



SUBMISSION TO THE
COMMISSION ON ASSISTED HUMAN REPRODUCTION

MOTHER AND CHILD CAMPAIGN

60a Capel Street, Dublin 1

www.motherandchild.ie

info@motherandchild.ie

INTRODUCTION

In introducing this brief submission to the Commission on Assisted Human Reproduction we would wish firstly to state that we make no pretence that it is an exhaustive legal or medical study of the issues involved. The Commission has available to it all the relevant information required without recourse to the public submission process and as such it is our view that there is nothing further that can be added. It is our intention therefore to confine ourselves to outlining a particular perspective, which we have reason to believe is widely shared within the general public so that the Commission may be aware of it.

The Mother and Child Campaign, inclusive of Youth Defence, has a relatively long record of activism on what may loosely be termed the “life issue”, and while the political context has been to focus our attention and activities, in particular, on the consequences of the X Case judgement, you will understand immediately that the questions before the Commission have a direct impact on areas of our fundamental concern.

Naturally the area of human reproduction, in and of itself, raises profound moral questions which have been hotly debated in Ireland over many years, even decades. Where the issues arise from assisted reproduction many further difficulties arise. It is of course a tragedy fully understandable only to infertile couples themselves when the natural and normal processes of reproduction are not possible and they find themselves whatever the cause to be infertile. The many individual stories such couples can tell are heartrending to say the least, and it is incumbent upon any person or organisation to approach the question with cautious regard for the deep emotions involved.

Insofar as advances in medical science have made possible many innovative techniques in the area of assisted reproduction we must however be conscious that in giving due weight to the instinctive desire to do all we can for infertile couples we are also giving due weight to the rights of others. In particular to the rights of the child or children which will result from medical assistance and in this instance understanding that the right to life is the most fundamental right of any person, superior and antecedent to all others, since objectively speaking all other rights are contingent on the protection of this first. We must be conscious also that such measures as are introduced to provide for assisted reproduction do not in practice have a more extensive application.

It is a regrettable fact that in other jurisdictions the availability of certain techniques for assisted human reproduction have not always had such a regard for the most fundamental right to life and as such have led to practises which are abhorrent to civilised conduct. The Commission is, at least morally, charged with insuring that such practises are not introduced in Ireland.

The Mother and Child Campaign proposes to restrict itself in this submission to responding from the perspective of our members and supporters to the key issues guidelines published as an aid by the Commission itself. We believe this will be most useful to yourselves in understanding how any report or proposals of the Commission will be received. We naturally reserve the right to add significantly points in the context of possible future debate in the public arena.

ISSUES

Legislation or reliance on medical ethics

The Mother and Child Campaign believes that legislation is necessary in the area of assisted human reproduction. Naturally while such legislation would have due regard for current medical practice as specified in the current medical guidelines this is not the only question arising. Since the medical advances in this area raise such profound moral issues it is not, we believe, correct or acceptable that decisions should be made by the medical profession outside a context in which the general direction of actions is not subject to scrutiny and control by society as a whole. Especially so since such control may involve restrictions on what is medically possible. Moreover considering the possibility of abuses in this area, the lack of legally enforceable guidelines either on the practises engaged in or the persons who may engage in such practises could result in foreseeable dangers for both mothers and their children.

Replacement or freezing of embryos

The number sheer number and scale of moral and ethical difficulties raised by the assisted reproductive procedure commonly known as I.V.F. it is impossible to escape the conclusion that it falls into the area of methods the positive good of which is more than outweighed by its negative consequences.

The wholly artificial method by which new human life is created is in itself objectionable but it is certainly the manner in which the new human being is thereafter dealt with which makes it wholly unacceptable. The Mother and Child Campaign would contend that the current medical guidelines which state that “Any fertilised ovum must be used for normal implantation and must not be deliberately destroyed”, is in practise no more than a damage limitation exercise seeking to ensure that an already bad situation is not made worse. It may well be that practises in other jurisdictions have so anaesthetised our sensibilities on these matters as to grant such guidelines the aura of having full respect for human life but in reality they are more noteworthy for what is allowed than for what is prevented.

Firstly the practise whereby multiple embryos are created at the same time almost inevitably leads to the creation of surplus, certainly so in the generality of I.V.F. This is not of course absolutely necessary insofar as one ovum could be fertilised at a time, yet the argument is made that there is an increase in expense involved. Surely this is incredible in the context of speaking of human lives and is not one which would ever be made publicly at least by anyone speaking of born human beings i.e. that potential expense should expose their very lives to danger.

