

# The Lost Citizens of Cryopreservation

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## The Lost Citizens of Cryopreservation

*This paper explores the plight of frozen embryos in the context of citizenship theory. It highlights deficiencies in current citizenship models and identifies a range of anomalies in the political and legal treatment of frozen embryos that deserve policy attention. The paper concludes that the tragic status of the Lost Citizens of Cryopreservation establishes a new class of citizenship implying a novel approach to further develop the concept of "family politics" as called for by John Paul II in his "Letter to Families" and Apostolic Exhortation "Familiaris Consortio".*

...Christ the Lord.. placed the child at the heart of the Kingdom of God: "Let the children come to me, and do not hinder them; for to such belongs the kingdom of heaven".....No country on earth, no political system can think of its own future otherwise than through the image of these new generations that will receive from their parents the manifold heritage of values, duties and aspirations of the nation to which they belong and of the whole human family. Concern for the child, even before birth, from the first moment of conception and throughout the years of infancy and youth is the primary and fundamental test of the relationship of one human being to another.<sup>1</sup>

Interest in citizenship increased in the 1990s due to both its theoretical potency and its practical applicability. Kymlicka and Norman<sup>2</sup> explain that citizenship was conceptually attractive because it integrated in-vogue concepts of justice and community membership. It was also used by governments as a practical measure for stimulating stability in democracies amidst turbulent political environments such as increasing multicultural and racial tension, political apathy and cynicism, environmentalism and reactions against the welfare state<sup>3</sup>.

Where the concept of citizenship has not yet been raised is in relation to the citizenship status of frozen embryos and more broadly the unborn. This paper explores the situation of frozen embryos in order to establish a linkage between citizenship and human rights that might cast light on what citizenship entails and how the concept of citizenship might apply to the plight of frozen embryos in having their human rights recognized. Furthermore, this paper suggests that the citizenship status of frozen embryos can be viewed in light of a new vision of "family politics" so as to further our understanding of the true meaning and value of politics in modern society. Barbalet<sup>4</sup> speaks of the hope that citizenship offers to enhance identity, membership and political action. This paper recasts his view in the context of frozen embryo abuse and supports his comment that "Citizenship is implicated in both the present problem and the prospect for a future improvement"<sup>5</sup>.

### *Citizenship Theory*

Citizenship is a highly contested concept. It is most often used in political contexts, being claimed by all major political parties across the globe and across the entire ideological spectrum<sup>6</sup>. Differing notions of citizenship are available because citizenship somehow encapsulates both the individual and the social; the state and the civil society; activity and passivity; the local and the global<sup>7</sup>. The link between citizenship and nationality is worth noting upfront. Heater explains that the melding of citizenship with nationality emerged during the late 18<sup>th</sup> century as a legacy of the French Revolution. The revolutionaries relied on two traditions (liberal and civic republican discussed later) that imbued citizenship with a coherent and potent package of rights, duties and a sense of tradition and community identity<sup>8</sup>. Today, it is difficult to know exactly what nationality and citizenship actually entail. The previous tightness with which these concepts were connected has slowly dissipated with the rise of multiculturalism and mass culture,

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<sup>1</sup> John Paul II, *Apostolic Exhortation: Familiaris Consortio (the Role of the Christian Family in the Modern World)* (1981), #26.

<sup>2</sup> Will Kymlicka and Wayne Norman, "Return of the Citizen: A Survey of Recent Work on Citizenship Theory," *Ethics* 104, January (1994), 352-381.

<sup>3</sup> Jack M Barbalet, "Developments in Citizenship Theory and Issues in Australian Citizenship," *Australian Journal of Social Issues* 31, No 1 (1996), 55-72, Kymlicka and Norman, "Return of the Citizen: A Survey of Recent Work on Citizenship Theory."

<sup>4</sup> Barbalet, "Developments in Citizenship Theory and Issues in Australian Citizenship."

<sup>5</sup> *Ibid.*, 56.

<sup>6</sup> G. Andrews, (ed) (1991) *Citizenship*, London, Lawrence & Wishart Ltd, 11-12.

<sup>7</sup> See David Held "Between State and Civil Society: Citizenship" and Michael Ignatieff "Citizenship and Moral Narcissism" in G. Andrews (ed), (1991) *Citizenship*, London, Lawrence & Wishart Ltd.

<sup>8</sup> Derek Heater, *What Is Citizenship?* (Cambridge: Polity Press, 1999), 99.

the erosion of state sovereignty, and the shift in battleground away from ideology to that of the specific cultural formation referred to as “modernity”<sup>9</sup>. It is within this conceptual flux and shifting possibilities that consideration of citizenship is currently taking place.

T.H. Marshall's *Citizenship and Social Class* is a seminal work written in 1950 that helps establish the scene against which contemporary citizenship literature can be assessed. Marshall's citizenship is a set of rights as well as institutions through which such rights can be exercised<sup>10</sup>. Citizenship is viewed as a relationship between an individual and the State<sup>11</sup> which grants legal status<sup>12</sup>. It is a liberal conception. Humans have natural rights as individuals *qua* human beings (which tend to be negative) and then specific civic rights assured by the State to individuals *qua* citizens (which tend to be positive). Heater explains that this is why the French Declaration features the dual title of Man and the Citizen<sup>13</sup>.

Marshall's citizenship perspective is not moral or normative but rather sociological and positivist<sup>14</sup>. He suggested that modern citizenship emerged in the 18<sup>th</sup> century where citizenship involved the granting of *civil rights* such as the ability to own property and exercise religion and the right to equal treatment before the law. Citizenship involved an obligation on the part of the citizen to owe allegiance in return for rights recognition. In the 19<sup>th</sup> century citizenship changed to incorporate *political rights* by granting political membership to allow for actual participation in government through voting and standing for office. *Social rights*, such as the right to a basic level of material wellbeing regardless of market capacity, emerged in citizenship theory in the 20<sup>th</sup> century.

Marshall argued that as institutions grew and changed, civil, political and social rights became interdependent and citizenship became proscribed by recognition of a “minimum standard” to which each human being was “entitled”. Today, Marshall's analysis is being extended in the sense that people are arguing for the broadening of basic human citizenship to include gender rights and cultural rights<sup>15</sup>.

Yet Marshall's approach is not the only conceptualization of citizenship. Isin and Wood<sup>16</sup>, supported by Heater<sup>17</sup> and McKinnon and Hampsher-Monk<sup>18</sup>, explain that there are three major “ideal” traditions from which notions of citizenship can be seen to emerge:

- (1) *liberalism*, of which Marshall's model could be said to belong, which focuses on the individual as preceding the polity with citizenship treated as specific rights that protect the individual;
- (2) *communitarianism* which critiques the liberal view as demeaning to the common good. It refutes the view that individuals precede the polity but does not disagree that individuals are the sole bearers of rights. Individuals, in this model, are not isolated but embedded, interconnected and formed in communities; and
- (3) *civic republicanism* which supports a return to the political theories of the ancients to argue that there need be no contradiction between self-regarding individuals and egalitarian ones. Both liberalism and communitarianism are thus inadequate. In this model there is a “civic identity” that enables all citizens to share in the pursuit of a common good while also pursuing individual goods.

The communitarian and civic republican traditions denounce the liberal citizenship model for its *passive* approach to citizenship and lack of virtue. They stress participation and practice<sup>19</sup>. The involvement of the citizenry in public affairs is beneficial to individuals as well as the community<sup>20</sup>. Citizenship is a virtue that shapes the community through the “concord” and shared activity of individuals<sup>21</sup>. What is needed is recognition of the practice and need for *active* citizenship which acknowledges the role of economic contribution, political participation and civil virtue<sup>22</sup>. In other words, contemporary citizenship theorists have increasingly acknowledged that an adequate conception of citizenship requires due attention to a balance of rights *and responsibilities*.

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<sup>9</sup> Gerard Delanty, "Beyond the Nation-State: National Identity and Citizenship in a Multicultural Society - a Response to Rex," *Sociological Research Online* 1, no. No 3 (1996), Tracey Rowland, *Culture and the Thomist Tradition: After Vatican II* (London: Routledge, 2003).

<sup>10</sup> Heater, *What Is Citizenship?*, 30.

<sup>11</sup> *Ibid.*, 4.

<sup>12</sup> Ruth Lister, *Citizenship on the Margins*, Social Work Research Centre, University of Stirling, Scotland (Paper presented at "On the Margins: Social Exclusion and Social Work Conference", Social Work Research Centre, University of Stirling, 1997b).

<sup>13</sup> Heater, *What Is Citizenship?*, 5.

<sup>14</sup> Barbalet, "Developments in Citizenship Theory and Issues in Australian Citizenship," 57.

<sup>15</sup> Stephen Castles and Alastair Davidson, *Citizenship and Migration: Globalization and the Politics of Belonging* (Hampshire: MacMillan Press Ltd, 2000), 103-28.

<sup>16</sup> Engin F Isin and Patricia K Wood, *Citizenship and Identity* (London: Sage Publications, 1999).

<sup>17</sup> Heater, *What Is Citizenship?*

<sup>18</sup> Catriona McKinnon and Iain Hampsher-Monk, *The Demands of Citizenship* (New York: Continuum, 2000).

<sup>19</sup> Lister, *Citizenship on the Margins*.

<sup>20</sup> Heater, *What Is Citizenship?*, 44.

<sup>21</sup> *Ibid.*, 55-56.

<sup>22</sup> Kymlicka and Norman, "Return of the Citizen: A Survey of Recent Work on Citizenship Theory," 355.

