. What blocks the start of their clinical application is the unsolved problem of moral and legal status of human embryos. A critical discussion of this challenge suggested by this article serves a double aim. First, culturological foundations of the conflict between pro-life and pro-choice advocates are discussed from the academic perspective. Introduced

are the concept of clit culture, as well as idea of reformatting the difference between the good and evil, where the ultimate evil of death is replaced by the evil of suffering (pain).

As a result, in the technologies of abortion and euthanasia death becomes a medical means, while the procedures themselves become acts of doctor's mercy. Second, a critical analysis of the conservative and liberal ideologemes is carried out, based on a discussion of two real cases. The perspective is that of a participant observer, a bioethician. This analysis allows to bring the conflicting positions closer together.

For a practical solution of the conflict, the models of a retroactive moral status of human embryos and fetu are suggested, as well as a biotechnically constructed definition of "coming into the world". The concept of anthropogenic phasic transitions and technoscience by B. G. Yudin serves as the theoretical foundation.

In the half a century of Abortion Wars (Orr 2017), a new frontier has opened up between *pro-life* and *pro-choice* ideologies that include political and anthropological competing attitudes. The development of effective and relatively affordable CRISPR/Cas9 genome editing technologies has raised the question of the status of unborn embryos and fetuses. Whether they are things to be considered as only a means for important scientific and medical ends, or formed beings among us – individuals with legal capacities? Such capacities could include the right to life and property rights, the right to charity (access to medical care), and other rights that now belong to human beings.

How is it possible to converge rivaling ways of thinking or try to solve this question (at least in its "partial derivatives"), considering the negative experience of half a century of debates?

Theoretical background

Humans are constantly evolving, retrospectively realizing the effects of their development as the results of their actions or events that occurred outside the field of their rational disposition – a kind of "black swans" (Taleb 2020). The space of human beings in evolvment or evolvment in being was called by Boris Yudin *anthropogenic zones* of phase transitions. Modern biomedical technologies, solving concrete therapeutic or enhancement problems, constantly shift human beings beyond existing normative limits. He described four such zones, although suggesting that there are many

more: "So what are these zones? The first is the zone that lies between the life and death of the individual human being. The second zone precedes the birth of the individual human being. The third one divides (or perhaps connects?) the human being and the animal. And the fourth one is the zone that also, perhaps, divides or unites humans and machines" (Yudin 2011:107).

In each of these zones, individuals discover themselves as non-identical, i.e., as a problem of self-understanding and self-research. And this problem is not a theoretical one, but better to name it existential. Its solutions are not the discernment of some essence of persons, but installation of boundaries between worlds of people (personalities) and things. In each world, specific modes of action are allowed or not allowed to do others (Tischenko 2018). The prohibition "Thou shalt not kill!" – is one of the most archaic ones and, in this sense, fundamental markers of the human world itself, which, as noted above, does not exhaust the content of the rights of those we recognize as humans. Inside the uncertainty of the border zone between not-yet-humans and already human beings, is the problem of embryos' and fetuses' anthropological status. Are they things whose existence can be interrupted at any moment without violating the prohibition "Thou shalt not kill!" or some of us, whose life is protected by that prohibition? The question mark used in the preceding sentence, constantly renewed in a fierce political and moral debate, is an authentic reference to the zone of phase transition between not-yet-human and already-human existence (Banchoff 2011).

Events in this border zone unfold in two plains – in the technoscientific internal and external contours (Yudin 2016). In the inner circuit, this zone is formed by reproductive technologies and technologies for manipulating the genome of human germ cells and embryos. Bioethics deals with the proactive diagnosis, assessment, and management of socio-humanitarian risks associated with biomedical discoveries and inventions in the external contour (Tischenko 2016). The task of bioethics is to socialize them (discoveries and inventions) – to put them into the context of political, medical, religious, economic, and other networks, to ensure their responsible and practical application, as well as benevolent and interested perception by various social agents.

