

BABY STEPS: THE EUROPEAN COURT OF HUMAN RIGHTS MOVES CLOSER TO PROTECTING THE UNBORN IN *PARRILLO V. ITALY*

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INTRODUCTION

The European Court of Human Rights made a difficult decision this year regarding fetal rights and the right of a state to protect life.¹ In the case of *Parrillo v. Italy*, an Italian woman challenged the right of the Italian government to prevent her from using her and her late partner's in vitro fertilized embryos for scientific research.² Specifically, Ms. Parrillo, the appellant, claimed a "right to the peaceful enjoyment of her possessions"³ and the "right to respect for her private life" under the European Convention on Human Rights (the "ECHR").⁴ She intended to donate her embryos, which were conceived through medical assistance, to research.⁵ However, sections 13 and 14 of Italian law no. 40 of February 19, 2004 ("Law no. 40/2004") state that in vitro fertilization may be used to assist reproductive problems, which is the right of the individual, but research, cryopreservation and destruction of embryos is forbidden.⁶

The European Court of Human Rights (the "Court") decided to accept

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¹ See *Parrillo v. Italy*, App. No. 46470/11, 2015 Eur. Ct. H.R., <http://hudoc.echr.coe.int/eng?i=001-157263>.

² *Id.* at 1–3.

³ *Id.* at 1; Convention for the Protection of Human Rights and Fundamental Freedoms, protocol art. 1, Nov. 4, 1950, 213 U.N.T.S 262 ("Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.").

⁴ *Parrillo*, 2015 Eur. Ct. H.R. at 1; Convention for the Protection of Human Rights and Fundamental Freedoms art. 8, Nov. 4, 1950, 213 U.N.T.S 230 [hereinafter ECHR Article 8] ("(1) Everyone has the right to respect for his private and family life, his home and his correspondence. (2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.").

⁵ *Parrillo*, 2015 Eur. Ct. H.R. at 1.

⁶ Legge 19 febbraio 2004, n. 40, G.U. Feb. 24, 2004, n. 45 (It.).

the case because there is a potential incompatibility between Law no. 40/2004 and the ECHR that raises a question of constitutionality under Article 117 of the Italian Constitution.⁷ The Court reasoned that if Law no. 40/2004 violated the ECHR, it also would violate the Italian Constitution because “the international law obligations undertaken by Italy in signing and ratifying the European Convention on Human Rights include the duty to bring its own legislation into line with the provisions of the Convention in accordance with the meaning attributed to these by the . . . Court.”⁸ This was a case of first impression, where the Court needed to decide if there was a conflict between Law no. 40/2004 and the ECHR.⁹ The Court ruled that Law no. 40/2004 is not in conflict with the ECHR, and is therefore constitutional.¹⁰

In *Parrillo*, the Court moved away from allowing a parent to have complete control over the fate of an embryo.¹¹ The Court made it clear that Council of Europe member states are free to recognize embryos as human beings and protect them accordingly.¹² Although the Court declined to fully protect the sanctity of life in its earliest form, the *Parrillo* judgment is a significant step towards this recognition.¹³ The Court turned away from its previous rulings that treated embryos as possessions to be disposed of at will.¹⁴ *Parrillo v. Italy* significantly altered the trajectory of the Court’s jurisprudence.¹⁵ As a result, *Parrillo* is a strong foundation for the pro-life movement.¹⁶

This Comment explores the *Parrillo* decision and its potential effects on the Court’s jurisprudence. Part I describes the facts as presented to the Court. Next, Part II explains the holding of the Court, and Part III presents the Court’s analysis of Ms. Parrillo’s claim. Finally, Part IV

⁷ Art. 117 Costituzione (It.) (“Legislative power is exercised by the State and the Regions in compliance with the Constitution and the constraints deriving from EU legislation and international obligations.”); *Parrillo*, 2015 Eur. Ct. H.R. at 6.