The demand for freezing to be made available is repugnant in the extreme. Again the briefest consideration of what we would make of such a suggestion in the context of born persons is enough. In reality the freezing process although objectionable in each and every case gives rise inevitably to the question of what to do with such stored embryos where a decision is subsequently made, either because the original implantation was successful, or the couple decides for whatever reason to refuse implantation in the unborn children, albeit at such an early stage of development being left in a limbo. It is positively hellish in its implications whatever the practical arguments may be.

Of course it may be contended that such unimplanted embryos may be used by other infertile couples by way of a macabre adoption procedure but this again raises more questions than it answers. Is there to be a compulsion placed on the “genetic parents” to give up their embryos for such adoption if (a) they decide not to have them implanted or (b) after a certain passage of time in which they have refused implantation.

There is the whole issue of the time limit on storage anyway regardless of what is subsequently done. Surely it is not envisaged that such storage would be permanent given that both genetic parents may well be deceased or the female partner may be beyond child bearing age relatively soon after storage begins. In truth every sensible person knows that as soon as the demand for freezing is accepted the logical demand which will follow is for disposal. Such a demand we believe will be irresistible in the medium to long term. This would be nothing short of state sanctioned murder and while perhaps physically different from the disposal of large numbers of born persons it would not in any degree differ philosophically or morally.

The Mother and Child Campaign notes that the current Medical Council guidelines are a sincere effort to maintain respect for human life in a difficult area ethically. We further understand that the practise of I.V.F. was developed as a sincere effort to address the tragedy of infertility. We cannot however maintain a naïve belief that the guidelines as currently stated could survive the extension of the practise nor can we accept that the obvious dangers to the right to life of the unborn child are a just price to be paid for the object sought.

THE UNBORN

The question of whether the embryo enjoys the protection given to the “unborn” in Article 40.3,3 of the Constitution is of course crucial to this whole area, legalistically speaking. It is, has been, and will continue to be the contention of the Mother and Child Campaign that the unborn child is a full human being from the moment of conception on the understanding that conception in this context is for technical exactitude, the moment of fertilisation. This is quite separate from our reading of the term “unborn” in the Constitutional provision. It is to be hoped that the term is concomitant with our use of the term unborn child and there is some legal substance to that hope in the judgment on Mr. Justice Hamilton in the case of S.P.U.C. vs. Well Woman Clinics and Open Door Counseling. However to rely on this statement made obiter in the judgment would be negligent of the minimum duty of care incumbent on any Pro-Life organisation. We would be inclined therefore to agree with the assertion that the term “unborn” is currently without reliable legal definition and it would be remiss not to raise this in the context of the proposed referendum on the general issue of abortion. The Mother and Child Campaign strongly advocates the addition of a definition of “unborn” in any amendment which is brought forward for the peoples decision since this is the only acceptable way to legal clarity on the matter.

Related Issues

The Mother and Child Campaign are extremely concerned that, coupled with a lack of definition for the unborn and all that implies for the protection of embryos, the practice of embryo storage, which may result from a recommendation by this Commission, will eventually lead on to embryo research with all that this implies. This concern is heightened by the Governments decision not to afford explicit for the unborn child from conception in the Protection of Human Life in Pregnancy Act 2002.

We would urge the Commission to issue the strongest condemnation of human experimentation in the context of its deliberations.

CONCLUSION

The Mother and Child Campaign are concentrating on putting forward to the Commission in the strongest possible way that its role is much broader than the facilitation of assisted human reproduction. The consultation process is consequently not a mere formality in the sense of ascertaining views and then proceeding to recommend all that is medically possible as being thereby acceptable. The Commission has a primary duty, we believe, to do all in its power to ensure that whatever practices or even currently maintained as such as have the fullest respect for the humanity of all the parties involved and in particular for the unborn child since it is obviously the most vulnerable.

We understand of course that the Commission, in seeking submissions in the first instance, is cognisant of that duty and would not wish to be drawn into the inevitable political controversy which would result from recommending a liberalisation of Irelands laws in the area of its remit. Most especially if pressure were seen to be placed by recommendations of the Commission for a liberalisation of current medical guidelines which are in any case already excessively permissive.

We commend the Commission therefore to thinking carefully, and in the widest terms, of the moral social and political implications of the trust that has been placed in them.