

"Is The 'Compromise Position'
Concerning The Moral Permissibility Of
Different Forms Of Human Embryonic
Stem Cell Research A Tenable Position?"

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Introduction

The use of human embryonic stem cells (henceforth hESCs) in medicine is a pioneering avenue of medical technology, in which the cells that constitute human life in its embryonic form are used in medical research and therapy. These powerful medical resources are derived by extracting the inner cell mass from a 5 day old *in vitro* human embryo¹, destroying the embryo in the process. Since the derivation of hESCs currently involves the destruction of human embryos, hESC research has been morally opposed on the grounds that the destruction of human embryos that the practice involves is morally impermissible.²

In order to claim that hESC research should be deemed morally permissible, some supporters of this research point out that hESCs are typically derived from unwanted embryos left over from IVF treatments. These embryos were created for reproductive purposes but were ultimately not required, and are usually discarded if they are not used in research, without benefit. Henceforth, I shall refer to the form of hESC research³ which involves the derivation of hESCs from these unwanted IVF embryos as ‘standard hESC research’.

It seems possible to argue that standard hESC research should be deemed morally permissible in two ways.⁴ First, it might be argued that it is morally permissible to destroy embryos which will be discarded without benefit in any case, or which are ‘bound to die’.⁵

Alternatively, it might be argued that it is morally permissible to destroy embryos (regardless

¹ Henceforth, unless otherwise stated, I shall use the term ‘embryo’ to refer to an *in vitro* human embryo, since these are the types of embryo which are destroyed in hESC research.

² For example, see George (2002).

³ I use the phrase ‘form of hESC research’ to distinguish the two practices that I consider in this thesis, rather than the phrase ‘method of derivation’ because the actual method of extracting hESCs from the embryo is the same in both the practices I am considering. Rather, what distinguishes the practices that I am considering is the *source* of the embryos from which the hESCs are derived, and the properties of the hESCs which are derived from these embryos, as I shall explain in the next chapter. This is what I mean to distinguish when I refer to different ‘forms of hESC research’; although this use is slightly unnatural, it seems to be the clearest term to use here.

⁴ Siegel (2008) points this out.

⁵ For example, see Outka (2002). I shall reject this argument in chapter 5.

of whether or not they are bound to die) because the embryo does not have a right to life, and destroying them does not violate any other moral constraint that we ought to place on our treatment of embryos.

However, it has recently been proposed that a new form of hESC research could lead to medical benefits which go far beyond those promised by standard hESC research. In this alternative form of hESC research, ‘cloned’ embryos are created from a donor somatic cell, solely for the purpose of deriving hESCs of a specific genetic type. Following the literature, I shall refer to the form of hESC research which involves the creation of cloned embryos solely for the purpose of deriving specialised hESCs as ‘therapeutic cloning’.⁶

Since therapeutic cloning involves the intentional creation of human embryos solely for the purpose of destroying them in order to harvest hESCs, many people find the practice morally abhorrent; this includes both those who support standard hESC research, and those who oppose it. On the one hand, opponents of standard hESC research may claim that therapeutic is morally wrong because, like standard hESC research, it involves the destruction of embryos, a practice which they deem morally impermissible. On the other hand, supporters of standard hESC research may claim that therapeutic cloning is morally wrong because it involves treating the embryo in a particularly exploitative manner, which, they argue, standard hESC research does not involve.⁷

With this in mind, it is possible to identify three main positions concerning the moral permissibility of these different forms of hESC research. First, conservatives argue that *both* standard hESC research and therapeutic cloning are morally impermissible, since they both involve the destruction of human embryos (which they claim is morally impermissible). Second, liberals claim that *both* standard hESC research and therapeutic cloning are morally

⁶ It has also been referred to as ‘cloning for biomedical-research’. See The President’s Council on Bioethics (2002).

⁷ For example, see Fitzpatrick (2003)

permissible, arguing that there is nothing morally wrong with destroying human embryos, or intentionally creating them for destruction.

Finally, there is also a compromise position between these two extremes. Those who adopt the compromise position claim that standard hESC research is morally permissible, despite the fact that it involves the destruction of human embryos. However, they also claim that therapeutic cloning is morally impermissible; although it may be permissible to destroy unwanted IVF embryos, they argue that it is morally wrong to create an embryo for the sole purpose of destroying it.

In this thesis, I shall argue that this compromise position concerning the moral permissibility of different forms of hESC research is tenable. In order to do so, I shall first claim that although it may be morally permissible to destroy embryos insofar as they do not have a right to life, it can still be coherent to view them as deserving moral respect. I shall then argue that one may plausibly view standard hESC research as being compatible with affording the embryo proper moral respect, whilst also maintaining that therapeutic cloning is incompatible with affording this respect. However, although I shall argue that the compromise position is theoretically tenable, I shall also suggest that it is an unappealing position; my justification for this conclusion shall be that there are good reasons to support the claim that therapeutic cloning is morally permissible even if we concede that it violates the moral respect due to the embryo.

To begin this thesis, I shall start the first chapter by sketching the medical science underlying standard hESC research and therapeutic cloning. I shall then consider the moral objections that have been aimed at the practices, before explaining the strategy that I shall adopt for the argument of this thesis in more detail.

Chapter One

In order to understand the different positions concerning the moral permissibility of different forms of hESC research, it is crucial to understand what each practice involves. Accordingly, I shall begin this chapter by sketching the medical science behind the derivation of hESCs in both practices, and make some terminological distinction which I shall use throughout the thesis. In the second section of the chapter, I shall survey some of the moral arguments that can be used against therapeutic cloning but not standard hESC research (and which could therefore be used to justify the compromise position), before explaining in the third section why the moral permissibility of therapeutic cloning is such a pressing bioethical issue. I shall then conclude this chapter by explaining how I shall defend the tenability of the compromise position in this thesis.

I

Stem cells are a unique type of cell, since they are both undifferentiated and indefinitely self renewing. This means that they can become a variety of different cell types, and generate infinite numbers of these cells.⁸ However, stem cells from different sources differ in their degree of plasticity, or potency. Adult stem cells are *multipotent*; although they are able to differentiate into different types of cell, they are typically only able to form cells of the tissue in which they reside.⁹ In contrast, hESCs are *pluripotent*, since they have the capacity to generate *all* types of cell found within a human being.¹⁰ This makes hESCs derived in either

⁸ See Crawford and Turner (2008), p.221.

⁹ See Jell, Bonzani, & Stevens, (2005). This thought has been challenged by the development of Induced Pluripotent Stem Cell (iPSC) technology, which will be discussed later.

¹⁰ See Crawford and Turner (2008), p.221. Note that these cells are not totipotent, in that they do not have all the genetic information necessary to generate new life, since they are not capable of generating extra-embryonic tissue such as the placenta. See Oderberg (2008), p. 272.

form of hESC research a valuable research tool, because they provide researchers with the means to generate different types of human tissue purely for drug screening¹¹, as well as providing new information about the development of genetic, and developmental diseases.¹²

In what I have termed ‘standard’ hESC research, researchers derive hESCs from embryos¹³ which were created for IVF treatments but were ultimately not required, and which are usually discarded without benefit if they are not used in research. Henceforth, I shall refer to these embryos as ‘unwanted embryos’.¹⁴ In order to derive their hESCs, researchers develop these embryos *in vitro* to the blastocyst stage (about 5 days after fertilization). At this point, the inner cell mass of the blastocyst which contains the hESCs is removed, destroying the embryo in the process.¹⁵ Henceforth, I shall refer to hESCs derived from unwanted embryos as ‘unspecialised hESCs’; the reason for this appellation will become clear when they are compared to the hESCs derived in therapeutic cloning, as I shall now explain.

In therapeutic cloning, an embryo is created via the process of Somatic Cell Nuclear Transfer (SCNT) for the purpose of providing a particular type of hESC. I shall henceforth refer to embryos created via this process as ‘SCNT embryos’. The process of SCNT involves enucleating a normal egg cell, and replacing it’s nucleus with that of an adult donor somatic cell. Having replaced its nucleus, scientists electronically stimulate the egg to develop to the blastocyst stage, at which point hESCs can be derived (using the same procedure as the one used to derive unspecialised hESCs from unwanted embryos described above). Due to the nature of the process of SCNT used to generate the embryo, the hESCs from SCNT embryos

¹¹ See Pouton & Haynes (2007).

¹² See Sermon et al (2009).

¹³ To avoid confusion, I shall use the term ‘embryo’ throughout to refer to the 5 day old blastocyst from which hESCs can be derived. Although there is a distinction between the terms ‘blastocyst’ and ‘embryo’ [See Lennox&Lennox (1988)], this difference is inconsequential to my use of the term.

¹⁴ Since these embryos are usually destroyed if they are not required for reproductive purposes, some writers have termed them “doomed embryos”. See Curzer (2004), p. 534. However, I shall explain why this appellation is misleading later in the thesis. See footnote 173.

¹⁵ See NIH (2010) for an introduction to the science underlying this procedure.

will have almost¹⁶ the same genetic make-up as the donor of the somatic cell; essentially, the created hESCs are ‘cloned’ from that donor. Accordingly, I shall refer to hESCs derived from SCNT embryos in therapeutic cloning as ‘cloned hESCs’. To make one final terminological distinction, I shall use the unqualified terms ‘hESCs’ and ‘embryos’ when I mean to refer to hESCs and embryos in *both* forms of hESC research.

Having sketched the science behind therapeutic cloning and standard hESC research, in the next section of this chapter I shall provide an overview of the moral objections which are raised in this area. Although I shall not consider any of these objections in depth, this overview will serve to map the moral terrain in preparation for my arguments in forthcoming chapters.

II

Some moral objections can be aimed at both therapeutic cloning and standard hESC research. The first key moral concern in this area is that the derivation of any sort of hESC involves the destruction of human embryos. For some, this fact alone renders both forms of hESC research morally impermissible. One justification for such a view is that the embryo should be viewed as having an inviolable right to life.¹⁷ I shall return to this issue in the next chapter.

However, although some moral objections are applicable to both forms of hESC research, therapeutic cloning faces some moral objections which cannot be aimed at standard hESC

¹⁶ Although the donor egg is enucleated in SCNT, it still retains some of its genetic identity in the mitochondria found in its cytoplasm. Therefore, the resulting embryo is not strictly an identical clone of the somatic cell donor. See Hiendleder, Zakhartchenko, and Wolf (2005) for an analysis of mitochondrial effects in SCNT.

¹⁷ As I explained in the introduction, supporters of standard hESC research may point out here that even if the embryo has a right to life, it may still be permissible to destroy it insofar as it is bound to die. I shall return to this issue in section IV of this chapter.

research. These objections can be used to justify the compromise position concerning the moral permissibility of different forms of hESC research, since they give reasons to claim that therapeutic cloning is morally impermissible which do not apply to standard hESC research. In this section, I shall outline some consequentialist objections which are aimed exclusively at therapeutic cloning, before explaining why they will not be the focus of this thesis. I shall then outline the moral objection that I shall consider in this thesis.

One can identify three¹⁸ distinct consequentialist arguments against therapeutic cloning. First, many see therapeutic cloning as the first stage of a slippery slope to reproductive cloning,¹⁹ which would hypothetically involve the development of cloned embryos to term. This objection relies on the assumption that reproductive cloning is itself morally wrong, a view which has been defended elsewhere²⁰ (using both consequentialist and deontological arguments). Granting this assumption, some argue that legitimising the practice of therapeutic cloning is morally wrong because it is likely to have the bad consequence of leading to the legitimisation of reproductive cloning. Second, Gerrand has argued that therapeutic cloning will place unfair pressure on women to donate eggs for this research,²¹ and third, Annas, Caplan and Elias have claimed that therapeutic cloning will lead us to lose respect for the act of reproduction.²²

The common core to these arguments is that they all claim that therapeutic cloning will lead to bad consequences for society, or at least some subset of it, which may be sufficient to outweigh the possible good consequences of the practice. However, although these arguments are of importance when we consider the moral permissibility of therapeutic cloning, I shall

¹⁸ These arguments can be aimed at therapeutic cloning whether the cloned hESCs are intended for research or therapy. It is also possible to mount further consequentialist attacks solely upon the clinical use of therapeutic cloning. Such objections might claim that such use will result in social inequality. See Maclaren (2001).

¹⁹ For a detailed discussion of this, see the President's Council on Bioethics (2002), pp. 163-166.

²⁰ See *Ibid.* pp. 96-131 for such an argument.

²¹ See Gerrand (1993).

²² See Annas, Caplan and Elias (1996).

not consider them here. One reason for this is that consequentialist arguments such as these necessarily rely on empirical projections, and are thus reliant on possibly contentious contingent factors.²³ Moreover, it seems that these objections are solely relevant if it is assumed that there is nothing wrong with hESC research in itself; if the practice is intrinsically wrong, no such projections are needed in order to argue that the practice is morally impermissible.

As such, in considering the tenability of the compromise position, I shall instead consider the argument that proponents of the compromise position might make in order to claim that therapeutic cloning (but not standard hESC research) is intrinsically morally wrong, because it violates a moral constraint that we ought to place on our treatments of embryos. To preview the argument that I shall consider, it might be argued that therapeutic cloning violates the moral respect due to an embryo, because (unlike standard hESC research) it violates the moral respect that the embryo is due.

Since this objection only seems to be applicable to therapeutic cloning, it might be asked why we should even consider carrying out therapeutic cloning over and above standard hESC research, if only the former is deemed morally problematic. I shall answer this question in the next section of this chapter, and in doing so, explain why the moral permissibility of therapeutic cloning is such a pressing bioethical issue.

²³ Devolder & Savulescu (2006) provide arguments for why the empirical projections that these objections rely on are contentious.

III

There are two medical advantages to carrying out therapeutic cloning in addition to standard hESC research.²⁴ The first advantage concerns the therapeutic use of hESCs, whilst the second advantage concerns the use of hESCs in medical research.

The first advantage of carrying out therapeutic cloning, in addition to standard hESC research, is that cloned hESCs have distinct therapeutic advantages over unspecialised hESCs. One such advantage is that cloned hESCs could potentially be used to develop organs for transplantation in a manner which would circumvent two important problems with current transplanting practices. The first problem is that there is a shortage of organs available for these procedures.²⁵ One reason for this is that there is a lack of organ donors, but a further contributing factor is that any organ which is used in a transplant must carry a similar genetic code to the recipient if it is not to be rejected by the recipient's immune system.²⁶ This leads to the second problem with current transplantation practices; the second problem is that even if one succeeds in finding a donor organ that carries a sufficiently similar genetic code to the recipient's to make the transplant possible, this recipient will still have to take immuno-suppressant drugs for the rest of their lives in order to prevent organ rejection.²⁷

Cloned hESCs could potentially²⁸ remedy both of these problems. Cloned hESCs could theoretically²⁹ be used to generate new organs which would be genetically 'tailor-made' for

²⁴ Up to the discussion of iPSCs, this section paraphrases arguments found in Devolder and Savulescu (2006) and The President's Council on Bioethics (2002), pp. 143-150.

²⁵ See Abouna (2008).

²⁶ See Kadereit (2010), p.2.

²⁷ See Ibid, p.2.

²⁸ This use of therapeutic cloning has not been successfully carried out in humans, and there remain several obstacles to this. However, there has been some success with this technique in other species. See Byrne et al (2007).

²⁹ Having said this, in a study by Rideout et al, cloned mouse embryonic stem cells were still recognized as foreign by recipient mice. The mitochondrial effects on the genetic identity of cloned hESCs (discussed in footnote 16) seem to be relevant here. See Rideout et al (2002). I shall return to this issue in chapter 6.

patients, and would therefore not require measures against immune rejection.³⁰ Furthermore, since these organs would be generated from a single somatic cell of the recipient and a donor egg, the availability of such treatments would depend only upon the availability of these cells. In addition, cloned hESCs could also be used to regenerate tissue which is susceptible to destruction in degenerative diseases for which there is currently no cure, such as Parkinson's disease.³¹ Therefore, not only might therapeutic cloning allow us to circumvent problems which affect the current practice of organ transplantation, but it might also allow for a completely new type of regenerative medicine for currently incurable diseases.

The second potential advantage of carrying out therapeutic cloning, in addition to standard hESC research, is that it would open new avenues of medical research. First, using cloned hESCs in research would allow scientists to carry out new research on diseases in which research on patients is currently impossible.³² For example, in some genetic diseases, there are often too few patients to carry out research upon, or it is impossible to safely extract the necessary diseased cells from the patient for research.³³ However, by deriving cloned hESCs from SCNT embryos which are 'cloned' from these patients, it would be possible to create an infinite supply of diseased cells, which could be tested to investigate the aetiology of the disease, as well as possible therapies.³⁴ Second, the study of cloned hESCs could also improve our knowledge of early human development and the mechanisms underlying cell growth and differentiation.³⁵ Finally, the use of this tissue in research would eradicate the need to carry out potentially risky drugs tests on both animals and humans.³⁶

³⁰ See Lanza, Cibelli, & West (1999).

³¹ See NIH, (2006).

³² See The President's Council on Bioethics (2002), pp. 146-148.

³³ Devolder and Savulescu (2006), p. 8.

³⁴ See Devolder and Savulescu (2006), pp. 7-9.

³⁵ Ibid, p. 8.

³⁶ Ibid, p. 8.

As such, although there may be moral objections to therapeutic cloning, there are also significant benefits to consider in its favour. When we consider the potential benefits of therapeutic cloning both in regenerative medicine and in medical research, it is clear that the practice has the potential to save millions of lives, and to alleviate a great deal of suffering. Crucially, it seems that we cannot reap these potential benefits solely by using unspecialised hESCs. The advantage of using SCNT embryos is that researchers can derive patient-specific or disease-specific cloned hESCs for therapy or research respectively. In contrast, unspecialised hESCs are not genetically diverse enough to provide researchers with the adequate materials to investigate cures for certain diseases, let alone patient-specific therapies.³⁷

Prior to concluding this section, it should be acknowledged that recent research has challenged the idea that we can only obtain patient or disease specific stem cells from SCNT embryos. Yu et al were able to genetically reprogram normal adult somatic cells (which are only multipotent) to achieve a similar degree of pluripotency as hESCs.³⁸ Furthermore, these induced pluripotent cells (iPSCs) had the same beneficial properties as cloned hESCs (outlined above), since they carried the genetic code of the donor in the same way that a cloned hESC does. As such, some have hailed iPSC technology as rendering the moral debate concerning therapeutic cloning obsolete.³⁹

Unfortunately, although using iPSCs would avoid the ethical problems of therapeutic cloning considered above, recent studies have shown that there are scientific obstacles to the medical use of iPSCs which are not faced by the use of cloned hESCs to the same extent. Both iPSCs⁴⁰ and cloned hESCs⁴¹ are prone to create tumours, a propensity which, *inter*

³⁷ Ibid, pp. 12-13.

³⁸ See Yu et al (2007).

³⁹ See Cibelli (2007).

⁴⁰ See Gutierrez-Aranda, et al (2010).

*alia*⁴², currently renders them clinically unviable. Furthermore, the unstable nature of these cells also brings into question the validity of modelling complex diseases in research using these cells.⁴³ However, research has suggested that iPSCs are far more prone to producing tumours because of the nature of the genetic manipulation required to dedifferentiate the adult somatic cells to pluripotency.⁴⁴

As such, it seems that the use of iPSCs in medicine faces additional technical obstacles to the use of cloned hESCs. As long as this is the case, the ethical debate concerning therapeutic cloning looks set to continue, and deserves our attention.⁴⁵ Since the evidence suggests that the clinical use of iPSCs is a more remote possibility than the clinical use of cloned hESCs, it seems that there needs to be a good moral reason to justify abandoning the development of therapeutic cloning in favour of developing iPSC technology.⁴⁶

To conclude this section of the chapter, therapeutic cloning has the potential to bring about great medical benefits. However, it has only the potential to do so; there are still significant technical obstacles to the clinical use of the practice. Having said this, it seems that it is incumbent upon us to decide upon the moral permissibility of this practice now. There are three reasons for this. First, the technical obstacles to its clinical use may not be insurmountable; they may potentially be overcome due to breakthroughs made in other

⁴¹ See Bongso, Fong & Gauthaman (2008) for a discussion of the carcinogenic nature of cloned hESCs.

⁴² There are still other technical issues to be resolved before this research can be carried out in humans. See Nishikawa, Goldstein & Concepcion (2008).

⁴³ This point was suggested to me in personal correspondence with Prof. Kenneth Boyd.

⁴⁴ See Gutierrez-Aranda, et al (2010).

⁴⁵ Holden and Vogel (2008) argue for this conclusion. It should be acknowledged that this argument implicitly assumes that the carcinogenic nature of iPSCs represents a more significant obstacle to the clinical use of iPSCs than the obstacles facing the clinical use of cloned hESCs raised by the mitochondrial influence on the genetic identity of cloned hESCs (discussed in footnote 16 and 29), and their carcinogenic propensities. Although this may seem debatable, Holden and Vogel claim that this conclusion is warranted by the current scientific evidence. Therefore, it seems that an investigation into the moral permissibility of therapeutic cloning is still required.

⁴⁶ I shall return to this issue in chapter 6.

morally permissible research (such as research using cloned animal embryonic stem cells).⁴⁷ As such, it seems prudent to consider the moral permissibility of therapeutic cloning now, before it becomes clinically viable. Second, it may be the case that the technical obstacles facing the clinical use of therapeutic cloning could be overcome by carrying out research into cloned human embryos. Accordingly, researchers may still wish to carry out therapeutic cloning even if it has no clinical use. Therefore, we must consider the moral permissibility of the practice, even if it is not yet clinically viable.

Finally, one might argue from an economic perspective that we must also consider the moral permissibility of therapeutic cloning in order to decide upon our current use of medical resources. That is, we must consider the moral permissibility of the practice in order to determine whether we may now permissibly use our resources to develop therapeutic cloning for clinical use, instead of using them to develop iPSC technology, which is likely to require the use of more resources, given the additional technical obstacles facing its clinical use.⁴⁸ For these reasons, and the nature of the benefits that the practice promises, the question of the moral permissibility of therapeutic cloning represents a particularly pressing bioethical issue.