⁸ *Parrillo*, 2015 Eur. Ct. H.R. at 7 (quoting Corte Cost. 24 ottobre 2007, n. 348 (It.). See Convention for the Protection of Human Rights and Fundamental Freedoms art. 32, Nov. 4, 1950, 213 U.N.T.S. 222, amended by Protocol 11 of Nov. 1, 1998, 155 E.T.S. 5 (“(1) The jurisdiction of the Court shall extend to all matters concerning the interpretation and application of the Convention and the Protocols thereto which are referred to it as provided in Articles 33, 34, 46 and 47. (2) In the event of dispute as to whether the Court has jurisdiction, the Court shall decide.”). See also Art. 117 Costituzione (It.).

⁹ *Parrillo*, 2015 Eur. Ct. H.R. at 27.

¹⁰ *Id.* at 46–47.

¹¹ See *infra* Part IV and accompanying footnotes.

¹² See *infra* Part III and accompanying footnotes.

¹³ See *infra* Part IV and accompanying footnotes.

¹⁴ *Parrillo*, 2015 Eur. Ct. H.R. at 27.

¹⁵ *Id.*

¹⁶ See Gregor Puppink, *Major ECHR Ruling: Human Embryos Are Not Things, Destruction May Be Prohibited*, ACLJ, <http://aclj.org/pro-life/major-echr-ruling-human-embryos-are-not-things-destruction-may-be-prohibited> (last visited Nov. 22, 2015).

discusses the reasoning of the Court and how it might affect future cases in Europe.

I. THE FACTS

The applicant, Ms. Parrillo, lived in Rome, and underwent in vitro fertilization (“IVF”) with her partner in 2002 at the Centre for Reproductive Medicine at the European Hospital in Rome (the “Centre”).¹⁷ Ms. Parrillo had intended to use the embryos to become pregnant, and start a family.¹⁸ However, shortly after the IVF process was completed, but before the embryos could be implanted, Ms. Parrillo’s partner passed away.¹⁹ Without her partner, Ms. Parrillo decided against embryonic implantation.²⁰ The five embryos that resulted from the IVF process were placed in cryopreservation.²¹ Ms. Parrillo requested several times that the embryos be released and donated to scientific research, and she wrote a letter in 2011 explicitly stating this request.²² The Centre’s director refused to release the embryos for scientific research on the “grounds that this type of research was banned and punishable as a criminal offence in Italy under section 13 of Law no. 40 of 19 February 2004.”²³ The Centre kept the embryos in a cryogenic storage bank in order to preserve them.²⁴

II. THE HOLDING

Ms. Parrillo amended her Article 8 and Article 1 of Protocol No. 1 complaints with the addition of an Article 10 claim—contending that the donation of her embryos to scientific research was a fundamental aspect of her freedom of expression.²⁵ However, the Court did not address her Article 10 claim in its majority opinion.²⁶ The Court also held that Ms. Parrillo’s Article 1 of Protocol No. 1 claim, which gave her the right to the enjoyment of her property, did not apply in this case because “human embryos cannot be reduced to ‘possessions’ within the meaning of that

¹⁷ *Id.* at 3.

¹⁸ *Id.* at 34.

¹⁹ *Id.* at 3.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Parrillo*, 2015 Eur. Ct. H.R. at 2; Convention for the Protection of Human Rights and Fundamental Freedoms, art. 10, Nov. 4, 1950, 213 U.N.T.S 230 (“Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.”).

²⁶ *See Parrillo*, 2015 Eur. Ct. H.R. at 2 (acknowledging an Article 10 claim, but otherwise remaining silent on the issue).

provision.”²⁷ The Court read the provision as having a purely economic and fiscal scope in regards to property, which does not apply to a human embryo.²⁸ Additionally, the Court determined that the right to life found in Article 2 of the ECHR²⁹ does not apply in this case because it was unnecessary to answer the question of when human life begins as the issue is controversial and sensitive.³⁰

In regards to Ms. Parrillo’s Article 8 argument that she had the right to the respect of her personal life,³¹ the Court decided that Law no. 40/2004 did not violate the ECHR because it “was ‘necessary in a democratic society’ within the meaning of Article 8 § 2.”³² The Court concluded that because Ms. Parrillo’s partner in fact was deceased, there was no evidence that he would have made the same decision to donate the embryos.³³ This position, combined with the fact that there were no Italian domestic regulations that governed this scenario, led the Court to determine that Ms. Parrillo did not have the authority to dispose of the embryos at will, and thereby violate Law no. 40/2004.³⁴

