

Reproductive Technologies

– *The Irish contribution to an international debate*

Pádraig Corkery

Since the birth of Louise Brown in 1978 there has been much discussion worldwide on the ethics of reproductive technologies. Professional ethicists and the public at large have addressed significant questions concerning the nature of human parenthood, the status of human life at its earliest stage of development and the role of science in the area of human reproduction. Societies have, in general, argued that reproductive technologies have societal consequences and should therefore be regulated by society through the civil law. Many societies set up interdisciplinary groups to assist in the forming of legislation in this area. The commission set up under the leadership of Dame Warnock in Britain is probably the best known example of the work of such a group and their influence on the formation of legislation.

The fundamental issues raised by reproductive technologies have generated much debate and disagreement. There is no unanimity on ethical questions concerning the status of the pre-implanted embryo or on the nature and scope of human parenthood. This debate is well-documented in the journals and textbooks of bioethics over the past 25 years. It is no surprise therefore that the regulation governing the practice of IVF and other reproductive technologies differ significantly from society to society. The shape and content of legislation in this area flow naturally from a society's response to the core ethical issues.

The response of the Catholic tradition to IVF and other reproductive technologies is clearly set out in *Donum Vitae* published in 1987. A central argument of this document is: 'what is technically possible is not for that very reason morally admissible'.¹ As moral agents responsible for our actions we are called to examine the means used to achieve the undeniable good that is the birth of a child. After a systematic examination of the process of IVF,

1. *Donum Vitae*, Introduction, Section 4.

Pádraig Corkery is a priest of the diocese of Cork and Ross. He lectures in Moral Theology at St Patrick's College, Maynooth, Co. Kildare.

rather than just the consequences, reproductive technologies were rejected as incompatible with a Christian anthropology and a Christian understanding of responsible human stewardship. In particular the practices of freezing, discarding and experimenting on 'surplus' embryos was rejected as incompatible with the respect due to the embryo. Catholic tradition claims that the embryo is a part of the human family and should 'be respected and treated as a person from the moment of conception'.² Furthermore the process of IVF was deemed to be inattentive to our nature as embodied persons called to procreate through bodily union in the context of marriage. The introduction of third parties either as donors of genetic material or as surrogates was seen to be counter to the Christian vision of marriage and the family as the locus for the procreating of children. Finally *Donum Vitae* raised important questions about the language of 'a right to have a child' and its possible negative impact on children and their dignity.³ A more recent pastoral by the Irish Bishops on reproductive technologies reflects many of the same concerns and conclusions.⁴

Irish society is unique in how it has responded to date to the question of regulating IVF. Unlike most countries there is no legislation here governing this area of life. Instead the Codes of Conduct of the Irish Medical Council and the Irish Institute of Obstetricians and Gynaecologists have provided the only guidelines in this area. Over the years these have evolved reflecting changing attitudes to certain aspects of reproductive technologies. Earlier versions, for example, restricted IVF to married couples and excluded the donation of gametes. The most recent Guidelines make IVF more readily available and allow for donation of both gametes and embryos.⁵ The absence of legislation in this area was perceived by most commentators to be unsatisfactory. In response to this unease and to directives from the EU the former Minister of Health Micheál Martin set up the Commission on Assisted Human Reproduction in March 2000. The brief of the Commission was to 'prepare a report on the possible approaches to the regulation of all aspects of assisted human reproduction and the social, ethical and legal factors to be taken into account in determining public policy in this area'. As part of the process the

2. Ibid, Chapter 1, Question 1

3. Ibid, Chapter 2, Question 8. 'A true and proper right to a child would be contrary to the child's dignity and nature. The child is not an object to which one has a right ...'

4. Bishops' Committee on Bioethics, *Assisted Human Reproduction: Facts and Ethical Issues*, Veritas, 2000

5. The Medical Council, *A Guide to Ethical Conduct and Behaviour* (Sixth Edition), 2004. Section F.

Commission organized a public conference in February 2003.⁶ Last month their long awaited Report was published and presented to the Government for their consideration.⁷ After deliberating on the Report the Government is expected to introduce legislation to govern this important and expanding area of contemporary medicine.

The Commission made over 40 recommendations governing the whole area of the regulation of assisted human reproduction. Some of these are quite controversial and radical in their scope and are certain to be the focus of energetic debate in the months ahead. The more controversial ones involve the nature of human parenthood and the treatment of human life in the earliest stage of development. The following recommendations are particularly challenging, both from the perspective of ethics in general and from the perspective of the anthropology and world vision of *Donum Vitae*.

