

## A Brave New World?

### Response to the Government Discussion Paper "New Reproductive and Genetic Technologies: Setting Boundaries, Enhancing Health"

October 1996

#### Introduction

In responding to the Government discussion paper on reproductive technologies, the Evangelical Fellowship of Canada (EFC) is building on the submission to, and appearance before, the Royal Commission on New Reproductive Technologies. The brief made to the Royal Commission is attached. The EFC is a national association of churches, para-church organizations and 28 denominations.

We applaud the Government's attempt to deal with the potential significant threat to human dignity, health, safety, and the exploitation of women and children through reproductive technologies. We affirm the government's desire to protect and promote the best interests of children. The Government has done a commendable job in Bill C-47 of prohibiting undesirable reproductive technological practices. Particularly noteworthy is the de-commercialization of the reproductive field by the prohibition of payment for surrogacy, sperm, eggs, zygotes and embryos.

Reproductive technology raises profound social, moral and philosophical issues. Some would argue that recent technological developments in this field offer the promise of a new world of exciting possibilities. However, there is no obligation to use all that technology offers. Our discussions about, and use of, reproductive technologies must reflect our respect for life and specifically our attitude toward children as well as ourselves. Our society seems, at times, to be driven by a need to consume material goods, be they cars, clothes, houses or electronic devices. This focus on purchase and possession may overreach its appropriate bounds, spreading into primary relationships.

Reproductive technologies are concerned with conceiving, bearing and raising children. Procreation is about parenthood, about the conceiving and begetting of human beings, not the production of human beings. These technologies make us

vulnerable to the temptation to design or perfect human beings, an endeavour which we reject. While the desire to procreate is natural and fulfils God's mandate to us, there are principles underlying these practices which should guide our activities.

#### Principles

In approaching the issues of reproductive and genetic technologies, we wish to identify some of the key principles that form the basis for our comments. These guiding principles are echoed in Canadian social policy and in our legal system: namely, the sanctity of life, the responsibility of parenthood, care for the vulnerable, and compassion for others.

##### *Sanctity of Life*

As a faith community, we believe that all humans are made in the image of God and therefore have inherent dignity and worth. Psalm 139 indicates that God knows us and that we are precious to Him, even in the womb. Therefore, we believe any discussion of human reproductive technology must be based on a respect for human dignity from conception forward.

For you created my inmost being;  
you knit me together in my mother's womb.  
I praise you because I am fearfully and wonderfully made;  
your works are wonderful,  
I know that full well.  
My frame was not hidden from you  
when I was made in the secret place.  
When I was woven together in the depths of the earth,  
your eyes saw my unformed body.  
All the days ordained for me were written in your book  
before one of them came to be. (Psalm 139: 13-16)

The principle of the sanctity of human life also characterizes Canadian social policy, as was recently acknowledged and affirmed by the Supreme Court.<sup>1</sup> Research and practice

allowed and facilitated in Canada in the areas of reproductive/genetic technologies must affirm and never denigrate the sanctity of human life.

### *The Responsibility of Parenthood*

Children are begotten by parents. Just as we believe life is a gift from God and deserving of respect, so we believe that the life of a child is entrusted to his or her parents from whom the child is begotten. We use the concept of begetting to distinguish parenting from ideas of creating or making. We do not create life, nor do we make babies. As we stated in our submission to the Royal Commission:

What we beget and conceive is like us, it springs from us, it contains, in a way, a part of us. We share a common human nature and a common human destiny. We share a fundamental equality.<sup>2</sup>

Parenthood is not ownership; the child is a separate human life with biological ties to the parent.

Parenthood involves responsibilities of wardship. This responsibility is manifest in a variety of ways in Canadian law, for example, in obligations to support one's children. We should not circumvent the responsibilities of parents or laws regarding custody, adoption and baby-selling via the use of medical technologies or new legal categories.

As we elaborated in our attached submission to the Royal Commission, new reproductive technologies have the potential to change our society's understanding of family and parenthood. The danger is that biological ties and parenthood would become unrelated. At worst, parenthood would be reduced to a transaction depending solely on the will of the adult parties to a contract. The best interests of the child must take priority over the desires of potential parents and medical possibilities.