The first experience of differentiation and practical coordination of the two technoscientific contours within one scientific project was the Human Genome Project (1990–2003). It funded, in addition to its biological developments, a research program on ethical, legal, and social problems (ELSI – Ethical, Legal, Social Issues), conditions and consequences of its imple-

mentation, allocating 3–5% of total funding annually for socio-humanitarian research (ARCHIVE 1990–2003). The work of the external circuit ensures (through deliberative mechanisms) the transformation of discoveries and inventions into socially acceptable and sought-after innovations, which is much more effective than the archaic practices of bureaucratic "implementations" of scientific achievements. The two-loop model of science proposed in the Human Genome Project has become a standard reproduced with variations in almost all scientific research on humans. International and national legislations of industrialized countries institutionalized this model. Our own domestic legislation presents some of its elements.

The latest discoveries and inventions in the field of genome editing technologies have been no exception, giving new impetus to bioethical debates around the problem of the moral status of human embryos and fetuses. Legal and ethical regulations arising in these discussions will determine whether they (biotechnologies) would apply to humans. In this regard, my article addresses the dual challenge. First, it is an academic philosophical, and anthropological study of the unborn human beings' moral status. Secondly, it deals with bioethical interpretations to determine conditions under which genome editing technologies could be applied to human embryos and various medical manipulations with fetuses. Since the problem of embryos' and fetuses' moral status has historically arisen in the context of abortion acceptability, it is natural to begin the discussion with this question.

The right to choose and the right to life

The issue of embryos and fetuses ontological and moral status, which has been on the periphery of theological and philosophical debates since ancient times, has become the focus of fierce ideological and biopolitical battles thanks to the U.S. Supreme Court's decision in *Roe v. Wade* 1973 (Hull, Hoffer 2001). The Supreme Court ruled that a Texas law prohibiting abortion was unconstitutional, finding it contrary to the 14th Amendment to the U.S. Constitution, which protects the right to privacy of a citizen against the government intrusion. Not only did the Court give women the right to terminate an unwanted pregnancy in the first trimester of pregnancy, but it also prioritized this right over the right of embryos and fetuses to life. In this way, a biopolitical mechanism of the legal conflict was constructed. Its optics visualize embryos and fetuses as actors in social interactions.

A look at the Soviet history of abortion socialization can help us understand this legal innovation's anthropological meaning. The Soviet Union

became the first country to legalize abortion in 1920, then it banned it in 1936, only to legalize again in 1956. In this biopolitics, military, demographic and economic arguments dominated and sought to balance the immediate needs to have more workers and soldiers against the need to temporarily exclude large numbers of women from industrial production and education of new members of the society. The legalization of abortions was not *de facto* linked to women's rights as a guarantee of their freedom of choice. At the same time, their prohibition did not constitute the right of fetuses to live.

The Soviet position on abortion issues was congruent with the standard internationally dominant version of the scientific understanding of human life as being inherently physiological. The medicalization of pregnancy, childbirth, and technologies for aborting fetuses that occurred at the end of the 19th century provided care and treatment for life-threatening pregnancy abnormalities. At the same time, it created the status of pregnant women as patients – passive social subjects, paternalistically dependent on doctors. Once in a medical bed or a gynecological chair, a woman turns from a citizen in the scientific medical view into a patient – a physiological machine with not always welcomed part of an embryo or fetus. Its removal or preservation is a purely technical issue that could be decided not only by the woman but also by a doctor, who cares about her health and, in Soviet medicine, about the demographic well-being of the nation.

The Soviet point of view quite adequately reflected and still reflects the scientific community's position insofar as it is limited to the perspective of the internal contour of technoscience.

Scientific liberal position was opposed by the prohibitions on abortion, rooted in the values of traditional society and widespread in the first half of the 20th century. It is important to note at the outset that these prohibitions were in no way related to the doctrine of fetal rights, one element of which would be the right to life. Traditional (mainly Christian) consciousness does not see the human being as "one of us" before baptism or, much less, as an individual with any rights. The sacrament of baptism as a symbolic death in the mortal body and rebirth in the Spirit, granting redemption from sins and the hope of salvation, is the sole beginning of human existence. The meaning of the prohibitions that set the boundaries of a particular anthropological type or a specific way of life is reduced to protect *motherhood* as the main attribute of a woman in the traditional culture.