This acknowledgement has emerged from both sides of the political spectrum, albeit for fundamentally different reasons<sup>23</sup>. The New Right has criticized the passive model which denies that citizens have status independent of their economic or market capacity. Self-reliance is the trumpet-call, including demands that families become more self-reliant and independent. The Left favours participatory democracy and speak of “empowering” citizens by dispersing state power to local and regional institutions and encouraging citizens to take up their public-spirited political calling and engage in decision-making that affects their lives. Civic republicans explain the obvious indifference to political participation marking contemporary citizens by suggesting that modern political life is “impoverished” compared with Greek and Roman understandings. In their model, political life is “superior” to civil and family life and should be resurrected to reassume this role. Civil society theorists, on the other hand, emphasise neither the market nor political participation, but rather voluntary organizations of civil society. Participation in civil society, or the “private sphere”, will create the necessary virtues to make political citizenship a reality. Lastly liberal virtue theorists believe formal citizenship education will help achieve the necessary balance between rights and responsibilities necessary for a fulsome appreciation of modern citizenship.

Yet this concern for balance in active and passive citizenship is only one set of writings relevant to contemporary citizenship theory. Another group of authors have focused on citizenship in the context of highlighting how today’s practical phenomenons of globalization and heightened social and cultural pluralism is demanding change to traditional citizenship theory<sup>24</sup>. These writers throw up a range of challenges to how citizenship should be defined according to identity and difference. They stress that what is important is not that citizenship is a bundle of rights and responsibilities, but rather a form of membership and belonging. Citizenship is treated as a relational concept rather than a juridical or legal status.

To start, traditional concepts of citizenship are challenged according to the understanding of political community against which citizenship is attached<sup>25</sup>. The appropriateness of citizenship being tied to national, as opposed to international, communities is debated. For some, citizenship is not, and should no longer, be tied to nation states because there is no clear-cut absolute distinction between being and not being a citizen – the boundaries are blurred<sup>26</sup>. For example, the terms “quasi-citizens”, “denizens” and “margizens” have been coined to refer to those people who live in nation-states such as migrants and permanent residents who variously attract certain social, civil and political rights yet do not possess citizenship status<sup>27</sup>.

Furthermore, the experiences of ethnic and racial groups claiming citizenship and seeking recognition have focused attention on the power of citizenship as an inclusion and exclusion mechanism. When citizenship is viewed by authors such as Marshall as “types of rights”, the state is conceived as a membership organization. When citizenship is seen as “access to rights”, as migrants propose, the state is conceived as a territorial organization<sup>28</sup>. The experience of ethnic groups further questions the role of international bodies versus national citizenship because national citizenship might give “types” of rights but not “access” to them. Thus formal recognition of Aborigines as citizens of Australia in 1948 did not necessarily give them access to citizenship rights<sup>29</sup>. Instead, ethnic groups often turn to international bodies to have human rights acknowledged in an effort to bring attention to inadequacies in national citizenship rights. Yet recourse to international bodies might provide for the acknowledgement of rights but be powerless to grant them. International law might provide for human rights recognition but to date sovereignty remains securely in the hands of nation-states.

The impact of globalization, and changes in contemporary values that suggest citizenship should include rights other than just civil, political and social rights are also posing new questions for conventional citizenship theory. For example, “green citizenship” requires citizens to have obligations across generations, time, space and species<sup>30</sup>. In the past states have had to bear the obligation in the form of welfare provision but today environmentalism throws the obligation of intergenerational global issues back onto the citizen to bear the brunt. Notions of green citizenship are truly trans-national and require thought of trans-national citizenship.

Dual citizenship, membership of the international community, as well as emphasis on local and regional communities that encourage difference mean that it is now possible to have multiple citizenship memberships<sup>31</sup>. The emergence of multiple and even parallel layers of citizenship has complicated the definition of who and what constitutes a citizen such that principles of subsidiarity are being applied<sup>32</sup>. The theoretical tension is between the universality and

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<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> Andrew Linklater, *The Transformation of Political Community: Ethical Foundations of the Post-Westphalian Era* (Cambridge: Polity Press, 1998).

<sup>26</sup> Castles and Davidson, *Citizenship and Migration: Globalization and the Politics of Belonging*, 103.

<sup>27</sup> Ibid, Ruth Lister, *Citizenship: Feminist Perspectives* (New York: New York University Press, 1997a).

<sup>28</sup> Barbalet, "Developments in Citizenship Theory and Issues in Australian Citizenship," 61-62.

<sup>29</sup> John Chesterman and Brian Galligan, *Citizens without Rights: Aborigines and Australian Citizenship* (Cambridge: Cambridge University Press, 1997).

<sup>30</sup> Barbalet, "Developments in Citizenship Theory and Issues in Australian Citizenship," 63.

<sup>31</sup> Lister, *Citizenship: Feminist Perspectives*.

<sup>32</sup> Heater, *What Is Citizenship?*, 116,53.

equality encouraged by citizenship versus the particularism, difference and diversity encouraged within nationality and identity<sup>33</sup>. Some such as Lister<sup>34</sup> believe the tension is not irreconcilable but can be overcome by notions of "differentiated universalism" or through Iris Marion Young's "differentiated citizenship"<sup>35</sup>. Others are not so sure.

Whereas the nation-state has been the unit or institution against which modern citizenship is attached and given meaning, this may no longer be the case into the future. Castles and Davidson want to gut the nation from the nation-state and convert the state into a "neutral" political community without cultural connection<sup>36</sup>. Miller believes nationality remains a valid concept because of its importance for personal identity, ethical bonding and political self-determination<sup>37</sup>. Without nationality, genuine citizenship cannot be achieved.

Nussbaum, on the other hand, defends the view that cosmopolitan citizenship need not preclude nationality but that greater attention should be paid to the universal dimension of humanity. Nussbaum is associated with a concept of cosmopolitanism that stresses universal citizenship<sup>38</sup>. Her plea for universalism and civic education regarding its virtue above democratic or national citizenship has invoked diverse responses. The views it has evoked have concentrated on visioning what being a citizen of the world would entail and debating the merits and possibilities of such a calling.

Not everyone embraces Nussbaum's conceptualization of the idea. Respondents to her thesis, such as Taylor, Wallerstein and Bok, question why patriotism and cosmopolitanism are placed at odds with each other. Others, such as Himmelfarb, challenge the values she imbues in her cosmopolitan model as not providing a complete list and worse, relying on certain interpretations of western values that are not necessarily common to humanity. For Hilary Putnam, the charge against Nussbaum's cosmopolitanism is her misguided attempt to advise the use of "universal reason" as the underlying force directing the serious world citizen. What clearly emerges from the debate is a lack of moral consensus concerning a definitive meaning of citizenship and clarity concerning its role with respect to ordering society and the lives of individuals. Should, and how can, citizenship promote the difference *and* unity that appears essential to peaceful and fruitful co-existence of humanity?

Overall these latter writings on the identity aspect of citizenship throw into relief the question of, and balance between, nationality and statehood. Identity is conceived as a cultural and social factor contributing to the establishment of nationality. Citizenship is linked with a polity and is considered legal in character. The question is, to what extent should citizenship envelop identity? Should citizenship encompass more than political rights and responsibilities? What changes to existing institutional mechanisms such as states and nations need to be made to accommodate shifting visions of citizenship?

The issue is important. Whereas Marshall grounded rights in institutions, Barbalet identifies that human rights philosophically inhere in the qualities of human being itself, hence the grounding of human rights in natural law<sup>39</sup>. What exists, therefore is an imbalance in rights. The impasse between human rights and citizenship rights results from the fact that citizenship rights are purely dependent on national legal structures. Because positive law prevails, it is nations that continue to determine citizenship and it is citizenship rights, not human rights, that "make a difference"<sup>40</sup>. Clarifying the substance of citizenship vis-à-vis human rights vis-à-vis politics should improve our understanding of humanity and the concrete manner in which human beings are treated. Moreover it should clarify the scope of politics, both in terms of its link with the human person and its place relative to social, cultural and civic activities.

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<sup>33</sup> Isin and Wood, *Citizenship and Identity*.

<sup>34</sup> Lister, *Citizenship on the Margins*.

<sup>35</sup> Kymlicka and Norman, "Return of the Citizen: A Survey of Recent Work on Citizenship Theory," 370.

<sup>36</sup> Castles and Davidson, *Citizenship and Migration: Globalization and the Politics of Belonging*.

<sup>37</sup> David Miller, *Citizenship and National Identity* (Cambridge: Polity Press, 2000).

<sup>38</sup> Martha C. Nussbaum, and Joshua Cohen (Eds), *For Love of Country: Debating the Limits of Patriotism* (Martha C. Nussbaum with Respondents), (Boston: Beacon Press, 1996). See also Martha C. Nussbaum (1998), *Cultivating Humanity: A Classical Defense of Reform in Liberal Education*, Cambridge Massachusetts, Harvard University Press.

<sup>39</sup> Barbalet, "Developments in Citizenship Theory and Issues in Australian Citizenship."

<sup>40</sup> *Ibid.*, 65.

## *The Australian Context to Citizenship Rights*

Australian citizenship is governed by the *Australian Citizenship Act 1948*. This legislation provides the principles of citizenship for Australians as belonging to Australia rather than to Britain. As with all countries belonging to the British Commonwealth, Australian citizens were defined as British subjects, but as immigration increased post World War II, this Act was amended to specifically recognize citizenship as constituting citizenship of Australia. With various legislative amendments over time, the assumption of "Britishness" was replaced with that of "Australianness"<sup>41</sup>.

Over time, the Act title was changed from the *Nationality and Citizenship Act 1948* to the *Australian Citizenship Act*. Today, citizenship under the act encompasses Australian nationality. According to Section 23C, an Australian citizen required to state or declare their national status may declare themselves to be an Australian citizen. Thus an Australian citizen is considered to be an Australian national. Australian citizenship is granted to those who meet the criteria under the Act to be considered natural-born or naturalized. The term "non-citizen" is used in the legislation to refer to those outside the group of naturalized and natural-born citizens.