No. 10 'Appropriate guidelines should be put in place by the regulatory body to govern the options available for excess frozen embryos. These would include voluntary donation of excess healthy embryos to other recipients, voluntary donation for research or allowing them to perish.'⁸

No. 16 'The embryo formed by IVF should not attract legal protection until placed in the human body, at which stage it should attract the same level of protection as the embryo formed *in vivo*.'⁹

No. 30 'Surrogacy should be permitted and should be subject to regulation by the regulatory body.'¹⁰

No. 34 'Embryo research, including embryonic stem cell research, for specific purposes only and under stringently controlled conditions, should be permitted on surplus embryos that are donated specifically for research. This should be permitted up to fourteen days after fertilisation.'¹¹

No. 36 'Regenerative [therapeutic cloning] medicine should be permitted under regulation.'¹²

No. 40 'Pre-implantation genetic diagnosis (PGD) should be allowed, under regulation, to reduce the risk of serious genetic disorders. PGD should also be allowed for tissue typing only for serious diseases that cannot otherwise be treated.'¹³

6. www.cabr.ie

7. *Report of the Commission on Assisted Human Reproduction*, April 2005. The text is available on the Department of Health and Children website, www.dohc.ie/

8. Ibid, xv.

9. Ibid, xvi.

10. Ibid, xvii.

11. Ibid.

12. Ibid, xviii.

13. Ibid.

From the perspective of the Catholic moral tradition and, indeed, the ethical vision of many people outside the Catholic community, these recommendations are very problematic. They attach little value to the embryo in the early stages of its development prior to implantation. The recommendation that experimentation on surplus embryos and embryonic stem cell research be allowed deny the embryo any intrinsic value. In a very dramatic way the acceptance of therapeutic cloning reduces the embryo to a means to the health and well-being of others. These recommendations betray a profound lack of a sense of awe and respect for the embryo at the beginning of its journey towards maturity. The availability of PGD also raises serious questions about how we value human life in society. Are human dignity, respect and worth intrinsic to persons or are they dependent on health? In this regard these recommendations have far reaching consequences for the ethos of Irish society. The controversial nature of these recommendations is reflected in the fact that they did not receive the unanimous approval of the Commission. This lack of consensus within the Commission itself is explicitly acknowledged in the Report in two well-argued dissenting opinions.¹⁴ One of these considers the status of the embryo while the other examines the ethics of surrogacy.

Chapter 5 of the Report identified within Irish society on the question of assisted human reproduction several core areas of ethical agreement and disagreement.¹⁵ It identified three broad areas of disagreement; the status accorded the *in vitro* embryo, the availability of assisted human reproduction to persons other than married couples, and the status of the procreative act itself. Clearly these are central issues and will be the focus of the expected debate surrounding the Report on the shape of future legislation.

Though the above topics are undoubtedly the source of disagreement amongst reasonable people there is a more fundamental area of disagreement that was not explicitly acknowledged in the Report. Within the Irish and international debate on reproductive technologies there is evident a basic disagreement about how we 'do' ethics. How do we decide what is ethically acceptable? Many commentators in this debate measure goodness and acceptability by reference to some approved consequence of an action. Some argue that because reproductive technologies enables couples to have children it must be seen as a 'good' act. It generates human happiness and therefore must be ethically acceptable. Similarly some argue that since research on the human embryo

[including embryonic stem cell research and therapeutic cloning] has potential benefits for present and future generations it must be seen as a 'good'. In the discussion following the publication of the Report there has been almost an exclusive focus on the 'end' of reproductive technologies rather than on the actual process itself.

Traditional Christian morality would reject this line of reasoning and insists that the goodness of an action cannot be properly evaluated by looking at the consequences only. Rather, it argues, we must look at the act itself, the intention of the agent and the circumstances before we can adequately arrive at an evaluation. All this is summed up in the age-old saying that the 'end doesn't justify the means'. More concretely it argues that there are some things we should never do irrespective of the consequences. Traditional examples often cited include killing the innocent and treating another person as a means and not an end in him/her self. In many areas of life this wisdom is readily accepted; there is general disapproval of killing of the innocent in order to achieve the laudable end of shortening a war or achieving victory over our foe. In one sense the debate ahead could be a misplaced debate if it focuses exclusively on the specific issues of the status of the embryo, the nature of human parenthood and the nature of human sexuality. As important as these questions are, the question about the 'doing' of ethics is even more important. How as a society do we decide what is 'good', 'ethical', 'in keeping with human dignity'? Can consequences alone give us a complete picture of the moral quality of a human action?

The Report will undoubtedly stimulate lively debate in the months ahead about the possible shape of legislation in the area of reproductive technologies. Professor Donnelly, who acted as chairperson of the Commission, has done a service to the Irish debate by producing such a well researched document and a clear set of concrete recommendations.

14. Ibid, 80-85.

15. Ibid, 30-37.