For now, it is worth noting the paradoxical circumstance. U.S. Supreme Court decision in the case of *Roe v. Wade* (1973) not only legalized

abortion but also, for the first time, interpreted, in the relevant part of the judgment, the fetus as a social agent (as one of us) with the right to life, although not a priority in the first trimester of pregnancy, in conflict with another social subject – the woman. In the third trimester, the priority of rights inverts. The fetus's right to life begins to dominate.

In this case, the optics of the instrumentalizing scientific view characteristic of the inner contour of technoscience is preserved. Still, it is supplemented by the optical system of legal consciousness of the outer contour, which distinguishes in its field of vision the conflict of rights of two subjects alienated from each other in claiming the realization of their rights – women and unborn children.

What is the anthropological peculiarity of law as normative optics?

The apology of the inauthentic third person existence

As a normative system, the law binds individuals who recognize each other as such, endowing each other with inalienable personal rights to life and property embodied primarily in their bodies. The freedom of each is limited only by the counter-claims of other free persons. Thereby, in the horizon of law, people are alienated from one another. Their first- and second-person relations (me, you, we) are transformed into impersonal third person associations (he, she, they). The essence of such inauthentic from personalist view way of existence is expressed by the notion of voice and the freedoms (procedures) associated with it. Since the realization of everyone's freedom needs to be recognized by other individuals, who in their way differently understand the meaning of normative restrictions (assumptions) on living together, a law not only alienates people from one another (makes them free) but also assumes a struggle for the recognition of particular claims to the realization of their own interpretation of freedom as the basis for their relations.

In relationships regulated by law, the warmth of love for one's neighbor, the ideal of first and second person communication is lost and, fundamentally importantly, the anthropological landscape of human presence is flattened. The individual is recognized (if recognition has occurred) as a subject of legal relations, irrespective of the thought grasped as his own or his (other) own inner content. In his inner self-consciousness, a person can be Christian, Jewish, Buddhist or Muslim, Kantian or J. St. Mill supporter, Heideggerian or analytic, hetero- or homosexual. However, in the horizon of law, his inner personal content is alienated and exhausted by his legal capacity. Law alienates individuals from his or her inner content. Still, this

alienation creates the possibility of peaceful reconciliation of the interests and values of dissenting people involved in conflicting social interactions. A liberal American philosopher and, at one point, conservative Orthodox theologian Tr. Engelhardt Jr. offered a vital distinction between bioethics for friends and bioethics for strangers (Tao Lai Po-Wah 2018). First person bioethical arguments from addressed to the second person arguments are relevant in a community of friends. Third person arguments addressed to everyone are appropriate in the legal community of strangers.

Thanks to the transposition of abortion issues into the legal sphere in the United States, and later in the rest of the Western world, to which Russia can be ascribed despite certain reservations, there has arisen a complication of a binocular view on the phenomenon of pregnancy. A view of the legal consciousness complemented the scientific picture that visualized embryos and fetuses as repairable (or sometimes unrepairable) machines. It includes a broad ideological diversity, distinguishing them (embryos and fetuses) as potential individuals whose rights (primarily to life) conflicted with women's rights to freedom. For fellow citizens, bioethics, with its formal principles and rules, became the primary discursive vehicle for the justification and competition of social actors in the external circuit of biomedicine as a technoscientific endeavor. Simultaneously, by expressing the values and interests of the conflicting parties, two mighty, constantly warring armies – *pro-life* and *pro-choice* – were formed in the global biopolitics. They accumulated various ideological attitudes and endowed the American courts' formal legal decisions with the energy (flesh) of social struggle. The context of this struggle was a new cultural situation. I will highlight two aspects – the transformation of sexuality and the ultimate distinction between good and evil.