IV

Having outlined the moral problems faced exclusively by therapeutic cloning, as well as the potential benefits that it uniquely promises, the final section of this chapter will consider the three⁴⁹ possible positions on the moral permissibility of different forms of hESC research

⁴⁷ I use the example of research using cloned animal embryos for illustrative purposes only; some may also wish to claim that research using these embryos is morally impermissible, although this is not a widespread view.

⁴⁸ I shall return to this issue in chapter 6.

⁴⁹ This follows Devolder's classification. See Devolder (2005b), pp. 170-1. Devolder also highlights another compromise position (which I do not consider here) based on the 'use-derivation distinction'. Here, hESC research is restricted in manner that ensures that researchers are not complicit in the destruction of embryos.

outlined in the introduction. Having done so, I shall then explain the strategy that I shall adopt in the argument of this thesis.

A ‘conservative’ position on hESC research is to regard both standard hESC research and therapeutic cloning as morally impermissible.⁵⁰ Attempts to justify adopting this position often claim that both practices are morally impermissible because they involve the destruction of a human embryo. Such claims rely on the assumption that the embryo has a right to life, or that we have a moral obligation not to destroy embryos or use them as a means, even if doing so would significantly benefit many people. It seems that this position may also rely on the assumption that the embryos destroyed in standard hESC research are not bound to die; the reason for this is that it might be argued that it is morally permissible to destroy something with a right to life, if it is bound to die in any case.⁵¹

In stark contrast, a ‘liberal’ position on hESC research is to regard both standard hESC research and therapeutic cloning as morally permissible.⁵² This position relies on the assumption that we have no moral obligations to the embryo such that it would be morally impermissible to create and/or destroy them for any purpose. As was the case with the conservative position, the liberal position does not make a distinction between the moral permissibility of standard hESC research and therapeutic cloning.

The final position outlined in the introduction was a compromise position between the liberal and conservative positions. This compromise position is the focus of this thesis’

Countries such as Germany and Italy adopt this position, only allowing research on embryos created before a certain date. See Hinxton Group (2011), and Curzer (2004) for discussion.

⁵⁰ This position is adopted by both Austria and Poland (among others) in their policies on hESC research. See Hinxton Group (2011).

⁵¹ See Outka (2002) for such an argument. I shall consider this argument in my defence of the third assumption underlying the compromise position that I delineate below. This argument is also pertinent to the alternative compromise position which I referred to in footnote 49. See also footnote 175 for discussion concerning the pertinence of this argument to the alternative compromise position.

⁵² This position is adopted by the UK and Sweden in their public policies on hESC research (among others). See Hinxton Group (2011).

investigation. This position has two commitments; first, that standard hESC research is morally permissible, and second that therapeutic cloning is morally impermissible.⁵³ It seems that the compromise position may be deemed tenable if the following four assumptions are sound:

Assumption 1: *The embryo does not have a right to life.*

As I explained in the introduction, it is possible to defend the claim that standard hESC research is morally permissible in two ways: First, one may claim that the embryos destroyed in standard hESC research are ‘bound to die’, and that it is morally permissible to destroy something which is bound to die. Second, one may claim that it is morally permissible to destroy embryos because they do not have a right to life, and destroying them does not violate any other moral constraint that we should place on our treatment of embryos.

I shall argue that the first way of morally justifying standard hESC research outlined above fails in my defence of another assumption underlying the compromise position.⁵⁴ Assuming that I am correct to argue this, it seems that the first commitment of the compromise position (namely that standard hESC research is morally permissible) therefore relies *in part* upon the assumption that the embryo does not have a right to life. Having said this, establishing the soundness of this assumption is not *sufficient* for establishing the first commitment of the compromise position; in order to establish the latter, one must also argue that standard hESC research does not violate any other moral constraint that we should place on our treatment of embryos.

⁵³ This position is adopted by Canada, Denmark and France (among others) in its public policy on hESC research. See Hinxton Group (2011).

⁵⁴ Namely, assumption 3, which I delineate below.

Assumption 2: *We can make sense of there being moral constraints upon the way in which we treat embryos, without ascribing rights to them.*

If the compromise position is to defend the view that therapeutic cloning is morally impermissible, then there must be some way of claiming that the practice of creating embryos for research is morally wrong, without claiming that the embryo has a right to life (since this has been ruled out by the first assumption).

Assumption 3: *There is a moral difference between standard hESC research, and therapeutic cloning, such that in carrying out the latter, but not the former, we violate the moral constraints set out in the second assumption.*

This assumption is required if proponents of the compromise position are to draw a moral distinction between the two different forms of hESC research. Conversely, if this assumption is false, then the concept of a compromise position between the conservative and liberal positions is incoherent; our judgement concerning the moral permissibility of one form of hESC research would have to be the same as our judgement concerning the moral permissibility of the other, if there is no moral difference between the two.

Furthermore, this assumption is also required to complete a defence of the first commitment of the compromise position, namely that standard hESC research is morally permissible. Although a defence of assumption 1 may warrant the claim that standard hESC research does not violate the embryo's right to life, a defence of this third assumption is required if

proponents of the compromise position are to claim that standard hESC research does not violate *any* moral constraint that we ought to place on our treatment of embryos.

Assumption 4: *It is morally impermissible to fail to act in accordance with the constraints delineated in the second assumption.*

This assumption may seem otiose, since the failure to act in accordance with a moral constraint might seem to be analytically tied to the concept of moral impermissibility. However, part of the argument that I shall make in this thesis is that although therapeutic cloning might violate a moral constraint that we ought to place on our treatment of embryos, the practice may yet be deemed morally permissible by virtue of the countervailing moral considerations in its favour. As such, it is important to make this usually enthymematic assumption, which is required in order to establish the second commitment of the compromise position, explicit.

V.

Therefore, this chapter has set the scene for my investigation of the tenability of the compromise position which permits standard hESC research, but prohibits therapeutic cloning, and explained why this question is such a pressing bioethical issue. To conclude this chapter, I shall preview the argument that I hope to make in this thesis.

I shall argue that the compromise position is tenable by arguing that it is plausible to assent to the truth of all four of its underlying assumptions, outlined above. However, although I shall argue that the compromise position is tenable, I shall also suggest that it is unappealing. My justification for claiming this will be that, although it may be plausible to accept the

fourth assumption delineated above, the justifications for doing so are dubious. Therefore, I shall suggest that even if proponents of the compromise position are right to claim that therapeutic cloning violates a moral constraint that we ought to set on our treatment of embryos, this may not be an adequate basis for the claim that therapeutic cloning should be deemed morally impermissible.

With this in mind, my strategy in this thesis will be as follows. In chapter two, I shall defend the first assumption which underlies the compromise position, namely that the embryo does not have a right to life. In chapters three and four, I shall offer a defence of the second assumption, that we can make sense of there being moral constraints upon the way in which we treat embryos, without ascribing rights to them. To do so, in chapter three I shall offer an account of moral respect which can be contrasted with the language of rights, before applying this account of moral respect to the question of what we might owe to embryos in chapter four.

In chapter five, I shall then defend the third assumption outlined above, arguing that there is a moral difference between standard hESC research and therapeutic cloning, such that in carrying out the latter, but not the former, we violate the moral constraints set out in the second assumption. My defence of this third assumption will also include an argument for why the embryos destroyed in standard hESC research are not bound to die, the pertinence of which I discussed in my delineation of the first assumption underlying the compromise position. In the final chapter, I shall consider the fourth assumption in the light of my defence of the previous three assumptions. I shall argue that although proponents of the compromise position may plausibly claim that it is morally impermissible to violate the respect due to the embryo, there are also good reasons for rejecting this claim, especially given certain commitments that proponents of the compromise position must make in order to defend the other assumptions underlying their position

Chapter Two

In this chapter, I shall defend the first assumption underlying the compromise position, namely that the embryo does not have a right to life. As I explained in the previous chapter, a defence of this assumption is required in order to establish, in part, the first commitment of the compromise position; namely that standard hESC research is morally permissible. In order to argue that the embryo does not have a right to life, I shall first provide a brief analysis of what we mean when we describe something as bearing a right to life. Having limited the scope of the chapter in accordance with this analysis I shall then examine the basis for claiming that the embryo deserves moral protection, in the second section. In the third section, I shall go on to reject the argument that the embryo has a life of sufficient value to warrant the protection of a right to life.

I

It seems that the best way to begin an explanation of what we are doing when we ascribe a right to life is to analyse the way we use the term ‘right’.⁵⁵ The term arises most obviously in the legal domain. Here, to say that I have ‘a right to x ’ is to say that I am owed x by some party according to laws determined by the legislators of my society. The things that I am owed may include both liberties to have or do something, or action from others to ensure that I have or can do something.⁵⁶ Accordingly, my legal rights are positivistic concepts that are used to safeguard my receipt of those things which are owed to me according to the legislation of my society.

⁵⁵ The strategy of analysing meaning by referring to the use of a word echoes Wittgenstein, (2009), p116e.

⁵⁶ This corresponds to the distinction between Claim and Liberty rights in legal parlance. See Hohfeld (1919).

However, we also use the term ‘right’ to refer to what we are owed irrespectively of what legal rights we may have. For instance, we still say that the citizens of totalitarian regimes which outlaw anti-government publications have a right to free speech, even though it is being infringed. Therefore, we also use the concept of a right to refer to what we are owed by others independently of the law, or what we might say we have a ‘natural’ right to. An important distinction between legal rights and natural rights is that the latter seem valid whether or not they are actually enshrined in the law of our society, and are deemed inalienable. They might be thought of as the “ideal rights”⁵⁷ which should be (but are occasionally not) manifested by legal rights, owed to us not by virtue of the fact that we belong to a particular society, but rather because we are persons.⁵⁸ It is this type of natural right which I am concerned with in this thesis, and will be what I intend to refer to when I use the concept of ‘a right’.

It seems that when we ascribe a right to somebody, we are asserting that something is owed to the claimant of that right, whereby a failure to acknowledge that claim would constitute a moral wrong. Yet, even further than this, the concept of a right seems to denote an *inviolable* moral claim. A good illustration of this is the right that I am concerned with in this chapter, the right to life. It appears incoherent to say that someone has a right to life, but that it would also be permissible to kill them if it made a sufficient number of people better off; this just seems to misapply the concept of a right to life. In claiming that one has a right to life, one is claiming that the preservation of one’s life should take precedence over other considerations, or at least those which are not appropriately characterised as right claims.⁵⁹

⁵⁷ Hazlitt, (1964), p. 281.

⁵⁸ I shall expand on this notion of persons bearing rights in the following sections.

⁵⁹ One might go further and claim that one’s right to life should take precedence even over other right claims, (such as the right to free speech, for example). However, this point is not important to my argument, so I shall not consider it here.

With this in mind, it seems that having the protection of a right to life is a privileged status. In assigning a right to life to something, we are asserting that we ought to treat that being's life as inviolable, such that the preservation of that life should take priority in our moral deliberations. Yet if this is so, then it seems that not every living thing qualifies for a right to life; for instance, few would say that preserving the life of bacteria should take priority in our moral deliberations. Rather, in order to qualify for a right to life, it seems that there should be something about that life which makes it valuable to such an extent that it should be considered inviolable. As such, accounts of what it means to have a right to life might appropriately include a set of necessary or sufficient conditions which must be met if an entity is to qualify for a right to life. Furthermore, it also seems that we should be able to justify why these conditions carry such weight. That is, there should be a reason for why some beings qualify for a right to life, whilst others do not.

Having explained what it means to have a right to life, and why it is a privileged status, in the next section of this chapter I shall provide reasons for *prima facie* doubting the claim that the embryo has a right to life. I shall then go on to argue in the following sections that one frequently espoused argument which attempts to establish this claim fails.

II

Several writers⁶⁰ have argued that the concept of the embryo's having a right to life runs contrary both to our intuitions and our practices. They argue that this is clear from consideration of two examples. First, imagine an IVF clinic burning down with both a five year old child and a large number of embryos inside. Suppose further that time only permits rescuers to save either the child or all of the embryos. If both embryos and five year old

⁶⁰ See Ord (2008), Devolder and Harris (2007), Sandel (2005), Curzer (2004), and Harris (2003).

children have an equal right to life, then it would seem obligatory to save the embryos rather than the child (since you could save more embryos); yet this is counterintuitive.⁶¹ As such, it seems that we have the intuition that embryos do not have the same right to life as children. Furthermore, both natural and artificial reproduction involve the loss of many more embryos than come to term. Yet we do not believe that this provides us with a reason to refrain from reproducing.⁶² As such, our practices indicate that we do not treat the embryo's life as inviolable. Moreover, as Curzer argues, we do not grieve the loss of these embryos in the same way that we grieve being's which we do believe have a right to life.⁶³

It might be argued that none of these arguments represent a demonstrative proof⁶⁴ that embryos do not have a right to life.⁶⁵ Treating these arguments as such would involve committing the naturalistic fallacy, since it would infer a normative conclusion about how we ought to treat embryos from a description of our intuitions and practices.⁶⁶ However, it seems that they provide us with a reason to place the burden of proof upon those who argue that the embryo has a right to life. If such arguments are to succeed, they must be of sufficient strength as to overthrow our contrary intuitions and practices. As such, we might restrict the scope of the argument of this chapter. Since the burden of proof lies with those who wish to claim that the embryo has a right to life, it seems that opponents of this claim need only prove that the arguments which are offered in favour of the embryo bearing a right to life fail. With this in mind, I shall now argue that the features which are said to justify ascribing a right to life to the embryo are insufficient to grounding a right to life.⁶⁷

⁶¹ This example is adapted from Sandel (2004), p. 208.

⁶² See Harris (2003), Harris (2004), Devolder and Harris (2007) p. 161-162, and Ord (2008).

⁶³ Curzer (2004), pp. 554-558.

⁶⁴ This is not to assume that these arguments are treated as demonstrative proofs by those who espouse them.

⁶⁵ See Liao (2006) and George (2002) for counterarguments.

⁶⁶ See George (2002), pp. 303-395.

⁶⁷ I shall consider only secular arguments here in order to avoid the metaphysical issues raised by appeals to the sanctity of life.

II.

Proponents of the argument that the embryo has a right to life often appeal to the notion of human dignity. The thought underlying this appeal is that all human life is inherently valuable, or has an inherent ‘dignity’, and that the embryo deserves protection insofar as it is a member of the human species.⁶⁸ This argument is implicit in Tangwa’s writing. Tangwa claims that

If any moral status can be assigned to any human being, it is by virtue of the simple fact that it is a human being.⁶⁹

According to Tangwa, when we ascribe moral status to a human being such that it is treated as having a right to life, we do this just because the subject in question is a human being. There is a reasonable motivation for this claim, since it calls for the equal protection of all human life, no matter what a particular human’s capabilities may be. This seems to be important. If one ties an entity’s moral status only to its capabilities, it might be concluded that infants and the mentally retarded which lack these capabilities are not worthy of the same protection as other humans. By tying the concept of a right to life to human dignity, one ensures that all humans will be afforded equal moral protection.

However, it is important to be clear about what is intended when one attempts to justify ascribing a right to life to all humans by appealing to the notion of human dignity. In the analysis of rights above, it was claimed that we should be able to explain why the sufficient

⁶⁸ Although one may raise doubts as to the numerical identity of the embryo and the adult that it develops into [see McMahan (2007), pp. 179-181], it is less problematic to claim that the embryo is a human being when that term is understood to mean ‘A member of the *Homo Sapiens* species’.

⁶⁹ Tangwa (2007) p. 453. This thought is echoed by George (2004), p.9.

conditions for bearing a right to life are suitable for demarcating those beings whose lives are of such value that they should be considered inviolable. Accordingly, if we agree with Tangwa that merely 'being human' is a sufficient condition of having a right to life, there must be some justification for why meeting this condition makes a life of such high value as to warrant the protection of a 'right to life'.

The appellation of the concept 'human dignity' can mislead one as to the nature of this justification. The reference to a specifically 'human' dignity can convey the impression that humans have an inherent dignity purely by virtue of the fact that they are members of a particular biological species. Yet, if the term 'human' is understood only to demarcate a biological species, then claiming that humans have an inherent worth or dignity merely by virtue of 'being human' is surely untenable. As Singer argues, considered in itself, the genotype that a being instantiates should have no bearing upon our moral appraisal of that being, in the same way that someone's ethnic origin should not affect our moral appraisal of them⁷⁰; it is just morally irrelevant. Therefore, it seems that if the concept of human dignity is to be acceptable, it must be used to denote the thought that any human life is valuable because humans are a type of being which have the capacity to carry out particularly valuable lives.

Space in this chapter does not allow for a full investigation of what exactly makes human life particularly valuable. Some cite the fact that humans have certain rational capabilities,⁷¹ whilst others might claim that the capacity to experience certain reactive attitudes such as

⁷⁰ Singer (following Ryder) uses the term 'speciesist' to refer to this thought that it is discriminatory to base a moral appraisal of an entity upon species membership. See Singer (1990).

⁷¹ For instance, Singer suggests that a person is a self-conscious, rational being. Singer (1993), p. 87. For an alternative account, see Tooley (1972), particularly p. 44.

grief make human life particularly valuable.⁷² However, whatever it is that makes human life particularly valuable, the important concept that this discussion highlights for my argument is the distinction that can be drawn between a ‘human being’ and a ‘person’. The term ‘person’ is something of a quasi-legal concept, since it is also used to describe those beings which have legal rights. However, the concept can also be useful in discussions concerning natural rights, and in particular the right to life. In the context of my discussion, we might understand a ‘person’ as a being that has certain valuable attributes⁷³ which make its life particularly valuable. In contrast, we can understand the term ‘human being’ to denote a member of the human species.⁷⁴ Although some object to the use of this sort of distinction,⁷⁵ it might be argued that the status of personhood is a suitable sufficient condition of bearing a right to life; if a being can be described as a person, then that being has a life of such value that it ought to be considered inviolable.

However, this distinction also raises difficult questions, since certain humans (such as infants and those with cognitive disabilities) may not qualify for personhood on some accounts.⁷⁶ Accordingly, the distinction raises the contentious question of whether personhood is a *necessary* condition of bearing a right to life, and thereby whether some humans might be disqualified from bearing a right to life. A detailed analysis of this question

⁷² Parfit (1984), Appendix I offers a schema for how we can describe a life having value insofar as it can ‘go well’. However, I am interested in the different question of which capacities can be said to make a human’s life valuable irrespective of whether the particular life in question has ‘gone well’.

⁷³ One might also incorporate environmental factors into one’s definition of personhood. See Hughes (2001).

⁷⁴ My argument does not require that I commit myself to a particular view about what the precise conditions of personhood are (which would require lengthy argument), as long as we accept the assumption that embryos lack any capabilities which might be claimed to demarcate personhood as the term is described here. I believe that this is an acceptable assumption.

⁷⁵ For instance, Sapontzis is critical of the personhood distinction, since he believes that it unduly restricts the number of beings which are worthy of moral consideration. (Sapontzis (1981), p. 618). I reject this claim, since I use the distinction only to convey the thought that certain beings deserve a higher degree of moral consideration than others; this does not entail that non-persons cannot enter into our moral deliberations. See Chapter three for discussion. Midgley’s philosophical writings can also be interpreted as being antithetical to the use of the personhood distinction. See Midgley (1983) and Midgley (2010).

⁷⁶ See Tooley (1972). Also, as Singer argues, some non-humans might qualify for personhood on some definitions. See Singer (1993) pp. 110-117.

is beyond the scope of this paper. However, it should be acknowledged that my argument does not require that personhood be a necessary condition of a right to life. Since the burden of proof lies with those who wish to claim that the embryo has a right to life, the task of this chapter is only to show that the sufficiency conditions appealed to by those who wish to establish the embryo's right to life are unsuitable; it need not argue that embryos cannot have a right to life by demonstrating that personhood is a necessary condition of bearing a right to life.⁷⁷

As such, when it is claimed that all humans, including embryos, deserve a right to life, this cannot be justified by the claim that all humans are persons, since this may not be the case. For example, it is difficult to see how the embryo could qualify for the status of personhood under any reasonable definition; it lacks any sort of capacity which could confer value upon its current state. Rather, the claim that all humans, including embryos, deserve a right to life can only be justified by the following two claims; first, that a human being is a type of being which typically has the capacity for personhood, and second, that this capacity is sufficient for bearing a right to life. Crucially, this argument does not claim that the life of an embryo is particularly valuable because it is a human being *qua* belonging to a particular biological species. Rather, it argues that the life of an embryo is valuable because it is a human being *qua* having the capacity for personhood; that is, a human embryo has the capacity to attain certain capabilities which confer a high value upon a life.

Therefore, the pertinent question when we consider the embryo's putative right to life is whether the embryo's status as a merely potential person is sufficient to grounding a right to life. In the final section of this chapter, I shall analyse the argument that the embryo deserves the protection afforded by a right to life by virtue of the fact that it is a potential person, and conclude that this potentiality is insufficient to grounding a right to life.

⁷⁷ Tooley (1972) argues that personhood is a necessary condition.

III.

It is often claimed that arguments which attempt to establish the embryo's right to life by appealing to its potential commit a logical error. This is apparent if the argument from potential is formulated as follows:

P1 – A sufficient condition of having a right to life is having capacity x

P2 – An embryo has the potential to acquire capacity x

C – The embryo has a right to life

The above argument is a *non sequitur*, since an embryo's having the potential to acquire a capacity implies that it does not currently have that capacity. As such, C does not follow from P1 and P2.⁷⁸

However, the above formulation of the argument is uncharitable. This formulation makes it appear that potentiality arguments are based on the thought that the embryo has the potential to become something of value (i.e. something with capacity x). However, as I suggested in the previous section of this chapter, a more sophisticated version of the argument could claim that the embryo is valuable *because* it has potential.⁷⁹ Compare the following:

⁷⁸ See Sandel (2004), pp. 207-208.

⁷⁹ Strong acknowledges a similar point using a different formulation. See Strong (2006), p. 440.

- 1) The embryo has the potential to become a morally valuable being.
- 2) The embryo is a morally valuable being because it has potential

According to (1), the embryo *qua* embryo is not valuable, whilst according to (2) it is. If one values the embryo's potentiality in accordance with (2), it is possible to formulate an argument for the embryo's right to life from potential, which is valid:

P1* A sufficient condition for bearing a right to life is having the potential to become a person.

