

# Embryo Adoption: A Humane and Compassionate Response to Frozen Embryos

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One of the most serious ethical concerns with in vitro fertilization (IVF) is that for every child born with the help of IVF there are typically many other children—the “spare” embryos produced by the IVF process—who are kept in cryostorage and consigned to an uncertain fate. Most of these human beings will remain frozen indefinitely until their parents eventually stop paying the storage fees and they are allowed to die. Although the lack of reporting requirements makes it difficult to get accurate numbers, experts estimate that there are roughly five million frozen embryonic children (some put the number as high as ten million) in the United States alone.<sup>1</sup>

Biologically, there is no doubt that these are genuine human beings, just like you and me at that early stage of life. All that they need to continue their lives and grow to maturity—allowing their unique human potential to unfold—is an adequate environment that provides them with oxygen, nutrition, and protection, and at this stage of life the only environment that can provide them with those basic needs is a woman’s womb.

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1 Jessica Hamzelou, “Inside the Strange Limbo Facing Millions of IVF Embryos,” *MIT Technology Review*, January 13, 2025, <https://www.technologyreview.com/2025/01/13/1109922/inside-the-strange-limbo-facing-ivf-embryos/>.

## Why Embryo Adoption?

For all who recognize the profound, equal, and intrinsic dignity of every human being, the fate of these tiniest and most vulnerable of human lives is a tragedy that calls for a humane and compassionate response. That response is embryo adoption. In other words, when the parents of frozen embryos are unable or don’t want to gestate and raise them, we should treat these embryonic orphans just like other orphaned children and facilitate their adoption into a loving family.<sup>2</sup> (We should also enact sensible regulations that prevent IVF clinics from routinely creating “spare” embryos in the first place, as Germany and Italy have done.<sup>3</sup> These countries have also

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2 Nothing that I say here should be taken as a condemnation of the embryos’ parents, who are typically just taking their doctors’ advice and following the standard IVF protocols, without even being given the option to limit the number of embryos that they attempt to produce. Further, most couples struggling with infertility are also unaware of alternatives to IVF—such as NaProTechnology and other forms of restorative reproductive medicine—that, unlike IVF, actually identify and treat the underlying causes of infertility. These alternatives are not only more successful and less costly than IVF but also involve significantly fewer health risks to mother and child and are free from the many ethical concerns surrounding IVF.

3 *Legal Treatment of Embryos Created Through IVF* (Law Library of Congress, March 2024), <https://tile.loc.gov/storage-services/service/l1/l1glrd/2024555202/2024555202.pdf>.

passed regulations that make it illegal to create embryos for the purpose of selling them to prospective parents—a practice that unfortunately already occurs here in the United States.<sup>4</sup>)

## How Does Embryo Adoption Work?

There are several agencies that facilitate embryo adoption, but the only fully licensed adoption agency that does embryo adoption is Nightlight Christian Adoptions, which has an embryo adoption program called Snowflakes.<sup>5,6</sup>

Like other adoption agencies, Snowflakes requires that prospective adoptive parents complete a home study with a licensed adoption agency and facilitates “matching” between the embryos’ current legal parents and the prospective adoptive parents. This is similar to the matching process that occurs between birth mothers and prospective adoptive parents in infant adoption.

In other words, parents who want to place their embryos for adoption would contact Snowflakes (or another agency) and submit a family profile, including relevant medical history and information about the embryos. Prospective adoptive parents likewise prepare a family profile and also indicate to Snowflakes

what their preferences are regarding things like racial background and the number of embryos they would like to adopt (Snowflakes tries to keep siblings together, asking prospective adoptive parents to adopt all of the remaining embryos from a particular set of parents).

Once a match has been agreed upon by both parties, an adoption contract is signed, officially transferring ownership of the embryos to the adoptive parents. Unlike the adoption of already born children, the embryos are legally treated as property rather than as persons. For this reason, the embryo adoption contract is a property transfer contract. Finally, the embryos are shipped to a participating fertility clinic, where the embryos will be transferred one or two at a time into the uterus of the adoptive mother in the hopes of achieving a successful pregnancy.