III. THE ANALYSIS OF THE COURT

The Court’s recognition of Ms. Parrillo’s inherent interest in the embryos stems from its long-standing tradition of protecting what it calls “the right to respect for private life.”³⁵ This right is construed broadly, and is not “susceptible to exhaustive definition[s].”³⁶ The Court considers this right to be of the highest importance, and has used it to overturn laws against personal liberty such as homosexual conduct,³⁷ same-sex unions,³⁸ and traditional Islamic dress.³⁹ Within this broadly construed right, the Court referred to a secondary right that protects a parent’s decision to

²⁷ *Parrillo*, 2015 Eur. Ct. H.R. at 46.

²⁸ *See id.*

²⁹ Convention for the Protection of Human Rights and Fundamental Freedoms, art. 2, Nov. 4, 1950, 213 U.N.T.S 224 (“(1) Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.”).

³⁰ *Parrillo*, 2015 Eur. Ct. H.R. at 46.

³¹ *See supra* Introduction.

³² *Parrillo*, 2015 Eur. Ct. H.R. at 46; ECHR Article 8, *supra* note 4.

³³ *Id.* at 43.

³⁴ *Id.* at 42–3.

³⁵ *Id.* at 30–1, 36; ECHR Article 8, *supra* note 4.

³⁶ *Parrillo*, 2015 Eur. Ct. H.R. at 35.

³⁷ *See Dudgeon v. United Kingdom*, 45 Eur. Ct. H.R. (ser. A) (1981); *Norris v. Ireland*, App. No. 10581/83, 13 Eur. H.R. Rep. 186 (1988).

³⁸ *See Vallianatos and Others v. Greece*, 2013-VI Eur. Ct. H.R. 125.

³⁹ *S.A.S. v. France*, App. No. 43835/11, 2014 Eur. Ct. H.R., <http://hudoc.echr.coe.int/eng?i=001-145466>.

have a child, “[the] right to respect for . . . family life.”⁴⁰ By beginning the IVF process with her late partner, and then changing her mind, the Court ruled that Ms. Parrillo exercised her right to make a personal choice regarding parenthood.⁴¹ The Court determined that Ms. Parrillo had the ability to make a “conscious and considered choice” regarding the disposal of her genetic material, which is an “intimate aspect” of her personal liberty protected by Article 8 of the ECHR.⁴²

In determining if Law no. 40/2004 infringed on Ms. Parrillo’s “right to respect for private life,” the Court used a basic two-part test.⁴³ First, the Court determined that the embryos constituted part of Ms. Parrillo’s private life because of their “biological link” and Ms. Parrillo’s plan to start a family.⁴⁴ Second, the Court concluded that the Italian prohibition on the destruction of embryos under Law no. 40/2004 interferes with Ms. Parrillo’s ability to lead a private life.⁴⁵ The Court surmised that as long as Law no. 40/2004 was in place, applicants will continue to bring claims against this interference.⁴⁶ Accordingly, Ms. Parrillo wanted to donate the embryos to scientific research, which would result ultimately in their destruction, and Law no. 40/2004 “continuously and directly” affected her private life by interfering with her ability to do so.⁴⁷

Unlike previous cases however, the Court did not make this point the end of its analysis.⁴⁸ The Court extended what it calls a “margin of appreciation” to Italy’s law-making process.⁴⁹ The Court grants this deference when there is no clear consensus on the issue at stake within the Council of Europe.⁵⁰ When an issue raises significant moral or ethical issues and has no clear consensus within the Council of Europe, the Court will give wide deference to the laws of the member state in question.⁵¹ The Court reasons that member states best determine the importance of the issue at hand and its coinciding legal protections.⁵² In the Court’s eyes, Italy should decide for itself what protections should be given to

⁴⁰ *Parrillo*, 2015 Eur. Ct. H.R. at 36–38.

⁴¹ *Id.*

⁴² *Id.*; ECHR Article 8, *supra* note 4.