P2* The embryo has the potential to become a person.

C* The embryo has a right to life.

If P1* and P2* are sound, then it may be possible to describe the embryo as having a right to life, by virtue of its potential. For present purposes, let us assume that P2* is true.⁸⁰ In the next section, I shall demonstrate that the above argument fails because P1* is false.

Something similar to P1* is advocated by George.⁸¹ George argues that members of the human species are defined by their "basic natural capacities for characteristically human mental functions"⁸²; that is to say, all humans share in the fact that they have the "internal resources"⁸³, or (as George himself says) "the potential"⁸⁴ to develop immediately exercisable

⁸⁰ A similar assumption will be considered in chapter four.

⁸¹ See George (2002).

⁸² Ibid, p. 298.

⁸³ Ibid, p. 298.

capacities for those things which make human life particularly valuable. Similarly, it might be argued that what provides the grounds for granting any human the right to life is that all humans have the basic natural capacity for characteristically human mental functions. If this is the case, then it seems that P1* may be sound.

However, George's theory is flawed because we do not describe all humans as bearing a right to life on the basis of their having basic natural capacities. As Strong points out, by George's own lights, having a basic natural capacity means having the *potential* to develop an immediately exercisable capacity.⁸⁵ Yet, as we saw with the logically invalid argument considered earlier, having the potential for *x* implies that one is not *x*. Accordingly, as Strong argues, adult humans do not have the basic natural capacity (i.e. the potential) for characteristically human mental functions; rather they have *actual* capacities, and we afford them rights by virtue of these fully actualised immediately exercisable capacities.⁸⁶ As such, Strong argues that there is no reason to suppose that the embryo's possession of a basic natural capacity is sufficient grounding for a right to life.

A possible rejoinder to Strong's argument could be that it just misses the point of George's argument, because the fact that an adult human's potential has been actualised should be morally irrelevant. The thought here would be that having an immediately exercisable capacity is just to have a developed type of basic natural capacity, and that the state of development is morally irrelevant. If this were correct, then *contra* Strong, we could ascribe a right to life to all humans on the basis of their possessing basic natural capacities, even if they are at different developmental stages.

⁸⁴ Ibid, p. 299.

⁸⁵ Strong (2006), p. 434-444.

⁸⁶ Ibid, p. 444.

However, this is a weak response. Even if we accept that every human can be described as being at some stage along a descriptive continuum of bearing a basic natural capacity to some degree⁸⁷, it still seems appropriate to mark out points of discontinuity in how we *value* beings along this descriptive continuum. It seems that one morally relevant stage at which to mark a *value* discontinuity is the stage of the *descriptive* continuity at which the being in question develops immediately exercisable capacities. After all, it is only after this stage of development that humans actually have the capacities which can be said to add value to their lives.⁸⁸

The point is that when we assign a right to life to a being by virtue of its capabilities, what we seem to mean⁸⁹ by this is that it is the possession of those capabilities which makes the subject's life particularly valuable. As such, even if we say that having an immediately exercisable capacity is just to have a developed basic natural capacity, we can still say that the stage of the continuity at which a human attains an immediately exercisable capacity marks a point of discontinuity in how we value different human beings. Only after humans reach this stage do we actually mean that they have lives of a sufficient value to warrant the protection of a right to life. Therefore, even though the embryo might have the potential to develop these immediately exercisable capacities, this mere potential does not confer a sufficient value to the embryo *qua* embryo for assigning a right to life.

⁸⁷ Brown (2007) provides arguments for why we should not even do this, by claiming that first order potential is intransitive. I shall not consider this argument here, since I believe that the argument I offer is sufficient to establish that the embryo's potential is not a sufficient ground for ascribing a right to life. Some of the arguments I present in chapter four are relevant to the discussion of Brown's argument, and I shall reference them when they occur.

⁸⁸ This raises questions concerning the stage at which a human being acquires or loses the capacities that demarcate personhood. This is of course somewhat dependent upon how one defines the concept of personhood, and as I have already mentioned space does not allow for a full investigation of this. I concede that a full defence of the concept of personhood would require such an investigation. However, since I am only concerned with the embryo's putative right to life here, the absence of such an investigation does not hinder the plausibility of my argument, as long as it is plausible to assume that the embryo has not yet acquired any capacity which could reasonably be said to demarcate personhood. I believe that this assumption is warranted.

⁸⁹ Recall the Wittgensteinian methodology I employed in my analysis of rights above. See footnote 55.

A likely objection to this conclusion is that it seems to preclude the possibility of many other human non-persons, such as infants and coma patients having rights. As I mentioned above, this is a serious problem facing the use of the personhood distinction. However, this objection is misplaced in this context for two reasons. First, my argument does not claim that the possession of these capabilities is a *necessary* condition of bearing a right to life⁹⁰; as such my view does not preclude ascribing rights to these non-persons if they meet some other sufficient condition for right bearing. For example, we might appeal to the agential history of the coma patient, or the infant's relationship with its parents to ground a right in these cases.⁹¹ Although I cannot defend the view here, I suggest that the reasons we might give in order to justify the ascription of rights to coma patients and infants would not be applicable to the embryo.

Furthermore, this objection also assumes that the fact that these humans fail to qualify for right bearing status on this theory is an unacceptable conclusion. However, this need not be the case; as I shall argue in the next chapter, this thought seems to be based upon an inadequately narrow view of how it is possible to take things into moral consideration. Although right bearing affords a high degree of moral protection, it is still possible to regard a being as deserving moral consideration, even if it may be inappropriate to describe that being as bearing a right. As such, this objection does not present an insurmountable challenge to my position.

⁹⁰ Tooley is committed to this view (see footnote 77), and therefore defends this somewhat repugnant conclusion by offering a 'bite the bullet' defence.

⁹¹ I realise there may be counter examples to these cases, but space only allows for a brief sketch here.

IV

Therefore, attempts to establish that the embryo has a right to life by virtue of its potential fail. The reason for this is that ‘having the potential to become a person’ is unsuitable as a sufficiency condition for bearing a right to life; in contrast, I have argued that the status of actualised (and not merely potential) personhood is a suitable sufficient condition. The scope of this conclusion is limited in two ways; first, it has not been established that the embryo could not meet some alternative sufficient conditions of bearing a right to life. However, given the intuitive support of the claim that the embryo does not have a right to life, the burden of proof lies with those who wish to prove that the embryo could meet some other sufficient conditions for right bearing. This is a considerable task, since it is not clear if there is anything about the embryo, other than its potential for personhood, that could qualify it as having a life of such value that we ought to consider it as inviolable.⁹²

Second, one may argue that although the embryo does not have a right to life, it may yet deserve some degree of moral protection. This must be admitted, and will be considered in the following two chapters. However, to conclude this chapter, I have established that the embryo does not have a life which is of such value that it should be considered inviolable, as is the case when we claim that a being has a right to life. Therefore, the first assumption underlying the compromise position is sound.⁹³

⁹² At least in secular terms. See footnote 67.

⁹³ This conclusion effectively offers a refutation of the conservative position.

Chapter Three

The second assumption underlying the compromise position that I shall consider over the next two chapters is that we can make sense of there being moral constraints upon the way in which we treat embryos, without ascribing rights to them. Since I have claimed that the embryo does not have a right to life, it seems that proponents of the compromise position must make this assumption if they are to explain why therapeutic cloning is morally wrong because of the way in which it treats embryos.

In contrast, some writers seem to imply that the only moral consideration at work in the area of hESC research ethics is the question of whether the embryo has a right to life is. For instance, Curzer states:

Creating embryos solely for the sake of harvesting stem cells from them turns out to be morally acceptable as long as [the] assumption [that embryos have the right to life] is false.⁹⁴

However, this oversimplifies⁹⁵ the various ways in which one can regard something as deserving moral consideration. Indeed, according to the framework indicated in Curzer's quote above, there is no room for claiming that therapeutic cloning is morally wrong if one claims that the embryo does not have a right to life. In order to reject this framework, I shall begin my defence of the second premise underlying the compromise position by arguing that

⁹⁴ Curzer (2004), p. 558.

⁹⁵ Admittedly, Curzer claims in a footnote that Robertson (1999) rebuts the view of those who claim that embryos do not have rights, but still regard therapeutic cloning as morally problematic. However, it still seems that Curzer oversimplifies the matter, since Robertson himself states that "there is no definitive answer" (Robertson (1999), p. 127) to the question of whether the benefits of therapeutic cloning are sufficient to outweigh the moral respect that may be due to the embryo. As such, it seems inappropriate to characterise the issue solely as a question of the embryo's right to life.

it can be disadvantageous to frame our discussion of moral issues solely using the language of rights, since doing so does not allow us to incorporate an important set of moral considerations in our discourse. I shall then argue that the moral considerations that the language of rights does not capture can be articulated in a language of respect. In the next chapter, I shall then use this model of respect to defend the second assumption underlying the compromise position, namely that we can make sense of placing moral constraints on our treatment of embryos without claiming that they have rights.

To outline briefly the strategy of this chapter, in the first section I shall recap, and elaborate upon the characterisation of rights given in chapter two, before identifying two inadequacies of using this language alone to frame some moral situations in the second section. In the third section, I shall then offer an account of ‘the language of respect’, before arguing in the final section that the moral considerations which the language of rights fails to incorporate can be articulated in the language of respect.

I.

In the first section of chapter two, I provided an account of what it means to ascribe a right to life to something. To recap, in assigning a right to life to something, we are asserting that we ought to treat that being’s life as inviolable, such that the preservation of that life should take priority in our moral deliberations. As such, this right claim is an inviolable moral claim; it sets particularly stringent obligations upon others to act in certain ways in accordance with that right. *Ceteris paribus*, if one fails to act in accordance with these obligations, then one has committed a serious moral wrong.

This can be contrasted with claims that do not amount to rights. For example, I might believe that I have a claim to skip a hospital queue if my injuries are more severe than those of others in the queue. However, it seems incorrect to suppose that I have a right to skip the queue in this case, such that my claim should take precedence over the interests of others in the queue. That is, in saying that I have a claim to skip the queue, I am not arguing that the members of the queue are obliged to let me pass by some right I have; rather I am claiming that they should give due consideration to the fact that I am in pain, and let me pass. A key difference here is that it does not seem that they have wronged me if they refuse; in contrast, we use the concept of ‘right’ to signify an inviolable moral claim, such that one wrongs a claimant if one fails to act in accordance with their rights. It seems that the reason for this is that the purpose of assigning rights is to safeguard those things that we believe should take priority in our moral deliberations.

According to the above analysis, in asserting that one has a right to x , one is making a moral claim that x is owed to one, and that preventing our having x is morally wrong.⁹⁶ A salient feature of ‘the language of rights’ then seems to be that it describes situations in terms of inviolable moral claims. This is not intended to be a comprehensive analysis of rights language.⁹⁷ However, by having elucidated this salient feature of the language of rights, it is possible to point out two of its inadequacies.

The first inadequacy of the language of rights is that it cannot incorporate the moral claims which do not amount to right claims. That we have such moral claims is suggested by examples in which someone has been wronged, but the application of the language of rights seems inappropriate. For example, consider the language we use to describe the claims involved in promise making. Suppose that Mark has promised Frank to meet him for dinner,

⁹⁶ One might add the caveat ‘in the absence of a competing right’ here.

⁹⁷ See Feinberg (1970), for a detailed analysis of rights, and their relationship to claims.

but decides not to turn up. Intuitively, we believe that Mark has wronged Frank here. However, it does not seem plausible to cash this wrong out in the language of rights. Although we might wish to say that Mark's promise gives Frank a moral claim to Mark's presence at dinner, this claim does not seem to be inviolable in the same way that we understand a right to be. Unlike a right, Frank's claim could plausibly be overridden by a non-right claim; for example, suppose that Mark's wife were in labour; in this case it seems that Mark would have a moral claim to attend to her that is sufficient to morally justify breaking his promise to Frank. As such, it does not seem appropriate to characterise the moral claims involved in promise-making as right claims.

However, even though they do not amount to rights, it can still be wrong to violate these claims. Since Mark has no reason for failing to turn up to the dinner arrangement, and *a fortiori* has no competing moral claims to weigh against his promise to Frank, we can say that Mark's failure to acknowledge Frank's moral claim qualifies as a moral wrong, even though it does not violate a right. The wrong arises from the fact that Mark fails to properly acknowledge that Frank has a moral claim against him (by virtue of his promise) in his deliberation about what to do. The two main points in this example are that it is possible to have a moral claim that does not amount to a right, and that failing to acknowledge such a claim in one's deliberations wrongs the claimant. Examples that involve such violations show that we can wrong someone without violating a right. As such, if we frame moral situations only in the language of rights, it is not clear how we can incorporate this important set of moral claims in our discourse.

The second inadequacy of the language of rights is that it fails to explain the moral considerations that we can owe towards non right-bearing entities. It seems that in order to make sense of something having either a right or even just a moral claim upon us, that entity

must have at least the conceptual⁹⁸ capacity to make a claim upon us.⁹⁹ For example, it would be peculiar to assert that a forest had either a right or a claim to protection, even if we agree that we are obliged to protect them in some ways. Similarly, one might argue that some animals fail to meet certain necessary requirements of right-bearing, given their lower capacities.¹⁰⁰ The second inadequacy of rights language, and even of the more general language of moral claims, is that neither can account for the moral considerations that we can have for these entities. The general problem with the language of rights here is that right-bearing is a binary concept; an entity either does or does not have a certain right, and the moral protection that goes with it. As such, the language of rights is ill-equipped to deal with the intermediate position in which we can include beings in our moral considerations, even if they cannot appropriately be described as bearing a right.

In response, one might deny that we can have moral considerations for non right-bearing entities. However, this is an unappealing position; to assert that the whole idea of moral consideration is dependent upon the conceptual framework of rights just seems to beg the question, given the argument that this chapter is making. A marginally stronger reply would be that we should ascribe rights of different strength to different beings. For example, one might believe that animals do not qualify for the inviolable rights of a human, yet argue that they qualify for weaker rights in accordance with their weaker capabilities. Haworth proposes a theory of animal rights in this vein,¹⁰¹ whereby animals have a right to life, but this weak

⁹⁸ Following Tooley, I use this term to avoid the question of a coma patient's rights. See Tooley,(1972), p. 49, and previous chapter of this work for analysis.

⁹⁹ The same seems to be true when we describe something as a 'source of demand', since this phrase implies that the subject in question has the agential capacity to make demands. The phrase 'command an interest' does not seem vulnerable to this criticism; although I prefer to use the term respect, the argument I shall make in the next section could be made in favour of saying that non right bearing entities 'command our interest.'

¹⁰⁰ I do not argue that such a view is correct; I use it only for illustrative purposes. Some might claim that animals do have certain rights by virtue of the fact that they are subject's of a life, such as a right against unnecessary suffering, or a right to be left alone. However, the argument I am making here does not require that I commit myself to either position. Rather I am arguing for how those who claim that animals do not have rights may articulate the moral considerations that we owe to animals.

¹⁰¹ See Haworth (1978).

right can be outweighed by the interests of a human.¹⁰² In a similar vein, it might be argued that we should regard the claims in the promise-making example as weak types of rights which can be overridden by other considerations. In this way, contrary to my argument, the language of rights might yet be able to accommodate all of our moral considerations.

However, this is an unsatisfactory response. The fundamental weakness in this reply is that using the term ‘right’ to refer to the moral claims or considerations in these cases seems to differ in kind to the way we use the concept of a right. As we saw in the previous analysis, we use the concept of a right to denote inviolable moral claims, and we deem these claims to be inviolable because their purpose is to safeguard those things which we believe should take priority in our moral deliberations. However, in both the promise-making example and Haworth’s animal rights theory, what are purported to be ‘rights’ can be overridden by other moral considerations which do not amount to rights. For example, Haworth explicitly states that animal rights can be overridden in favour of mere human interests.¹⁰³

Therefore, to use the term ‘right’ to refer even to these sorts of weak claims, is to dilute the prescriptive force which sets the concept of a right apart from other types of moral claim in the first place. As such, extending the term ‘right’ to these contexts misapplies the concept. Even if we assume that Haworth’s position that animals can make moral claims upon us is tenable (and one need not), it does not seem suitable to be classed as a theory of rights, since the claims of these animals are not inviolable. Rather, it would be far more appropriate to characterise Haworth’s position as arguing that non-human animals have moral claims that do not amount to rights (like in the promise-making example). To argue instead that these sort of weak moral claims should be termed rights, is as Lomasky claims, “disruptive and

¹⁰² Ibid, p. 100.

¹⁰³ Ibid, p. 100.

obfuscatory¹⁰⁴”; doing so distorts our understanding of the prescriptive force of the claims at work in these situations.

To conclude this section, there are two important inadequacies concerning the language of rights. First, it cannot incorporate the moral considerations that we articulate in moral claims which do not amount to rights claims, and second, it cannot account for how we can have moral considerations for non right-bearing entities. Furthermore, attempts to extend the language of rights to these cases misapply the concept of a right, since in these cases we can prioritise the non - right claims of others over the so called ‘rights’ claims of the subjects involved without wronging them. In the next section of this chapter, I shall explain how we might frame our discussion of moral situations in a language of respect, before arguing that this language avoids these inadequacies of using solely the language of rights to frame moral issues.

III.

Respect is a multivalent concept, and requires delimitation if it is to be used in a solely moral context. The first distinction we can draw is between what Darwall calls “appraisal respect” and “recognition respect”.¹⁰⁵ ‘Appraisal respect’ is the positive appraisal we make of some person by virtue of his excellence in either some characteristic or practice. For example, I might say that “I respect Churchill’s rhetorical skill.” This is to be contrasted with ‘recognition respect’, in which the respect consists of the disposition to weigh in one’s deliberations some feature about the respected.¹⁰⁶ For example, this is the respect that one might have for a judge. Only in the case of recognition respect does the respect due to the

¹⁰⁴ Lomasky, (1987) p. 10.

¹⁰⁵ See Darwall (1977).

¹⁰⁶ Ibid, p. 38.

respected also include the prescription of some sort of behaviour.¹⁰⁷ It is this latter ‘recognition’ respect that is pertinent to my discussion.

It is also important to delimit the concept of recognition respect to the moral domain. When we pay ‘recognition respect’ to something, the object of our respect is not the entity as such, but rather some feature of the entity.¹⁰⁸ For example, in paying respect to a judge, we respect that the person in question bears a certain office, and we pay respect by setting appropriate constraints on our behaviour towards him or her. With this in mind, it seems possible to have a specific concept of ‘moral respect’, in which the respect we afford is a recognition of some morally relevant aspect of the respected. To illustrate, compare the following: We might say that we respect the Queen of England because she is the head of the monarchy. However, the respect afforded in this case is clearly different from affording respect to the dead; in the latter case, but not the former, a failure to constrain our behaviour in a manner which conveys the proper respect seems to be a specifically moral failing, rather than a mere failing of etiquette.

This raises the question of how one expresses proper moral respect. It seems that the expression of the moral respect due to an entity involves setting moral constraints upon the way we treat it. However, it is difficult to define the respect that it is appropriate to afford to beings in general terms, because the proper respect due to a particular being seems to depend on the nature of that being. For example, it seems that expressing proper moral respect to an animal would involve setting different constraints upon our behaviour than expressing proper respect to a deceased human.

One reasonable guideline that might be suggested here is that expressing proper respect to an entity involves setting constraints upon our action that honour or safeguard whatever it is

¹⁰⁷ Ibid, p. 39.

¹⁰⁸ Ibid, p.39.

that is judged to be morally relevant about the entity in question.¹⁰⁹ For example, the respect afforded to animals can be described as proper if it involves constraining one's behaviour in a manner that addresses the morally relevant aspect that the animal is sentient.¹¹⁰ However, since this aspect is not applicable to the dead, we need not constrain our behaviour towards the dead in the same manner. In this way, we can say that respect is a gradable concept, since different degrees of constraints are appropriate to different morally relevant aspects.¹¹¹

Therefore, as well as framing moral questions in the language of rights, it is also possible to frame moral situations in a language of respect. When we claim that something is worthy of moral respect in a given situation, we are stating that there is a morally relevant aspect concerning that thing, or the context of which that thing is part, which ought to bear weight in our moral deliberations. In acknowledgement of this, we can afford it proper respect by constraining our behaviour in a manner that takes into account those morally relevant aspects. In the last section of this chapter, I shall argue that framing moral situations in the language of respect allows one to avoid the inadequacies of using the language of rights outlined in the first section of this chapter, before considering the embryo in view of this in the following chapter.

IV.

Recall that the first inadequacy of the language of rights is that it cannot account for moral claims that do not amount to right claims. It seems that the language of respect can explain why such claims have force in our moral deliberations. For instance, we can frame the

¹⁰⁹ With this in mind, it seems possible that one can have a claim to respect, since one can be entitled to a certain type of treatment by virtue of morally relevant aspects about one, or one's context.

¹¹⁰ For example, by refraining from cruelty. I assume that an animal's sentience is morally relevant by virtue of the assumption that it is *prima facie* wrong to cause pain.

¹¹¹ Wolff proposes a similar model concerning how we ought to understand the weight of different morally relevant aspects when we consider the moral considerations that we have for animals. See Wolff (2011) p. 24.

promise-making example considered earlier in a way that explains why Mark's act is wrong using the language of respect. It seems that the morally relevant aspect in this example is that Mark has promised to meet Frank at a certain time. For Mark to respect this is for him to give it weight in his deliberations, and to constrain his behaviour accordingly; therefore, in failing to attend dinner without good reason, Mark fails to constrain his behaviour in a manner that is appropriate to a morally relevant aspect of the situation (i.e. that he has promised to attend dinner). The wrongness of acts which ignore non-right claims can be explained by the fact that they manifest a lack of appropriate respect for a morally relevant aspect of a subject or the context of which that subject is part.

