



Presidency of the Council of Ministers

NATIONAL BIOETHICS COMMITTEE

**ADOPTION FOR THE BIRTH OF CRYOPRESERVED AND
RESIDUAL EMBRYOS OBTAINED BY MEDICALLY
ASSISTED PROCREATION (MAP)**

18th November 2005

INTRODUCTION

The *National Bioethics Committee* (NBC) expressed its opinion regarding *Medically Assisted Procreation* (MAP) a long time ago, in the 1994 document titled *NBC's Opinion on the Techniques of Medically Assisted Procreation*. It is a document in which all the doubts but also all the expectations raised by assisted procreation are discussed; an open text, *inconclusive* according to some of its critics, in which the most divergent opinions are presented to the reader in an essentially *aseptic* manner. Since then, the NBC has not tackled the issue again, as it had no reason to do so; there have not been truly new bioethical problems regarding this topic (except cloning reproduction, an issue to which the NBC has immediately dedicated its due attention). Also, the NBC has not found any reason to express its opinion again during the long years that have been necessary to the Italian Parliament to finally approve the first organic law on the matter, the Law No. 40/2004.

However, once this law was approved, the NBC immediately felt that one of its most significant provisions, which forbids the destruction of each single embryo produced by MAP, including those that are cryopreserved and abandoned, was significantly and in some way *incoherent*. This incoherence does not regard the stringent legal protection of embryonic life: this provision could be considered by some excessive and/or ethically questionable (not however by the person writing these lines), but without a doubt is not incoherent. The point, rather, is another; the law does not say anything about the future destiny of frozen and abandoned embryos, leaving us to assume at most that they should be preserved in their cryopreserved state until the moment of their natural extinction (a moment that, currently, science cannot predict).

We must therefore recognise that L.40 needs to be integrated on this point. If embryos are fully fledged human lives it is right to give them the chance to be born, even through that practice, for some objectively perturbing, that the NBC has called *Adoption for Birth* (AFB). The right to be born must prevail on any ethical and legal consideration against it, although they highlight the not small problems deriving from this solution.

The NBC started tackling the AFB issue since the November 2004 plenary meeting, due to a request by Prof. Luisella Battaglia, who committed the Committee, and in particular the working group already looking at issues of "Assisted Procreation", to reflect on the destiny of the so-called "supernumerary" embryos. In June 2005, the Committee decided to separate the issue of the AFB from that of the destiny of the embryos abandoned to scientific research: a topic close to ours, but conceptually different and on which the NBC has in any case decided to take position as soon as possible. The first draft of the document presented here was entrusted by the Committee to Dr. Carlo Casini; subsequently it was revised by me and further revised thanks to Prof. Lorenzo d'Avack's contribution and brought to the plenary meeting of the 18th of November 2005: in this occasion it was subjected to further revision work thanks particularly to interventions by Prof. Amato, Prof. Barni, Prof. Battaglia, Prof. Borgia, Prof. Caporale, Prof. Casini, Prof. Coghi, Prof. Dallapiccola, Prof. d'Avack, Prof. De Carli, Prof. Eusebi, Prof. Federspil, Prof. Fiori, Prof. Flamigni, Prof. Forleo, Prof. Garattini, Prof. Guidoni, Prof. Isidori, Prof. Manni, Prof. Marini, Prof. Mathieu, Prof. Neri, Prof. Scarpelli, Prof. Schiavone, Prof. Silvestrini and Prof. Umani Ronchi. Prof. Garaci and Pistella

have asked to be represented, according to NBC regulations, respectively by Prof. Scaravelli and by Dr. Salberini. Prof. Flamigni, although he participated to the meeting, as we have just said, did not want to contribute to the work, feeling that the overall formulation of the document is intrinsically incoherent and that in any case he cannot support it from a bioethical point of view. After ample discussion and after undergoing numerous amendments, the document was approved by all those present, with the only exception and vote against by Prof. Mauro Barni. Amongst the NBC members who did not participate to the meeting due to justifiable reasons, we must record the early approval of the bioethical substance of the document by Prof. Sergio Belardinelli, Prof. Paola Binetti, Prof. Laura Palazzani, Prof. Paola Ricci Sindoni.