⁴³ *See id.* at 30-32.

⁴⁴ *Id.* at 30.

⁴⁵ *Id.*

⁴⁶ *See id.* at 31–32.

⁴⁷ *Id.* at 31.

⁴⁸ *See Evans v. United Kingdom*, 2007-I Eur. Ct. H.R. 355.

⁴⁹ *Parrillo*, 2015 Eur. Ct. H.R. at 39-43.

⁵⁰ *See* HOWARD C. YOUROW, THE MARGIN OF APPRECIATION DOCTRINE IN THE DYNAMICS OF EUROPEAN HUMAN RIGHTS JURISPRUDENCE 13 (1996) (stating that the Court in certain instances permits a “latitude of deference or error which the Strasbourg organs will allow to national legislative, executive, administrative and judicial bodies).

⁵¹ *Id.*

⁵² *Id.*

embryos.⁵³

After establishing Italy's ability to protect embryos,⁵⁴ the Court asserted that Article 8 of the ECHR only protects Ms. Parrillo's ability to become a parent.⁵⁵ According to the Court, Article 8 does not protect the ability to donate embryos for scientific experimentation, and Italy has the right and duty to protect life as it sees fit.⁵⁶ The Court established that Italy has the moral and legal authority to protect embryos, as human life, from destruction.⁵⁷

IV. THE FUTURE OF LIFE IN EUROPE

The *Parrillo v. Italy* decision has several important implications for the future of reproductive rights in Europe. The Court stopped short of declaring that an embryo is a human life that begins at conception,⁵⁸ but the decision supports the pro-life movement in several ways.⁵⁹ First, the Court has given unborn children legal rights in this case by allowing Council of Europe member states to regulate reproductive medical services to protect embryos.⁶⁰ However, the Court has yet to determine the boundaries,⁶¹ and we can only speculate. Nevertheless, *Parrillo* shows that the Court is willing to extend at least partial recognition to the autonomy of the unborn,⁶² and has weakened the argument that unborn children are subject to the will of their mother.⁶³ The Court's analysis of human life is similar to conservative ideology in the United States.⁶⁴ While the Court recognized a mother's inherent interest in embryos that contained her genetic material,⁶⁵ it also recognized that the embryo itself was something other than a mere "thing" that could be owned and disposed of at will.⁶⁶

The Court recognized Ms. Parrillo's inherent interest in the embryos

⁵³ See *Parrillo*, 2015 Eur. Ct. H.R. at 40–43.

⁵⁴ *Id.*

⁵⁵ *Id.* at 36–43.

⁵⁶ *Id.* at 40–43.

⁵⁷ *Id.* at 39.

⁵⁸ *Parrillo*, 2015 Eur. Ct. H.R. at 46–47.

⁵⁹ See *id.* at 49–71 (Albuquerque, J., concurring) (concluding that “[u]born human life is no different in essence from born life. Human embryos must be treated in all circumstances with the respect due to human dignity.”).

⁶⁰ See *id.* at 36–43.

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ See Caitlin E. Borgmann, *The Meaning of Life: Belief and Reason in the Abortion Debate*, 18 COLUM. J. GENDER & L. 551 (2009). See also Tom Stacy, *Reconciling Reason and Religion: On Dworkin and Religious Freedom*, 63 GEO. WASH. L. REV. 1 (1994).

⁶⁵ See *Parrillo*, 2015 Eur. Ct. H.R. at 37.

⁶⁶ See *id.* at 67–69 (Albuquerque, J., concurring).