The second inadequacy of the language of rights is that it cannot account for the moral considerations we may have for non right-bearing entities. Again, this is not problematic in the language of respect, since this language can accommodate the thought that different morally relevant aspects can make different grades of respect appropriate. We might say that some morally relevant aspects (such as rational capability) make it appropriate to respect entities to an extent that calls for treatment which is equivalent to assigning a right to life.¹¹² Yet other morally relevant aspects, such as an entity's sentience, might make it appropriate to respect them to an extent that may not be equivalent to assigning rights to them, but affords them some lesser degree of moral protection.¹¹³ The difference from the language of rights here is that the language of respect can accommodate the thought that something can have moral relevance even if it is insufficient grounding for a right claim.

As such, the language of respect has a significant advantage over the language of rights here. In the language of rights, if a being fails to meet a sufficient condition for bearing

¹¹² The phrase 'requiring full moral respect' is often treated as synonymous with 'right-bearing'. See George (2004), p.9.

¹¹³ Lombardi (1983) proposes a similar view (see particularly p.269). See also Wolf (2011) chapter 1, particularly p.24.

rights, then it is difficult to make sense of how it is still worthy of moral consideration. In contrast, in the language of respect, if a being lacks a morally relevant attribute that makes 'full moral respect' appropriate, it may still have another morally relevant attribute that makes it appropriate to constrain our behaviour in some ways in order to afford proper moral respect. Furthermore, although it seems unusual to talk about non-agents such as forests either having or making claims, it seems coherent to talk of respecting them by virtue of certain morally relevant aspects about them.

Therefore, it is now possible to understand how framing all the moral issues associated with hESC research in the language of rights is disadvantageous. Recall that Curzer claimed that the moral permissibility of creating embryos for research turns solely on the issue of whether the embryo has a right to life. Describing this issue solely in the language of rights is disadvantageous, since it cannot account for the position of those who deny that embryos have a right to life, yet still believe that it is appropriate to set some moral constraints upon our treatment of them. Whether or not this position is ultimately tenable, it still seems that the language that we use to frame the issue should at least be able to conceptually allow for such a position.

To conclude this chapter, the language of respect allows us to frame moral situations in a way that incorporates the moral considerations that are not captured by the language of rights. This chapter has argued that we should also use the language of respect to frame our discussion of moral issues, in order to highlight moral considerations other than right claims in our deliberations. One example of a moral issue which could be described more clearly using the language of respect is the issue of whether it is morally permissible to create an embryo for the sole purpose of destroying it in research. Although we may concede that it is morally permissible to destroy embryos insofar as they do not have a right to life, we may yet be able to make sense of placing moral constraints upon our treatment of embryos which

preclude the moral permissibility of creating them for research purposes, if there is some morally relevant aspect of the embryo, (or context in which the embryo is to be considered) which makes it an appropriate subject of moral respect. I shall consider this issue in the next chapter.

Chapter Four

To take stock, my investigation of the compromise position to this point has led to the conclusions that the embryo does not have a right to life, and that framing some moral issues in the language of respect allows for a more nuanced understanding than the language of rights can provide. In this chapter, I shall complete the defence of the second assumption underlying the compromise position, namely that we can make sense of there being moral constraints on the way in which we treat embryos, without ascribing rights to them. To do so, I shall argue that proponents of the compromise position can coherently view the embryo as deserving moral respect by virtue of its potential to become a person. As such, they might claim that we ought to place moral constraints on our treatment of embryos in order to afford them proper moral respect.

My strategy in this chapter shall be as follows. In the first section, I shall explain precisely what I hope to claim in this chapter, and pre-emptively dispel some possible preliminary concerns about the line of argument being made. In the second section, I shall then explain why it is coherent to view the embryo's potential as being relevant to the way in which we morally value it. In the third section, I shall argue that the *in vitro* embryo has a degree of potential which is of sufficient significance to warrant affording it moral respect. In the final section, I shall then explain how the model of respect outlined provides proponents of the compromise position with a response to three alternative views of potential, before explaining how this model can provide the basis for the second assumption underlying the compromise position.

I

First, it is important to be clear about what I shall claim in this chapter. The first thing to make clear is that this chapter is considering the argument that *all* embryos deserve moral respect by virtue of their potential. It is possible to claim that only embryos which are part of a parental project deserve moral protection.¹¹⁴ However, although proponents of the compromise position may concede that embryos which are part of a parental project may warrant more protection than unwanted embryos, they must make the further claim that SCNT embryos, which are not part of a parental project, also deserve moral protection if they are to claim that therapeutic cloning is morally impermissible.¹¹⁵

Furthermore, since this thesis is only investigating whether the compromise position is tenable, this chapter will consider only whether viewing the embryo as deserving moral respect by virtue of its potential is *coherent*; it will not argue that we ought to view the embryo as deserving moral respect, in the sense that failing to do so would be an error. This is an important point to acknowledge, since the claim that it is coherent to view something as deserving moral respect is a far more modest claim than the claim that we *ought* to view something as deserving moral respect. For instance, making the latter claim seems to require making the contentious meta-ethical assumption that questions concerning the desert of moral respect are an objective matter, such that we can make sense of the idea that it would be an error not to believe that something deserved moral respect.

As such, in order to avoid what would be a lengthy consideration of this assumption, I shall argue only that it is coherent to regard the embryo's potential as morally relevant. Therefore, I must concede that my argument is somewhat limited; it will not convince those who do not

¹¹⁴ Devolder and Savulescu adopt this sort of position; see Devolder and Savulescu (2006) p.13. I shall consider this argument again in section IV of this chapter.

¹¹⁵ Recall that I am ignoring the consequentialist arguments against the practice in this work.

regard the embryo's potential as morally relevant that they ought to do so, or that they are somehow in error.

However, showing that it can be coherent to view the embryo as deserving moral respect by virtue of its potential will still be a significant conclusion, since the debate concerning the moral significance of potential seems to have reached a stalemate founded in disagreements concerning the coherence of this view. Although this is to somewhat caricature the debate, it seems that liberal opponents of the potential argument reject the idea of placing moral constraints on our treatment of embryos by virtue of their potential, because they find it incoherent to value embryos for capacities that they don't currently have.¹¹⁶ In contrast, supporters of the argument from potential just seem to assume that the embryo's having the potential for valuable capacities makes it coherent to value it in its current state.¹¹⁷

Accordingly, as well as establishing the soundness of the second assumption underlying the compromise position, my argument in this chapter may also indicate a way out of this stalemate, by explaining how we may understand the way in which proponents of the compromise position value the embryo as a *coherent* view, even if we do not find it appealing.

Before analysing this view, it is prudent to respond to two possible preliminary concerns with the very notion of valuing the embryo. First, as was explained in chapter two, some of our intuitions and practices seem to indicate that we do not believe that the life of the embryo is inviolable.¹¹⁸ Moreover, the fact that we do not grieve these embryos when they are either

¹¹⁶ For example, see Chan and Harris (2010).

¹¹⁷ As we saw in chapter two, section IV, George (2002) seems to make this assumption.

¹¹⁸ See pp. 21-22.

destroyed or fail to come to term suggests that we do not value these embryos in a way that would warrant the placing of moral constraints on the ways in which we treat them.¹¹⁹

However, these arguments fail to demonstrate that we do not value unwanted embryos in any way. The first point to acknowledge here is that even if we do not treat the embryo's life as inviolable, this does not entail that we cannot place *any* moral constraints on our treatment of them; as I argued in the previous chapter, it is possible to regard something as worthy of moral consideration, without claiming that it is inviolable.

Furthermore, the fact that we do not grieve embryos which have been destroyed or lost does not entail that we cannot coherently place any moral constraints upon how we treat embryos. The misuse of body parts is analogous to this case. Although it seems correct to say that a patient would not grieve the loss of a kidney which had to be removed in order to save his life, it still seems that there are some moral constraints upon what can be done with that kidney. For instance, it should not be used for medical research or teaching without the patient's consent.¹²⁰ In the same way, the fact that we do not display a reactive attitude to the loss of an embryo does not entail that we can use them in any way we wish. To illustrate, it seems that destroying a large number of embryos for some trivial purpose such as developing a new line of decorative¹²¹ cosmetics would at least be morally questionable. As such, even if we do not grieve the loss of embryos, this fact does not demonstrate that we cannot consistently value them to an extent that calls for placing some moral constraints on how we treat them.

¹¹⁹ See Curzer (2004) pp. 554-558.

¹²⁰ Recall for example the moral outrage following the Alder Hey Organ donor scandal. See BBC News, (2001). Although there was an element of grief in the response of the parents in this case, it seems this was surely a response to the violation of respect that this case involved, and not a response to the use of the organs *per se*.

¹²¹ I do not include cosmetics which could be put to non-trivial use, such as those which could be used to treat facial disfigurements.

Second, it is also prudent to address how it can be coherent to view the embryo's potential as being sufficient to warranting the claim that the embryo deserves moral respect, but not the claim that the embryo has a right to life (in light of the argument I made in chapter two). To recap, in chapter two I argued that having a right to life denotes that the bearer of that right has a life of such value that it ought to be considered inviolable.¹²² However, in chapter three I argued that we can also make sense of there being moral constraints upon how we ought to treat certain things, even if we do not consider them to be inviolable; I argued that the way in which we can articulate these moral constraints is to claim that we can owe these things moral respect. Accordingly, it is consistent to claim that some feature may be sufficient to grounding moral respect, but not a right claim.

However, the case of potential may seem problematic, since the argument for ascribing a right to life to embryos by virtue of their potential was found to be flawed.¹²³ As such, it is necessary to show that the flaw in the argument from potential only pertains when the argument is used in an attempt to establish the embryo's right to life, and not as a basis for affording moral respect. The flaw with attributing a right to life to the embryo by virtue of its potential was that mere potential to develop certain capabilities does not confer the same value upon a life as actually having those capabilities. As such, although we may wish to say that having certain capabilities can make a life of such value that it should be considered inviolable, having the mere potential for these capabilities does not also make that life inviolable.

However, this does not entail that the embryo's potential is of no value whatsoever; all it means is that having the potential to develop certain capabilities is insufficient to making a life of such value that it ought to be considered inviolable. Yet, affording moral respect to an

¹²² See chapter two, section I.

¹²³ See chapter two, section IV.

entity does not require that we view its life as inviolable. All that is necessary is that there is some morally relevant aspect of the entity in question that can justify our affording it moral respect. Therefore, although only the possession of fully actualised capabilities is sufficient to grounding a right to life, this does not commit us to the claim that the mere potential for these capabilities is morally irrelevant. As such, it may be legitimate for proponents of the compromise position to claim that the embryo's potential confers some value upon its life which is sufficient to warrant affording it moral respect, without saying that this potential warrants ascribing a right to life.

II

Thus far, this chapter has responded to the negative claim that we cannot make sense of affording moral respect to the embryo by virtue of its potential. However, a positive argument for why it is coherent for proponents of the compromise position to view the embryo's potential as morally relevant is still required, if this thought is to ground the claim that the embryo deserves moral respect. The coherence of this view is seemingly taken for granted by proponents of the compromise position; presumably they believe that the moral value of 'actualised' personhood somehow transmits to potential persons in some diluted sense. That is to say that the fact that an embryo has the potential to develop valuable capacities, makes it coherent to value the embryo in its current state, and to therefore claim that it deserves moral respect.

However, as I suggested above, opponents of the compromise position challenge the coherence of this view. In this section, I shall offer an argument in support of the coherence of valuing the embryo by virtue of its potential, by showing that we find it coherent to place moral value on other potential states. I shall claim that morally valuing personhood involves

valuing a form of potential, since the fundamental basis for valuing personhood is that a person has the potential for autonomy. As such, I shall argue that proponents of the compromise position can justify valuing the embryo insofar as it can be viewed as having a degree of potential for autonomy, albeit in a less significant sense than a person.

To make this argument, I must return to the argument of chapter two regarding what we value about human life, as well as considering some Kantian philosophy. In chapter two, I drew the distinction between a ‘human being’ and a ‘person’, whereby a ‘person’ has certain attributes that make its life particularly valuable which a non-person does not have.¹²⁴ Furthermore, I argued that ‘personhood’ is a suitable sufficiency condition for bearing a right to life. Let us consider this in a little more depth. Although we may agree that the capacities which demarcate personhood under a proposed definition are valuable, it is difficult to ascertain *why* we find them valuable.¹²⁵ For example, when it is claimed that the capacity for self consciousness demarcates personhood, we might well ask why we should value self consciousness to this extent.

One reply to this would be that capacities such as self-consciousness are intrinsically valuable. However, this reply does not seem wholly correct; it seems possible to ask why self consciousness adds such immense value to life, in a manner which would appear incoherent if it were intrinsically valuable. An alternative explanation for why we find the capacities that demarcate personhood to be valuable is that they seem to be related in an important way to autonomy, or in Kantian terms the “property the will has of being a law unto itself”.¹²⁶ For example, to be autonomous agents capable of freely willing our actions, it seems that we

¹²⁴ See p 25.

¹²⁵ It is easier to explain why some capacity is a *necessary* condition of personhood, if the concept of personhood is analytically linked to the concept of right-bearing. In this case, some capacity will be a necessary condition of personhood if it is a conceptual requirement of having a right. See Tooley (1972). In contrast, I am concerned with how we might justify some capacity’s being a *sufficient* condition of personhood.

¹²⁶ Kant, 4:440.

must be self-conscious and able to plan a future for that self. As such, it seems plausible that the status of personhood might be a necessary condition of having an autonomous will. I shall return to this thought below.

It also seems plausible to claim that the capacity for autonomy can confer such value upon a life as to render it inviolable. For Kant, the principle of autonomy, namely that one should act only upon maxims which are formulated by the subject in accordance with the dictates of practical reason, is the “sole principle of morality”.¹²⁷ To be a moral agent in the Kantian sense, one must be capable of autonomously formulating the moral law through practical reason. Accordingly, for Kant, autonomy is the ground of the particular moral value¹²⁸ we place upon human life, because only an autonomous being can qualify as a member of the moral community, insofar as he is able to formulate the universal moral law.¹²⁹

Similarly, when we ascribe a right to life to a person, it seems plausible to understand the fundamental basis for doing so as being to safeguard that person’s capacity for autonomy, since autonomy seems to be a plausible candidate for being that aspect which makes life particularly valuable. However, it is important to be precise about the relationship between personhood and autonomy. Consider this example: Suppose that a husband continuously beats his wife, who becomes so used to these beatings that she develops a desire to be beaten for any error. Suppose further that she qualifies for personhood. If one were to morally challenge the husband’s actions here, it seems that he could reply that he is not violating his wife’s rights or the moral respect she is due, because she chooses to receive these beatings.

The obvious counter to the husband’s defence here is that he *is* doing something morally wrong because his wife is not reasoning autonomously. Her choice is dictated by the

¹²⁷ Kant, 4:440.

¹²⁸ Kant refers to this particular moral value as ‘dignity’ (in contrast to price). See Kant, 4:435.

¹²⁹ Kant, 4:434 – 436.

influence of unwilled desires that have been formed by her persistent subjection to these beatings. To phrase this in Kantian terms, her choice is heteronomous because her will “does not give itself the law; rather the object (of her will) gives the law to it”.¹³⁰ In contrast, to be autonomous is to make rational decisions of one’s own making, independent from the influence of one’s desires.

This example reveals something important about the relationship between personhood and autonomy. Clearly we want to say that the wife is an appropriate subject of moral concern. However, in this case autonomy, the fundamental basis for valuing personhood, is not achieved by the wife. Therefore, what this example suggests is that although personhood confers value to a life because of its relation to autonomy, it is not the case that persons are always autonomous. As such, it seems that the reason that we value personhood is not because being a person is *sufficient* for being autonomous; rather, as I suggested above, it seems that personhood is only a necessary condition for autonomy.¹³¹ Accordingly, when we ascribe a right to life on the basis of personhood, we are not doing so because to be a person is to be autonomous. Rather, personhood entails that the subject in question has the *potential* to be autonomous in a way that non-persons do not. Yet this is still only the potential for autonomy, not actual autonomy.

This might be misinterpreted as contradicting an argument from chapter two. In chapter two, I argued that the embryo’s potential is insufficient to grounding a right to life, because only actual personhood can confer such value upon a life that it should be considered inviolable.¹³² This might seem to conflict with the claim that I am advancing here, namely

¹³⁰ Kant, 4: 441.

¹³¹ The important point behind the use of this distinction is that it is possible to satisfy the necessary conditions for autonomy without being autonomous. In contrast, one cannot satisfy the sufficient conditions of autonomy without being autonomous.

¹³² See chapter two, section IV.

that the status of personhood means only that the subject in question has the potential for autonomy, that aspect which fundamentally makes a life particularly valuable.

However, this claim does not conflict with anything that has already been argued. Recall that it was claimed that we only ascribe a right to life to something which has a life of such value that we consider it to be inviolable. Even if personhood is not sufficient for autonomy, we can still say that personhood can make a life inviolable because it is a *necessary* condition of autonomy. Therefore, even a person who is not autonomous at a certain time still has a more valuable life than a non-person, just because they have certain capacities without which it is impossible to be autonomous; accordingly, it is open for one to argue that persons have a right to life even if they are not always autonomous. On the other hand, non-persons do not have a right to life because they do not have the capacities which are necessary for autonomy.

Therefore, when we talk about valuing life, the presumption that this value is based on actual capabilities does not tell the whole story.¹³³ Although only the actual possession of the capabilities which demarcate personhood is sufficient for bearing a right to life, personhood is not sufficient for that aspect which makes life particularly valuable, autonomy. Since it is possible for a person to act heteronomously, it seems that the reason that we value actually having the capabilities that demarcate personhood is that they are a necessary condition of autonomy. As such, persons are only appropriate subjects of moral concern insofar as they *could* be autonomous in a particularly significant sense.

With this in mind, it seems that it can also be coherent for proponents of the compromise position to regard the embryo's potential as morally relevant. In placing moral value on personhood, I have argued that we are placing moral value on a being's potential for autonomy. Therefore, although non persons (such as embryos) do not have the capacities

¹³³ As such, I do not wholly accept Chan and Harris' soundbite that "actualization, (of valuable capacities) not actualizability is what matters" when we value the embryo. See Chan and Harris (2010), p. 67.

which are necessary for autonomy, having a degree of potential for personhood means that we can make sense of non-persons deserving moral consideration (albeit to a lesser extent than a person), even if they aren't members of the moral community in the Kantian sense. We can do so because, just as we value persons insofar as they have the potential for autonomy, so too can we value non-persons if we can understand them as having a degree of potential for autonomy, insofar as they have the potential for personhood.

With this in mind, it seems that there is some truth in George's argument considered in chapter two, concerning the embryo's possession of basic natural capacities for human mental functions.¹³⁴ Although I argued that George's argument was flawed in claiming that the possession of these basic natural capacities is sufficient for ascribing a right to life to the embryo, the argument that I have proposed in this section suggests that it is plausible to claim that the possession of these basic natural capacities can confer moral value upon the embryo. The reason for this is that we can make sense of beings which possess these basic natural capacities as having a degree of potential for autonomy, albeit to a less significant extent than persons.

Therefore, it can be coherent to view the embryo as deserving moral respect by virtue of its potential. Just as it is coherent to value persons insofar as they have a significant degree of potential for autonomy, so too can we view embryos as deserving moral consideration if they have a significant degree of potential to become persons. Accordingly, the next step in defending the second premise is to argue that the *in vitro* embryo has a degree of potential for personhood which is sufficient to qualify it as an appropriate subject of moral respect.

¹³⁴See chapter two, section IV.

III

It seems that an embryo must be a potential person in some sense, since all human persons developed from an embryonic state. However, it is a matter of controversy whether *in vitro* embryos have a degree of potential which is of sufficient significance to be morally relevant. In the case of *in utero* embryos, the embryo has (to use an Aristotelian term) ‘active potential’, because its development is determined by internal factors; as George puts it, it has the “epigenetic primordia for self directed growth.”¹³⁵ Barring external interference or spontaneous abortions, implanted embryos will normally develop to term. In contrast, *in vitro* embryos must be placed into a particular sustaining environment (i.e. a womb) in order to develop into infants. As such, these embryos are dependent upon at least one external factor for their development. Consequently, *in vitro* embryos have only ‘passive potentiality’ whilst *in utero* embryos have active potentiality.¹³⁶

This might not seem problematic; one might claim that even the possession of passive potentiality is morally significant. However, this thought is thrown into doubt when one considers other things that have passive potential to develop into persons. For example, a pair of gametes has the passive potential to develop into a person, since if certain things are brought about by external forces, namely syngamy followed by implantation, this pair of gametes may develop into a fully developed person (barring the interferences mentioned with reference to implanted embryos previously). Furthermore, it may technically be possible to produce an embryo from a single egg cell through the process of induced parthenogenesis,¹³⁷ or from a somatic cell via the process of Somatic Cell Nuclear Transfer.¹³⁸ The fact that these cells have the passive potential to develop into persons arguably represents a *reductio ad*

¹³⁵ George (2004), p. 5.

¹³⁶ The active vs. passive potential distinction is made by Strong (2006) p. 439.

¹³⁷ Singer and Dawson (1990), p. 79.

¹³⁸ See p. 5.

absurdum of the argument that we should afford *in vitro* embryos moral respect on the basis of their having passive potential, since we do not believe that these other cells are worthy of moral respect.¹³⁹

Therefore, if proponents of the compromise position are to claim that the *in vitro* embryo deserves moral respect by virtue of its potential, it must be demonstrated that its passive potential has greater significance than the potential of the types of cells mentioned above. Singer and Dawson argue that such an argument cannot be made.¹⁴⁰ For Singer and Dawson there are two senses of potential: On the one hand, we can talk about something having the potential to become *x* insofar as it is *possible* for that thing to become *x*. On the other hand, we can talk about something having the potential to become *x* insofar as it is *probable* that it will become *x*. For Singer and Dawson, one cannot distinguish the *in vitro* embryo's potential from the potential of gamete pairs or somatic cells in either of these senses.

In the first case, it is just as possible for gamete pairs and somatic cells to develop into human beings as it is for an *in vitro* embryo, since they all contain sufficient genetic material to create a new life. Furthermore, gamete pairs and *in vitro* embryos do not have a markedly different probability of developing into infant humans.¹⁴¹ They write that:

...if we are to base degrees of potential on the probability of a person ultimately resulting from an embryo, we could not treat as crucially significant the line between the stage at which we have a set of gametes and the stage at which we have an embryo.¹⁴²

¹³⁹ Chan and Harris (2010) pp. 66-67 makes a similar argument.