Barbalet explains that "The quality of Australian citizenship is in fact quite thin"<sup>42</sup>. What Australian citizenship *gives* is access to some<sup>43</sup> Public Service employment and membership of the armed forces. What it broadly *obliges* is that citizens vote in federal and state elections, that they perform jury service if called to do so, and that they defend Australia from attack should the need arise<sup>44</sup>. Thus for most Australians the salient dimension of their citizenship is political. Civil and social rights are available not by virtue of citizenship but through legal or permanent residence in Australia<sup>45</sup>.

Australian citizenship promotes the idea of multiple citizenship because it allows for citizenship to be differentially defined through federal and state legislation. Citizenship emerges through jurisdictional legislation rather than through constitutional mechanisms. "Variation in state law means that being resident in Tasmania, or Queensland or South Australia is more determinative of one's civil rights or legal status than one's national citizenship"<sup>46</sup>. Because it relies on positive law, Australian citizenship has expanded and contracted over time, taking on different meaning and definition as state and federal legislation is passed and amended<sup>47</sup>. As a result, Australian citizenship can be regarded as contradictory and incomplete<sup>48</sup>. What it enables is different groups of people to be included or excluded as citizens at the behest of legislatures. Chesterman and Galligan make this point clear in explaining the plight of Aborigines in gaining Australian citizenship<sup>49</sup>. Exclusion was not necessarily a product of the Australian Constitution. Rather it was a deliberate strategy on the part of Australian governments, both federally and at the state level, to exclude a certain category of people from political recognition.

The exclusion from citizenship of another group of human beings in Australia is also currently taking place – the case of frozen embryos.

### *What are Frozen Embryos?*

Frozen human embryos are created through various forms of fertilization of an ovum by sperm *in vitro*, or outside the body. Frozen embryos are human embryos currently stored and held in stasis using the scientific technique known as cryopreservation.

Cryopreservation involves the water in human embryos created *in vitro* being replaced with chemical cryoprotectant solution that acts as "antifreeze" without which the water would form ice crystals and destroy the embryo<sup>50</sup>. The cryopreservation process itself kills many embryos<sup>51</sup>, such that scientists are seeking ways to avoid the hazards of freezing and thus minimize this loss of "research material".

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<sup>41</sup> "Nationality and Citizenship Act 1948" (2003), *Documenting a Democracy – Australia's Story (Commonwealth Documents)*, [http://www.foundingdocs.gov.au/text\\_only/places\\_cth/cth13.htm](http://www.foundingdocs.gov.au/text_only/places_cth/cth13.htm), last visited 1 May 2003.

<sup>42</sup> Barbalet, "Developments in Citizenship Theory and Issues in Australian Citizenship."

<sup>43</sup> Stephen Castles and Gianni Zappala, "The Rights and Obligations of Immigrant Citizens and Non-Citizens in Australia," in *Citizenship in a Global World: Comparing Citizenship Rights for Aliens*, ed. Atsushi Kondo (Hampshire: Palgrave, 2001) at page 152 note that public employment rates are inconsistent between the states. Victoria allows resident non-citizens to become permanent public servants.

<sup>44</sup> Barbalet, "Developments in Citizenship Theory and Issues in Australian Citizenship.", Stephen Castles and Gianni Zappala, "The Rights and Obligations of Immigrant Citizens and Non-Citizens in Australia," in *Citizenship in a Global World: Comparing Citizenship Rights for Aliens*, ed. Atsushi Kondo (Hampshire: Palgrave, 2001).

<sup>45</sup> Barbalet, "Developments in Citizenship Theory and Issues in Australian Citizenship," 68.

<sup>46</sup> *Ibid.*, 69.

<sup>47</sup> John Tomlinson, "Citizenship and Sovereignty," *Australian Journal of Social Issues* 31, No 1 (1996), 19-38.

<sup>48</sup> Castles and Zappala, "The Rights and Obligations of Immigrant Citizens and Non-Citizens in Australia."

<sup>49</sup> Chesterman and Galligan, *Citizens without Rights: Aborigines and Australian Citizenship*.

<sup>50</sup> See <http://www.lhsc.on.ca/programs/infertility/embfrz.htm>, last visited November 18, 2002

<sup>51</sup> John I Fleming, Gregory K Pike, Selena Ewing, *Human Embryos: A Limitless Scientific Resource?*, (Adelaide:Southern Cross Bioethics Institute, 2002), 17.

Cryopreservation is a state unlike anything else currently known to man. It is something akin to sustaining the life of a person on an artificial life support system, but it is different. The embryo is literally frozen and its change and development is also frozen. There appears to be no equivalent to this state. Even for those sustained on an artificial life support system, there remains some independent change and development that occurs in the human person. For frozen embryos this is not so. Rather, they are purposely stranded in time, space and development; an absurd and ignominious fate<sup>52</sup>.

Thawing of frozen embryos is currently performed for either of two purposes; for use as research or for implantation in a woman's reproductive system (either that of the genetic mother or that of another woman). With respect to research, thawed frozen embryos are subjected to micromanipulation (ie lasering, cutting, dissecting), enzyme and chemical treatment, and destructive analysis (eg electron microscopy) for experimentation purposes towards ends such as:

- o Detecting antigens on embryos
- o Isolation of DNA
- o Studying gene expression
- o Expression of molecules
- o Destructive chemical PGD for hereditary disease<sup>53</sup>.

The thawing of embryos involves replacing the cryoprotectant with the original water of the embryo. As soon as the frozen embryo is thawed it will develop but then eventually die unless and until the gestational nutrition of a woman, provided in the fallopian tubes and/or through to the uterus, is furnished it. Of course, it may be possible in the future that technology will be developed that will allow the life of an embryo to be independently sustained through mechanisms such as an artificial uterus, thus avoiding the physical need for a woman. This possibility raises its own ethical issues. For the time being, however, embryonic gestation cannot be sourced outside of a woman.

In December 2002, *The Research Involving Human Embryos Act* and *The Prohibition of Human Cloning Act* were passed by the Australian Parliament. While the latter act prohibits human cloning, the former legislation allows the destruction of human embryos for research within a strict regulatory legal framework.

It is widely acknowledged by all parties – proponents and opponents - that human lives will be destroyed by *The Research Involving Human Embryos Act*. This acknowledgement is explicit in public comments made by key figures in the debate. Professor Alan Trounson, a supporter of embryonic stem cell research, admitted on a nationally broadcast television program that an embryo is “clearly human”<sup>54</sup>. The report of the Senate Community Affairs Legislation Committee on Provisions of the Research Involving Embryos and Prohibition of Human Cloning Bill 2002 states that “There is in fact little disagreement that the embryo is a human life and that its life commences at fertilization”<sup>55</sup>.

An oft-quoted figure of 70,000 human lives are at stake, although the numbers of embryos actually affected by the legislation may differ or grow, depending on the number of embryos created in IVF programs as at 5 April 2002 and whether State and Federal Governments are convinced after a three-year moratorium that research procedures do not encourage the creation of embryos purely for research so that this 5 April 2002 cutoff date can be removed<sup>56</sup>. The defence for the destruction of human embryos for research given by a prominent proponent of the Act, the Prime Minister John Howard, is that there is no moral difference between allowing an embryo to perish by exposure to room temperature, which is what happens now, and using the embryo for “a positive life enhancing disease curing purpose”<sup>57</sup>. A paraphrasing of his argument suggests the following utilitarian ethic: frozen embryos - these human beings - are going to die anyway, so why not use them to good purpose?

In the Explanatory Guide to the legislation, it is identified that the human embryos will be used:

- o For the derivation of stem cells;

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<sup>52</sup> Nicholas Tonti-Filippini, "The Embryo Rescue Debate: Impregnating Women, Ectogenesis, and Restoration from Suspended Animation," *The National Catholic Bioethics Quarterly* 3, No 1, Spring (2003).

<sup>53</sup> Fleming, Pike and Ewing, *Human Embryos: A Limitless Scientific Resource?*, 16-20.

<sup>54</sup> Alan Trounson and David Van Gent, *Lateline* debate, ABC Television, 14 August 2002, "Tony Jones: Alan Trounson, is it the smallest member of the human family, the embryo?" Professor Alan Trounson: It's clearly human. We treat it with respect, but we have laws which say that we have to destroy it".

<sup>55</sup> Senate Community Affairs Legislation Committee, *Senate Report of the Community Affairs Legislation Committee Provisions of the Research Involving Embryos and Prohibition of Human Cloning Bill 2002*, (Canberra: Parliament of the Commonwealth of Australia, 2002), 42.

<sup>56</sup> Fleming, Pike and Ewing, *Human Embryos: A Limitless Scientific Resource?*, 6-8.

<sup>57</sup> John Howard and Alan Jones, Radio 2GB Interview, 5 April 2002, "Alan Jones:...Theologians are arguing this is a destruction of human life. I notice that Archbishop Peter Carnley is saying that conception is a process that takes some two weeks and must incur inside a womb. So on Dr Carnley's view a six day old collection of a cell is not a human being. John Howard: Well that's, I'm not sure that I would totally agree with Dr Carnley on that. Alan Jones: So how do you address the question? John Howard: Well how I address that issue is to ask myself a simple question. If you have a surplus embryo which is going to perish by exposure to room temperature, which is now what happens, what is the moral difference between that and using it for a positive life enhancing disease curing purpose and in the end my personal decision to support the research was based upon the belief that I could not see the moral difference between those two things....".

- For examining the effectiveness of new culture media used in Assisted Reproductive Technology (ART) practice;
- For better understanding embryonic development and fertilization;
- To train clinicians in micro-surgical ART techniques;
- To examine gene expression patterns of developing embryos; and
- For improving ART techniques.

To this list may be added:

- Toxicology studies on live human embryos, and
- Testing new drugs on humans rather than animals.

In other words, this legislation provides for the legal experimentation and killing of 70,000 human beings residing in Australia in the name of research. Even if it is acknowledged that they are human beings, as does John Howard, as opposed to some form of “sub-human” class, the reality is that the frozen embryos are considered expendable. They are treated as property to be used and destroyed at will. Abandoned as they are by their own parents and families, they are treated as commodities to be used for the “greater good” of the civic community and the State.