Female Counter-Circumcision and Clit-Culture

Each year about 200 million girls undergo female circumcision (removal of the clitoris and labia) (Ontiveros 2018). As a result, a woman is transformed into a childbearing machine with (at the expense of inaccessible sexual pleasure) high "moral" qualities. It is no coincidence that in Russian traditional anatomical terminology, the clitoris is called "pokhotnik" (a derivative from the Russian word for lust), i.e., the embodiment of moral evil. We can say that the oral contraceptives developed in the early 1960s, reinforcing the social effects of abortion (Tischenko 2010), committed female counter-circumcision by blocking in women the female childbearing functions (of a reproduction machine) and thereby introducing female be-

ings to carefree practices of pleasure and social self-affirmation. This biotechnological innovation was one of the driving forces behind the sexual revolution of the 1960s, which freed women from the attribute of motherhood (a point expressing essence), turning the ability to bear a child into incidental modus (one of the possible but non-essential qualities) of their existence.

Thus, next to the structures of the traditional family and phallogocentric culture (Jacques Lacan), childbirth was and still is seen as the essential form of self-actualization for men and women; a fundamentally different kind of human self-actualization emerged, freed from the links with procreation. Accordingly, a new family type was formed, indifferent to the gender specificities of the actors, and, in general, a new kind of culture, which can be reasonably called clit-culture (from the word clitoris). The phallus, having lost its childbearing functions in the symbolic space, in the framework of this cultural attitude, is identical to the female clitoris as an organ which biological meaning in men is limited to participating in the production of erotic pleasures.

This symbolic identity of female and male reproductive organs is practically realized in the increasingly popular surgical techniques of sex reassignment. Indifference to natural sexual characteristics within the clit-culture contributes to the legalization and social habilitation of homosexual relationships, which are stigmatized as unnatural in the traditionalist culture.

By protecting sexual relationships from the natural necessity of pregnancy, contraception and abortion technologies set the stage for treating procreation as a deliberately controlled process. Procreation is shifted from a natural "is" to a technologically mastered "can be" – the basis of personal freedom. In this way, the conceived future child turns from a gift (from God or Nature) into a peculiar planned product of parents and doctors (biotechnologists). Its birth is not conditioned by the "natural requirements" of men and women, nor by God's commandment to "be fruitful and multiply".

Starting a family and planning to have children at an appropriate time becomes a reproductive right. Doctors and scientists provide innovations in assisted reproductive technologies to ensure the reproductive rights of citizens regardless of their age, health status, gender, sexual orientation, lifetime or posthumous parenthood. It is possible to conceive and bear children from deceased "parents" whose sex cells were frozen during their lifetime.

Thus, the ideological position designated as pro-choice is not formed in an empty place, but in the context of a clit-culture that is indifferent to procreation, relying in the internal circuit of technoscience on innovations

in biomedical (reproductive) technologies and in the external circuit on the mechanisms of alienating and externally binding social subjects of the rule of law.

C. Luker emphasizes that the differences between pro-life and pro-choice ideologies are fundamental. These biopolitical ideologies offer women different anthropological projects of being themselves and life values, correlated with the peculiarities of the existence of other social groups. The pro-life group is dominated by women housewives of the single-story, semi-rural America with low levels of education. In the pro-choice group, the educational level is much higher, women strive to achieve career success, prefer to live in metropolitan areas (Luker 1984). It is no coincidence that half a century of intransigent pro-life and pro-choice struggles, including frequent episodes of violence against doctors and women who practiced abortions, have produced virtually nothing – no agreement, not even a convergence of positions.

It is true that for all their ideological differences, the disputants found common ground by appealing to which they could more or less rationally attempt to justify their position. Both pro-life conservatives and pro-choice liberals have to consider that visualization of embryos and fetuses at early stages of development is provided exclusively by biomedical technologies (technologies of microscopy, fluoroscopy, ultrasound and electrophysiological studies, biochemical and hormonal tests). Therefore, practically all disputants, who are trying to establish a boundary between not yet and already human existence that corresponds to their ideological preconceptions, are forced to delve into the visualizations offered by scientists, embryologists, and obstetricians.

Conservatives usually choose the moment of conception; liberals suggest the moment of fetal viability as the borderline. Proponents of the gradualist view seek the anthropological boundary between conception and birth, drawing attention to the importance of the formation of the primary stripe in the embryo, the implantation of the embryo into the uterine wall, the appearance of the heartbeat, and electrical activity of the fetus' brain, its human appearance, etc.