¹⁴⁰ See Singer and Dawson (1990), pp. 79 -87 for a detailed discussion of Singer's and Dawson's position.

Devolder and Harris develop a similar position in Devolder and Harris (2007) pp. 156-160.

¹⁴¹ Henceforth, this paper shall contrast the passive potentiality of the *in vitro* embryo with that of a pair of gamete cells. However, similar arguments can be offered in reference to the passive potentiality of somatic cells, and eggs involved in parthenogenesis.

¹⁴² Singer and Dawson (1990) p. 84.

The thought here is that since the chance of an egg being fertilized *in vitro* is so high (Singer and Dawson claim that it is on average about 80%),¹⁴³ there is ‘virtually’ no difference between the probability of an egg and a particular spermatozoon used in IVF becoming a human being, and that of an *in vitro* embryo doing so.¹⁴⁴

However, it seems that proponents of the compromise position could defend the thought that *in vitro* embryos have a degree of potential which warrants moral respect in other ways. Singer and Dawson’s argument rests on the claim that we can only make sense of different degrees of potential in terms of the different probabilities¹⁴⁵ of entities becoming that which they have the potential to become. However, it seems that we can also differentiate degrees of potential in accordance with how much *intrinsic* potential something has. With this in mind, the *in vitro* embryo seems to have undergone a significant development from being a pair of gamete cells, because it contains all the genetic material necessary to generate life in a single entity.¹⁴⁶ It is, in Aristotelian language, the ‘final form’ of the human being, because nothing more is added to the embryo or conjoined before its development into a person; all that we will ever *physically* be as humans is there in the embryo.¹⁴⁷ Even when the sperm and egg are considered conjointly they do not constitute a “complex whole”¹⁴⁸ in this way; they are not jointly directed to sustaining the existence of a particular entity in the way that an embryo is.

¹⁴³ Ibid, p. 84.

¹⁴⁴ Ibid, p. 86.

¹⁴⁵ According to Singer and Dawson, potential in terms of mere possibility does not admit of degrees. See Ibid, p. 83.

¹⁴⁶ The use of the phrase “at least one” is used to cover the possibility that the embryo might twin into two separate individuals. This will be discussed in the next section.

¹⁴⁷ This requires qualification, since certain environmental factors can influence the *expression* of the genetic code, (known as epigenesis). However, although *how* the embryo develops may be influenced by external factors, this influence is upon the expression of a genetic code which is already instantiated in the embryo; therefore, epigenesis only effects *how* the embryo develops, not *what* develops.

¹⁴⁸ Buckle (1990), pp.99.

In this sense, the embryo is the first stage of human life which we can actually say that every human was at one point ‘one of these’.¹⁴⁹

As such, in spite of their similar probabilities of eventually becoming a person, it seems that proponents of the compromise position can still coherently argue that the *in vitro* embryo has a more significant degree of potential than other types of cells with passive potential. The reason for this is that the embryo has undergone a significant ontological development in becoming the ‘final form’ of a human being. Even if it is highly probable that a gamete pair will itself develop to this stage, this still represents a significant ontological development which may be deemed an adequate basis for affording moral respect.

The following analogy supports the objection that I am making against Singer and Dawson, namely the thought that even if it is highly probable that some state of potential (call it state *a*) will develop into a more advanced state of potential (call it state *b*), it is possible to claim that this development is significant: Suppose that Paul is planning to assassinate John by putting poison in his tea. Furthermore, suppose that the likelihood of John drinking his tea is almost certain, and that the poison can potentially kill him if he doesn’t receive the antidote. It seems that once Paul has put the poison in the tea, he has become John’s potential murderer. However, even if the probability of John drinking his tea is high, it still seems that Paul’s potential to kill John significantly increases after John has drunk the tea. A plausible reason for this is that John’s act of drinking the poisoned tea is a significant, albeit highly probable development in the process of Paul killing John.

Admittedly, this example is somewhat disanalogous to the case of the *in vitro* embryos development, because Paul himself does not undergo any sort of ontological development. However, the point that this example highlights is that even if it is almost certain that state *a*

¹⁴⁹ McMahan (2007) disputes this point because of the lack of coordinated cell function in embryos, but concedes that the question of whether ‘we were once embryos’, “remains open” (p.81).

will develop into state *b*, this does not entail that state *a* should be equated with state *b*. With this in mind, although *in vitro* embryos and gamete pairs have similar probabilities of becoming persons, it seems open for proponents of the compromise position to point out that *in vitro* embryos have a more significant degree of potential, insofar as they have developed to the point of being the final form of a human being. In this way, they might coherently resist the view that we must treat as moral equals anything with the passive potential to become a person¹⁵⁰; some things have more significant passive potential than others.¹⁵¹

To conclude this section, proponents of the compromise position are not confused about empirical facts when they claim that *in vitro* embryos can occupy a middle ground when we think about the moral significance of potential for personhood. All sides of the debate can deny that the passive potential of gamete pairs is morally significant, on the basis that they do not represent a complex whole that sustains a single entity in its development to personhood. They can also admit that implanted embryos have greater potential than *in vitro* embryos, insofar as they have active and not merely passive potential. However, it seems that there is a coherent basis for proponents of the compromise position to claim that *in vitro* embryos have a degree of potential which warrants moral respect, since they have undergone a significant ontological development in becoming the final form of human life. It is this which may be deemed to distinguish the *in vitro* embryo's potential as being sufficiently significant to warrant affording these embryos moral respect.

¹⁵⁰ This view is proposed in Devolder & Harris (2007), p. 160, and Chan and Harris (2010), p. 66.

¹⁵¹ This section could also allow proponents of the compromise position to respond to Brown's argument that I alluded to briefly in footnote 87. However, I shall not explain this here, because Brown's argument against using the concept of the embryo's potential as a basis for conferring moral status is broadly similar to the arguments considered here already. See Brown (2007).

IV

I shall conclude this chapter by showing that the model of respect outlined above provides proponents of the compromise position with a response to three alternative views of potential, before explaining how this model can provide the groundwork for making a moral distinction between using unwanted embryos for hESC research and creating SCNT embryos for that specific purpose.

First, it might be argued that only embryos with active potential warrant moral respect.¹⁵² As the previous section explained, active potential is a more significant degree of potential than passive potential. However, this does not entail that passive potential cannot be morally significant. Indeed, if passive potentiality could not be morally significant, then one would be committed to the claim that there are no moral constraints upon what we can do with unwanted *in vitro* embryos.¹⁵³ However, this does seem to be contrary to some of our moral intuitions. For example, as has already been asserted, the idea that we could destroy *in vitro* embryos in order to develop a new line of decorative cosmetics seems morally questionable.¹⁵⁴ Given the argument that this chapter has made, it seems possible to coherently justify the placing of some moral constraints upon our treatment of *in vitro* embryos by appealing to the moral significance of their passive potential. Although these embryos are reliant on extrinsic factors to fulfil their potential, this does not entail that their potential is therefore morally insignificant.

Second, it might be argued that we cannot talk of the embryo having the potential to become a person prior to 14 days of development, because until this time the embryo can twin into two separate individuals. The thought here is that when we talk of affording the

¹⁵² This view is proposed by Cameron and Williamson (2005).

¹⁵³ Assuming that the embryo's potential is the only morally relevant aspect about it which could warrant moral protection.

¹⁵⁴ One could of course bite the bullet and just deny that this is counter-intuitive; however this seems unappealing.

embryo moral status, we are not affording it to an identifiable individual. Rather, we should only afford moral status once the embryo is an identifiable individual human being.¹⁵⁵

This argument from non-individuation might be pertinent if we were considering the issue of assigning a right to life to the embryo, since assigning rights might arguably require that one can identify the individual entity to whom the right is being assigned to.¹⁵⁶ However, as chapter two argued, there are other reasons for why it is inappropriate to ascribe a right to life to the embryo on the basis of its potential. Therefore, the pertinent question concerning this argument is whether it makes sense to talk of affording moral respect to something which is not an identifiable individual. There does not seem to be a convincing reason why not. The fact that the pre 14 day embryo may develop into more than one individual being does not alter the fact that the embryo has the potential to develop into at least one person; and after all, what seems to matter is that the embryo has the potential for personhood, not that it has the potential to be a particular person.¹⁵⁷ Therefore, if the basis for respecting the embryo is its potential to develop into a person, the fact that the pre 14 day embryo is not an identifiable individual does not damage the claim that it should be afforded moral respect.

Finally, Devolder and Savulescu offer an alternative view of the embryo's potential, alluded to at the beginning of this chapter. According to their arguments, embryos only deserve moral protection if they are part of a parental project.¹⁵⁸ The model of potential

¹⁵⁵ This idea is reflected in the 14 day limit to research carried out on embryos proposed by the Warnock report [See Warnock (1985)], and is supported by McCormick (1991). Guenin (2007) analyses the non-individuation argument in more depth than has been possible here.

¹⁵⁶ A sketch of such an argument might be that when we assign a right to life, we are saying that a *particular* life is inviolable. As such, if we cannot identify the embryo as a particular life, assigning a right to life is problematic.

¹⁵⁷ Similarly, the fact that the embryo may split into two individuals does not entail that we cannot identify those individuals with the embryo from which they both developed. An analogy of this would be that we can identify two separate motorways with a single motorway from which they both branch. For example, the M42 and M40 are separate motorways which merge into the single M4 motorway before branching off separately again. Prior to this branching, we can identify both the M40 and the M42 with the same M4 motorway from which they branch.

¹⁵⁸ See Devolder and Savulescu (2006), p. 13.

outlined in this chapter explains why proponents of the compromise position can coherently afford the embryo moral respect even if it is not part of a parental project.

Devolder and Savulescu's argument relies on the premise that the embryo's potential to become a person depends on whether the parents of that embryo wish it to develop. Clearly, some embryos are never intended to realise their potential, and these embryos are not worthy of the same protection as an embryo which is wanted for reproductive purposes. Yet, proponents of the compromise position are likely to point out that this does not change the fact that embryos have an intrinsic degree of potential, independently of whether they are intended for reproductive purposes. Although an embryo which is not intended to develop beyond a certain stage cannot become a fully developed human of its own accord, to thereby dismiss the thought that it is a potential human being is to fail to appreciate just what sort of entity the embryo is. The embryo just is the first stage of human life which is essentially driven towards its own development when placed in the correct environment.¹⁵⁹ Even if a particular embryo is not intended to develop into a person, it still seems coherent for proponents of the compromise position to describe it as having a degree of potential (which may be deemed morally significant) by virtue of the type of entity it is.

The following analogy supports this argument: Any human with the sufficient cognitive ability has the potential to learn the Chinese language fluently. The fact that a particular person is not motivated to fulfil this potential does not entail that he has lost the potential to learn Chinese. In a similar fashion, the fact that an embryo is not intended for reproductive purposes does not affect its intrinsic potential, that is to say the fact that an embryo has the genetic material to form a new person as the final form of a human being. The claim that this chapter has argued for is that this intrinsic potential provides a coherent basis for proponents of the compromise position to afford the embryo moral respect.

¹⁵⁹ Hursthouse (1987), p.80 advances a similar claim.

V

Therefore, in this chapter I have claimed that proponents of the compromise position may coherently view the *in vitro* embryo as deserving of moral respect by virtue of its potential. Although the embryo has only the passive potential to become a person, it has a greater degree of potential than cells which do not warrant moral respect, because it has undergone a significant ontological development in becoming the final form of a human being.

This conclusion, and the account of respect formulated in chapter three conjointly offer a defence of the second assumption underlying the compromise position; namely that we can make sense of there being moral constraints upon the way in which we treat embryos, without ascribing rights to them. The conclusions that I have made in the preceding two chapters, suggest that we can make sense of setting moral constraints on our treatment of embryos, because they can coherently be viewed as deserving a degree of moral respect by virtue of their potential for personhood. To preview the next chapter of this thesis, the idea that the embryo deserves moral respect by virtue of its potential has important ramifications for how we might view the moral permissibility of therapeutic cloning. If we believe that we ought to afford the embryo moral respect, then it seems that we must constrain our treatment of embryos in such a way that honours this potential. In the next chapter of this thesis, I shall consider whether proponents of the compromise position can consistently claim that therapeutic cloning violates this respect, whilst also maintaining that standard hESC research does not.

CHAPTER FIVE

In the previous two chapters, I argued that it is coherent for proponents of the compromise position to claim that we ought to set moral constraints on our treatment of embryos in order to afford them the moral respect they are due by virtue of their potential. With this in mind, I shall now consider the third assumption underlying the compromise position. This assumption stipulates that there is a moral difference between standard hESC research and therapeutic cloning, such that the latter, but not the former, violates the moral constraints that we ought to set on our treatment of embryos.

I shall argue that one can coherently draw a moral distinction between the two practices because therapeutic cloning may be deemed to violate the moral respect due to the embryo in a way that standard hESC research does not. However, I shall also claim that adopting this position requires adopting a diluted view of the extent to which we must place moral constraints on our treatment of embryos in order to afford them proper moral respect. This in turn will have significant implications for the overall tenability of the compromise position, which I shall consider in chapter six.

Following the literature, I shall refer to the claim that there is a moral difference between standard hESC research and therapeutic cloning as DCD (i.e. the Discarded Created Distinction).¹⁶⁰ This assumption has been the main focus of objections concerning the tenability of the compromise position. Although there intuitively seems to be a moral difference between destroying an unwanted embryo and creating an embryo for the sole purpose of hESC research, previous attempts to establish DCD are inadequate. Given the inadequacy of these arguments, some writers claim that the concept of a compromise position

¹⁶⁰ See Devolder (2005b).

between the liberal and conservative positions I outlined in chapter one is incoherent¹⁶¹; according to them, if we claim that standard hESC research is morally permissible, consistency demands that we also ought to claim that therapeutic cloning is morally permissible.

With this in mind, my strategy in this chapter shall be as follows. In the first section, I shall explain why previous attempts to establish DCD are inadequate. My argument in this section will also explain why I reject the assumption that the embryos which are destroyed in standard hESC research are ‘bound to die’ which, as I explained in chapter one, is sometimes used in attempts to argue that standard hESC research is morally permissible.¹⁶² In the second section, I shall then identify an area where the two practices differ which seems morally significant. Finally, in the third section, I shall argue that the manner of this difference is such that the practice of therapeutic cloning may be deemed to violate the respect due to the embryo, in a way that standard hESC research does not. Accordingly, *contra* Sandel and Devolder, I shall conclude that the third premise underlying the compromise position is sound.

I

It is prudent at this stage to recap briefly what both standard hESC research and therapeutic cloning involve. In the former practice, unspecialised hESCs are derived from unwanted embryos, that is to say embryos which were created for IVF treatments, but were ultimately not required. In practice, these unwanted embryos are frozen until they are either discarded or destroyed in research. On the other hand, in therapeutic cloning cloned hESCs are derived

¹⁶¹ See Sandel, (2002), sec. A-19, Devolder (2005a), and Devolder (2005b).

¹⁶² See pp. 1-2 and p. 15.

from an SCNT embryo which was created in order to provide hESCs of a particular genetic type. In both practices, the embryo is developed until the blastocyst stage, at which point its inner cell mass (which contains the hESCs) is extracted, destroying the embryo in the process.

Since the embryos are destroyed at exactly the same developmental stage in therapeutic cloning and standard hESC research, one cannot establish DCD by appealing to the nature of the entities which are destroyed in each practice; the two practices are morally equivalent to the extent that they both destroy embryos with a degree of potential which may be deemed morally significant.¹⁶³ Furthermore, the hESCs are harvested from embryos using exactly the same procedure in both practices.¹⁶⁴ However, some writers have attempted to establish DCD in spite of these similarities by appealing to certain moral principles. In this section, I shall outline two such attempts, before arguing that they both fail to establish DCD. I shall claim that they fail because neither of the principles which are appealed to in these attempts can be used to support a moral distinction between standard hESC research and therapeutic cloning. In the remainder of this chapter, I shall propose a new way in which proponents of the compromise position could establish DCD.

Outka appeals to a “Nothing is lost” principle in order to justify distinguishing the moral permissibility of the two practices. To paraphrase this principle¹⁶⁵, Outka claims that it can be permissible to murder¹⁶⁶ someone *iff* the following two conditions are met: First, that the victim is bound to die in a process which is not coextensive with one’s plan to murder him/her, and second that a life can be saved by murdering the victim. The intuitive force

¹⁶³ Devolder (2005a) p.368, Devolder (2005b) p. 180.and Gerrand (1993) p. 176 make this point.

¹⁶⁴ See p. 5.

¹⁶⁵ See Outka (2002), pp. 193-194.

¹⁶⁶ One may disagree that one can ‘murder’ an embryo. One could substitute ‘murder’ for ‘destroy’ (and ‘death’ for destruction) in this context.

behind this principle is that by murdering the victim, ‘nothing is lost’ because the victim will die in any case.

If we apply this principle to the practices under consideration, it seems that there is scope for arguing that standard hESC research is morally permissible, but that therapeutic cloning is not. Although it seems feasible to claim that both practices can meet the second condition, (since it might be argued that we will be able to save lives by engaging in both therapeutic cloning and standard hESC research),¹⁶⁷ it might be argued that only the practice of standard hESC research can meet the first condition. The argument here is that in standard hESC practice, the hESCs are derived from ‘doomed’ embryos which are bound to die, whilst in therapeutic cloning the process by which the embryo is bound to be destroyed is coextensive with one’s plan to destroy it. That is to say, the embryo will only be destroyed because one plans to destroy it in order to obtain a benefit through its destruction. Accordingly, therapeutic cloning cannot meet the first condition.

Alternatively, Fitzpatrick argues that appealing to the ‘intend/foresee’ distinction can allow one to establish DCD.¹⁶⁸ According to Fitzpatrick, the destruction of unwanted embryos is a foreseeable but unintended effect of IVF treatments. For Fitzpatrick, the intention underlying the creation of these embryos is that they will be used in reproduction; however, it just so happens that the nature of this process involves the destruction of embryos which are deemed surplus to requirements. Although this effect is foreseeable, he argues that one can feasibly engage in IVF treatments without strictly intending to destroy embryos.

On the other hand, the destruction of embryos in therapeutic cloning is not merely foreseen, but intended. As Fitzpatrick claims, one cannot aim to derive hESCs from these

¹⁶⁷ See chapter 1 for discussion.

¹⁶⁸ The principle underlying this argument is the doctrine of double effect; namely that it can be morally permissible to cause harm as a side effect of promoting some good end if certain conditions are met. Since Fitzpatrick refers to the argument as being based on the intend/foresee distinction, I shall follow his terminology. See Fitzpatrick (2003).

embryos without also aiming to destroy them, because there is a constitutive relation¹⁶⁹ between the acts; that is to say that deriving hESCs does not merely cause the destruction of the embryo, but actually constitutes its destruction. Therefore, since therapeutic cloning involves creating cloned embryos with the intention of destroying them, Fitzpatrick argues that it can be morally distinguished from standard hESC research, because the destruction of unwanted embryos which the latter practice involves is a foreseen, but *unintended* side effect of artificial reproduction.¹⁷⁰

Let us assume that both the ‘intend/foresee’ distinction and the ‘nothing is lost’ principle are plausible.¹⁷¹ Prima facie, they both seem to highlight differences between the two practices which could form the basis for DCD. However, neither principle is able to do so. Consider Fitzpatrick’s argument first. He argues that the destruction of unwanted embryos is a foreseen but unintended side effect of IVF. Yet as Devolder points out, the destruction of unwanted embryos is not an unintended side effect of IVF, since there is nothing inherent to the practice which causes the embryos which are not used to be destroyed.¹⁷² For instance, these embryos could feasibly be frozen or adopted by other parents. Therefore, contrary to Fitzpatrick’s argument, the destruction of unwanted embryos is not a foreseen but unintended side effect of IVF; rather, the destruction of unwanted embryos is a separate act from engaging in IVF, with a separate intention.

One could reply here that although the process of IVF itself does not logically necessitate the destruction of unwanted embryos, in practical terms these embryos must be destroyed because there are not a sufficient number of parents willing to adopt them. One solution to this objection could be that these unwanted embryos should just remain frozen. However,

¹⁶⁹ Fitzpatrick (2003), p. 32.

¹⁷⁰ The previous two paragraphs paraphrase the argument of Fitzpatrick (2003).

¹⁷¹ One could argue that either principle is flawed. For example, Harris argues against the intend/foresee distinction. See Harris (2003), p. 362.

¹⁷² See Devolder (2005a), p. 368, and Devolder (2005b), p. 183.

even if this were not an option, the more fundamental point is that even if the destruction of unwanted embryos might be a practical necessity, this is not a strong enough connection to justify the thought that the destruction of unwanted embryos is inextricably bound with the practice of IVF in such a way that we may say that their destruction is an unintended side effect of this practice, or that unwanted embryos are ‘bound to die’.¹⁷³

This objection has important ramifications for Fitzpatrick’s argument. The aim of Fitzpatrick’s argument is to explain why the creation and destruction of unwanted embryos in standard hESC research is morally permissible, and to do so in a manner which is consistent with the condemnation of therapeutic cloning. However, if the destruction of unwanted embryos is not a merely foreseeable and unintended side effect of IVF, a whole other argument is required in order to morally justify the destruction of these embryos in standard hESC research; it cannot be justified by applying the intend/foresee distinction.

Now consider Outka’s argument. The application of the ‘nothing is lost’ principle relies on the notion that the victim in question is unavoidably bound to die, since only then will ‘nothing be lost’ by murdering him/her. However, as argued above, the unwanted embryos we are considering are not strictly bound to die; as such Outka’s principle cannot be used to morally justify their destruction. In destroying an unwanted embryo, something *is* lost, because the embryo’s destruction is a separate and intended action from its creation for IVF.