The text of the document, approved by the NBC on the 18th of November 2005, is published with five personal remarks, some of which signed by more than one member. Some personal remarks are in total or partial disagreement, others however tend to better specify the reasons why the document deserves agreement. By reading these personal remarks we will be able to better appreciate the bioethical complexity of the issue and the sobriety characterising the text approved by the Committee.

Prof. Francesco D'Agostino
President of the National Bioethics Committee

The way in which extracorporeal MAP techniques have been applied until now in many countries in the world and also in Italy up to Law No.40/2004 coming into force, determined the creation of a significant number of cryopreserved human embryos, for some of which the initial parental project is no longer possible, due to the refusal of the parents to bring the plan to fruition, or to the parents being untraceable – and in extreme cases, due to their being dead - or due to the mother being of an age, at which, objectively, it is no longer possible to avoid pregnancy risks. In addition, we recall attention to the fact that the current number of residual embryos, also after the approval of L. 40/2004, forbidding as a rule the cryopreservation process, can be increased, even though less so, by embryos cryopreserved due to circumstances beyond one's control, as they cannot be implanted in the woman during the same cycle and for which afterwards the parental project might no longer be possible (art. 14, subsection 3, Law No. 40/2004). The presence of these embryos, commonly called “abandoned”, “left-over”, “supernumerary” or “residual” (adjective, this last one, which will be adopted in these pages) is a relevant bioethical problem, because their paradoxical destiny, on first reflection, could only inevitably be that of those who, having been intentionally called to life, should die without ever being born.

The law in some countries includes the obligation, by the centres storing them, to destroy the residual cryopreserved embryos some years after their production. This solution highlights a further aspect of the bioethical issue raised here, because the destruction of these embryos happens by law, it becomes, namely, an administrative obligation, the justification of which is not explicitly clarified. Some stress the need to limit to a certain number of years the financial and organisational burden involved in maintaining them; others stress the risk of deterioration of the embryos due to their time in cryopreservation (this is, in any case, an argument that does not find any foundation in scientific literature, in which until today there is no evidence of loss of vitality in the embryos, even after many years in cryopreservation). In addition, those who have some bioethical doubts about some of the FIVET methods, observe that the elaboration of the techniques generating a large number of embryos and freezing a part on them – due to the hypothesis that the first or even following implantations in the uterus might not have a positive outcome -, namely, creating “spare” embryos for procreation purposes, implies in any case the previous approval of the hypothesis of abandoning them and therefore destroying them.

Another bioethical option, which has been largely accepted in the legislation of various countries, is that anticipating the possibility that residual embryos that have been definitely and without a doubt abandoned, and with their parents' consent, can be destined to scientific research, even when these practices require their destruction. Bioethicists took different positions with regards to this hypothesis. Some believe that, independently from the methods of procreation, from conception the embryo is an individual human life and consequently even the legitimate interests of scientific research cannot prevail on his/her “right to life”. Others, although they do not deny the human embryo protection and respect, believe instead that his/her abandonment can justify the use in research. Others believe that, where there is reasonable certainty that the embryo is unable to develop and therefore is not suitable for implantation, the embryo's individual living cells can be used for research and therapy

purposes¹. The bioethical value of these different solutions will not be discussed in this document.