The view inherent in this definition of citizenship appears grossly inadequate and unjust. Citizenship, as will be argued in this paper, is fundamentally a human right from the moment of conception. The case of the frozen embryos highlights that the form of citizenship to which Australians are currently accustomed requires greater thought and attention.

#### *Are frozen embryos Australian Citizens?*

A reading of the *Australian Citizenship Act 1948* suggests that frozen embryos cannot currently claim status as Australian citizens given that they have not yet been born. That is, they do not meet the criteria in Division 1 of the Act for being natural-born, be it through birth, adoption or descent. Further, they presumably have not received a grant of citizenship by the Minister administering the Act under Division 2. While they may or may not meet the criteria for acquiring citizenship, the Minister presumably has not been approached with an application for citizenship nor presumably has such application for citizenship under Division 2 been granted.

While special provisions have been made in the Act, for example in Section 23D of Division 5, to account for situations resulting in persons being stateless, it appears these provisions provide only for persons who have been *born*. As with the entirety of the Act, it would appear that the citizenship status of those who are *unborn*, is an issue not contemplated.

In other words, frozen embryos (and indeed any unborn person) cannot rely on any argument that conception or life, as opposed to birth, within Australia or by Australian genetic parents is enough to warrant citizenship. Rather, the *Australian Citizenship Act 1948* appears to define frozen embryos as non-citizens until such time as they are born in Australia or an application for Australian citizenship is made and granted.

It is unclear whether this lack of Australian citizenship status mean that frozen embryos might be considered “stateless” without any hope of remedying the situation. The most striking anomaly relating to this legal interpretation of the *Australian Citizenship Act* is therefore that Australia is using its legislative powers to systematically prevent a certain group of its population from attracting citizenship status. Even child protection frameworks in the various states, which in some cases recognize the needs of unborn children for State protection from their families, legislate against frozen embryos and children in utero of less than 20 weeks gestation<sup>58</sup>.

This interpretation of the Australian citizenship legislation is not necessarily exhaustive. Bonnie Steinbock, in her 1992 book *Life before Birth: The Moral and Legal Status of Embryos and Fetuses* claims in the American context that a “viable” fetus *ex utero* has the “same legal standing as an other premature infant, and is entitled to the same protection”<sup>59</sup>. This claim is based on the work of Alexander Capron. Steinbock quotes Capron when she states:

“The viable fetus *ex utero* is a person in the eyes of the law, and its interest in life and well-being are clearly recognized by the civil and criminal law”. In fact, even *nonviable* living fetuses have the same status in law as full-term live-born infants. Separation from the mother and the existence of some signs of life are “the customary indicia of birth, and hence of the creation of a new human being with full claim on society’s concern and protection through the laws”.

It is unclear as to what extent this position remains accurate and relevant to the Australian legal context.

<sup>58</sup> The Crime and Misconduct Commission in Queensland recently handed down a report titled “Protecting Children: An Inquiry into the Abuse of Children in Foster Care” which recommended that the unborn warranted State protection from abuse. The policy response to this recommendation appears to suggest that any such protection would not be granted for children less than 20 weeks gestation.

<sup>59</sup> Bonnie Steinbock, *Life before Birth: The Moral and Legal Status of Embryos and Fetuses* (New York: Oxford University Press, 1992), 193.

### *International human rights recourse*

A number of general and specific human rights instruments pertain to the citizenship rights of frozen embryos. The Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) and the Declaration on the Rights of the Child are relevant to the determination of citizenship of frozen embryos to the extent they make clear statements concerning issues including the right to self-determination (ICCPR Article 1), the right to effective remedy upon violation of rights or freedoms (Article 2), the right to life (Article 6), the right to not be subjected to torture or to cruel, inhuman or degrading treatment including that no one shall be subjected without his free consent to medical or scientific experimentation (Article 7), the right to liberty and security of person (Article 9), the right to liberty of movement and freedom to choose residence and leave any country (Article 12), the right to recognition as a person before the law (Article 16).

However, the binding nature of such declarations on states in international law remains unclear. The debate rests on the sovereignty of states to be bound to international law in the absence of express incorporation into domestic law. Specific instruments can be more indicative of the hard-edge obligations imposed by ratification of the UDHR and ICCPR. In this regard, specific conventions that are applicable to the case of determining the human rights status of frozen embryos include the following:

- o Convention on the Rights of the Child (1989);
- o Convention in Relation to the Status of Stateless Persons (1954);
- o Convention for the suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1950);
- o Convention on the Reduction of Statelessness (1961); and
- o Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children (1996).

Once again, however, there is no domestic law requirement in Australia to seek to implement treaties to which Australia is a party. While Australia has participated in the Convention on the Rights of the Child since 1991, there have been no steps taken by either the Australian Federal Government or any of the State Governments to legislate to implement the convention or incorporate it into domestic law<sup>60</sup>.

What is further frustrating about all these declarations and conventions is that they have to date been interpreted as being silent as to whether their provisions apply to the unborn. This is despite the rights of the unborn being discussed and preambles (legally a part of the instrument) being inserted in the drafting stages of the UDHR, the ICCPR and the Convention on the Rights of the Child (CRC) that clearly indicate protection of the right to life of the unborn<sup>61</sup>.

If the interpretation given by the European Convention on the Rights of the Child has any bearing on legal interpretation, the hope of achieving human rights recognition for the unborn is grim. In Europe, human rights became governed by the European Convention for the Protection of Human Rights and Fundamental Freedoms (commonly termed the European Convention on Human Rights (ECHR)) signed on 4 November 1950 and entered into force in September 1953. The Convention applies to members of the Council of Europe, founded in 1949 as an organization for encouraging and developing intergovernmental and interparliamentary cooperation. There are currently 40 members. The European Commission of Human Rights and the European Court of Human Rights provide mechanisms for interpreting and applying the Convention.

Article 2 of the ECHR guarantees everyone's right to life shall be protected by law but is silent as to whether this guarantee extends to the unborn. The application of this provision has specifically been considered in the context of abortion cases but to date does not appear to have been considered in light of frozen embryos.

In 1977, the Commission considered the case of *Brüggemann & Scheuten*<sup>62</sup> where two women complained that the absence of legal abortion violated their right to respect for private life under Article 8. This case was rejected by the Commission which took into account the wide range of laws and opinions on abortion found in Convention States, however the Commission did not have to specifically consider the application of Article 2 to the unborn in its decision.

In 1980, in *Paton*<sup>63</sup>, the question was specifically raised as to whether laws permitting abortion violated the unborn child's right to life under Article 2. In its response, the Commission examined the word "everyone" used in Article 2 as well as its use in the Convention as a whole. It concluded that the use of the word in the Convention, as well the

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<sup>60</sup> Stuart Kaye and Ryszard Piotrowicz, *Human Rights in International and Australian Law* (Chatswood, NSW: Butterworths, 2000), 209.

<sup>61</sup> John I Fleming and Michael G Hains, *What Rights, If Any, Do the Unborn Have under International Law?* (2003), <http://www.priestsforlife.org/articles/fleingp1.html>, last visited 4 August 2003.

<sup>62</sup> No 6959/75 *Brüggemann & Scheuten v Germany*, Comm Rep, 12 July 1977, DR 10, p100, 3 EHRR 244, cited and discussed in Ursula Kilkelly (1999), *The Child and the European Convention on Human Rights*, Aldershot, Dartmouth Publishing Company Ltd.

<sup>63</sup> No 8416/78 *Paton v UK*, Dec 13 May 1980, DR 19, p244, 3 EHRR 408, cited and discussed in Ursula Kilkelly (1999), *The Child and the European Convention on Human Rights*, Aldershot, Dartmouth Publishing Company Ltd.

limitation to the right to life in Article 2, applied only postnatally, but that any possible prenatal application could not be entirely excluded.

When specifically considering the term “life” in Article 2, the Commission concluded that the “life” of the foetus was intimately connected with, and cannot be regarded in isolation from, the life of the pregnant woman. If absolute protection were given to the foetus, abortion would have to be considered prohibited even where continuance of the pregnancy might involve serious life risks to the pregnant woman. The Commission rejected this absolute protection on the grounds that at the time that the Convention was signed, all but one of the convention states permitted abortion where necessary to protect the life of the mother and that since that time national law on abortion has tended towards further liberalization rather than stringency in regulation.

The Commission thus made a clear case with respect to its interpretation concerning the *absolute* right to life of the unborn child as applying in the case of *abortion*. What remains ambiguous is the absolute right to life of the unborn child who is a frozen embryo, as well as whether *any* right to life is afforded to the unborn whether they be within the womb of a woman or a frozen embryo. Moreover what is also absent is any certainty regarding the application of the remainder of the Covenant to the unborn given that only Article 2 and its application to the unborn has been considered. In other words, other provisions, such as the right to self-determination, do not yet appear to have been tested.

With respect to any protection afforded by the Convention to the unborn child, the Commission referred in the *Paton* case to the equivalent provision in the American Convention on Human Rights which specifically provides protection of the right to life to the unborn. In the mind of the Commission, this highlighted the absence of express provision in the European Convention suggesting, though not confirmed, that the Commission believes protection must be made expressly and is not necessarily implicit in the European Convention.

The American Convention on Human Rights came into force on 1978 and has already been noted expressly differs from the European Convention of Human Right with respect to the right to life protection afforded to the unborn<sup>64</sup>. Article 4 of the American Convention deems the right to life to start in general as from conception. However it appears the American system has not progressed far and has been unable to prevent major human rights abuses taking place.