because of her “right to respect for private life.”⁶⁷ Ms. Parrillo argued that this right creates a barrier between private life and the laws of the state,⁶⁸ and has often been used to overturn limits on reproductive procedures,⁶⁹ same-sex civil unions,⁷⁰ and a woman’s right to abortion.⁷¹ The Court determined that Ms. Parrillo’s decision to dispose of the embryos stemmed from her personal liberty protected by Article 8 of the ECHR.⁷² This falls in line with other Court decisions that have also upheld the ability of individuals to determine the fate of their genetic material without limitation.⁷³ Particularly, in *Evans v. United Kingdom*, the Court broke with prior case law and stated that a father has complete autonomy over his genetic material within an embryo; therefore, the use of an embryo is part of a father’s private life.⁷⁴ In *Evans*, the mother could not use the embryo for implantation without the permission of the father.⁷⁵ The *Evans* ruling is on its face a persuasive precedent for the Court in *Parrillo*; and perhaps the Court could have ruled Law no. 40/2004 unconstitutional in light of *Evans*.⁷⁶ Following this line of jurisprudence may have led the Court in fact to reject Italy’s protections of embryos, and allowed Ms. Parrillo instead to exercise her right to a “private life.”⁷⁷

The Court, however, clearly distinguished the ruling in *Evans*.⁷⁸ By intentionally not turning to *Evans* and its related holdings, the Court rejected the idea that embryos are mere property that can be disposed of at will.⁷⁹ This “noteworthy” omission breaks away from the conventionally held view that the state has no part to play in reproductive decisions.⁸⁰ Turning away from the holding in *Evans*, which supports an individual’s

⁶⁷ *Parrillo*, 2015 Eur. Ct. H.R. at 36.

⁶⁸ *Id.* at 34–35.

⁶⁹ *See S.H. and Others v. Austria*, 2011-V Eur. Ct. H.R. 295.

⁷⁰ *See Vallianatos and Others v. Greece* 2013-VI Eur. Ct. H.R. 125.

⁷¹ *See A, B & C v. Ireland*, 2010-VI Eur. Ct. H.R. 185.

⁷² *Parrillo*, 2015 Eur. Ct. H.R. at 37–38.

⁷³ *See Evans v. United Kingdom*, 2007-I Eur. Ct. H.R. 355, 377, 384.

⁷⁴ *Compare Evans v. United Kingdom*, 2007-I Eur. Ct. H.R. 355, with *Paton v. United Kingdom*, App. No. 6339/05, 3 Eur. H.R. Rep. 408 (1980) (asserting that a woman’s ECHR Article 8 rights are superior to a father’s parental interest in an unborn child. *See generally* Mary Ford, *Evans v. United Kingdom: What Implications for the Jurisprudence of Pregnancy?*, 8 Hum. Rts. L. Rev. 171 (2008).

⁷⁵ *Id.* at 362–63.

⁷⁶ *See Parrillo*, 2015 Eur. Ct. H.R. at 84 (Sajo, J. dissenting) (arguing that “[t]his case is not about the rights of parenthood or even the possible rights of a foetus; the applicant’s right here is to act as a free and autonomous individual with regard to her genetic footprint.”).

⁷⁷ *Id.*

⁷⁸ *See id.* at 66.

⁷⁹ *Id.*

⁸⁰ *See id.* at 66–67.

complete autonomy as regards genetic material, reflects “the [Court’s] uneasiness with the *Evans* anti-life principle,”⁸¹ and shows the Court’s developing regard for the embryo’s life.⁸² When taken in tandem with *Costa and Pavan v. Italy*, where the Court held that Council of Europe member states could and should interfere with personal decisions to protect “others” who do not have full rights, and must be protected by force of law,⁸³ it is evident that *Parrillo v. Italy* has provided the foundation for the idea that an embryo has a “legal status that could and should be weighed against the legal status of the progenitors”⁸⁴ precisely because embryos and unborn infants conform to the *Costa* definition of other.

Parrillo was, at its heart, a political decision.⁸⁵ The Court in *Parrillo* may not have intended to lay this foundation when it submitted its judgment, but in certain circumstances the result nevertheless may be a protective legal status for the unborn.⁸⁶ The Court, balancing the idea that there should be a logical recognition of unborn children as persons with rights with the social realities of progressive Europe, decided to let Council of Europe member states determine the treatment of embryos within their states.⁸⁷ Although there was not a declaration of the embryo’s right to life, the Court in *Parrillo* successfully crafted a palatable judgment that allows for state autonomy regarding the treatment of embryos without limitation.⁸⁸

Implications arose after the Court discussed the Italian law-making process and gave it a “margin of appreciation”⁸⁹ when determining the legal protection of embryos. The Court admitted that it was hesitant to issue a sweeping verdict that applies to the entire Council of Europe due to the lack of “European consensus” on the topic of embryonic rights.⁹⁰ To

⁸¹ *Id.* at 66 (The anti-life principle referred to here is the individual’s complete control over the use of their genetic material even if that genetic material has created a life).