## Embryo Adoption Success Rate and Best Medical Practices

Sadly, although clinics do their best to ensure that the conditions in the adoptive mother’s uterus are favorable (often by giving the woman estrogen to build up her uterine lining and then giving progesterone both before and after the embryo transfer to facilitate implantation), the embryos do not always implant for various reasons (sometimes simply because they are not healthy enough). But the implantation rates following the transfer of previously frozen adopted embryos are no worse, on average, than implantation rates in IVF more generally: Roughly one-third of embryo transfers result in implantation, and roughly one-fourth result in live birth. The process does, therefore, involve some risk both to the child and to the adoptive mother, especially if miscarriage occurs after implantation. But the embryo transfer protocol itself has minimal risks to the adoptive mother, and for the embryo the risks are clearly outweighed by the prospective benefits, given that the alternative is indefinite cryostorage and eventually death.

Just like other forms of adoption, embryo adoption sometimes results in heartache and

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4 The California Conceptions Donor Embryo Program buys eggs and sperm from “donors” and then uses them to make embryos for prospective parents, who pay a handsome fee for this service. Although a sponsored link to this program is the first thing that appears in response to a Google search for “embryo adoption agencies,” this program is the antithesis of embryo adoption. The purpose of embryo adoption is to welcome existing embryos into a loving family that will gestate and raise them, but programs like this one actually create new embryos for prospective parents.

5 “Building Families Together,” Snowflakes Embryo Adoption Program, accessed March 2, 2025, <https://nightlight.org/snowflakes-embryo-adoption-donation/>.

6 Other agencies, such as the National Embryo Donation Center and Embryos Alive, try to mimic adoption best practices to some extent but are not licensed adoption agencies. There are also embryo donation programs run by some fertility clinics, which typically involve anonymous embryo donation and more generally do not follow the best practices of adoption.

disappointed hopes, but it also involves many joys, including allowing the adoptive mother to gestate and breastfeed her adoptive child and thus begin the bonding process even earlier than in traditional postnatal adoption, as well as enabling the adoptive parents to ensure that the child is well cared for during pregnancy (something that is usually far from guaranteed in infant adoption) and saving the child from having to suffer the “primal wound” of separation from the birth mother.<sup>7</sup> Ultimately, it is the only humane and compassionate way to deal with these millions of children whose lives are currently in limbo and whose only prospect for survival is to be adopted by loving parents willing to gestate and raise them.

What can legislators do to help? Apart from passing sensible IVF regulations to prevent additional human beings from being created only to be consigned to indefinite cryostorage, legislators can help the millions of embryonic human beings who already exist by promoting and facilitating the practice of embryo adoption. Here are two concrete suggestions: First, just as the government facilitates postnatal adoption through measures like tax credits for adoption-related expenses, the same should be

done for embryo adoption. Currently, because embryo adoption is not legally treated as an adoption, couples who pursue embryo adoption do not qualify for adoption tax credits, making the costs of embryo adoption—which include both agency fees and the costs of the embryo transfers, neither of which is usually covered by insurance—prohibitive for some people. Changing the legal definition of adoption to include embryo adoption or changing the tax rules to allow embryo adoption to count for the adoption tax credit is one important step that legislators should take to promote the compassionate and life-saving practice of embryo adoption. Second, legislators should place legal limits on the number of years that parents can keep embryos in cryostorage without any attempt or other sign of genuine intent to try to gestate them. After that time limit has passed, the embryos should be declared abandoned and they should be made available for adoption.

Although such measures will not resolve the problem posed by these millions of frozen embryos, they are crucial steps toward building a society in which even the smallest and most vulnerable of our fellow human beings are treated with the dignity and respect that they deserve.

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<sup>7</sup> Nancy Newton Verrier, *The Primal Wound* (Gateway Press, 1993).

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