While it appears that the right to life provisions of human rights instruments do not at this stage offer any considerable hope of recognition of frozen embryos, it remains untested whether a state could plead in favour of the human rights of frozen embryos using the concept of citizenship, refugee status, statelessness and/or asylum. Theoretically it might be possible for a state which acknowledges the citizenship status of frozen embryos to take the case of frozen embryos against another state which doesn't recognize frozen embryo citizenship to the International Court of Justice or to the Human Rights Committee. A first hurdle would be the legality of jurisdiction regarding the case. Whether the Court or Committee would uphold the case is yet another matter. Consent, best interests of the child tests and extradition laws would presumably factor into the consideration. Basic definitions concerning the status of the frozen embryos as human beings as opposed to property would also need to be taken into account.

What makes the frozen embryo case distinctive from that of abortion is that the so-called “rights” of the mother are not applicable. Birth need not occur for frozen embryos citizenship status to be provided. While the unborn are likely to be classified according to their in-utero versus out-of-utero status, recognition of the citizenship rights of frozen embryos would at least represent a step in the right direction rather than the wholesale elimination of unborn children from political recognition according to human rights instruments. What remains unclear if citizenship rights were acknowledged is what that recognition would actually grant to a frozen embryo. What does the case of the frozen embryos tell us about the meaning of citizenship?

#### *Citizenship as a human right*

What is interesting about the human rights instruments is that citizenship is not defined. Instead, the ICCPR provides in Article 1 that “all peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economics, social and cultural development”. The other rights of life, effective remedy, liberty and security of person, and liberty of movement may or may not fall within the ambit of a notion of citizenship as a fundamental human right.

The lack of citizenship of frozen embryos highlights the ability for a group of human beings to be bereft of human, civic, social and political rights. In the Australian context, citizenship is an empty concept in that it presupposes birth. Life is not a citizenship right. Neither is birth a right. Australian citizenship merely grants political rights and even these are not granted until the age of maturity. For children, Australian citizenship bestows definition as a citizen and a sense of belonging, but it grants no actual political rights and limited independent rights. Children express their citizenship rights through their families unless and until that family abandons the child or becomes dysfunctional to the point of threatening the child's safety such that the state grants “protection”. A child's and parent's right to have a say in this “protection” is prescribed. A question emerges: should embryos have special

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<sup>64</sup> Malcolm N. Shaw, *International Law*, 4<sup>th</sup> Edition, (Cambridge: Cambridge University Press, 1997), 287.

citizenship rights or should they be treated as abandoned children? How would a state protect its frozen embryo citizens? Are they to be retrieved from clinics and “released” from their suspended stasis of cryopreservation only to succumb to inevitable death? Is death what citizenship gives?

This question is a logical enough response to the introduction of citizenship rights, but it forgets two extremely fundamental important realities central to Catholic teaching and the tradition of natural law. Human beings are worthy of dignity and their life should be respected. What the granting of citizenship rights to frozen embryos might be able to facilitate is the ability for the human dignity and life of frozen embryos to be upheld and honoured. Citizenship under this model construes the state as something at the service of humanity rather than an arbitrary dictatorship imposing its own will on its population. What the frozen embryo case throws open is the possibility of exploring a new concept of citizenship emerging from a new vision of politics.

#### *“Family politics” and Concepts of Citizenship*

The notion of “family politics” emerges from paragraph 44 of John Paul II’s *Familiaris Consortio: The Role of the Christian Family* which promotes the social role of families to find expression in the form of political intervention. The Holy Father states:

...families should grow in awareness of being “protagonists “ of what is known as “family politics” and assume responsibility for transforming society; otherwise families will be the first victims of the evils that they have done no more than note with indifference.

To date, the interpretation of this reference to “family politics” seems largely to have concentrated on how politics systemically treats families and accommodates or upholds the family unit through policies and decisions<sup>65</sup>. Certainly this is the tradition of how “family politics” is interpreted in political theory<sup>66</sup>.

What is not so well developed and perhaps not equally envisaged is the concept that “family politics” might involve application of the theology of the family to a new theoretical understanding of politics. This paper proposes that the Pope’s call for awareness and implementation of “family politics” might involve transforming politics by applying to political concepts the fundamental definitional underpinnings of what it means to be a family.

The idea is not without basis. Leo XIII in his *Diuturnum Illud* reinforced the truth that God is the source of political power and that Holy Scripture reveals the source of authority as being from God “Over every nation He set a ruler” (Ecclesiasticus 17:14)<sup>67</sup>. In so proclaiming, Leo emphasized how every form of rule or power, including that of priest and of father in a family, owes its source from God and “in this way different kinds of authority have between them wonderful resemblances”<sup>68</sup>. This parallel between the rule of a father and that of a politician should not go unheeded. Moreover Christ reveals man to himself and He is simultaneously our King<sup>69</sup> and our Bridegroom. While not ignoring the need to acknowledge their proper functions, the separation of family life and politics appears to separate the Christocentric reality emphasized by John Paul II<sup>70</sup>. Instead we need to rekindle the awareness that “The future of humanity passes by way of the family”<sup>71</sup>.

In his *Letter to Families* the Holy Father explains that because the Holy Trinity is a mystery and because man is made in the image and likeness of God, man, too, at his deepest and most metaphysical dimension, is a mystery<sup>72</sup>. Because man is a being unknown to himself and because a family is an interpersonal communion, the family, too, is a type of unknown reality, a mystery. Contemporary society has separated the notion of spirit from the body just as it has sundered the realities of nature and grace. So too could we have said to have separated man from the family and family from society, especially its political dimension. We require a “family politics” that not only provides recognition and support for the unit which is the family but which also draws strength and meaning from understanding the mystery of the family itself. According to the Pope, “modern rationalism does not tolerate mystery”<sup>73</sup>, yet it is this very mystery that defines our fundamental being and our practical existence. The mystery of the family must be plumbed with greater enthusiasm and respect for its relevance and application to political theory and practice.

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<sup>65</sup> Gordon Urquhart, “The Vatican and Family Politics,” *Second Report of the Centre for Research on Population and Security on Conservative Catholic Influence in Europe*, <http://www.population-security.org/cffc-07-02.>, last visited 16 September 2003 (1997).

<sup>66</sup> For examples, refer to Jean Bethke-Elshstain, ed., *The Family in Political Thought* (Amherst: The University of Massachusetts Press, 1982), Paul Ginsborg, “The Politics of the Family in Twentieth-Century Europe,” *Contemporary European History* 9, No 3, Nov (2000), Stanley B Greenberg and Theda Skocpol, “Democratic Possibilities: A Family-Centred Politics,” *The American Prospect*, No 35, Nov-Dec (1997).

<sup>67</sup> Leo XIII, “Encyclical Letter, *Diuturnum Illud* (On Government Authority),” in *The Popes against Modern Errors: 16 Papal Documents*, ed. Anthony J Mioni (Illinois: Tan Books and Publishers Inc, 1881).

<sup>68</sup> *Ibid.*, #11.

<sup>69</sup> Pius XI, *Encyclical Letter: Quas Primas* (on the Feast of Christ the King) (1925).

<sup>70</sup> Rowland, *Culture and the Thomist Tradition: After Vatican II*, 37.

<sup>71</sup> John Paul II, *Apostolic Exhortation: Familiaris Consortio* (*The Role of the Christian Family in the Modern World*), #86.

<sup>72</sup> John Paul II, *Letter to Families* (Homebush, NSW: St Pauls, 1994), #19.

<sup>73</sup> *Ibid.*

Maritain suggests a distinction between community and society that is important to our discussion of citizenship<sup>74</sup>. He sees community as “more of a work of nature and more nearly related to the biological.... A product of instinct and heredity in given circumstances and historical frameworks...” whereas a society is “more of a work of reason, and more nearly related to the intellectual and spiritual properties of man.... Product of reason and moral strength (what the Ancients called ‘virtue’)”<sup>75</sup>.

Using this distinction, Maritain defines the nation as a community and not a society. A nation cannot cross the threshold of the political realm. It can only provide the “propitious soil” in which a body politic can blossom<sup>76</sup>. The body politic and the state, on the other hand, are societies required by nature and achieved by reason and whose end is the common good. The body politic differs from the state in that it assimilates the national community/ies, families and other freely initiated civic communities and is concerned with realizing the common good to the extent that it furnishes the necessary conditions for the multitude to realize the good human<sup>77</sup>. The state, on the other hand, is a *part* of the body politic which “specializes in the interests of the whole”<sup>78</sup>. It is:

neither a whole, nor a subject of right, or a person. It is a part of the body politic, and, as such, inferior to the body politic as a whole, subordinate to it, and at the service of the common good. The common good of the political society is the final aim of the State, and comes before the immediate aim of the State, which is the maintenance of the public order... the State enjoys topmost supervising authority. But this supreme authority is received by the State from the body politic, that is, from the people; it is not a natural right to supreme power which the State possesses of itself<sup>79</sup>.

Maritain continues his framework by confirming that even the people who comprise the body politic do not possess supreme authority. Instead, God alone is sovereign. Yet God gifts authority to humanity by virtue of being made in God’s image and likeness. The historical severance between transcendent political sovereignty and temporal political authority has had severe and negative consequences. As Pius XI points out:

With God and Jesus Christ excluded from political life, with authority derived not from God but from man, the very basis of that authority has been taken away, because the chief reason of the distinction between ruler and subject has been eliminated. The result is that human society is tottering to its fall, because it has no longer a secure and solid foundation<sup>80</sup>.

The human person is both part of the body politic but above the State “through what is supra-temporal, or eternal, in him, in his spiritual interests and his final destination”<sup>81</sup>. It is through the eyes of the human person, in other words, that the true meaning and nature of politics can be understood. For Maritain, the common good is “common because it is received in persons, each one of whom is as a mirror of the whole”<sup>82</sup>. The common good is intended to foster the higher ends of the human person<sup>83</sup>. It is because the Catholic understanding of politics is personal, as opposed to individual, that notions of communion and the common good make sense. Without the human person – made in the image and likeness of God - as the focus of politics, Catholic political teaching is gutted and meaningless.