Moreover, one might even go further, and claim that not even the *creation* of unwanted embryos can be described as a merely foreseen consequence of IVF, since there is nothing inherent to the practice which absolutely requires the creation of unwanted embryos; we could feasibly engage in IVF by creating one embryo per treatment. Of course, using a large number of embryos in each treatment significantly increases the chance of a viable pregnancy

¹⁷³ As such, the appellation ‘doomed embryo’ mentioned earlier (footnote 14) is something of a misnomer. They are only doomed to destruction insofar as we actively intend to destroy them; they are not doomed by their very nature as the name might suggest.

occurring. Moreover, given the cost of the procedure, and the moderately invasive nature of transferring embryos to the women, there are good reasons for why current IVF practices create more embryos than are likely to be needed. However, even acknowledging this, the creation of these embryos is still an intended action, and not an unavoidable consequence of engaging in artificial reproduction.

Again, this second point is damaging to both Outka's and Fitzgerald's arguments.

Although the nothing is lost principle can justify standard hESC research if it is assumed that the embryos it uses are 'bound to die' (which, I have argued in any case, they are not), the principle cannot explain why it is morally permissible to engage in the practice of IVF even if it involves creating embryos which are bound to die. Furthermore, it is possible to challenge Fitzpatrick's application of the intend/foresee distinction here. Even if the creation of unwanted embryos may be justifiable, it is an intended part of IVF treatments; as such it is not merely a foreseen, unfortunate side-effect. As such, both Outka's and Fitzgerald's attempts to morally justify standard hESC research also make the undefended assumption that IVF is morally permissible, even though it involves the intentional creation of unwanted embryos which are likely to be destroyed.¹⁷⁴

Therefore, even if we accept the principles that Outka and Fitzgerald appeal to, their arguments are problematic in two ways. First, they attempt to justify the destruction of unwanted embryos by forging an illusory necessary relationship between this destruction and current IVF practices. Second, they rely on the undefended assumption that IVF is morally

¹⁷⁴ The intend/foresee distinction could be used to object to the argument of Harris (2003) considered in previous chapters that there is no difference between creating embryos which are lost in natural reproduction and therapeutic cloning, since the loss of embryos in natural reproduction is not intentionally and avoidably brought about in the way that the destruction of unwanted embryos is. However, Harris pre-empts this move by denying that the intend/foresee distinction is plausible.

permissible even though it involves the intentional creation of embryos which are likely to be destroyed.¹⁷⁵ As such, their attempts to morally justify standard hESC research fail.¹⁷⁶

The problem for proponents of the compromise position then is this: Although it seems possible to morally distinguish the act of destroying something which is bound to die, from the act of creating something in order to destroy it, this is not the actual issue at stake for proponents of the compromise position. Rather, the challenge for proponents of the compromise position is to explain why creating and then destroying embryos for research purposes is morally worse than intentionally creating surplus embryos for reproductive purposes, which are then destroyed. In the next section I shall explain a way in which it might be possible to respond to this challenge, before arguing in the final section that with this distinction in mind, it is possible to argue that therapeutic cloning, but not standard hESC research, is incompatible with affording the proper moral respect due to the embryo.

II

Although Fitzgerald's argument was found to be flawed, it seems that it was correct to highlight the relevance of the intentions underlying the creation of the embryos in the two forms of hESC research. It seems that the difference between the two forms of research which people attach moral importance to is that only therapeutic cloning involves creating embryos with the sole intention of destroying them; it might be argued that this seems to involve treating the embryos in a particularly exploitative manner.¹⁷⁷ With this in mind, this section will elucidate the basis for this intuition in a manner which allows one to claim that

¹⁷⁵ Their arguments might be used to morally justify the creation of unwanted embryos which have *already* been created and are slated for destruction according to current legislation. This discussion would be pertinent to the alternative compromise position I briefly considered in footnote 49. However, to re-iterate, the arguments cannot be used to establish the compromise position that I am considering.

¹⁷⁶ The arguments I have made in this section explain why it was necessary to argue that the embryo does not have a right to life earlier in the thesis. See my delineation of the first assumption on p. 16 for explanation.

¹⁷⁷ See Fitzpatrick (2003), p. 30.

creating and then destroying embryos for research purposes is morally worse than creating unwanted embryos which are likely to be destroyed for reproductive purposes.

It seems that the intention underlying an action can influence the way in which we morally judge that action. Furthermore, the same act carried out for different intentions can convey different attitudes towards the subject of that act. To illustrate, consider this example. Two parents might encourage their son to become a lawyer because they think that their son will particularly enjoy that career path. On the other hand, they might encourage their son to become a lawyer solely because they think that he will earn enough money to give them an affluent retirement. In these cases, the same act conveys different attitudes towards the son because of the different intentions underlying the action. Furthermore, it seems that we can morally judge the parents on the attitude expressed by their intentions.

With this in mind, it seems that the intention with which the embryos are created in therapeutic cloning might convey a different attitude towards the embryo than the intention with which they are created in IVF.¹⁷⁸ I shall consider what attitudes are expressed by these practices in the following section. The important point for this section is the thought that the different intentions underlying the creation of the embryos in each case can express different attitudes towards the embryo. This difference might form the basis for morally distinguishing therapeutic cloning from standard hESC research if only one attitude is deemed to be consonant with the moral respect owed to the embryo.

However, Gerrand seems to object to the argument sketched above. She claims that:

¹⁷⁸ It should be acknowledged that this differs from the 'parental project' argument considered on p. 47, and pp. 63-4. There, I argued that one can view the embryo as having a degree of intrinsic potential regardless of whether it is part of a parental project. Here, I am arguing that the intention with which an embryo is created conveys a certain attitude to it; this does not affect my previous claim that the embryo may be viewed as having a degree of intrinsic potential regardless of how the parents view it.

...the morality of how an embryo is treated is determined by its final use rather than any ... other possible uses.¹⁷⁹

The thought here is that therapeutic cloning and standard hESC research should be deemed morally equivalent because they both ultimately treat the embryo in exactly the same way. Even if unwanted embryos are created with the intention that they will become persons, the fact of the matter is that they are destroyed, and we should base our moral judgement of both practices on how they are finally used.

The basis of this objection is the principle that we should always base our moral appraisals upon final outcome, rather than possible but uninstantiated outcomes, even if these latter outcomes are intended. This may be right if one adopts a wholly consequentialist moral outlook, but the principle is highly contentious. Consider its application in this example: Suppose that Alan forces Ben to play a version of Russian roulette in which there is only a 20% chance of survival. If Ben survives he will receive some substantial good (say £1000), but Alan's intention for forcing Ben to play is that Ben will not survive. Suppose that against the odds Ben does survive and wins this good; it would seem odd to say that Alan's forcing Ben to play was a moral act because it brought about this good outcome. Here, the intended possible but uninstantiated outcome seems to impinge on the way in which we morally judge Alan's act.

We may concede to Gerrand that final outcomes play an important part in how we morally appraise our actions. However, to claim that intended but uninstantiated possible outcomes cannot influence the moral appraisal of an action seems incorrect. We incorporate the intention underlying an action, and not just the outcome of that action when we morally

¹⁷⁹ Gerrand (1993), p. 178.

appraise it. For instance, this is reflected in the fact that many countries have strict penalties for attempted murder as well as actual murder. Therefore, *contra* Gerrand, it seems that the intention for which cloned embryos and unwanted embryos are created can influence our moral judgement of their creation.

Accordingly, this section has identified an area in which therapeutic cloning and standard hESC research differ which could be morally significant, and incorporates the thought that neither the creation nor destruction of unwanted embryos is a necessary side effect of IVF. Even if we agree that both therapeutic cloning and standard hESC research involve the intentional creation and destruction of embryos, it still seems that we might be able to morally distinguish the practices by virtue of the different attitudes expressed towards the embryo in each practice. In the next section, I shall argue that the attitude expressed towards the embryo in therapeutic cloning is incompatible with affording the embryo proper moral respect, but that the attitude expressed in standard hESC research is compatible with affording this respect. The reason for this is that the intention underlying the creation of SCNT embryos in therapeutic cloning fails to acknowledge the embryo's potential in any way, whilst the intention underlying the creation of the unwanted embryos used in standard hESC research does, albeit to a limited extent.

III

In order to make this argument, it is prudent to recap the model of respect outlined so far in this thesis. According to the model of respect I have developed, embryos may coherently be viewed as deserving moral respect by virtue of their potential, and the way in which we afford proper moral respect to something is by setting constraints on our behaviour which safeguard or honour whatever is morally significant about that thing. Furthermore, the

previous section of this chapter argued that we may be able to morally distinguish the practices of therapeutic cloning and standard hESC research by analysing the attitudes expressed by the intention underlying the creation of the embryos used in each practice.

Accordingly, the important question for this section is the nature of the attitudes expressed towards the embryo by the intention underlying its creation in each form of hESC research. In order for the third assumption underlying the compromise position to be sound, it seems that the attitude expressed by the intention underlying the creation of SCNT embryos in therapeutic cloning must be incompatible with affording proper moral respect to the embryo; Conversely, the attitude expressed by the intention underlying the creation of the unwanted embryos used in standard hESC research must be compatible with affording proper moral respect

Let us consider the case of therapeutic cloning first. The intention underlying the creation of the embryo in this practice is to obtain a medical resource through the embryo's destruction. Although, the ultimate intention of obtaining hESCs is to alleviate suffering through using this resource, one cannot obtain hESCs without intending to destroy an embryo; as I explained above, deriving hESCs is *constitutive* of destroying the embryo. As such, even if the fundamental motive for creating a cloned embryo is to alleviate suffering, this does not alter the fact that cloned embryos are created in therapeutic cloning with the intention that they will be destroyed.

The attitude that this intention conveys towards the embryo lacks any appreciation of the embryo's potential. The embryo is never regarded as a potential person, but only as a medical resource; for this reason, this attitude strikes many as particularly exploitative.¹⁸⁰ As such, there seems to be a basis for claiming that the attitude expressed towards the embryo in therapeutic cloning is incompatible with affording it the proper moral respect it is due by

¹⁸⁰ See Fitzpatrick, p. 30.

virtue of its potential; the practice just fails to view the embryo as a potential person at any point. As such, the practice neither honours or safeguard's that which may be deemed morally relevant about the embryo.

One may respond at this point that the fact that SCNT embryos are never viewed as potential persons means that they do not have any potential for life. This is similar to the parental project argument I considered in chapter three, which I argued does not succeed in proving that unwanted embryos lose their potential for life.¹⁸¹ However, there is another sense in which one may question whether SCNT embryos have the potential for life, insofar as there is no empirical evidence that a human SCNT embryo would successfully develop to term. As such, it might be argued that the SCNT embryos do not deserve moral respect, because we have no evidence that they have the potential for life.¹⁸²

However, this argument is unconvincing. First, although a human SCNT embryo has not been produced (given legal and moral prohibitions on reproductive cloning), SCNT embryos of many other species have been successfully developed to term. Although we cannot always extrapolate results obtained in experiments on other animals to humans, the evidence we have from these experiments at least suggests that a human SCNT embryo could be similarly developed. Second, although we have no empirical evidence of a human SCNT embryo developing to term, neither do we have any evidence that it would not. Given this uncertainty, it seems right that we should err on the side of caution;¹⁸³ as far as we know, SCNT embryos have as much potential for life as normal human embryos at a similar stage of development.¹⁸⁴

¹⁸¹ See pp. 62-63.

¹⁸² This point was suggested to me by Prof Kenneth Boyd.

¹⁸³ The Kantian notion of a 'moral hazard' which I shall discuss below also seems relevant to this latter point.

¹⁸⁴ This raises the question of how we should morally judge the hypothetical creation of embryos for research which were genetically manipulated not to develop beyond the blastocyst stage. Although this might seem less problematic, a likely response from proponents of the compromise position is that such genetic manipulation would involve violating the respect due to the embryo.

Therefore, therapeutic cloning may coherently be viewed as being incompatible with the moral respect due to the embryo. The next step in the argument in favour of the third assumption underlying the compromise position is to establish that one can afford the embryo proper moral respect in standard hESC research. Devolder argues that this is not possible. She argues that permitting standard hESC research amounts to permitting the creation of embryos which have a good chance of being destroyed only in order to aid infertile couples, since our current IVF practices involve creating many more embryos than are ever likely to come to term¹⁸⁵ (from which the unwanted embryos used in standard hESC research are sourced).

The problem which Devolder highlights here is that it is dishonest to attempt to morally justify the creation of unwanted embryos by claiming that they are all created with the intention of becoming a person; the fact of the matter is that most of the embryos which are created in current IVF practices will not develop to term.¹⁸⁶ Arguably, this might not be problematic if the creation of unwanted embryos was an unavoidable part of producing an embryo which would develop to term. If this were the case, then one might attempt to justify the destruction of unwanted embryos as a being a necessary means of bringing about a new life. However, as we saw when considering Outka and Fitzpatrick's argument, the creation of unwanted embryos is neither necessary nor unavoidable in this way.

As I argued above, one of the problems with both Outka's and Fitzgerald's attempts to establish DCD is that they assume without argument that the creation of unwanted embryos which will be destroyed in IVF is morally permissible. In a similar vein, it might be argued here that if we wish to afford moral respect to embryos by virtue of their potential, we should painstakingly fertilise eggs in IVF one at a time in order to rule out the possibility of creating unwanted embryos which will be destroyed. According to this vein of thought, the likelihood

¹⁸⁵ See HFEA, (2001).

¹⁸⁶ See Woolf (2007).

that a vast number of the embryos created for IVF will be destroyed seems to make their creation a ‘moral hazard’ in the Kantian sense.

For Kant, it is a basic moral principle which requires no proof that “one ought to hazard nothing that may be Wrong”.¹⁸⁷ In the context of this chapter, if the creation of so many embryos in IVF makes it likely that we will have to destroy a large number of unwanted embryos, it might be argued that we should not permit the creation of this many embryos in the first place. In this way, the creation of unwanted embryos might be deemed a moral hazard, and thereby jeopardise the thought that creating unwanted embryos in IVF is compatible with affording the embryo moral respect.

One reply to this argument could be to concede that current IVF practices fail to afford proper moral respect to the embryo. However, since legislating bodies which adopt the compromise position also permit IVF as it is currently practiced, they cannot make this concession. Therefore, in order to argue that the compromise position is valid as a legislative policy, it must be established that the creation of more embryos than are necessary in IVF (which provides the source of embryos used in standard hESC research) is not a moral hazard. It is to this issue I now turn.

If we believe that our current IVF practices succeed in affording proper moral respect to the embryo, then the moral constraints that we set on our treatment of embryos in order to afford them proper moral respect must be very relaxed. Not only does the practice involve the creation of embryos which are likely to be destroyed, but the creation of these embryos is both intentional, and avoidable. As such, this seems to be a weak version of moral respect. However, that is not to say that it is incoherent to claim that moral respect is afforded to the embryo in current IVF practices. Here, the intention of the practice considered as a whole seems to play a role. Even if the practice involves the intentional and avoidable creation and

¹⁸⁷ Kant, 6:185.

destruction of embryos, there still seems to be some scope for claiming that the practice is compatible with affording a degree of moral respect, because the purpose of the practice for which the embryos are initially created is in keeping with the morally relevant aspect of the embryo, its potential. After all, the purpose of IVF is to produce a new person.

This thought represents a possible defence which proponents of the compromise position could make to one of Devolder's arguments. Devolder argues that the two forms of hESC research cannot be morally distinguished by appealing to the embryo's potential, because they both destroy embryos with the same degree of potential.¹⁸⁸ However, although both therapeutic cloning and standard hESC research destroy embryos with the same degree of potential, it seems open for proponents of the compromise position to claim that the former, but not the latter, does so in a manner which is incompatible with the respect due to the embryo. The reason for this is that the purpose underlying this practice fails to acknowledge the embryo's potential in any way, unlike IVF, which provides the source of embryos in standard hESC research.

Opponents of the compromise position are likely to point out here that therapeutic cloning involves creating embryos which will be destroyed for an equally beneficial goal (i.e. aiding the infirm), and as such should also be deemed as compatible with the moral respect owed to embryos. However, the problem with this reply is that the fact that something is used for equally beneficial goals in two different circumstances does not entail that appropriate respect is afforded in both cases.

Consider this analogy. Suppose that an army unit mistakenly ends up in a dangerous position on the battlefield. In order to rescue them, a general orders a soldier onto the battlefield in order to draw enemy fire from the retreating unit. It seems that the soldier is used in an instrumental fashion here, but not in a way which violates the respect he is due as a

¹⁸⁸ See Devolder (2005b), particularly p. 180.

soldier.¹⁸⁹ Although his life is endangered in order to save the unit, this order seems to be in keeping with his role as a soldier.

However, it seems that the soldier could be used in an instrumental fashion which would be incompatible with the respect he is due as a soldier, even if this use had a similarly beneficial goal. Suppose that the unit is not retreating from a battlefield, but has become embroiled in a gun battle with thugs that members of the unit have aggravated in a nearby town. If the general were to order the soldier to draw fire from the unit in this circumstance, this seems to fail to afford the respect the soldier is due; such an act does not seem to fall under his remit as a soldier. Accordingly, even though he would be doing the same sort of act in order to bring about the same sort of consequence, ordering the soldier to risk his life in one circumstance seems to be compatible with affording him proper respect, whilst ordering him to do so in another is not.

In a similar fashion, even if embryos which are created in IVF and therapeutic cloning are created and destroyed for an equally beneficial purpose, this does not entail that both practices afford embryos proper moral respect. Since the intention of therapeutic cloning is never to bring about a new person, it is possible to consistently claim that therapeutic cloning fails to afford the embryo proper moral respect, whilst IVF does, even though both practices seem to create and destroy embryos in a somewhat cavalier manner. Even though the goal of aiding the infirm is undoubtedly a beneficial consequence of creating and destroying embryos, this goal fails to acknowledge that the embryo is a potential person. In contrast, the creation and destruction of embryos in a process whose purpose is to bring about a new life might arguably be deemed to acknowledge the embryo as a potential person.

Therefore, it seems that the different attitudes expressed towards the embryo by the intentions underlying the creation of the embryos destroyed in each form of hESC research

¹⁸⁹ It might be argued that the respect due here is not strictly moral. However, this does not affect the point that I am making with this analogy.

provide a basis for accepting the third assumption underlying the compromise position. Even though IVF involves the creation of many more embryos than will come to term, the creation of these embryos seems to be compatible with affording them moral respect. The reason for this is that the purpose of the practice as a whole is compatible with affording the moral respect the embryo may be due by virtue of its potential. As such, the creation of unwanted embryos in IVF need not be a moral hazard. In contrast, the attitude expressed towards the embryo by the intention underlying the creation of SCNT embryos in therapeutic cloning fails to acknowledge the embryo's potential in any way; as such, it may be coherent to view the practice as being incompatible with affording proper moral respect to the embryo.

Before considering the possible ramifications of this conclusion, I shall consider two replies to this position. First, it might be argued that standard hESC research is incompatible with affording the embryo proper moral respect just because it involves the destruction of embryos. The thought here is that if we should afford moral respect the embryo by virtue of its potential, destroying any embryo entails disrespecting it, because it puts an end to that potential. The thought here is that we should constrain our behaviour in such a way that safeguards, rather than merely honours the embryo's potential.

The first thing to say in reply to this objection is that both sides of the debate can agree that it is possible to afford moral respect to something that one destroys.¹⁹⁰ For example, it seems possible to consistently afford moral respect to animals whilst farming them in a humane fashion; the way in which it is appropriate to constrain our behaviour towards something can vary according to what is deemed morally relevant about that being. Therefore, destroying something need not be incompatible with affording it moral respect. The important thing to establish is whether the embryo in particular is the sort of being whose destruction is incompatible with affording it proper moral respect.

¹⁹⁰ See Fitzpatrick (2003), p. 31 and Meyer & Nelson (2001), for an analysis of respecting what one destroys.

As it has already been argued, the embryo's potential is insufficient to making its life inviolable.¹⁹¹ As such, it seems open for a proponent of the compromise position to reply that although the embryo's potential confers some value upon its life, this can be outweighed by other values. Therefore, affording respect to the embryo by virtue of its potential does not entail that we always ought to preserve that potential at the expense of other valuable outcomes.¹⁹² Accordingly, proponents of the compromise position can claim that viewing the embryo as deserving moral respect by virtue of its potential does not mean that we cannot morally destroy embryos; it just means that we should honour the embryo's status as a potential person when we create them, and that their destruction should not be taken lightly. As I claimed in my analysis of respect, we can afford respect by honouring that which is morally relevant about a being, as well as safeguarding it.¹⁹³

Both Devolder and Harris separately offer a possible way to solve the dilemma of affording respect to the embryo whilst practicing therapeutic cloning.¹⁹⁴ Both Devolder and Harris claim that one could enter all of the SCNT embryos created for therapeutic cloning into a 'reproduction lottery'. Here, all the SCNT embryos created for therapeutic cloning would all be given an equal chance of 'winning' the chance to be implanted into a womb, whilst the rest would all be destroyed in order to derive cloned hESCs. The thought behind this response is that it would allow researchers to create SCNT embryos for research in a manner which respects the embryo's potential, since each SCNT embryo can be viewed as a potential person prior to the lottery.

¹⁹¹ See Chapter two, section III.

¹⁹² Some might argue that if we value potential, then one ought to take measures to maximise potential. Dworkin offers a reply to this by distinguishing the sacred from the incrementally valuable, whereby only things which are incrementally valuable ought to be maximized. Dworkin's thought here dispels concerns about the fact that we do not always maximise potential, since we do not value the embryo's potential in an incremental sense. See Dworkin (1993) pp. 70-75.

¹⁹³ See pp. 40-41.

¹⁹⁴ See Devolder (2005a), p. 368, and Harris (2003), p. 366.

However, this is not a convincing response for two reasons. First, the reproduction lottery would be not be a workable solution, since implanting SCNT embryos would amount to reproductive cloning, which is almost universally condemned.¹⁹⁵ However, the more important flaw in the response is that it misses the point of the argument being made in this chapter, since the embryos entered into the reproduction lottery are still intended for hESC research. The point of the argument I have made in this chapter is not that each embryo we create should have a chance of survival; rather it is that the embryo should be created for a purpose which is compatible with the respect owed to it as a potential person. However, in the reproduction lottery if the need for hESCs were not present, these embryos would not be created. As such, the embryos created are still created for the purpose of destruction; it just so happens that in one particular case, an embryo is not destroyed.