An adequate and reasonable bioethical solution must be measured against the complex problem of the status of the human embryo. With regards to this, we recall the 12/7/96 opinion by the Committee *Identity and Status of the Human Embryo*, where, even when there are differences of opinion, there is a common basis that considers the embryo a human life, deserving respect and protection from the beginning. This recognition is broadly confirmed in our legislation if we look at the way in which the Italian Constitutional Court interpreted the legalisation of abortion (*Law No. 194/78*), basing it on a situation of need and not on the negation of the human identity of the conceived (Cort. Cost. N. 27/1975 and stressed in the more recent decision by the Court, n. 35/97). It follows that, if the embryo must be considered a human life, to which the law must guarantee the most favourable conditions for development and birth, we must exclude behaviours that can be deemed discriminatory if referred to human individuals. The NBC moves from these premises, stressed by significant international and especially European documents, to believe that the embryo must be protected and safeguarded primarily to reach birth (which is the primary aim compared to others) and that therefore it is necessary to find legal tools suitable to achieve this possibility. This is in line with the abovementioned document by the NBC, *Identity and Status of the Human Embryo*, which had already taken into consideration the issue of cryopreserved abandoned embryos, highlighting the need to guarantee their chance of life and development and suggesting the solution of making them available to other couples and ensuring their implantation and birth. This solution is still today widely accepted and taken on board by the NBC, which refers to it with the expression *Adoption for Birth* (AFB).

The expression used has the merit, recalling the legitimising adoption and its discipline, to put first the values of solidarity, generosity and responsibility and irrevocability of the act that should characterise the behaviour of the parents or parent determined to give birth to a residual and abandoned embryo. However, the NBC recalls attention on the fact that, from an ethical and legal point of view, the two types of adoption present also profound differences. Most of all, the adopted minor has already suffered the trauma of abandonment and detachment from his/her natural family, being entrusted, most of the times, to a public institution or structure. A child who is already perfectly capable of suffering *now* both physically and psychologically. A trauma that must be healed – and it not always is – with love from the *new family*. This is the reason why adoption procedures follow strict legal protocols, full of verifications of the suitability of the adoptive parents in order to guarantee the correct psychological and physical development of the minor. With regards to the embryo's situation, there is an objective reduction of the risk of trauma, because we are not in the circumstances described above, but the embryo will be given birth by the uterus of the mother who wants him/her. The adopted child can say to have lived in the mother's *love*; the fact that an embryo is given birth means that the child will be able to say that she/he lived in the mother's *love* as well as *womb*. Not a small difference, also considering that continental legal systems base maternity on the biological fact of gestation and giving birth

¹ The hypothesis of using embryos in research is in any case formally seen as illicit in Law No. 40/2004.

and that the science of child development believes that the growth in the maternal womb is very important for the personality of the future child. And from the maternal point of view, adoption for birth also meets a woman's profound motivation, which is to live the experience of pregnancy and birth, making the mother-child symbiosis a part of life that is rich of relevant and unique physical and psychological interrelations.

Therefore, the NBC is fully aware of the differences between this kind of procreation and that of the adoption of a child who has already been born, but it chooses to use the already mentioned expression *Adoption for Birth* (AFB) in order to better understand the spirit of solidarity and generosity that moves this kind of procreation, recommending that the legislator translates this solution in legal terms without giving the child a *ius singulare*, rules thought about for other situations and that necessarily could not neglect and underestimate the difficulties of the original family situation.

It seems right, in any case, to check the bioethical validity of the proposal, examining some criticisms that could be directed at it.

The most frequent is that which highlights the risk of indirectly legitimising heterologous MAP through AFB, a practice that Law No.40/2004 has explicitly declared illegal. This objection obviously does not touch those who believe that this type of procreation is morally justifiable. To those who believe it is morally unacceptable, we must stress that there is a considerable formal difference, bioethically consistent, between MAP and AFB.

In fact, whilst in heterologous MAP it is the fecundation that happens with the (genetic) contribution of a person external to the couple who wants to conceive, in AFB the intervention of the external person does not affect the fecundation, but it allows the continuation of the development of what happened with the fecundation. Therefore, it is a very early and involved external intervention, as, unlike post-natal adoption, it implies not only having the commitments of love and financial support towards the adopted, but also the biological availability of the woman who allows, through her body, the adopted embryo to reach birth: but, in any case, it is an intervention that does not affect the procreation project that led to the fecundation.