Maritain’s definition of nation, body politic and state are by no means non-disputable. For a start, in his effort to make plain the French Revolution mistake of ascribing absolute sovereignty apart from God and shifting it from the Nation to the State – Maritain’s distinction between community and society seems to establish a dualist interpretation of the human person that contradicts his own premises. Further, the distinction muddies the concept and place of culture<sup>84</sup> and by no means clarifies the nature of citizenship.

John Finnis<sup>85</sup> suggests that a distinction between community and society is perhaps unhelpful, especially in a practical sense given the conflation of these terms in contemporary day-to-day language (a point made clear in the usage of the terms in the Catechism of the Catholic Church which appears to use the terms interchangeably). Finnis argues instead that a more constructive emphasis is to focus on community or association as a matter of relationship and interaction; it is a *relational* concept. He notes that our unity in human community is defined in part by (i) the physical order, (ii) the order of knowledge, (iii) the order of cultural unity through common communication etc, and (iv) the unity of common action where we bring order into our actions and dispositions through deliberation and choice. It is this fourth order that is especially relevant to politics.

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<sup>74</sup> Jacques Maritain, *Man and the State* (Washington DC: The Catholic University of America Press, 1951).

<sup>75</sup> *Ibid.*, 2-4.

<sup>76</sup> *Ibid.*, 7.

<sup>77</sup> *Ibid.*, 11-12.

<sup>78</sup> *Ibid.*, 12.

<sup>79</sup> *Ibid.*, 24.

<sup>80</sup> Pius XI, *Encyclical Letter: Quas Primas (on the Feast of Christ the King)*, 18.

<sup>81</sup> Maritain, *Man and the State*, 148.

<sup>82</sup> Jacques Maritain, *The Person and the Common Good* (London: Geoffrey Bles Ltd, 1948), 35.

<sup>83</sup> Maritain, *Man and the State*, 149.

<sup>84</sup> Rowland, *Culture and the Thomist Tradition: After Vatican II*.

<sup>85</sup> John Finnis, *Natural Law and Natural Rights* (Oxford: Clarendon Press, 1980).

Finnis is quick to point out that there are different forms of community, distinguishing a business community from that of “play”. With the former, the collaboration is a relationship of utility. There is a common interest, good or action but only in the service of each party attaining their own objective. With the latter, the collaboration is valued for its own sake; participation evokes satisfaction and the common good is the “good play of the game”.

But there is another community, that of friendship. The common good here is mutual self-fulfilment and self-realisation. Collaboration is for the sake *of the other*. It is not just successful or enjoyable collaboration nor “simply the good of two successfully achieve coinciding projects of objectives”<sup>86</sup>. “A must value his (A’s) own well-being for the sake of B, while B must value his (B’s) own well-being for the sake of A. The reciprocity of love does not come to rest at either pole”<sup>87</sup>. This is a “third point of view” distinct from my own point of view and distinct from my friend’s point of view. Friendship is thus the most communal form of community, though it is not the fullest form of community. It is the family, which over time and because of its permanency can build up the necessary common stock, rich in all four orders of reality, which each member holds at each other’s disposal and which is good for a friend to give and receive.

But even a family is not complete in that it must open itself to collaboration with other families and neighbours if the family and its members are to flourish. It is thus that we can see the principle of subsidiarity coming into play. As self-sufficiency is exhausted, a community must reach out of itself and open itself to a wider community within which all can flourish. Finnis concludes that the “complete” community is that of politics and law which pursues the common good of securing “a whole ensemble of material and other conditions that tend to favour the realization, by each individual in the community, of his or her personal development”<sup>88</sup>. Seen in this light the common good is not a definite and completely attainable objective. Nor is the common good objective a thing of utopian quality. Rather, the common good is:

a set of conditions which enables the members of a community to attain for themselves reasonable objectives, or to realize reasonably for themselves the value(s), for the sake of which they have reason to collaborate with each other (positively and/or negatively) in a community<sup>89</sup>.

This definition (consistent with that given by the Catechism of the Catholic Church #1906 which states “By common good is to be understood ‘the sum total of social conditions which allow people, either as groups or as individuals, to reach their fulfillment more fully and more easily’”) neither demands nor implies that members of a community must all have the same values or objectives, but rather than there be some set of conditions, available to all and in innumerable ways, which needs obtain if each of the members is to attain their own objectives<sup>90</sup>.

The emphasis is fully on the integral fulfillment of the human person. The common good does not consist of “the greatest good for the greatest number” (a utilitarian perspective) nor does it involve hierarchically ranking “basic human goods” to achieve a net benefit (a consequentialist perspective). Further, the common good is not a subset of the basic human goods or basic reasons for action suggested by Finnis and his New Natural Law colleagues<sup>91</sup>. Rather, the common good concerns the willing and attainment of certain foundations or conditions essential to the integral fulfillment of the human person by allowing *every* human person participation in those basic human goods in innumerable ways. Finnis believes this common good of the political community is essentially *instrumental* rather than basic or intrinsic in that the collaboration of the political community is needed *for the sake of* achieving the basic goods or reasons for action (including for example life, knowledge, friendship, marriage, practical reason)<sup>92</sup>. Whether Finnis is correct in this interpretation and what this approach to the definition of the common good means for citizenship is another question.

#### *A Family Politics Understanding of Citizenship*

Together, works such as that of Maritain and Finnis emphasise the human person as the basic unit of politics, rather than falling into the familiar and singularly unhelpful dichotomy characterising modern political theory that pits the individual against society. Personalism introduces the relevance of family politics by setting the conceptual backdrop against which a discussion of John Paul II’s *Familiaris Consortio* and *Letter to Families* can take place. It is argued here that in these works the Pope implies a new model of citizenship far different from that envisaged by standard theoretical forms.

The content of *Familiaris Consortio* is divided into three parts. Informed by faith, the first part outlines positive and negative aspects characterizing the situation facing the family in the modern world. The second part outlines God’s plan for marriage and the family, noting especially the reality of marriage as a covenant of love freely chosen as an

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<sup>86</sup> Ibid, 141.

<sup>87</sup> Ibid, 143.

<sup>88</sup> Ibid, 154.

<sup>89</sup> Ibid, 155.

<sup>90</sup> Ibid, 156.

<sup>91</sup> Robert George, *In Defense of Natural Law* (Oxford: Oxford University Press, 1999).

<sup>92</sup> John Finnis, “Is Natural Law Theory Compatible with Limited Government?,” in *Natural Law, Liberalism, and Morality*, ed. Robert George (Oxford: Clarendon Press, 1996).

intimate community of persons open to life and love. The third part, which concerns this discussion especially but which cannot be divorced from these two beginning sections of *Familiaris Consortio*, explains the role of the Christian Family by describing four essential tasks. These tasks will now be compared with political activity in the context of citizenship theory.

### (1) Formation of a community of persons

Conjugal love must develop a community of persons characterized by unity and indissolubility. The conditions of achieving a community of persons are the presence of the gift of self between the members of the community which enables love to be authentic and a service to life by virtue of that gift. The Pope describes the various missions of the members of the family and points out that the community of the family is lacking if either the mother's or father's presence is missing.

The Pope elaborates on this notion of community in his *Letter to Families*. It starts by squarely placing the family within the context of its likeness to God. He states "... the primordial model of the family is to be sought in God Himself, in the Trinitarian mystery of his life"<sup>93</sup>. The significance of this understanding of the family is that it roots man's social nature, and by implication his political nature, in the Holy Trinity. The family, which owes its existence, meaning and purpose to God, is the basic unit of society and the political underpinning to a new understanding of citizenship. The family is a *community* of persons whose proper existence is characterized by *communion*. It boasts a common good, marital consent and the indissoluble character of the marital covenant<sup>94</sup>. Because it boasts both a community dimension and a common good, it can helpfully be seen as having political dimensions. It is, in fact, the "first human society"<sup>95</sup>.

John Paul II stresses that communion is distinguishable from community as concepts. The former has to do with the personal relationship between "I" and the "thou" whereas the latter transcends this framework by stressing a "society", a "we" or an "us". Communion gives rise to community and community is pervaded by communion if it is truly to be a community<sup>96</sup>. Surely, then, any political community, if it is truly to be personalistic and appropriate to human dignity and thus truly political must be characterized by communion?

Communion requires conscious and free choice<sup>97</sup>. It also prescribes the appropriate setting and birthplace for the genealogy of each and every human person<sup>98</sup>. The first months of a child's presence in its mother's womb brings about a particular bond that shapes the very humanity of the child and its mother. In citizenship terms, this stage can potentially be very meaningful. Not only in terms of defining its very culture and personality, in many ways, the mother could be said to be the first "ruler" of her child for in her gift of herself she gives her child its first home, nationality and state. She is the primordial ruler and politician. The child, the primordial subject and citizen. It is perhaps within this context that the linguistic origin of the word "nation" can take on new meaning. "Nation" in fact is derived from the latin "nasci" which means "birth".

The importance of culture and nationality to the understanding of citizenship has already been discussed. Within family politics, the linkage takes on fresh meaning. The family is a communal subject just as a person is a subject. Nations receive subjectivity from persons and their families<sup>99</sup>. Furthermore, "...the Church receives from the various cultures everything that is able to express better the unsearchable riches of Christ"<sup>100</sup>. The bond between nationality and culture, citizenship and statehood requires greater investigation. The study should begin with an appreciation of the need for community based on communion and authentic love.

John Paul II suggests that modern man reclaim Pope Paul VI's call for a "civilization of love". The word civilization comes from "civis" or citizen and emphasizes the civic or political dimension of every individual. Finnis<sup>101</sup> explains that *civilis* is Latin for the Greek *politike* (ie the theory of complete communities), as *civitas* is Latin for the Greek *polis* (ie the city-state, which for Greeks was the complete community). In this way, the very word "citizen" denotes a "completeness of community" applicable to each and every man by virtue of life.