### *Care for the Vulnerable*

As we affirm that human life is created in the image of God and the object of God's love and grace, we believe human life is something that we should cherish and care for. In both the Old and New Testaments, the people of Israel and the followers of Jesus were commanded to care for the alien, the widow, the orphan and the poor. Children, especially, are vulnerable in our society. They require special care and protection.

EFC applauds the emphasis in the Discussion Paper on the best interests of children. We must start from the premise that the best interests of the child are paramount in any discussion of reproductive technology. Their status and rights should be

central to the discussion. Children are not products to be manufactured, or objects to be procured. To treat them as such would be to treat them like other things we have made and not like other human beings.

What is in the best interest of the child has been articulated in many provincial statutes and includes: continuity of care for the child, the importance of biological ties, a secure place as a member of a family, appropriate care or treatment for physical, mental and emotional needs, minimizing the risks that the child may suffer harm through being removed from or kept away from the care of a parent.

### *Compassion for Others*

In the New Testament, Jesus commands us to love our neighbours as ourselves. Canadians have exhibited a profound care and concern for the well-being of their neighbours, for example in the provision of medical care. We must not lose sight of the fact that infertility is very painful for some couples and represents a profound frustration of one of the most basic human desires. Therefore, the exploration of the solutions to overcoming infertility must be undergirded with compassion and sympathy.

## **Response to the Discussion Paper**

Bill C-47 and the Discussion Paper are framed with a presumption that the introduction of a third, fourth or fifth party in the parenthood equation is acceptable. We strongly disagree. By introducing the possibility of third, fourth and fifth parties, biological ties are obscured. The reality that children are being made, as well as donated or sold is hidden. We believe that the focus of reproductive technologies should be on helping couples overcome infertility problems so they can beget and conceive their own children. Many reproductive technologies do not cure infertility. They bypass it. The resources available should be directed to the restoration of fertility.

### **Bill C-47**

1. We affirm the inherent worth of human life from conception. Therefore, while EFC welcomes the Government's prohibition of embryo research after 14 days after conception, we believe that experimentation and other forms of research on viable human zygotes or embryos should not be permitted at any point in development. While the terms zygote and embryo may be useful in distinguishing stages of development, they should not obscure the fact that they are referring to human beings.

2. The Government also acknowledges the importance of human dignity as underlying many of the provisions of Bill C-47. Consistent with this principle, we would like to see the words “human being” replace the phrase “human organism.” Also, as not-yet-born humans, embryos should be referred to as embryos and not as a “human reproductive material.”
3. We agree with the Government that human zygotes or embryos should not be deliberately brought into being for the purpose of research, and note that in Bill C-47 this is a prohibited activity under s.4(k). However, it appears the qualification “cause the fertilization of an ovum outside the human body” would still permit the creation of embryos exclusively for research purposes if it is done within the human body. This too should be prohibited.
4. We strongly endorse the prohibition of the retrieval of sperm or eggs from cadavers or fetuses. We also concur with Section 6(1) which forbids the purchase and sale of any ovum, sperm, zygote, embryo or foetus. The sale of foetal tissue must also be prohibited. We are deeply concerned about any trade in these, whether or not for profit. However, if we as a society are going to proceed with these technologies, then there should be no profit motive involved.
5. We object to the use of the term “donor” and to the definition offered. A “donor” is the biological parent and should be referred to as such. For example, children placed for adoption are not said to be donated: children are not commodities which are traded or exchanged. The language used should not obscure the biological ties between the parent and her or his child. In the bill, the definition of “donor” includes the qualification “whether or not for the purposes of donation” which illustrates the fiction which is being created by the use of the term donor. The qualification should be excluded.
6. The s. 6(2) exemption for the reimbursement for expenses (except that of the biological parent “donor”) is entirely appropriate. Not reimbursing the biological parent will prevent some of the abuses which become possible if a third party is introduced as a biological parent.