We also cannot talk about an overlap of AFB and surrogacy; if in fact in both hypotheses the pregnancy is carried out by a woman different from that whose oocyte has been fecunded, in AFB the woman carried out the pregnancy to have a maternal role and without her role being planned from the act of conception. The individual intention of those accessing these practices is also profoundly different: those who want to access heterologous MAP move primarily from the desire to have in any case a biological child; those ready to carry out AFB are rather moved by the desire to avoid for an embryonic human life to be frozen for an indeterminate time.

This difference can be denied by those who think that even just the phase of implantation of the embryos in the uterus of a woman, once fecundation has already happened, is wrong in itself, regardless of the aims and intentions of those who carry it out. Those who declare – even amongst those who have moral reservations towards MAP – the bioethical plausibility of AFB move instead from the premise that the defrosting of the embryo and his/her implantation in the uterus of a woman different from that who requested the fecundation of the oocyte, are abundantly justified by the fact that only in this way existing embryos (otherwise destined to being frozen for an indeterminate time or, even worse, destroyed) can reach birth.

According to commonly accepted data, a percentage of about 30-35% of cryopreserved embryos dies in part when defrosted, in part is not biologically suitable for implantation. Therefore, some criticise AFB because it would expose residual embryos, frozen but alive, to the risk of death or not being used, in any case, for procreative purposes. We can answer this objection in two ways: a) applying the dual effect theory, that is, observing that the intention of those defrosting an embryo to give him/her a chance at AFB is evidently aimed at his/her birth and not death, although the possibility of failure or of the lack of realisation of it can be foreseen, as an unintentional effect of the procedure; b) observing that the freezing and the following defrosting are still provided as legitimate – although in exceptional cases – by Law No. 40/2004: if the argument was valid, we should paradoxically deny a woman's desire – impeded by an immediate implantation of the embryo – to have a subsequent implantation, thanks to the defrosting of her embryo frozen in a state of need and urgency.

According to a further suggestion, the AFB would be unacceptable, because it would cause a sort of therapeutic persistence towards the embryos. This could suggest the legitimacy of "letting the embryos die" after their defrosting, without recurring to their implantation into the uterus. But this implantation, which is the only way to allow the conceived to be born, certainly cannot be considered therapeutic persistence, unless it involves the use of disproportionate methods to pursue a life or, even better, to simulate a continuation of life that is already exhausted or in any case condemned to end in a very short time. Instead, nothing is more proportionate for the conceived than a uterus, the only "residence" that offers him/her the chance to survive and then be born.

It is not useful to observe that AFB will not in any case be able to allow a relevant number of embryos to be born, both for what has been said in paragraph 6.2, and for the probability of few AFB requests. In fact, we can easily answer that the chance of allowing even just one embryo to be born justifies the recourse to AFB and its aim is certainly not to increase the population, but to maximise the respect towards pre-natal human life.

We can, therefore, conclude by answering positively the bioethical question posed: it is ethically acceptable to suggest AFB to solve, at least in part, the bioethical problem of residual embryos, that is, definitely deprived of a parental project; and it is therefore, consequently just as ethically acceptable, and instead appropriate, to widely promote AFB and support couples or women who might request it.

In fact, if the higher value to justify AFB must be considered the *birth*, so that the alternative between being born and not being born must see the first alternative prevail on the second, it seems licit to the NBC that many of the limitations provided by the current law when choosing MAP or adoption should not be applied to this procedure. In other words, it is difficult to believe that the reasons for the prohibitions given by ethics and by the law with regards to the situations mentioned above, even though they can be understood, have the same value when the aim is to bring to life embryos who are formed and abandoned. Therefore, the NBC does not exclude the possibility of an *adoption for the monoparental birth* requested by the woman, only when the presence of both parents is not possible.