The profundity of the term citizen is noteworthy (as is its relevance for separately scrutinizing the frameworks of Finnis and Maritain discussed earlier). As the Pope will later suggest, man is a "common good". Man is, by his very essence - especially when considered in light of his conception and gestation within the communion of love between husband and wife - a form of complete community that marks him as a political being. He emerges from, and within, a common good as a common good! He emerges from and within a "civilization" (the family) as a "civilization" (a citizen).

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<sup>93</sup> John Paul II, *Letter to Families*, #18.

<sup>94</sup> *Ibid.*, #7.

<sup>95</sup> *Ibid.*

<sup>96</sup> *Ibid.*

<sup>97</sup> *Ibid.*, #8.

<sup>98</sup> *Ibid.*, #9.

<sup>99</sup> *Ibid.*, #15.

<sup>100</sup> John Paul II, *Apostolic Exhortation: Familiaris Consortio (The Role of the Christian Family in the Modern World)*, #10.

<sup>101</sup> John Finnis, *Aquinas: Moral, Political, and Legal Theory* (Oxford: Oxford University Press, 1998), footnote 11.

This understanding of civilization and citizenship thus has a deeper and more personal meaning than first perceived. It in fact takes on more personalism because it relates to human culture. The Pope states: "Civilization answers man's spiritual and moral needs. Created in the image and likeness of God, man has received the world from the hands of the Creator, together with the task of shaping it in his own image and likeness. The fulfillment of this task gives rise to civilization which, in the final analysis is nothing else than the 'humanization of the world'"<sup>102</sup>. This is why the phrase "culture of life" has come to replace "civilization of love", because civilization and culture can be treated as interchangeable and love gives birth to life. The family is the centre of the civilization of love, but it is also dependent upon it. We cannot understand the concept of civilization of love without clear understanding of the concept of man, person, the communion of persons and gift of self and vice versa, these concepts cannot be understood without a civilization of love<sup>103</sup>.

Overall, the notion of community and communion holds rich depth for conceptualizing citizenship. Set against the civilization of love, the family's communion and especially the mother's gift of her whole nuptial body within which the parent's conjugal love gives rise to the conception and formation of a child in love, should set the standard for all political activity and choice. Love, gift and service should mark a family politics concept of citizenship. So too should citizenship be conceived in terms of the notion of man, himself, being a "common good".

## (2) *Service to life*

Conjugal love is ordained by God for the transmission of the immense gift of life<sup>104</sup>. Thus openness to life is a condition and sign that conjugal love is authentic. Because of the Church's teaching on the inseparability of the unitive and procreative dimensions of the conjugal act it can state with joy that union gives birth and is lifegiving, just as life demands union if it is to be ordered to happiness. This service to life includes education because parents help the new person to live a fully human life.

The relevance of this aspect of the family to politics lies in some observations made by the Pope in his *Letter to Families*. He states there that "the gift of self gives birth to new life in whom the common good is realized"<sup>105</sup>. A newborn child realizes the common good of the family<sup>106</sup>. We have forgotten this fact in today's world which sees children as merely "taking up space" or as a "drain" on limited resources. Yet every child brings the common good to further realization and "completion". A child's life is a precious gift – the more children, the greater the common good, the greater the "us" instead of the "I". The Pope proclaims:

The common good of the whole of society dwells in man ...Man is a common good!...The glory of God is the common good of all that exists; the common good of the human race<sup>107</sup>.

In a family politics model of citizenship, therefore, the common good is that of the good of the person, every member of the family community. The family has its own particular responsibility for the common good in safeguarding the worth of the human person. From this flows the common good that we understand in a political sense. The gift of self bears fruit in human life. The gift of state and authority, nationality and culture bears fruit in citizenship. Upon conception, the citizenship of every human being has commenced. Citizenship is intimately tied to life; one cannot exist without the other.

The very beginning of life at conception is illustrative here. Life emerges from the communion of husband and wife as a creative gift from God. The parents participate in the creative act of God allowing Him to gift them through their gift to each other. A gift is something that is "for others". It is the most important dimension of the civilization of love. Individual actions are unimportant when compared with the understanding of man as "finding himself" by making a sincere gift of self. This gift of self is his freedom. A gift is freely given. It is because of this that individualism is the enemy of the civilization of love. Individualism defines freedom as the ability of each subject to define and do whatever he wants rather than recognizing and "giving himself" to objective truth. It is selfish. Personalism, on the other hand, which recognizes is the key to the civilization of love. Personalism views freedom as the ability of each subject to give himself as a gift to objective truth.

A family politics approach to citizenship, therefore, must frame its definition of citizenship in terms of life itself. Citizenship adheres to man from the very moment of existence. It is not granted by the will of a state but rather emerges as a gift. Just as authority is a gift from God that can be conceived as participation in God's eternal sovereignty, so too can citizenship be seen as a gift from God that emerges from membership of God's eternal Kingdom.

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<sup>102</sup> John Paul II, *Letter to Families*, #13.

<sup>103</sup> *Ibid.*

<sup>104</sup> Ramon Garcia de Haro, *Marriage and the Family in the Documents of the Magisterium* (San Francisco: St Ignatius Press, 1993), 355.

<sup>105</sup> John Paul II, *Letter to Families*, #11.

<sup>106</sup> *Ibid.*

<sup>107</sup> *Ibid.*

### (3) Participation in the development of society

The family's social task is that of being open to other families and to society. Its first and most fundamental contribution is that of the experience of communion and sharing that should characterize its daily life<sup>108</sup>. By its very existence, the family is a school of sociality. The family also contributes to society by means of specific works, especially that of hospitality be it realized through material or spiritual means. Families give service to each other in a more human and economical manner than the state. At the same time, the family should work to ensure that the state and society serve the family. Society and the state must make it possible for the family to obtain the helps of which it has need.

The principle of subsidiarity applies here. The rights of the family must be formally and clearly recognized. The family is the primary institutional unit of society and deserves from the State recognition of its both identity and status as a subject of society<sup>109</sup>. Antifamily ideologies and legislative failure concerning the family must be remedied. Yet the family must not be passive in expecting help.

The rights of the family are not the sum total of its individual members. The family is more than this. It is a subject in its own right. Consistent with the principle of subsidiarity, in its own way the family is a *sovereign* society deserving of its own status as a subject within society. It is THE sovereign society from which the rest of sovereignty draws strength and meaning. Nations and their cultures and languages have their own specific sovereignty. States – as distinct from nations – are less family-like but nonetheless have their own “soul” to the extent they live up to their nature as a “political community” juridically ordered towards the common good<sup>110</sup>.

The principle of subsidiarity thus assimilates the concepts of rights and responsibilities and looks beyond the dichotomy of these terms towards fresh concepts applicable to community living such as that of “completeness” and “honour”.

In speaking of the commandment to “Honour your father and mother” the Pope states that “...the divine Legislator could find no more appropriate word than this: Honour”<sup>111</sup>. The Pope's explicit reference to God as “Legislator” in this passage is significant. Honour is the attitude with which service is rendered to society. Honour is the approach with which lawmakers (ie politicians) should make legislation. Once again, it is a sincere gift of person to person. It is unselfish.

In making a case for the use of “honour” as a guiding principle for lawmakers, the Pope explains that the international community's beneficial recourse to human rights recognition has its place. Yet, he proposes that human rights, of themselves, are not enough. Human rights that lack the command to “honour” can only ever be fragile and token. They do not have the depth necessary to acknowledge any particular individual simply because they are an individual<sup>112</sup>. In other words, a human rights framework has a capacity to degenerate into a meaningless or worse derogatory, legal quagmire unless it is upheld by the moral imperative to “honour”. The Pope is firm in his recourse to the notion of honour:

It is not an exaggeration to reaffirm that the life of nations, of states, and of international organizations ‘passes’ through the family and ‘is based’ on the fourth commandment of the Decalogue.... In God's plan the family is in many ways the first school of how to be human. Be human! This is the imperative passed on in the family – human as the son or daughter of one's country, a citizen of the State, and we would say today, a citizen of the world<sup>113</sup>.

Accordingly, a family politics approach to citizenship encourages reconsideration of traditional understandings of rights and responsibilities. Instead of contractual relationships between autonomous individuals, citizenship requires recasting in the form of relationships built on honour. Politics should look to parents as the first teachers of civic virtue and citizenship virtue<sup>114</sup> for cues concerning citizenship education and practice. The education conducted through the family shows how education more generally should be conducted – with love, honour and hospitality. If “responsible” parenthood is not separable from the practice of virtue nor from the call to holiness, it can similarly be observed that “responsible” citizenship is inseparable from the practice of virtue and the call to holiness.

### (4) Participation in the life and mission of the Church

The Pope's last task ascribed to families in his *Familiaris Consortio* is that of participation in the life and mission of the Church. Just as the family participates in the development of society through its very nature, so too does it share in the saving mission of the Church. However whilst the family is the vital foundation of society, it is the Church who provides the foundation for the family by generating, educating and building up families as a Mother. She proclaims the Word of God, thereby revealing to the family its true identity and she enriches the family through the

<sup>108</sup> de Haro, *Marriage and the Family in the Documents of the Magisterium*, 366.

<sup>109</sup> John Paul II, *Letter to Families*, #17.

<sup>110</sup> Ibid.

<sup>111</sup> John Paul II, *Letter to Families*, #15.

<sup>112</sup> Ibid.

<sup>113</sup> Ibid.

<sup>114</sup> John Paul II, *Apostolic Exhortation: Familiaris Consortio (The Role of the Christian Family in the Modern World)*, John Paul II, *Letter to Families*, #16.

celebration of the sacraments which allows charity to become its soul and guide. Through its very tasks, the family participates in the threefold mission of Christ as prophet (by welcoming and announcing the word of God), priest (through the daily realities of married and family life which sanctify the family and in turn sanctify the ecclesial community and the world) and king (by putting itself at the service of men as Christ did and as he asks his disciples to do).