IV

Therefore, the third assumption underlying the compromise position is sound. I have argued that there is a moral difference between standard hESC research and therapeutic cloning, such that in carrying out the latter, but not the former, we violate a moral constraint that proponents of the compromise position claim that we should place on our treatment of embryos. I have argued that one might coherently view therapeutic cloning as being incompatible with affording the embryo proper moral respect, whilst viewing standard hESC research as being compatible with affording the embryo proper moral respect. As such, proponents of the compromise position may claim coherently claim that standard hESC research is morally permissible. The reason for this is that the embryo may be deemed to deserve moral respect by virtue of its potential, and the unwanted embryos destroyed in

¹⁹⁵ Devolder rectifies this in another paper, by stipulating that we should suppose that reproductive cloning were moral in the thought experiment (See Devolder [2005b], p. 181). However, this is a significant caveat.

standard hESC research were initially created for a practice which honours this potential. However, since the SCNT embryos created for therapeutic cloning were not created for an intention which honours this potential, the practice may coherently be deemed to violate the constraints that we ought to place on our treatment of embryos in order to afford them proper moral respect.

However, this conclusion is not as useful for proponents of the compromise position as it first appears. Adopting this view requires diluting the moral constraints which are necessary for affording the embryo moral respect; if the creation of unwanted embryos is not to be a moral hazard, then it cannot be wrong to avoidably and intentionally produce more embryos than are required in IVF treatments. Although I have argued that such a position is tenable, the diluted form of moral respect which is necessary for this position may have ramifications for whether it can be morally permissible to violate the moral respect we might owe to embryos.

Chapter Six

To take stock, in the preceding chapters I have argued that the first three assumptions underlying the compromise position are sound. In effect, the argument to this point has established that proponents of the compromise position can coherently claim two things. First, they may claim that standard hESC is morally permissible, in spite of the fact that it involves the destruction of embryos. They may do so, because it is coherent to claim that the embryo does not have a right to life, and that carrying out standard hESC research does not violate the moral constraints that we ought to place on our treatment of embryos if we are to afford them proper moral respect. Second, they may claim that there is a moral difference between therapeutic cloning and standard hESC research, since carrying out the former practice is incompatible with affording the proper moral respect due to embryos by virtue of their potential.

However, if the compromise position is to be tenable, one final assumption needs to be defended; namely the assumption that it is morally impermissible to fail to act in accordance with the constraints that we should place on our treatment of embryos, or rather the constraints that we should place in order to afford proper moral respect. In this chapter, I shall argue that one can coherently accept the truth of this assumption by appealing to three possible justifications. In conjunction with my defence of the other assumptions underlying the compromise position, this argument will lead to the conclusion that the compromise position is tenable. However, I shall also suggest that the compromise position may yet be an unappealing position to maintain. Although I cannot provide a conclusive argument for this point in this work, my basis for this suggestion will be that there are reasons for doubting the plausibility of these justifications for accepting the fourth assumption. As such, I shall conclude that the compromise position is a tenable, but also unappealing position.

My strategy in making this argument shall be as follows: In the first part of this chapter, I shall explain that some opponents of therapeutic cloning fail to acknowledge the importance of this assumption, and thereby fail to demonstrate that therapeutic cloning is morally impermissible. In the remainder of the chapter, I shall explain how this assumption can be challenged. In order to do so, I shall provide an analysis of moral impermissibility in the second section, before considering what might bear on our judgement of whether a violation of moral respect could be deemed morally permissible in the third section. In the fourth section, I shall consider the case of therapeutic cloning in view of this analysis, and conclude that although one may plausibly accept the fourth assumption, there are reasons for doubting the justifications for doing so. Accordingly, I shall conclude that the compromise position is a tenable, albeit unappealing, position to adopt concerning the moral permissibility of different forms of hESC research.

I

Prima facie, the fact that therapeutic cloning violates the moral respect due to the embryo might seem to entail that the practice is morally impermissible. However, in this section, I shall argue that some writers who appeal to the notion of moral respect have failed to demonstrate that therapeutic cloning is morally impermissible, because they fail to justify the fourth assumption that I have delineated in this thesis.¹⁹⁶

One of the problems with the discussion of the moral permissibility of therapeutic cloning to this point has been that, as Lysaught points out, when the term ‘moral respect’ is invoked in this debate, no-one has taken particular care to delineate what affording moral respect

¹⁹⁶ Callahan represents a notable exception here. He laments the fact that the NIH Human Embryo Research Panel is silent on we ought to weigh the moral “weight” of the embryo and the ‘claims of research’. See Callahan (1995), pp. 39.

entails.¹⁹⁷ For instance, Callahan seems to adopt the position that therapeutic cloning is incompatible with affording the moral respect owed to embryos, whilst the NIH report he attacks in his paper seems to propose that therapeutic cloning is compatible with affording proper moral respect to the embryo.¹⁹⁸ I agree with Lysaught's diagnosis of this problem, and have attempted to remedy this lack of precision in this thesis by giving an account of moral respect, and explaining *why* therapeutic cloning may be deemed to violate the moral respect due to the embryo.

However, a further problem with the use of the term 'respect' in this context is that the positions which have appealed to the notion of respect have overlooked important features of the concept. To divide the debate into those on the one hand who believe that therapeutic cloning violates the moral respect due to the embryo, and those on the other who do not, can lead to the conclusion that the only moral question to be answered here is whether or not therapeutic cloning is compatible with the affording the proper moral respect due to the embryo. Although my argument aligns with the former side of the debate, I do not believe that this entails that I must join Callahan in arguing that therapeutic cloning is morally impermissible. To illustrate why, it is useful to consider a claim from Lysaught's argument.

In a similar vein to Callahan, Lysaught castigates the USA National Bioethics Advisory Commission Report (NBAC) on hESC research, because the report states that the embryo deserves moral respect, yet goes on to endorse therapeutic cloning as morally licit.¹⁹⁹ In view of this Lysaught claims that the NBAC's use of the term 'respect' "collapses",²⁰⁰ citing the following quote from the report in support of her view:

¹⁹⁷ See Lysaught (2004) pp. 666-667.

¹⁹⁸ See Callahan (1995).

¹⁹⁹ Lysaught (2004), p. 667.

²⁰⁰ *Ibid.* p. 667.

(Although) the human embryo and fetus deserve respect as forms of human life, the scientific and clinical benefits of stem cell research should not be foregone.²⁰¹

Lysaught seems to interpret the NBAC report here to be making the problematic claim that we can engage in therapeutic cloning whilst affording the embryo proper moral respect.²⁰² However, the quote that Lysaught cites actually suggests something different. The quote does *not* suggest that the NBAC regards therapeutic cloning as compatible with affording appropriate moral respect; it only states that the benefits of therapeutic cloning are sufficient to outweigh the moral respect due to the embryo. This is consistent with the claim that affording proper respect to the embryo entails refraining from therapeutic cloning. However, one might claim, as the NBAC does, that it is still permissible to carry out the practice. The reason why such a claim is plausible is that our judgement concerning the moral permissibility of therapeutic cloning should take into account both the thought that the embryo deserves moral respect, but also the thought that we may have moral reasons to engage in the practice. As such, the claim made in the above quote does not mean that the NBAC's understanding of moral respect 'collapses'; it just means that there are other moral considerations which weigh against the considerations of respect in our judgements concerning the moral permissibility of therapeutic cloning.

Therefore, it seems that an important question has been overlooked in some of the literature concerning the moral permissibility of therapeutic cloning, namely the question of whether it can ever be permissible to violate the moral respect due to an entity.²⁰³ Until it can be proven that this cannot be the case, then the attempt to claim that therapeutic cloning is morally

²⁰¹ NBAC (1999) p.xi, cited in Lysaught (2004), p. 666.

²⁰² Lysaught (2004), p.667.

²⁰³ Robertson (1999), p. 127 hints at this question, but does not give it the full treatment that I shall attempt here.

impermissible because it violates the moral respect due to the embryo is incomplete. As such, it is important to make the fourth assumption underlying the compromise position explicit. In the remainder of this chapter, I shall investigate the plausibility of this assumption.

II

To begin this investigation, it is prudent to consider the nature of moral permissibility. When we say that an act is ‘morally impermissible’, we mean that acting morally precludes the performance of that act; we might say that we have a negative moral obligation to refrain from performing that act, and that failing to act in accordance with this obligation constitutes a moral wrong. It seems that there are two senses in which we can describe an act as being morally impermissible. According to some moral theories,²⁰⁴ some acts are intrinsically wrong to such an extent that they must never be carried out, no matter what the countervailing moral considerations in favour of doing so may be. As such, abstaining from that act must take priority over all other considerations in one’s moral deliberations; ‘whatever we do, we must not do that’. Call this strong impermissibility.

One act which it seems may appropriately be described as morally impermissible in this strong sense is rape; for some, it might be claimed that one could never justify rape as being morally permissible, even if there were countervailing considerations in favour of doing so. For instance, consider the following case. We can imagine an army trying to depose an evil dictator with limited success. Although the dictator’s subjects despise him, they are too scared to rise against him, or to join the invading army, despite the fact that the dictator subjects the citizens to unjust hardship. Suppose that if the soldiers of the invading army

²⁰⁴ The concept of strong impermissibility that I outline here would not be accepted by certain consequentialist theories. However, I am not considering the fourth assumption from the perspective of one particular moral theory; as such, it is important to consider this concept of strong impermissibility which may be consonant with certain absolutist deontological theories.

raped some women in the capital city, they could convince the citizens that the rapes were the work of their tyrannical dictator's police; suppose further that this would be enough to convince the citizens to aid the invading army, and would almost certainly lead to the removal of the evil dictator. Here, there may be a significant moral reason to carry out the rapes in order to bring about the removal of the dictator, but it still seems jarring to claim that the rapes would be morally permissible; it seems plausible to claim that there is something especially wrong about the act of rape, such that it can never be deemed morally permissible. As such, it might arguably be regarded as an impermissible act in the strong sense that I described above.

In contrast, there may be acts which might be deemed impermissible in one context, but permissible in another because of countervailing considerations in that context. Consider the case of killing the innocent. In normal situations, most would claim that this act is morally impermissible. However, in some circumstances, it may be claimed that certain moral considerations can outweigh the negative obligation we have to refrain from killing the innocent, for example in the exigencies of war. Accordingly, we might say that killing the innocent is morally impermissible, but only in a *pro tanto* sense; it is a moral consideration that it can be morally justifiable to overrule in favour of other considerations. Call this sort of impermissibility, 'pro tanto impermissibility'.

With this distinction in mind, we can begin to assess to what extent it may be deemed morally impermissible to violate the moral respect that an entity is due. Let us consider strong moral impermissibility first. For an act to be morally impermissible in this sense, it was claimed that the act must be intrinsically wrong to the extent that it can never qualify as a morally permitted action. I also claimed that an act's being morally impermissible in this strong sense means that refraining from that act ought to take priority in our moral deliberations. Accordingly, one way of investigating whether violations of moral respect are

impermissible in this strong sense is to investigate whether refraining from violations of moral respect deserve such priority in our moral deliberations.

Given the analysis of the language of respect and the language of rights in chapter three, I do not believe that this is the case. The reason for this is that, according to my earlier analysis, the concept of strong moral impermissibility, if it is to be accepted at all, does not belong to the language of respect. In chapter three, I argued that we use the concept of a right to safeguard what we believe should take priority in our moral deliberations; in contrast, we use the language of respect to articulate moral claims or considerations that do not amount to right claims.²⁰⁵ With this in mind, we can understand how the concept of strong moral impermissibility can be a part of the language of rights. As I argued above, designating something as morally impermissible in the strong sense signifies that refraining from that act ought to take priority in our moral deliberations; as such, the concept of strong impermissibility seems to be related in some way to the concept of a right claim.²⁰⁶

Conversely, I argued that considerations of respect can be subsidiary to other moral considerations, including the consideration involved in rights claims; as such it does not seem appropriate to claim that considerations of respect should always take deliberative priority. Moreover, I also argued in chapter three that respect is a gradable concept²⁰⁷; accordingly, the moral respect owed to one thing might be deemed to deserve priority in our moral deliberation over the moral respect owed to something else. As such, the concept of strong impermissibility seems inappropriate in the language of respect.²⁰⁸

²⁰⁵ See Chapter three sections I and II.

²⁰⁶ The nature of this relationship is not crucial to my argument, but I do not believe that it would not be too difficult to provide an account of it. To make a crude sketch, we might say that the acts which are appropriately described as impermissible in the strong sense, are those acts which are the subject of the negative obligations that we stipulate in accordance with right claims.

²⁰⁷ See pp. 41-43.

²⁰⁸ My argument does not entail that the concept of strong impermissibility must belong *only* to the language of rights. I only argue that it does not belong to the language of respect.

Therefore, according to the previous analysis of the language of respect in this thesis, it is not appropriate to describe a violation of moral respect as morally impermissible in the strong sense. This can be contrasted with the rape example considered above; in this case, it seemed that not even a significant countervailing moral consideration could lead us to judge that rape is morally permissible. Conversely, since certain moral considerations can take priority over considerations of moral respect, it is inappropriate to claim that a violation of moral respect is morally impermissible in this strong sense.²⁰⁹ Accordingly, it seems that violations of moral respect are only *pro tanto* impermissible.

This point might seem contentious, since it might seem that some violations of moral respect should be deemed morally impermissible in the strong sense; one example might be an act which violates moral respect in an obscene manner, such as the mutilation of a human corpse. I cannot respond to this objection at length here; however, I shall mention two considerations which could form a response. First, it is perhaps inappropriate to trust our intuitions here, because it is difficult to imagine a case when there could be any moral consideration which would require us to engage in such an obscene act; yet this does not entail that there could not be some consideration which could outweigh the considerations of respect here.²¹⁰ Second, it seems that it is the obscene nature of the violation, rather than the violation *per se*, that we find intuitively impermissible here. This does not challenge the thought that non-obscene violations of moral respect are not appropriately described as impermissible in the strong sense.

²⁰⁹ Although it might be argued that rape is morally wrong because it involves a violation of respect, it seems that this would be something of an understatement considering how the term respect has been used in this thesis. Rather rape seems wrong because it involves the violation of claims that go beyond a claim to respect.

²¹⁰ For one related example of disrespecting a corpse in a morally permissible manner, see Montagu (1953), which chronicles the events of Operation Mincemeat in World War 2. This operation involved disguising a corpse and dumping it in the sea in order to fool German intelligence.

To take stock, the argument I made above suggests that violations of moral respect are pro tanto impermissible. The remainder of this section will elaborate on this. One way of understanding the way in which we make judgements concerning pro tanto impermissibility is as a rational process in which we decide what is permissible in a given situation or context, according to the strength of the reasons that we have in favour of performing each action.²¹¹ One sort of reason we can have is a prudential reason, that is, a reason for acting that appeals to the increase in one's welfare that the act will result in. We can also have moral reasons for acting. Here, the reason for acting may be that the act is required by some moral principle, or because our act may have consequences for something which deserves moral consideration. An important attribute of such moral reasons is that they trump prudential reasons, at least for those who are part of the moral community, or what Williams terms 'the morality system'.²¹² Accordingly, if we have a prudential reason to act in some way, but a moral reason to refrain from acting in that way, we must judge the act to be *morally* impermissible.

However, in some cases we may need to decide whether to act in accordance with one set of moral reasons, or with a different set of moral reasons. In such cases, our judgement about the moral permissibility of an act may be viewed as a judgement about which moral reasons should take priority, where the act which we have strongest moral reason to carry out is deemed morally permissible. In the context of this chapter, it seems that the fact that something deserves moral respect gives us a moral reason to constrain our behaviour in some way. Accordingly, if there is a moral reason in favour of performing an act which violates moral respect, our judgement of moral permissibility requires a judgement concerning which of those reasons should take priority. The next section of this chapter shall consider this.

²¹¹ Baier (1958) formulates a model of moral decision making similar to this.

²¹² However, it may still be possible to place greater weight on non-moral reasons if one places oneself outside the morality system. See Williams (2006), ch 10, particularly pp. 183-191.

III

A general account of which moral reasons should take precedence in our judgements concerning moral permissibility would be impossible in the length of a chapter. Therefore, I shall consider an example which is analogous to the case that this thesis considers, and elucidate the nature of the moral reasons that can bear on the morally permissibility of violating moral respect in this example, before considering the case of therapeutic cloning in the final section.

During World War 2, the Nazis used inmates of their concentration camps in painful and often fatal medical experiments without consent. Although many of these experiments were conducted only out of a sadistic curiosity, some were designed to provide useful scientific information. One such experiment involved testing the limits of the inmates' endurance in freezing temperatures. Researchers then tested which treatments were most effective on hypothermic subjects who survived.²¹³ Since these experiments exposed living human subjects to fatal temperatures, Nazi researchers obtained a unique set of data in this medical area; there is no morally acceptable means by which we could obtain data as useful as that obtained in the Nazi experiments.²¹⁴ Therefore, researchers are faced with the question of whether it would be morally permissible to use the Nazi data in order to develop new treatments for hypothermia, in spite of the immoral means by which the data was obtained.

First, let us consider the moral reasons against using the data. It might be claimed that there are no moral reasons against using the data if it is used for a good purpose; it might be claimed that doing so is to 'make the best out of the tragedy', or to give meaning to the

²¹³ This is documented in Cohen (2011).

²¹⁴ For the purpose of this discussion, I shall assume that the Nazi data is scientifically valid. See Cohen (2011) for discussion of this issue.

suffering of the victims. This is an understandable view, yet I reject it in this case. In some cases, making the best out of a tragedy may be compatible with affording respect. For instance, suppose a man murdered in an attempt to prevent a robbery could be used as an organ donor for several patients. It seems that using the organs need not disrespect the victim, presuming that family members consent to it; it seems that to do so here may appropriately be seen as ‘making the best’ out of the tragic events.

However, there is an important disanalogy between this example and the case of the Nazi data. The tragic events that transpired in the Nazi camps were (in this case) brought about for the purpose of advancing medical knowledge. Accordingly, for us to benefit from this knowledge seems to fulfil the evil aims underlying these experiments, and to vindicate their dehumanising nature. There is no parallel here in the robbery murder case, since the victim was not killed for the purpose of providing organs for dying patients; as such, benefitting from this event does not fulfil the aims of an evil motive underlying the event in the same way that the use of Nazi data does.

Therefore, it seems plausible to claim that using the Nazi data would violate the moral respect due to the victims of these experiments. Accordingly, it seems that we have a moral reason to refrain from using it. Let us consider the salient features of this reason. An important aspect of the respect owed to the Nazi victims is that the respect owed seems to be symbolic, in contrast to what we might term concrete moral respect.²¹⁵ To elucidate this distinction, consider the moral respect that we might owe to animals. In chapter three, I suggested that animals may deserve moral respect by virtue of their sentience, and that this

²¹⁵ Curzer also uses the term ‘symbolic respect’ (See Curzer (2004), p. 554-556). Although my understanding of the concept shares certain aspects with Curzer’s, his conception of symbolic respect crucially differs from mine. For Curzer, symbolic respect differs from moral respect, because the latter requires taking the interests and rights of the respected into account. In chapter three I argued that it is possible to morally respect non-right bearing entities and things without interests. As such, Curzer’s distinction between symbolic respect and moral respect differs from my understanding of symbolic respect as a form of moral respect. Accordingly, my use of the concept should not be equated with his.

aspect was morally relevant insofar as it is *prima facie* wrong to cause pain.²¹⁶ Here, a failure to afford proper moral respect harms the subject in question; our choice to afford respect to an animal has a concrete effect on its welfare. I shall term the form of moral respect which has such concrete effects, concrete moral respect.

The respect that we owe to the victims of the Nazi experiments is different, since it does not seem that our decision to afford proper moral respect *now* to these deceased victims can have any concrete effects on their welfare. One might argue that failing to afford moral respect here would harm the families of the victim; however, the example could be altered to eliminate this possibility (suppose a civilisation discovered records of the Nazi experiments in the distant future). Therefore, in this case, although we may agree that the victims deserve moral respect, it is not clear that we can make sense of our decision to afford respect as having any concrete effects. Accordingly, it seems appropriate to understand the respect owed to the Nazi victims in a different way, as a symbolic moral gesture which we make as an expression of our reverence towards the life and suffering of the victims.

However, it seems that there are moral reasons in favour of violating this symbolic respect. Since the Nazi data could be used to develop new treatments for hypothermia, it could be argued that we have a moral reason use the data, insofar as we have a moral reason to improve treatments for life threatening conditions.²¹⁷ This seems plausible; as I argued in chapter two, we value persons to such an extent that we believe that they warrant the protection of a right to life.²¹⁸ Therefore it seems plausible to suppose that we have a moral reason to pursue treatments which could protect these lives.

²¹⁶ See footnote 110.

²¹⁷ Cohen (2011) endorses this view in his discussion of the Nazi data case.

²¹⁸ See chapter two, Sections I and II.

Having said this, it seems that there are limits to the treatments that we have a moral reason to pursue, and that certain factors bear on the strength of this moral reason. First, it is not clear that we have a moral reason to pursue every medical treatment. For example, it does not seem correct to say that we have a moral reason to improve beautifying cosmetic surgery methods. One way of distinguishing the treatments that we have a moral reason to pursue, is that they correspond to a need rather than a mere want.²¹⁹ We might understand a need to be those aspects of health whose impairment threatens one's continued existence, or drags one's life below a minimum standard quality of life.²²⁰ In contrast, we might define a 'want' as something which will improve one's quality of life above this putative minimum standard. This opens up the question of how we should define what a minimum standard quality of life should be. I cannot attempt to answer this question here; however, it seems plausible to suppose that one could formulate an appropriate minimum standard theory.²²¹ Assuming that this is so, the concept of a treatment corresponding to a need can be a useful framework for determining those treatments that we have a *moral* reason to pursue.