Reformatting the distinction between good and evil

In traditional culture, human birth was and still is a kind of natural lottery. For the virtues or defects received at birth, one must thank or blame God or Nature. The instrumentalization of human life, occurring in the scientific view, and its transformation from a gift to a project, carried out in

the horizon of clit-culture, create conditions in which claims for congenital problems can be made by a child who feels that he/she is a shoddy product, against those who misdesigned it (the parents) or implemented it poorly (the doctors). Once descendants become aware of themselves as products, the possibility will necessarily arise that they "may demand accountability from the creators of their genomes, holding them fully responsible for the undesirable, in their view, consequences of the original organic state of their life history" (Habermas 2002).

The demand for this kind of "accountability" can be heard in the growing number wrongful life suits (Pelias 1986). They are, of course, fascinating in their own right because they construct in the legal field a special status of the human being as a biotechnological product demanding accountability from its manufacturers. But they also contain another no less fundamental thesis. The fact is that, as noted above, despite the successes of prenatal medicine, abortion is almost the only means of "treatment" for diagnosed genetic or other congenital pathologies. In essence, children are suing doctors for not informing their parents about the defect and the possibility of an abortion, or parents for not going for an abortion when adequately informed.

Abortion, terminating their poor quality of life, is not a crime (murder), but an act of radical mercy! In other words, it is not death that embodies the ultimate evil, but suffering experienced as pain in the body. In essence, there is a generalization of the utilitarian moral perspective.

Within this cultural perspective, abortion is not murder but a form of medical treatment. It is precisely the same form of professional medical mercy as euthanasia, which moral justification lies in the same new evidence of the ultimate distinction between good and evil. By interrupting suffering (pain), death is a means of healing, preventing the onset of a worse evil. Therefore, within the pro-choice culture, it makes no sense to accuse women who have had abortions of killing innocent children. For them, it is simply an act of mercy, sparing a future human being the worst evil – suffering.

Thus, in the conflict over the moral status of embryos and fetuses, two antagonistic cultures, two different anthropological projects embedded in different coordinates of the distinction between good and evil, collide.

Since there is no common sense, it makes no sense to try to resolve this conflict by rationally proving the priority of one of the positions. In each case, the answer is always implicitly present in the obviousness of a specific cultural self-consciousness. However, it is possible to resolve the con-

flict in another sense of the word – accept it as inevitable and think about a civilized form of its adaptation into a heterogeneously arranged social life.

To do this, it is necessary, using the language of Tr. Engelhardt Jr., to complement the "bioethics for friends" discussion with a "bioethics for strangers" discussion. In undertaking this task, I will allow myself to assert a claim of inconsistency against each side. All I have to do is to hear them.

Navian Finding

The world reveals itself in the telling of stories and the showing pictures or other visual resources. To act, one must see and localize the possible action. To visualize pro-life position limits, here is some evidence from Wikipedia: "In the evening of July 22, 2012, near the Anik village, about five kilometers from the Ekaterinburg-Nizhny Tagil highway, four plastic barrels with human embryos were found by residents in a forest ravine. An investigative task force comprising the Nevyansk police department employees, forensic experts, and representatives of the territorial investigation department of the Investigative Committee of Russia for the Sverdlovsk region visited the scene. As the police officers arrived, they found more than 50 human embryos, treated with formaldehyde and marked with tags. Some of the well-preserved tags read 14, 24, 27, 40. When the barrels fell into the ravine, the lids had popped off and some of the contents of the containers ended up on the ground." (The author of the article mistakenly refers to the aborted fetuses as embryos. – P. T.) (Nevyansk finding 2012).

The brutal treatment of aborted fetuses has caused justifiable widespread indignation among faithful and secular representatives of the authorities, as well as the general public. However, despite the unanimous moral anger, citizens could not change the general order of disposal of aborted fetuses as "class B (biological) waste" along with waste from meat plants, slaughterhouses, etc. The consciousness of both believers and non-believers alike became frozen in the aporia of the need to act immediately, in the face of the blatant barbarism, and the impossibility of acting, since the empirically visible fetal corpses were not seen "as one of us" not only in terms of law or science, but, as it turned out, in religious optics also. No one recognized, as Antigone did, in these dead fetuses their "brothers" and could not humanly bury them in the cemetery as people like us. Vast majority of aborted fetuses are still being disposed of as Class B waste, or regular decomposing meat.