⁸² *See id.*

⁸³ *Costa and Pavan v. Italy*, App. No. 54270/10, 2013 Eur. Ct. H.R., <http://hudoc.echr.coe.int/eng?i=001-112993>.

⁸⁴ *Parrillo*, 2015 Eur. Ct. H.R. at 66 (Albuquerque, J., concurring).

⁸⁵ *See Parrillo*, 2015 Eur. Ct. H.R. at 43 (arguing that “the [Italian] Government have not overstepped the wide margin of appreciation enjoyed by them in the present case and that the ban in question was ‘necessary in a democratic society’ . . .”).

⁸⁶ *See Parrillo*, 2015 Eur. Ct. H.R. at 56. (Albuquerque, J., concurring) (asserting that even the Court of Justice of the European Union in the context of conducting scientific research concluded that “[t]he term ‘human embryo’ . . . was intended to refer to any human ovum as soon as fertilized, since that moment was crucial to commencement to the development of the human being.”).

⁸⁷ *See Parrillo*, 2015 Eur. Ct. H.R. at 70 (Albuquerque, J., concurring).

⁸⁸ *Id.*

⁸⁹ *Id.* (By granting a “margin of appreciation,” the Court gives the Italian democratic process deference to determine what legal protections to give embryos).

⁹⁰ *Id.* at 40.

avoid stepping on proverbial toes, the Court deferred to the democratic society within the state because the case raises a “sensitive moral and ethical” issue.⁹¹ Although the Court held that Article 8 of the ECHR applied to Ms. Parrillo’s claim and she could indeed assert her right to private life, she did not have the subsequent right to quiet enjoyment of her embryo because the court held that an embryo cannot be owned as property.⁹²

Like all politically motivated court decisions, *Parrillo* is somewhat flawed. That is, while the Court took substantive steps in declaring that embryos are life and giving them full legal protections, it did not go far enough. The Court avoided opining on what they would have held had Ms. Parrillo’s partner been able to participate in the decision to donate the embryos for scientific research.⁹³ This lack of discussion may signal that the Court would be willing to overturn the Italian law if both parents wished to destroy the embryos. Further, the Court did not establish as a matter of law that life begins at conception, and that embryos are entitled to full recognition as human beings.⁹⁴ Even though the Court gave wide deference to the Italian government on this issue, it notes that seventeen Council of Europe member states permit destructive experimentation on embryos, and *Parrillo* should not prevent continued experimentation.⁹⁵ The Court is satisfied with merely “temper[ing] excesses” of experimentation.⁹⁶

CONCLUSION

The *Parrillo* judgment presents a unique opportunity for the pro-life movement and the supporters of life in Europe. While the Court declined to take the positive step and fully protect the sanctity of life in its earliest form, the *Parrillo* judgment makes it clear that the Court may be willing to admit that life begins at conception, and that embryos are worthy of state protection. By turning to *Costa and Pavin v. Italy* rather than *Evans v. United Kingdom* for guidance, the Court turned away from the idea that embryos are possessions to be disposed of at will, and towards the principle that human life begins at conception, and is worth protecting.

⁹¹ *Id.*

⁹² *See supra* Part II and accompanying footnotes.

⁹³ *See Parrillo*, 2015 Eur. Ct. H.R. at 43 (stating that “the Court observes that in this case the choice to donate the embryos in question to scientific research emanates from the applicant alone, since her partner is dead. The Court does not have any evidence certifying that her partner . . . would have made the same choice. Moreover, there are no regulations governing this situation at the domestic level.”).

⁹⁴ *See id.* at 46 (stating that “it is not necessary to examine here the sensitive and controversial question of when human life begins . . .”).

⁹⁵ *Id.* at 40.

⁹⁶ *Id.* at 41.