The relevance of this task for the concept of citizenship lies in the observation that citizenship is at one and the same time something political, cultural and spiritual. It involves nations and states and the Church. A family politics approach to citizenship must involve consideration of Church-State relations. Just as marriage was established by God, so too is it worth remembering that political power is established by God. Aquinas taught that the relationship of ruler and ruled is not result of the Fall. It would have existed in the state of innocence<sup>115</sup>. Politics, and more specifically citizenship, is intrinsic to man. Citizenship cannot be isolated from its religious and spiritual foundations.

The prayer that Jesus taught us, the Our Father, reminds us of the significance of politics and citizenship in the context of our eternal destiny. It prays: "Our Father, Who art in heaven, hallowed be Thy name. *Thy kingdom come*, Thy will be done on earth as it is in heaven....". Recognition of political authority as participation in eternal sovereignty – the coming of the eternal kingdom - is an important underpinning to a family politics approach to citizenship. Citizenship cannot be split into opposing camps that divide earthly and heavenly realities. While not diminishing the due spheres of responsibility that each possess, the earthly political kingdom is not divorced from the heavenly kingdom to which all human beings are called. Recognition of the heavenly dimension to citizenship imbues it with renewed meaning and importance. If we conclude with respect to the family that the grandeur of conjugal love is fragile and only union with God can preserve it, so too must we hasten to the same conclusion with respect to citizenship.

## Conclusions

This paper traversed citizenship theory and human rights and international law literature to explore the plight of frozen embryos and to develop a fresh perspective on "family politics" that may illuminate future understandings of citizenship. Several conclusions concerning citizenship can be drawn from the discussion. Citizenship theory is currently witnessing a revival of interest, and is characterized by fluidity and a state of flux. Contemporary Australian concepts of citizenship are inadequate and unjust in recognizing the political status of a significant population of unborn Australians. Although current Australian legislation denies citizenship to frozen embryos, opportunities may yet exist for political recognition and citizenship status to be achieved for the cryopreservation generation.

The case of frozen embryos suggests that citizenship should be considered as emerging from human existence (defined from the moment of conception as opposed to birth) as opposed to being granted by the will of a state. Furthermore, renewed investigation is required regarding the meaning and relationships between the concepts of nation, state, culture, politics, Church-state relations, the common good, and subsidiarity vis-à-vis citizenship. A possible avenue for pursuing a fresh perspective on these traditional political themes rests in Pope John Paul II's notion of "family politics", an approach argued by this paper to include the application of the theology of the family to otherwise standard political concepts. In this way, realities concerning the family community are used to inform and reinvigorate appreciation of the true nature of the political community.

Using principles associated with this "family politics" perspective, citizenship could be reconsidered as participation in the gift of God's eternal sovereignty. Other conclusions to emerge from a family politics interpretation of citizenship suggest that fidelity and fruitfulness are the two signs of true love and that if we are to have a civilisation of love, we must assess and judge our nation and our state by these signs. Because of this, a true understanding of citizenship might incorporate an appreciation of citizenship as something lasting and irrevocable in terms of its association with human existence. The intergenerational significance of the family being considered a "communion of generations"<sup>116</sup> also promotes the observation that citizenship is not static in quality.

For Pope John Paul II (as articulated in his *Familiaris Consortio* and *Letter to Families*), the logic of citizenship resides in the logic of the common good. And that logic is that the more common the good, the more properly one's own it becomes – mine – yours – ours<sup>117</sup>. The beauty of citizenship, and politics more generally, is that it encourages us to take on this logic of the common good and to translate it into every aspect of our lives. The Holy Father reminds us of the importance of this permeation when he observed:

We know that "according to the Gospel of Matthew the Final Judgment will contain another list, solemn and terrifying: "Depart from me... for I was hungry and you gave me no food, I was thirsty and you gave me no drink, I was a stranger and you did not welcome me, naked and you did not clothe me" (Mt 25:41-43). To this list also we could add other ways of acting, in which Jesus is present in each case as the one who has been rejected. In this way he would identify with the abandoned wife or husband, or with the child conceived and then rejected: "You did not welcome me!". This judgment is also

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<sup>115</sup> Dino Bigongiari, ed., *The Political Ideas of St Thomas Aquinas: Representative Selections* (New York: Hafner Press, 1953).

<sup>116</sup> John Paul II, *Letter to Families*, #10.

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

to be found throughout the history of our families; it is to be found through the history of our nations and all humanity. Christ's words "You did not welcome me", also touch social institutions, governments and international organizations<sup>118</sup>.

This paper started with Christ's words that placed the child at the heart of the Kingdom of God. The plight of the Lost Citizens of Cryopreservation reminds us that we fall short of Christ's example until the life of every conceived human being is respected and their status as citizens worthy of honour is promoted.

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<sup>118</sup> Ibid, #22.

## BIBLIOGRAPHY

- Barbalet, Jack M. "Developments in Citizenship Theory and Issues in Australian Citizenship." *Australian Journal of Social Issues* 31, No 1 (1996): 55-72.
- Bethke-Elshstain, Jean, ed. *The Family in Political Thought*. Amherst: The University of Massachusetts Press, 1982.
- Bigongiari, Dino, ed. *The Political Ideas of St Thomas Aquinas: Representative Selections*. New York: Hafner Press, 1953.
- Castles, Stephen, and Alastair Davidson. *Citizenship and Migration: Globalization and the Politics of Belonging*. Hampshire: MacMillan Press Ltd, 2000.
- Castles, Stephen, and Gianni Zappala. "The Rights and Obligations of Immigrant Citizens and Non-Citizens in Australia." In *Citizenship in a Global World: Comparing Citizenship Rights for Aliens*, edited by Atsushi Kondo. Hampshire: Palgrave, 2001.
- Chesterman, John, and Brian Galligan. *Citizens without Rights: Aborigines and Australian Citizenship*. Cambridge: Cambridge University Press, 1997.
- de Haro, Ramon Garcia. *Marriage and the Family in the Documents of the Magisterium*. San Francisco: St Ignatius Press, 1993.
- Delanty, Gerard. "Beyond the Nation-State: National Identity and Citizenship in a Multicultural Society - a Response to Rex." *Sociological Research Online* 1, No 3 (1996).
- Finnis, John. *Aquinas: Moral, Political, and Legal Theory*. Oxford: Oxford University Press, 1998.
- . "Is Natural Law Theory Compatible with Limited Government?" In *Natural Law, Liberalism, and Morality*, edited by Robert George. Oxford: Clarendon Press, 1996.
- . *Natural Law and Natural Rights*. Oxford: Clarendon Press, 1980.
- Fleming, John I, and Michael G Hains. *What Rights, If Any, Do the Unborn Have under International Law?*, 2003.
- George, Robert. *In Defense of Natural Law*. Oxford: Oxford University Press, 1999.
- Ginsborg, Paul. "The Politics of the Family in Twentieth-Century Europe." *Contemporary European History* 9, No 3, Nov (2000): 411-44.
- Greenberg, Stanley B, and Theda Skocpol. "Democratic Possibilities: A Family-Centred Politics." *The American Prospect*, No 35, Nov-Dec (1997): 34-38.
- Heater, Derek. *What Is Citizenship?* Cambridge: Polity Press, 1999.
- Insin, Engin F, and Patricia K Wood. *Citizenship and Identity*. London: Sage Publications, 1999.
- John Paul II. *Apostolic Exhortation: Familiaris Consortio (the Role of the Christian Family in the Modern World)*, 1981.
- . *Letter to Families*. Homebush, NSW: St Pauls, 1994.
- Kaye, Stuart, and Ryszard Piotrowicz. *Human Rights in International and Australian Law*. Chatswood, NSW: Butterworths, 2000.
- Kymlicka, Will, and Wayne Norman. "Return of the Citizen: A Survey of Recent Work on Citizenship Theory." *Ethics* 104, January (1994): 352-81.
- Leo XIII. "Encyclical Letter, Diuturnum Illud (on Government Authority)." In *The Popes against Modern Errors: 16 Papal Documents*, edited by Anthony J Mioni. Illinois: Tan Books and Publishers Inc, 1881.
- Linklater, Andrew. *The Transformation of Political Community: Ethical Foundations of the Post-Westphalian Era*. Cambridge: Polity Press, 1998.
- Lister, Ruth. *Citizenship on the Margins*. Vol. Social Work Research Centre, University of Stirling, Scotland. Scotland: Paper presented at "On the Margins: Social Exclusion and Social Work Conference", Social Work Research Centre, University of Stirling, 1997b.
- . *Citizenship: Feminist Perspectives*. New York: New York University Press, 1997a.
- Maritain, Jacques. *Man and the State*. Washington DC: The Catholic University of America Press, 1951.
- . *The Person and the Common Good*. London: Geoffrey Bles Ltd, 1948.
- McKinnon, Catriona, and Iain Hampsher-Monk. *The Demands of Citizenship*. New York: Continuum, 2000.
- Miller, David. *Citizenship and National Identity*. Cambridge: Polity Press, 2000.
- Pius XI. *Encyclical Letter: Quas Primas (On the Feast of Christ the King)*, 1925.
- Rowland, Tracey. *Culture and the Thomist Tradition: After Vatican II*. London: Routledge, 2003.
- Steinbock, Bonnie. *Life before Birth: The Moral and Legal Status of Embryos and Fetuses*. New York: Oxford University Press, 1992.
- Tomlinson, John. "Citizenship and Sovereignty." *Australian Journal of Social Issues* 31, No 1 (1996): 19-38.
- Tonti-Filippini, Nicholas. "The Embryo Rescue Debate: Impregnating Women, Ectogenesis, and Restoration from Suspended Animation." *The National Catholic Bioethics Quarterly* 3, No 1, Spring (2003): 111-37.
- Urquhart, Gordon. "The Vatican and Family Politics." *Second Report of the Centre for Research on Population and Security on Conservative Catholic Influence in Europe*, <http://www.population-security.org/cffc-07-02>., last visited 16 September 2003 (1997).