From a bioethical point of view it is appropriate to give further indications, which are implicit in the considerations already made:

- the embryos' abandonment must be ascertained on the basis of rigorous criteria fixed by law;
- the law should rigorously prevent any possibility of commercialisation or profit which could derive from AFB practices;
- the identification of residual embryos to be destined to AFB should be carried out in line with the law with private procedures; privacy criteria should, also, be guaranteed to the embryo's biological parents and to the new parents accessing AFB;
- in the eventual (even if not probable) hypothesis that the parents are against AFB, expressed when declaring their intentional renunciation to any future parental project, the abandonment should be equally recognised and consequently the "adoption" should be allowed. In fact, the human embryo cannot be considered as a property, which can be freely disposed of by the parents *against his/her interest*. It is for the same reason that an eventual request by the parents to proceed to the destruction of the embryo created instead of having him/her declared abandoned could not be accepted;
- people who ask for the adoption should receive exhaustive information about the MAP medical procedure they intend to undergo, but especially about the legal effects of their decision;
- once the implantation into the uterus has been achieved, in the case of an eventual birth, the child should have the full legal status of a legitimate or natural son/daughter.

In conclusion, the NBC formulates the following recommendations:

- introducing in the regulation norms stating the legitimacy of AFB and its methods in favour of cryopreserved and objectively abandoned embryos;
- that this abandonment is legally ascertained and qualified with rigorous criteria;
- that the law formulates appropriate criteria for the identification of the couples or in any case of the women offering themselves to AFB;
- that AFB practice is guaranteed against any form of commercialisation or profit;
- that the child born from AFB has the same legal status given in general for born by MAP.

PERSONAL REMARKS

1) Personal remark by Prof. Carlo Casini, Prof. Salvatore Amato, Prof. Sergio Belardinelli, Prof. Paola Binetti, Prof. Luisa Borgia, Prof. Bruno Dallapiccola, Prof. Giuseppe Del Barone, Prof. Luciano Eusebi, Prof. Giovanni Federspil, Prof. Angelo Fiori, Prof. Luca Marini, Prof. Laura Palazzani, Prof. Vittorio Possenti, Prof. Paola Ricci Sindoni:

We agree with the document “Adoption for Birth” (AFB) of the cryopreserved and residual embryos deriving from MAP, but we intervene to reinforce the motivation and integrate it with some logical deductions.

a) Very rightly, in the research of the bioethical foundation of AFB the document at n. 4 confirms the recognition of the “human identity of the conceived” and the consequent “value of birth, primary compared to other values”. More precisely, the recalled opinion on the “Identity and Status of the Human Embryo” of the 12.07.96 concluded as follows: *“The Committee unanimously arrived at recognising the moral duty to treat the human embryo, since conception, according to the same criteria of respect and protection which must be adopted towards human beings, to whom we commonly attribute the characteristic of person”*. More recently, on the 11.4.03, the NBC declared “supernumerary” embryos “fully fledged human lives” and stated *“the moral duty to always respect them and protect them in their right to life independently from the methods with which they have been procreated and independently from the fact that some of them can be qualified, with a questionable expression because it is devoid of ontological meaning, supernumerary”*. From this premise logically derives the desirability for AFB. The use of the word “adoption”, despite the difference in the adoption of minors already born highlighted in n. 5 of the document, states that AFB is the extreme remedy for the abandonment of the embryo: the procedure is aimed at saving the life of the conceived and offer him/her a family rather than satisfy the adults’ desire to have a child.

The consequence of the bioethical desirability for AFB is the bioethical non-desirability of techniques that generate a number of embryos higher than that immediately implantable in the maternal womb, because the supernumerary ones have an insecure destiny from the beginning. The systematic freezing, as ordinary practice rather than as exceptional remedy in the case of difficulties in the implantation into the uterus previously unforeseen (in the cases described in art. 14/3 of Law No. 40/2004 and also considered in the relative guidelines) implies the previous acceptance of their death because of the defrosting or of their abandonment and consequent destruction. It is not reasonable to have remedies for something bad if we don’t try to avoid it in the first place.