Thus, a significant shortcoming of the conservative position can be seen as an ethical-legal inconsistency. By calling the embryo a human being and applying to it the "Thou shalt not kill!" principle, its proponents do not

consider it equally necessary to view other rights as inextricably belonging to the human being as a human being. In the dramatic case of the ditched aborted fetuses described above, a blind spot in the optics of conservative consciousness becomes evident. No other concern for unborn embryos and fetuses than the prohibition of "Thou shalt not kill!" is envisioned by pro-life advocates. For example, let us listen to the Russian Orthodox Church's justification of its position on abortion. The Social Doctrine of the ROCh reproduces Tertullian's assertion: "Whoever becomes a man is already a man". A quote explains this brief formula from Athenagoras, the Apologist of the second century A.D.: "The woman who has committed a miscarriage is a murderer and will answer to God. The fetus in the womb is a living being, about whom the Lord cares" (Social Doctrine of the Russian Orthodox Church 2008). In other words, the fetus is already a human being, about whose fate the Lord cares.

But if this statement is correct in reflecting the Church's position, it would be necessary to assert the right to life and all the other rights that belong to the one "who will be human," since he is "already human". In particular, the right to a dignified burial of dead fetuses and embryos. The problem, however, is that, as noted above, the individual becomes, from the Christian point of view, which is the primary ideological justification for the pro-life position, only in the sacrament of baptism, a symbolic death in a sinful body and rebirth in the Spirit. Before the revolution of the 17th century, there was a special kind of practice of burying miscarried fetuses and newborns who died before baptism (Folk Traditions 2019). Now, similar practices are beginning to develop in Western Europe and Israel. In our country, aborted fetuses are still regarded as biological waste – decomposing meat.

Thus, in addition to the right to a dignified burial, it will be necessary to provide fetuses with the right to mercy, which in the secular world is expressed by the right to health care. A failure to provide medical care to a person when it is possible, is categorized as moral misconduct or even the physician's crime. If we can help an embryo, as a human being, facilitate a healthy birth and a healthy life, this circumstance constitutes our *duty* to perform these procedures. This understanding can justify moral acceptability of biomedical technologies such as genome editing or preimplantation diagnosis and the moral obligation to do so. I believe that the conservative position needs serious modernization if it truly, rather than merely rhetorically, protects the status of embryos and fetuses as human beings. Only technical issues of medical expediency and safety will remain, as well as the legal issue of responsible use of prenatal medicine technologies.

In my view, the proposed interpretation of the "Nevyansk finding" reveals the possibility and necessity for pro-life supporters to authentically reconceptualize their position in the face of the position of their pro-choice opponents.

Likewise, the life itself can suggest the possibility and necessity for an authentic reconceptualization of the liberal pro-choice approach. It is enough to merely hear this clue.

The case of an unsuccessful cesarean section operation

"The example given by I. H. Babadjanov and M. V. Salnikov pointedly illustrates the situation: they failed to obtain compensation for a child whose delivery caused a deep incised wound to the left cheek during a cesarean section operation, which resulted in painful sensations and permanent deformation of the face. The trial was only about the moral harm caused to the parents, as the jurisprudence does not recognize a legal personality of the unborn child" (Fomina 2019:40).

The main drawback of the liberal position is that by treating the human embryo instrumentally as a kind of repairable machine, doctors and biotechnologists free themselves from the responsibility for health problems that may be caused by their manipulations with the embryo (and, likewise, the germ cells of future parents!) and that may manifest after the birth of the child. Embryos and fetuses do not have legal capacities as things in our and most foreign codes. Therefore, relevant subjects are not responsible for damage caused before birth. Note that this applies not only to subjects of human embryo genome editing but also to the whole thriving new field – prenatal medicine.

It is probably necessary to create civilized mechanisms of insurance for medical and biotechnological liability in this area. At the same time, the development of this practice would mean recognizing embryos and fetuses as a specific kind of persons, i.e., limiting the instrumentalist attitude to their well-being. It is for this empowered individual (not just the parents) that the physician or biotechnologist has a responsibility, when acting at the prenatal stage of the individual's life.