The requirement that the federal Attorney General consent to prosecutions under the Act seems unnecessarily strict and should be deleted because it introduces an extra procedural hurdle into enforcing the Act. Since it is important that these

practices be prohibited, there should be no impediment to enforcing the prohibition.

## Regulatory Structure and Agency

EFC acknowledges that the rapid development of scientific and medical advances makes the field of reproductive technology difficult to oversee. While the creation of an agency may facilitate the monitoring of these advances, it must be approached with immense care since there would be a temptation to use such an agency as a vehicle of social engineering, which is clearly inappropriate. If one were to be created, it should consist of not only scientists but ethicists, religious community representatives and people with disabilities.

To restrict an agency to the following roles would be consistent with previously articulated principles:

- the collection and maintenance of data
- the dissemination of information in understandable language
- the enforcement of (1) high medical standards, (2) mandatory data gathering and reporting, and (3) the non-profit provisions of the Act.

In order to safeguard the best interests of children, assisted-conception facilities must be free to consider more than merely medical criteria. Therefore, conditions of licensing must not in any way restrict a consideration of non-medical criteria.

Also, the freedom of conscience of individual professionals, physicians, nurses and others must be upheld and the freedoms of health care institutions sponsored by religious bodies or communities must be preserved. In many jurisdictions, a significant percentage of health care services are delivered by religious institutions. The boards and/or organizational sponsors of the respective health care facilities must be free to set policy with respect to access.

## Sexual and Reproductive Health - Development of a Framework

The discussion paper correctly notes that the prevention of sexually transmitted diseases (STD's) is essential for the health of Canadians. In sexual matters, no less than other areas, the individual is not merely responsible to himself or herself, but to others as well. We know that STD rates have increased significantly in the last decade. Statistics now show that populations at highest risk for developing STD's are heterosexual adolescents and young adults, 14 to 22 years of age.<sup>3</sup>

The question arises of what is meant by “Framework.” Are binding federal guidelines being contemplated? Open public consultation with parents, churches and schools must be the basis of any development of a sexual and reproductive health framework.

Any programmes of STD prevention should have the primary involvement of parents. “It is parents who have the primary responsibility and right to determine the nature of the values education of their minor children, and parents who, on the ground, provide **the most prevalent support systems for their children** of any age in living with and coping with the results, both positive and negative, of their sexual choices.”<sup>4</sup>

Sexual health education for adolescents in schools must be thought through very carefully with a view to decreasing STD’s. Much has already been done in the area of educating people about anatomy and techniques. However, comprehensive, knowledge-based, decision-making sex education programs do not seem to be effective enough, as teenage pregnancies and STD’s are on the rise. What has been lacking is an adequate moral and ethical context for sexual behaviour, which is the foundation of all aspects of a healthy sexuality.<sup>5</sup> We recommend that any Framework proposed be rooted in a value-based, directive model. Due to the failure rate of contraceptives, and the fact that it “may actually be easier to delay the onset of intercourse than to increase contraceptive practice,”<sup>6</sup> we encourage the inclusion of chastity programs in sexual health education.

## Information Sharing

What is in the best interests of the children born as a result of these new technologies? The Discussion Paper correctly notes the stresses involved in secrecy and anonymity with respect to the children born of third party insemination. This is one of the ethical dilemmas resulting from the introduction of third parties into parenthood. While the emphasis of new reproductive technologies should be placed on helping couples overcome infertility, if a third-party is involved, the children should not be denied access to identifying information concerning their biological parents.

We question the degree to which the third party, who is a biological parent, has a right to privacy and can expect no legal responsibility and obligation toward the child. We would urge that the government, with the assistance of other interested parties, seriously consider whether the practice of “donor insemination” should be allowed and examine whether a biological parent should be legally responsible for their child. As the latter may fall within provincial jurisdiction, the approach taken would need to be consistently applied

throughout the country.

## Prenatal Diagnosis and Genetics - The Place and Future

EFC strongly endorses the legislative provisions barring sex-selection for non-medical purposes. However, we reject termination as a response to a prenatal diagnosis of a disorder. Prenatal diagnosis should not be used to discriminate against the not-yet-born on the same basis that we now prohibit discrimination against the disabled in our present human rights legislation. Prenatal diagnosis may legitimately be used to prepare a family to receive a disabled child or to permit treatment of the disorder.