There seem to be four factors that bear on the strength of this moral reason in the Nazi data case. One factor is the necessity of using the data in order to achieve the benefits promised by its use. If researchers cannot find a cure for hypothermia without using the Nazi data, then it seems that they have a strong moral reason to use it; however, if we could find a viable cure through alternative research, the strength of this reason seems to diminish.²²² Furthermore, the likelihood that using the data research will lead to a viable treatment seems to bear on the

²¹⁹ See Wiggins (1987) Ch 1, particularly pp 9-16 for a detailed discussion about need claims.

²²⁰ For example, we might classify measures against dementia as needs in this sense.

²²¹ It seems that the discussion concerning the sufficiency conditions of personhood might be pertinent here. One could possibly identify the minimum standard quality of life as the same threshold which is used to define personhood, although I shall not discuss this here.

²²² Here, it seems that the weighting of the moral reasons in favour of using the data might also acknowledge the amount of resources that we would have to use in researching a cure without the data. It may be argued that we should only refrain from using the data if we can develop a cure through our own research using a certain amount of resources. However, this is something of a contingent factor, and concerns the morality of the means of research, rather than the ends of research.

strength of the moral reason to use it. Suppose the Nazis had produced a serum which had been proved to counteract the effects of hypothermia; it seems that there would be a strong reason to use the serum today, if it would be certain to cure sufferers. However, in the case of using data in research, there may be no guarantee that using the data will lead to a viable cure; as such the moral reason to use it seems weaker.

The third factor is the number people who are likely to be benefit from the use of the data. In the case we are considering, the comparatively small number of people who are fatally threatened by hypothermia may impinge on whether we deem it appropriate to use the data. Compare this to a hypothetical case where Nazi data could be used to find a cure for cancer, which affects millions of people; it intuitively seems that we would have a stronger moral reason to use the data here than in the case of hypothermia.

Finally, the immediacy of those will benefit also seems to play a role. Suppose once more that the Nazis had developed a serum which could be used to help people now suffering. It may plausibly be argued that we would have a stronger moral reason to use the serum than we have to use the Nazi data to develop a cure for unknown future sufferers. The justification for this view would be that there is a ‘moral distance’²²³ between those who choose to use the data *now*, and the people in the future who will benefit from this choice. It might be argued that we do not have a strong moral reason to benefit those who are morally distant from us, or who we lack an “emotional closeness”²²⁴ to. Accordingly, it seems that the immediacy of the suffering who could be aided using the Nazi data may be relevant to assessing the strength of the moral reason that we have to use it.

To conclude this analysis, we can view the judgement of the moral permissibility of using the Nazi data as a judgement between two competing moral reasons. On the one hand, we

²²³ See Glover (1977) ch. 20 for discussion. Abelson (2005) endorses the view mentioned above.

²²⁴ Abelson (2005), p. 35.

have a moral reason to refrain from using the data insofar as it violates the moral respect due to the victims of the experiments. Yet, as section two argued, this gives only a *pro tanto* reason against using the data. Therefore, it may be plausible to claim that the use of this data is morally permissible, *iff* we believe that the moral reasons in favour of using it should outweigh this moral reason against using it. Our assessment of the strength of the moral reasons in favour of using the data will be based on considerations concerning the severity of the condition to be researched, the necessity of using the data to develop a cure, the likelihood that using the data will lead to a cure, and the number and immediacy of the people who will benefit. With this analysis in mind, I shall now consider the moral permissibility of therapeutic cloning.

IV

In order to assess the permissibility of violating the moral respect due to embryos in therapeutic cloning, I shall first assess the nature of the moral reasons in favour of the practice. Having done so, I shall conclude that one may plausibly claim that the moral reasons against therapeutic cloning should outweigh those in its favour; accordingly, it is plausible to claim that the fourth assumption underlying the compromise position is true. However, I shall suggest that there are reasons for doubting the justifications for weighing the moral reasons in this way. I shall then conclude this thesis by analysing what ramifications this argument has for the tenability of the compromise position.

The first point to acknowledge here is that we seem to have a moral reason to engage in therapeutic cloning, since the purpose of the practice is to bring about new medical treatments which correspond to human needs (as the term was defined in the previous section). The diseases that therapeutic cloning could be used to treat are not just diseases or

conditions that affect our welfare above what might appropriately be deemed a minimum standard; it could be used to treat both fatal diseases, and diseases that might be claimed to drag the sufferer's life below even conservative estimates of a minimum standard of welfare.²²⁵ As such, given the analysis of the previous section, it seems appropriate to claim that we have a moral reason to pursue these treatments.

It seems that the salient factors that bore on the strength of the moral reason to use the Nazi data analysed above are also relevant to assessing the strength of the moral reason that we have to engage in therapeutic cloning. I shall now consider these, before considering why they might lead one to accept the fourth assumption underlying the compromise position.

The first factor that bore on the strength of the moral reason to use the Nazi data was the necessity of using that data in order to obtain the benefits that could be procured by using it. As I explained in chapter one, therapeutic cloning may not be a necessary measure, since it is not unfeasible that we could develop the cures and techniques it promises through other morally unproblematic means, for example through the development of iPSC technology. Moreover, there might feasibly be some non-stem cell based alternative research in the future which will lead to the cures that therapeutic cloning might provide.

The second salient factor considered above was the likelihood that using the Nazi data would in fact lead to the benefits that it promises. In the case of therapeutic cloning, there is some doubt as to whether carrying out the practice will lead to clinically viable treatments.²²⁶ As chapter one pointed out, hESCs have carcinogenic tendencies which render them clinically unviable at present, and calls into question the validity of modelling complex

²²⁵ For example, Amyotrophic Lateral Sclerosis could potentially be cured using therapeutic cloning, and could plausibly be included in either category mentioned here

²²⁶ Holm (2003), p. 374 raises this point.

diseases using these cells.²²⁷ Furthermore, a study by Rideout *et al* has demonstrated that cloned mice bone marrow stem cells that were used in transplants back into the donor mice were still recognized as foreign by the recipient.²²⁸ Again, this study suggests that there are still significant obstacles to the clinical use of therapeutic cloning.

The third factor considered in the Nazi data case was the number of people that using the data could benefit. Putting the above concerns aside, if therapeutic cloning could be successfully used in medical research and therapy, it has the potential to provide cures for diseases which affect millions of people.²²⁹ On the face of it, this third factor seems to strengthen the moral reason that we have to engage in the practice. However, since there will be a gap between permitting the practice of therapeutic cloning and the development of viable cures through its use, the benefactors of the practice will be future sufferers of the disease, rather than people who are now suffering. As we saw in the case of the Nazi data, some might claim that a fourth salient factor that bears on the strength of a moral reason to carry out some practice is the immediacy of the benefactors of that practice; as such, some might claim that the moral distance between ourselves and future sufferers weakens the moral reason that we have to engage in therapeutic cloning.

With all this in mind, it seems that a case can be made in favour of the fourth assumption underlying the compromise position. Although considerations of moral respect provide only a *pro tanto* moral reason to judge that therapeutic cloning is morally impermissible, it may be argued that the moral reasons we have to engage in the practice are insufficient to outweighing this *pro tanto* moral reason. Such a claim could be justified in one of three ways.

²²⁷ See pp. 11-12.

²²⁸ Rideout et al (2002), cited in The President's Council on Bioethics (2002), p. 77.

²²⁹ See pp 9-11.

The first two justifications rely on moral claims. First, one may claim that moral reasons to refrain from acting should outweigh moral reasons in favour of acting; that is to say our negative duties ought to trump our positive duties.²³⁰ Foot endorses this claim; she claims that “Typically, it takes more to justify an interference than to justify the withholding of goods or services”.²³¹ If this is the case, then it might be argued that the moral reason that we have to refrain from therapeutic cloning should outweigh the moral reasons in its favour.

Second, as I explained above, one may claim that we do not have strong moral reason to act for the benefit of future sufferers, because of the moral distance between us and future generations. This claim could be used to justify the fourth assumption by arguing that it is impermissible to violate the moral respect owed to embryos in order to benefit morally distant future sufferers.²³²

Finally, a third justification for claiming that the moral reasons in favour of therapeutic cloning are insufficient to outweigh the moral reasons against the practice is the empirical claim that therapeutic cloning is either unnecessary or unlikely to lead to viable treatments. As I mentioned above, there is some justification for this claim at present, given the significant obstacles facing the use of therapeutic cloning in both research and therapy.

It should be acknowledged that I am only claiming that the above justifications are plausible; I do not claim that they are convincing, and I shall give some reasons for this

²³⁰ See Foot (1984) and Thomson (1976).

²³¹ Foot (1984), p. 786.

²³² One could also support the compromise position with the concept of moral distance by arguing that the moral considerations we owe to current sufferers should outweigh those we owe to morally distant future sufferers; in this argument, the claim would be that we should prioritise developing cures for current sufferers over developing therapeutic cloning technology, since the latter will only benefit future sufferers. I do not consider this argument here, because it cannot justify the fourth assumption that I am considering. This argument does not claim that therapeutic cloning is wrong because the moral reasons in favour of the practice are insufficient to outweighing the moral reasons against the practice provided by the idea that it violates the respect owed to embryos. Rather, it claims that therapeutic cloning is wrong because it prioritises the morally distant over the morally immediate. As such, it is orthogonal to my discussion of the fourth assumption. However, some considerations that I shall give concerning the validity of the concept of moral distance will also be pertinent to the validity of this alternative defence of the compromise position.

below. However, I cannot deny that if one accepts the claims underlying one of the above justifications, then it is possible to assent to the truth of the fourth assumption underlying the compromise position. Therefore, in conjunction with my defence of the other assumptions underlying the compromise position, since there are plausible justifications for accepting the fourth assumption, I must conclude that the compromise position is tenable. Having said this, there is still scope for claiming that the position is unappealing. Given that this thesis is investigating the tenability of the compromise position, and not its appeal, I can only offer a brief defence of the arguments that could be given in favour of this conclusion here.

First, let us reconsider the moral reason against carrying out therapeutic cloning provided by the moral respect owed to embryos. It seems correct to say that the respect owed to embryos according to proponents of the compromise position is symbolic, rather than concrete. As I argued in chapter five, in claiming that standard hESC research is compatible with affording the proper moral respect owed to embryos, proponents of the compromise position are committed to the thought that creating an embryo in order to destroy it for reproductive purposes is compatible with affording it proper moral respect. Accordingly, our decision to afford respect in the context of hESC research does not seem to have any concrete effects on the welfare of the embryo (assuming that it is even coherent to talk about the embryo's welfare at all); whether or not we decide to afford moral respect to the embryo, we still deem it morally permissible to destroy it. As such, it seems that the decision to violate respect here is symbolic of an inappropriate disregard of the embryo's potential, rather than concrete.

In light of this, let us reconsider the putative justifications for the fourth assumption given above. First, the principle that moral reasons to refrain from acting should normally outweigh the moral reasons that we have for acting is not unimpeachable; according to some moral

theories this is an illusory distinction.²³³ Yet, even if the principle is sound, its application in this case is questionable because the moral reasons that we are weighing in the case of therapeutic cloning refer to entities which we believe deserve different moral considerations. On the one hand, affording moral respect to the embryo is a symbolic act; it has no concrete effect on the welfare of the respected. On the other hand, our decision to act in accordance with the moral reasons in favour of therapeutic cloning would have concrete effects on fully developed persons.²³⁴ It seems possible to argue that the moral considerations that we have for sufferers of severe diseases have a greater moral gravity than the considerations that we owe to embryos because of this distinction.²³⁵ Accordingly, there are reasons for doubting whether the principle that the first justification relies on is applicable in the case of therapeutic cloning, even if we assume that it is sound.

The second justification concerning the concept of moral distance is also unappealing. The concept of moral distance can be used to justify the fourth assumption by arguing that the moral respect owed to embryos should outweigh the moral considerations owed to future sufferers. The first thing to acknowledge here is that we also seem to lack an emotional closeness to both SCNT and unwanted embryos; after all, they are not part of a parental project, and they do not yet have the capacities which make life particularly valuable. As such, although we can make sense of having moral considerations for these embryos, it seems that they too are morally distant to us to some extent, albeit in a different sense from future generations, who are morally distant in a temporal sense.

²³³ The arguments found in Singer (1993) pp 207-213 attacking the related acts/omissions distinction could be used to make this argument.

²³⁴ i.e. Those who suffer from the diseases that therapeutic cloning promises to cure.

²³⁵ This thought can also be used to reply to thin end of the wedge arguments that can be aimed at opponents of the fourth assumption, namely that if we violate the respect due to embryos for certain benefits, this will lead us to violate the respect due to other entities for other benefits. In reply, I would argue that it is possible to distinguish the symbolic respect owed to embryos from concrete moral respect and rights claims because of their moral gravity. As such, we might plausibly claim that it is only morally permissible to violate symbolic moral respect.

As such, in weighing the moral considerations that we have for future generations and for SCNT embryos, it seems that we are weighing moral considerations for things which are both morally distant to us. To argue then that the moral reasons we have to respect embryos should outweigh the moral reasons to benefit future sufferers again seems to overlook the moral gravity of the considerations involved. Although there may be a moral distance between us and future sufferers, we can still conceive of them as developed persons who will suffer, and who can be concretely benefitted by our choices. In contrast, the respect we owe to embryos, which are also morally distant to us, is merely symbolic. Again, it seems plausible to argue that the former considerations have greater moral gravity than the latter.

Alternatively, one could just question the whole concept of moral distance.²³⁶ Consider this case: Suppose that we could use our resources in a manner which would be almost certain to lead to significant benefits for a morally distant group. Suppose further, that the alternative way to spend our resources would be to use them in research which had a remote chance of benefitting those we have an emotional closeness to. To use the concept of moral distance to argue that we should use our resources in the latter research instead of the former seems inappropriate.²³⁷ It does not seem that our moral considerations for those that we have an emotional closeness to should take lexical priority over our moral considerations to the morally distant in this way. Therefore, it is possible to question the validity of the whole concept of moral distance. Glover claims that the concept is a merely ‘defence mechanism’

²³⁶ This paragraph is also pertinent to the second way (outlined above) of using the concept of moral distance to justify the fourth assumption, although I argued that this method was not relevant to my discussion of the compromise position. See footnote 232.

²³⁷ The example could also work if instead of the research differing in terms of likelihood of benefit, they differed in terms of magnitude of benefit.

against psychological discomfort (albeit a useful one).²³⁸ Similarly, Singer rejects the validity of the principle.²³⁹

Moreover, even if the concept is valid, there might even be scope for challenging the idea that there will be a significant moral distance between the current generation and the benefactors of therapeutic cloning. For instance, it is not unfeasible that the grandchildren or even children of the current generation could benefit from the practice; it certainly seems odd to claim that we have a moral distance to these benefactors. As such, it seems that there are three plausible ways to object to the second justification for accepting the fourth assumption.

Finally, one may use the empirical claim that therapeutic cloning is either unnecessary, or unlikely to lead to the benefits it promises, in order to justify the fourth assumption. As I suggested above, therapeutic cloning may not be necessary because there may be other means of attaining the benefits it promises. Having said this, it still seems that therapeutic cloning represents the most realistic chance of attaining these cures at present. First, as chapter one explained, the clinical use of iPSCs is a more distant possibility than the clinical use of therapeutic cloning.²⁴⁰ Second, we cannot just assume that some other future alternative morally unproblematic research will lead to the same cures as therapeutic cloning; for certain diseases, therapeutic cloning currently represents the sole lead in the hunt for a cure.²⁴¹

Therefore, to accept the fourth assumption on the basis that therapeutic cloning may not be necessary is unappealing. To do so amounts to claiming that we should spend significantly more resources and time developing the cures promised by therapeutic cloning through other means, all in the name of the moral respect owed to embryos. Given the discussion

²³⁸ See Glover (1977), pp. 290 -292.

²³⁹ See Singer (1972), particularly pp. 232-233.

²⁴⁰ See pp. 11-12.

²⁴¹ Examples of disease where this seems to be the case at present include (but are not limited to) motor neurone disease and genetic diseases such as Huntington's.

concerning the contrast between the moral gravity of the respect owed to embryos and the considerations that we owe to sufferers of severe diseases, this seems unappealing.

Furthermore, the fact that there are questions concerning the likelihood that therapeutic cloning will lead to the benefits it promises is not an appealing basis for accepting the fourth assumption. A significant contributing factor of the obstacles facing therapeutic cloning is a lack of understanding of the cell differentiation that occurs in hESCs; once scientists have a better understanding of this, it is feasible that they will be able to negate the carcinogenic tendencies of these cells. Moreover, it is likely that increased understanding will lead to more reliable methods of disease modelling using these cells. Researcher may be able to increase their understanding of the cell differentiation that hESCs in two ways. First, they may do so by studying cell differentiation in animal embryonic stem cells and hESCs derived from unwanted embryos. However, it might be argued that the most promising way in which researchers could increase their understanding of the obstacles facing the clinical use of therapeutic cloning, is by carrying out research on cloned hESCs. As such, carrying out therapeutic cloning may hold the key to overcoming the very technical obstacles facing its clinical use.

Therefore, in order to come to an informed decision about the strength of the moral reasons in favour of therapeutic cloning, ethicists need to have a detailed, unbiased account of the likelihood that the technical obstacles facing its clinical use can be overcome, and how we can best overcome them; that there are such obstacles should not lead us to conclude that we do not have a strong moral reason to engage in the practice, especially if the most promising way in which we can overcome these obstacles is by engaging in the practice.

The above considerations provide a framework of how we might argue that the fourth assumption underlying the compromise position is unappealing. In the conclusion of this

thesis, I shall assess what ramifications my argument has for the tenability of the compromise position.

Conclusion

Therefore, to offer a succinct answer to the question that I have investigated in this thesis, the compromise position concerning the moral permissibility of different forms of hESC research is a tenable, but unappealing position. In the first chapter of this thesis, I claimed that the tenability of the compromise position depends on the soundness of four assumptions. In chapters two through to five, I found that three of these assumptions are warranted: First, I argued that the embryo does not have a right to life. Second, I argued that we can make sense of there being moral constraints upon the way in which we treat embryos, without ascribing rights to them. I argued that we can articulate these constraints using the language of moral respect, and that it is coherent to view the embryo as deserving moral respect by virtue of its potential. Third, I argued that there is a moral difference between standard hESC research, and therapeutic cloning, such that in carrying out the latter, but not the former, we violate the moral respect due to the embryo. The justification for this view was that only the latter practice fails to acknowledge the embryo's potential in any way.

Finally, in chapter six I argued that it may be plausible to assent to the truth of the fourth premise underlying the compromise position; namely that it is morally impermissible to fail to act in accordance with the constraints delineated in the second assumption. I argued that there are seemingly plausible justifications claiming that the moral reasons against therapeutic cloning provided by the idea that we owe moral respect to embryos should be deemed to outweigh the moral reasons in favour of the practice. Accordingly, I concluded that the compromise position is tenable. However, I also suggested that all of the justifications for weighing the moral reasons in this way are dubious. As such, although I could not fully defend this view here, I suggested that the compromise position is also an unappealing position.

The argument I have made here offers a new perspective on the debate concerning the compromise position, since it concedes far more to its adherents than most of its opponents, whilst claiming that the position is ultimately unappealing. Contrary to both liberal and conservative opponents of the position, I have argued that there *is* a coherent moral distinction to be made between the two forms of hESC research, based on the concept of moral respect. However, the considerations I raised questioning the justifications underlying the fourth assumption suggest that we should agree with liberal opponents of the compromise position that therapeutic cloning is morally permissible, in view of the moral reasons that we have to engage in the practice.

Optimistically, I might hope that the proposals which I have made can shift the debate concerning the compromise position from questions concerning its tenability to questions concerning its appeal. The current debate concerning the compromise position has focused on the coherence of drawing a moral distinction between the two hESC research methods and questions of embryonic rights. I am sceptical of any reconciliation between the two opposing sides in these debates, since there are significant differences in each side's understanding of key concepts in the debate; one example of this seems to be each side's understanding of the moral value of the embryo's potential, as I discussed in chapter four.²⁴² However, in my argument, I have conceded ground to proponents of the compromise position in both of these contested questions, whilst maintaining that the compromise position is ultimately unappealing. Even if one disagrees with my assessment here, I hope that I have demonstrated that questions concerning the fourth assumption are the actual central issue in this debate.

Considering that a large part of this thesis has been concerned with formulating a model of moral respect, my conclusion that there are plausible moral reasons for claiming that therapeutic cloning may be deemed morally permissible even if it violates the moral respect

²⁴² See p.47.

due to the embryo may seem to render my conception of moral respect weak to the point of inadequacy. However, I believe that the model of moral respect that I have developed is important, because it can influence our moral understanding of what it means to engage in therapeutic cloning.

According to my argument, therapeutic cloning fails to afford proper moral respect to the embryo. Even if we claim that the moral reasons that we have to engage in therapeutic cloning should outweigh the moral reasons that we have to refrain from the practice (as I suggested that we should), these latter reasons against the practice do not fade. I believe that there are three important implications of this. First, although the practice may be deemed morally permissible given the countervailing moral reasons in its favour, we should acknowledge the moral reasons that weigh against our decision by exhibiting an appropriate reactive attitude to the violation of moral respect that our decision entails. Although remorse may not be appropriate, given the moral permissibility of our act, it seems appropriate to regret the fact that what we have most pressing moral reason to do requires the violation of moral respect.

Second, as I argued in chapter six, in order for the moral reasons in favour of engaging in therapeutic cloning to be sufficient to outweigh the moral reasons against the practice, we should only use this form of hESC research to treat diseases which correspond to a human need rather than a mere want. Finally, if some means of achieving the same ends as therapeutic cloning becomes available, which does not face additional obstacles to its implementation to those faced by therapeutic cloning, this may render the latter morally impermissible (if there are no moral reasons against engaging in this new practice).

To conclude, the compromise position on the moral permissibility of hESC research is tenable, since it is possible to assent to the truth of all four of its underlying assumptions.

Having said this, there are reasons for doubting the assumption that it is morally impermissible to violate the moral respect due to the embryo. Therefore, I also suggest that the compromise position is unappealing. Although this thesis has not provided a conclusive reason against accepting the fourth assumption, it seems that both sides of the debate concerning the compromise position on hESC research could profit from contemplating this assumption in more detail. I propose that this would result in a more fruitful discussion concerning the plausibility of the compromise position than the debate as it is currently framed allows.

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