b) Actually, the bioethical problem of the destiny of “abandoned” embryos in Italy only involves those created before the coming into force of Law No. 40/2004. In fact, the current law forbids the creation of “spare” embryos. Therefore, AFB is a transient and exceptional remedy. True is that, even though law 40/2004 is in force, “residual” embryos can be created, in two hypothesis: that already recalled in art. 14/3 and in the case of violation of the said law. However, these are still exceptional hypothesis, in which AFB preserves its character of temporary remedy in view of the protection of human

life. Only the nature of exceptional and/or transient intervention makes AFB bioethically acceptable. The general prohibition to produce supernumerary embryos and freeze them is its logical and ethical premise. If the supernumerary production of embryos was allowed, AFB would become the permanent surreptitious tool not to save the life of the conceived, but to overcome the eventual prohibition of heterologous procreation and to violate the limitations eventually established to access it. In fact, the nature of extreme “remedy” of AFB allows us to believe that the directives limiting the access to MAP are not insurmountable.

c) Therefore, we share also the statement found at the end of n. 7 of the document discussed here, according to which we must accept “the possibility of an *adoption for the monoparental birth* requested by the woman, only when the presence of both parents is not possible”. In fact, this is a rule deduced from the regulations on the adoption of minors: we must offer the child the best, that is, female and male parents consolidated by a stable bond (that the adoption law requires to be marriage) but, in the exceptional case in which an adoptable minor does not find a couple ready to welcome him/her, that limit is not valid anymore, in the higher interest of the child. In the embryo’s case, the interest of the conceived to develop and grow in a stable family with a father and a mother is evident, but it is just as evident that his/her right to life has even greater weight. We must however strongly stress the condition that there should be no couple available to welcome the conceived and the analogy with the adoption of minors suggests the preference for married couples compared to unmarried ones.

2) Personal remark by Prof. Luciano Eusebi:

Prof. Eusebi observes, with regards to point 7 of the document, that we should consider the hypothesis, in analogy to the rules in force for minors, in which the request of AFB comes from a woman who has a family tie with the woman who (because of death or other causes) could not carry on with the implantation of the embryos.

3) Personal remark by Prof. Carlo Flamigni:

The document on the “adoption” of frozen and abandoned embryos cannot be agreed upon for different reasons.

First of all, it dogmatically and “definitively” states that the embryo is a person, individual, “one of us”, a concept that cannot certainly be considered unique or shared.

The implantation into the uterus of these embryos is therefore foreseen only in order to save the poor “embryo person”; those who would have taken into consideration a donation of abandoned embryos, for the benefit of couples who cannot have children, were in effect stopped from participating to the discussion.

If we exclude that the embryo is a person, it is no longer possible to talk about adoption, we must use different terms, like “donation”.

From the beginning of the plenary meeting it was clear that changing this word, “adoption”, would have involved the withdrawal of the document. It is

evident that, under these conditions, it made no sense participating in the discussion.

With regards to the second point, I simply quote the recent work by Stefano Rodotà, in the part in which he states that the woman, in this way “is considered only a container, to be used to achieve an aim that is socially relevant” and that, as a consequence, “the woman’s body is considered a public place that can be owned by the legislator, who regulates it as he pleases”. In this way the opportunity offered, for example to a single woman, is paid by damaging her dignity and by blackmail.

Therefore, not having taken part to the discussion, I could not highlight certain technical shortcomings in the document.

Only as an example, my personal experience on embryo donation taught me that the difficulties are often insurmountable. Many couples who abandon their embryos do not want to be involved with them anymore, refuse to come back to the centres and do not accept to carry out checks; without their collaboration it is impossible to give acceptable guarantee about the biological conditions of the embryos and on the lack of risks for the women who are available for implantation.

Finally, I believe that it is indispensable to express a critical judgement on the NBC’s choices, which for some time have excluded any possible form of mediation in the drafting of the documents.

To entrust the expression of a contradictory opinion to personal remarks like this, at least according to my personal point of view, represents a mortification of the positions of the minority: it should be clear by now that no-one reads the personal remarks and that the documents of the majority end up expressing, for almost all readers, the only position of the Committee.