## General Policy Considerations

**Priorities:** We believe that the emphasis of the funding of new reproductive technologies should be to cure: i.e. to restore fertility. Funding priorities must be considered in light of other pressing social needs. Many forms of reproductive technology are quite expensive, for instance cryopreservation. The efficacy and consequences of many methods have not been adequately researched. Preference should be given to research treatments that do not generate supernumerary embryos and that do not submit a woman to the stress and risk of hormonal ovarian stimulation and superovulation. The choice of treatment must be unambiguously in the interest of the particular parents and the intended child.

**Treatment of Embryos:** We are deeply concerned with practices which generate viable embryos in vitro which are not transferred to the mother immediately. The recent destruction of several thousand embryos in Britain, some with the consent of the parents who could be contacted, illustrates the ethical dilemmas and the tragic waste of human life which are manifest in, and can result from, this practice. All embryos should have the possibility of normal life and development. Embryos should only be generated for the purposes of immediate implantation. Where an embryo is not immediately transferred to the mother, the opportunity for normal development could be accomplished through cryopreservation for subsequent implantation, or by immediate transfer to the uterus of another woman by way of a prenatal adoption.

Cryopreserved embryos or embryos which are the subject of dispute should not be destroyed. They should be offered for prenatal adoption to an infertile couple in a manner similar to the adoption of born children who are wards of the Crown.

Since no one has a right to own another person, the legal concept of wardship should be developed with respect to embryos.

**Patenting and Human Dignity:** The patenting of cells derived from human tissues, specifically those of embryos and fetuses is unacceptable. People cannot be said to have “invented” human cells. They merely discover what already exists. Furthermore, patenting a human cell introduces a dimension of commercial ownership to that which is human.

**Non-medical Options:** EFC endorses the Discussion Paper’s comments that “non-medical solutions to infertility, such as counselling, adoption, fostering and other types of loving contact with children, should be encouraged.” There are many ways that the lives of infertile couples, as well as single people, can be fruitful.

## Conclusion

Once again, EFC would like to commend the Government on

its initiative in regulating new reproductive technologies, and for its courage in prohibiting objectionable practices, some of which have been taking place in spite of the voluntary moratorium. We urge that in all deliberations of this topic, the principles of human dignity, the responsibility of parenting, the best interests of the children as well as compassion for infertile couples remain at the fore. Priority should be given to restoring fertility so that couples can conceive and beget their own children. The costs of these new technologies should be weighed against other means of supporting parenthood. Finally, the purpose of biogenetics and diagnostic techniques should be to alleviate disease, not to design or produce perfect individuals.

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## Endnotes

<sup>1</sup> *Rodriguez v. British Columbia (Attorney General)*, [1993] 3 S.C.R. 519.

<sup>2</sup> “New Reproductive Technologies: A Brief to the Royal Commission,” The Evangelical Fellowship of Canada, November, 1990.

<sup>3</sup> Dr. Stephen Genuis, “The Dilemma of Adolescent Sexuality Part I: The Onslaught of Sexually Transmitted Diseases”, *Journal SOGC*, June 1993, p. 554.

<sup>4</sup> Dr. Suzanne Scorsone, in the Report of the Royal Commission on New Reproductive Technologies *Proceed with Care*, 1055-56, emphasis added.

<sup>5</sup> Douglas Kirby et al, in a recent review article *School-Based Programs to Reduce Sexual Risk Behaviours: A Review of Effectiveness* (Public Health Reports, Vol. 109, pp. 339-360, 1994) found that effective programs shared six characteristics. One of these is the reinforcement of specific behavioural values or norms.

<sup>6</sup> Douglas Kirby et al, “Reducing the Risk: Impact of a New Curriculum on Sexual Risk-Taking”, *Family Planning Perspectives*, Nov./Dec. 1991, Vol. 23, No. 6, p. 262.