So far, we have the following situation: "In the Russian legal system, if genome editing has been performed on a human embryo, there is no possibility for both the born person himself and others in his interests to seek the protection of his right in court (if necessary) because of the definition of the moment of civil legal capacity by birth, which does not meet the criteria of justice" (Fomina 2019:40).

The moral insufficiency of the one-sided instrumentalist attitude is artistically described by Bulgakov in his novella *Heart of a Dog*. Professor Preobrazhensky "plays God," twice transgressing the anthropological boundary between the thing and the person. The first time, solving the scientific problems of human rejuvenation by transplanting the pituitary gland and testes, he transformed a dog (Sharik) into a human. The second time he performed the reverse operation, transforming a human (Sharikov) into a dog.

The two transformations performed by the professor are reminiscent of Descartes' mental experience in "Discourses on First Philosophy" with wax, which in the hands of the master by heating and cooling acquires different states, remaining essentially one – the pure matter for human manipulations, to which he can give any shape. Therefore, the condition for the possibility of both operations of turning a dog into a man and a man into a dog is the representation of this material basis of life as a potential machine. His unsuccessful product, which has no value as a person, returns without remorse to the original animal or lumbering state.

Biotechnological manipulations of embryos, which involve their destruction in the case of failure at the preimplantation stage and the abortion of fetuses at the stage of intrauterine development, are quite consistent with the logic and morality of an instrumental attitude. At what stage of individual development should a genome-editing biotechnologist stop himself from destroying a failed product? After all, the failure of genome editing can also manifest itself after birth. The most radical proponents of the instrumentalist attitude to human life quite allow for infanticide until the emergence of speech (consciousness) (Tooley M. 1972). Here again, it is useful to recall the lawsuits of the "artifact," Poligraf Poligrafovich, to his "daddy" Professor Preobrazhensky, as well as the legal actions discussed above, related to a low quality of life.

In other words, the requirements of responsibility and justice can bring the pro-choice position closer to the pro-life position, thereby providing a basis for social recognition. Accordingly, the social construction of the moral status of embryos and fetuses is subjected to specific interventions (including genome editing procedures). The responsible use of biomedical technologies in prenatal medicine will be possible when the enforced instrumental approach to unborn human beings in the inner contour of biomedicine as technoscience will be supplemented by the recognition of them as individuals with special rights, the protection of which can be ensured in the outer contour. Bioethics, with its unique procedures and institutions (in particular, the institutions of ethics committees), is, as noted

above, a condition for transforming discoveries and inventions into socially desirable and acceptable innovations.

This is understood by specialists in human genome editing technologies who defend liberal values of freedom of scientific creativity. Let me cite the judgment of the most authoritative domestic expert in this field, D.V. Rebrikov: "As part of the work of ethical committees and authorized state bodies, it is necessary to record and clarify aspects that affect the clinical implementation of genome editing technologies. These structures should propose such a roadmap for the development and implementation of genome editing technologies that will allow safe and rapid transfer of the latest methods into clinical practice" (Rebrikov 2016: 4).

While I agree with this statement in its general form, I consider it essential to clarify. We are discussing "clinical implementation" not so much concerning future parents but, more importantly, their future children. Accordingly, the road map must consider the responsibility of doctors and biotechnologists for these future people. It is necessary, guided by a sense of responsibility and justice, to recognize them as a special kind of individuals, thereby taking an essential step towards the representatives of conservative attitudes. Moreover, it is natural to assume the responsibility of these social actors for manipulations with embryos and for the actions with germ cells, since biotechnologists substantiate their acceptability and necessity with the future humans' clinical improvements.

Thus, the existence of this future human being as a subject for whom doctors and biotechnologists, and, of course, parents, are responsible is constituted not by ontological considerations tied to a specific stage of individual development, but by the actions of these actors, in the scheme of which the future human being emerges as virtual reality (goal). Again, it is the biotechnological action that takes place in the two circuits of biomedicine as technoscience, that generates the moral status of the unborn and even unconceived human beings as a special kind of future personhood.