4) Personal remark by Prof. Luisella Battaglia, Prof. Cinzia Caporale, Prof. Isabella Coghi, Prof. Silvio Garattini, Prof. Laura Guidoni, Prof. Demetrio Neri, Prof. Alberto Piazza, Prof. Marco Scarpelli, Prof. Michele Schiavone:

In sharing the recommendation (paragraph 9) and part of the content (paragraphs 1, 2 and 4) of the document *Adoption for the birth of cryopreserved and residual embryos obtained by medically assisted procreation (MAP)*, approved by the National Bioethics Committee in the plenary meeting of the 18th of November 2005, we believe that it is appropriate to highlight what follows, for personal reasons:

1. With regards to paragraph 5, we feel that the arguments in support of the fact that legitimate adoption and the so-called *adoption for birth* (AFB) are profoundly different, can be easily agreed upon and are very important. For these differences, moreover, the NBC recommends the legislator to formulate regulations that are different and inspired by other reflections. In addition, we highlight how “to put first the values of solidarity, generosity and responsibility and irrevocability of the act”, which according to the document characterises the behaviour of the “parents or parent determined to give birth to a residual and abandoned embryo”, could be attributed, in a totally equivalent manner, to those who donate residual embryos for birth, as they act with the same spirit of solidarity, generosity and responsibility, and irrevocably. For these reasons we disagree with the NBC’s decision to use the expression “adoption for birth” and

we agree that the practice could be better and more appropriately described with the expression “donation for birth”.

2. With regards to paragraph 6 (6.1), as well as agreeing with those who believe that heterologous MAP is morally justifiable, we believe weak the arguments according to which there is a “considerable *formal* difference, bioethically consistent, between MAP and AFB”. In fact it is true that in the donation for birth “the intervention of the external person does not affect the fecundation” and that “it is an intervention that does not affect the procreation project that led to the fecundation”. However, bioethical consistency cannot be found exclusively in formal aspects, but it must take into account the considerable fact that the practice’s outcome in effect is a double heterologous MAP, considered – in this as in other cases – morally justifiable. And indeed, along with the chance to be born given to residual embryos, it is the possibility of satisfying the “individual intention” to “have in any case a biological child” (although not genetic) to convince the writer to adhere to the document.

3. With regards to paragraph 7, we stress that the ethical acceptability of donation for birth does not end in the resolution “at least in part, the bioethical problem of residual embryos, that is, definitely deprived of a parental project”, but that this acceptability is just as well justified by the chances that the practice would open – as law 40/2004 is in force -, for those requesting to have a “biological” child through pregnancy.

4. With regards to paragraph 8 (8.4), considering the difference of opinion in society about the ontological status of the human embryo, and in any case believing it is not appropriate for the State to interfere in very private and morally onerous issues like the donation for birth of embryos generated by those who have the right to take this decision, we believe that the donation for birth should remain confined to the free availability of the parents, expressed by explicit and informed consent. This would highlight the sphere of solidarity and generosity implicit in the choice to donate and the sense of responsibility inherent in the act – responsibility that however can express itself only if accompanied by the freedom of choice -, and it would avoid raising a dangerous conflict between the Authority and the citizens, a conflict that could probably lead to attempts of evasion and secrecy.

5. With regards to paragraph 3, although we accept the decision to not tackle in the document the issue of the eventual donation for research purposes, we believe that this alternative is strictly and intrinsically linked to the donation for birth and that it is a practice that deserves the same moral consideration. We therefore hope to discuss it as soon as possible.

6. With regards to the recommendations, which we agree with, we stress the need for the legislator to integrate them with precise predictions about the security and the appropriate clinical guarantees for those who ask for the donation of embryos for birth.

5) Personal remark by Prof. Adriano Bompiani, Prof. Maria Luisa Di Pietro, Prof. Elio Sgreccia:

“With this personal remark we express our *abstention from vote* because we believe that the debate on the issue of the AFB has not yet given sufficient elements for an adequate ethical evaluation. In addition, although it has the best intentions, which coincides with our vision and our commitment, the

solution presented by the document approved in the plenary meeting appears theoretical and imperfect and it does not fit in a context of real protection of life of all conceived embryos”.