How can the energy of conservative and liberal values convergence be realized?

Two models of the legal personality of unborn and, possibly, unconceived human beings

Legal personality is a general term applied to social actors of a different nature, indicating their possession of certain rights and social obligations. Concerning specific individuals (natural persons) in modern legal systems, a legal personality is constituted by two acts that define the boundaries of

their (natural persons') civil status – a birth certificate (naming) and a death certificate. Naturally, embryos and fetuses are not observable in the optics of modern legal consciousness. Therefore, the facial trauma inflicted to the person being born but not yet born is present in the legal consciousness only in a reflected form of the mother's and father's moral suffering.

Understanding the injustice of this state of affairs and the need to constitute the responsibility of social actors (parents, doctors, biotechnologists, etc.) who influence, through their actions or, possibly, inaction the well-being of the future human being, raises the complex problem of their (future humans') legal personality. As options for solving this ethical-legal conflict, I will suggest two possible models.

First, it is useful to recall the Roman model of retroactive legal personality of those conceived but not yet born. This model is implemented in the legal systems of many countries around the world. For example, domestic Civil Law considers an heir an owner from the moment of conception but grants him or her legal personality from the moment of birth – retroactively. "Article 1116. Persons who may be called upon to inherit. Citizens who are alive at the opening of the inheritance, as well as those *conceived during the life of the testator and born alive after the opening of the inheritance*, may be called to inherit (Italics by me. – P. T.)" (Civil Code of the Russian Federation Art 1116). Historically, a retroactive status of the embryo was formulated in the Roman law; in the Middle Ages, it was supplemented by the embryo's right to inherit property (including succession to the throne). Various variants of this legal norm are also present in other sections of modern legal systems.

The Roman model of retroactive legal personality can be used to socially construct embryos' and fetuses' moral status as a special kind of person. This model is a necessary compromise to fit the proposed ethical-legal innovation into the already existing legal system and law enforcement practice to ensure the fair and responsible application of prenatal medical technologies, including human embryonic genome editing technologies. It is possible to extend this model to the unconceived child, whose presence is constituted by the actions of doctors and biotechnologists on the germ cells of future parents. In the scheme of these actions, the future human being is already present as a real subject since their goal and result are entirely determined by their well-being, which can be evaluated retroactively after their birth.

The second model is based on the anthropological hypothesis. It is possible that, to put it short, new civil registration acts such as "certificates of conception" (acquisition of embryo status) or "certificates of

implantation" (acquisition of fetal status) will emerge. To be born means to become visible. Though it appears to be a peculiar fact, being born into the world is already a complex, culturally specific social artifact. The world into which one is born is not a natural one and providing a sensual visualization for the newborn, but an artificial one – a world of scientifically and technologically provided knowledge. Therefore, even severely premature fetuses can be born into the world and be recognized as live-born if the birth center has the appropriate equipment and knowledgeable specialists.

In the absence of these, the fetus born will be considered stillborn, even if it breathes, moves its limbs, and screams. It will not emerge into the world because the world in which it can be discerned turns out to be a biotechnological construct.

In secular societies, the constitution of the moral and legal status of the newborn (his legal capacity) is provided by a medical certificate of live birth and an act of civil registration – a birth certificate. This, in essence, is an act of social construction of identity (subjectivity), accompanied by his (the newborn's) naming. In the Christian world, the act of baptism (naming) is analogous – "an unbaptized child is like a little devil," as a Russian Christian saying goes.

Conclusion

To summarize the discussion, it can be argued from the academic position of a detached observer that the problem of human embryos' and fetuses' moral status, which seemed inextricable in the debate over ontological doctrines, probably has a better chance being resolved in the perspective of the idea of human identity's social construction. The action of a doctor or biotechnologist, supported by the decision of future parents, constitutes the moral status of the future human being. From the bioethical position of a participant observer, an attempt has been made to play the philosopher's role as a communicator (Habermas 2002) between the conflicting pro-life and pro-choice ideologies. By critiquing their inconsistency, we have outlined possibilities for bringing their positions closer together by applying one of two hypothetical models: the retroactive legal personhood of embryos and a new technologically enabled model of birth into the world.

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