

## Response to Bill C-47

*An Act respecting human reproductive technologies and commercial transactions relating to human reproduction*

April 9, 1997

### Introduction

The Evangelical Fellowship of Canada (EFC) is a national association of Protestant Christians with a membership of 28 denominations, in addition to local churches, para-church organizations and individuals. Evangelicals across Canada are involved in health care, educational institutions and social programs. Part of EFC's mandate is to represent the concerns of its membership on the legislative issues which affect evangelicals and the common good in Canadian society. To this end, the EFC submitted a brief to the Royal Commission on New Reproductive Technologies in 1992<sup>1</sup> and submitted a response to the Government's discussion paper titled "New Reproductive and Genetic Technologies: Setting Boundaries, Enhancing Health" in October of 1996.<sup>2</sup>

The EFC appreciates the government's effort to prohibit technologies which undermine or deny respect for human beings. In particular, the EFC applauds the government's attempt to preserve and respect human life and dignity and to protect those who are vulnerable, namely women and children who may be harmed by reproductive technologies. The EFC further supports the government's attempt to de-commercialize or prevent the commercialization of human reproduction. This Bill reflects a deep respect and concern for human life and human reproduction in all stages. However, while we agree that this Bill is necessary and we affirm its preamble and intent, we have some general concerns about the underlying premise regarding reproductive technology and some specific concerns about the language used in the Bill and that certain technologies and practices are not prohibited.

### Guiding Principles

Every perspective is based on guiding principles which shape one's approach to an issue. With respect to new reproductive technologies, arguments about the preeminence of "choice" and the ability to fulfil strongly-held desires often become themes which shape our discussion. These are frequently combined with a belief that the potential of technology should be fulfilled. Our concern about the above perspectives is that

they fail to give adequate consideration to respect for human dignity, compassion for life and family responsibility. These latter three principles are echoed in Canadian law and help to form the basis of Canadian society.

Our discussions about, and use of, reproductive technologies must reflect our respect for life and specifically our attitude toward children. Reproductive technologies should be concerned with conceiving, bearing and raising children. Procreation is about parenting human beings. These technologies make us vulnerable to the temptation to design or perfect human beings, to produce rather than beget, endeavours which we reject.

As a faith community, our belief that human beings are created in the image of God and have inherent dignity and worth is our foundation for the principle of human dignity. We believe that human life must be valued, respected and protected throughout all its stages. This affirmation of the dignity of the human life is shared by Canadians and is reflected in our laws. Recently, the Supreme Court recognized in the *Rodriguez* decision that Canadian society is "based upon respect for the intrinsic value of human life and on the inherent dignity of every human being...".<sup>3</sup> Respect for human dignity is essential when processes which directly affect the beginnings of life are being considered.

The principle of compassion for life flows from our belief that all human life is of value in the sight of God and is to be cared for and nurtured physically, emotionally and spiritually. We are to love others as we love ourselves. This principle is reflected in our society's concern for the poor and the vulnerable and is evidenced by initiatives in areas such as refugee programmes, relief and development programmes and social assistance programmes. A framework of compassion for life is needed when considering reproductive technologies which have the potential to exploit members of Canadian society.

A primary relationship of care and nurture is found in the family. The principle of family responsibility is rooted in the fact that we are born of parents, both male and female, and are dependent upon others from birth. The family is to provide physical, emotional and spiritual care for its members. The responsibility in family relationships is recognized in Canadian law by requiring parents to care for their children through duty of care provisions. Reproductive technologies are intrinsically tied to the issue of family integrity because their intent is to assist in family formation.

## Affirmations

In approaching this discussion, we affirm and need to constantly remind ourselves that the children who are born as a result of the use of reproductive technologies are not commodities but people. They are persons who will grow up in the context of their families and who will have the same questions about their origins and history as many of us have. It is important to recognize and protect the interests of children when considering the regulation of reproductive technologies.

The EFC affirms that human life begins at conception. This has been recognized by the Law Reform Commission of Canada in a 1989 Working Paper, entitled “Crimes Against the Foetus,” as well as numerous medical professionals. This is an important consideration for legislation governing which technologies may be used on human life through birth.

Specifically, we affirm Bill C-47’s prohibitions on human cloning in section 4(1)(a) and on genetic alteration that is capable of transmission to another generation in section 4(1)(e). As well, we endorse the prohibitions in section 4(1)(f) & (g) on the fertilization or implantation of sperm or ovum retrieved from a foetus or cadaver.

## General Concerns

Given our belief that life is a gift from God, and that human life begins at conception, we urge Parliament to protect the dignity of every human being, from the very beginning of his or her existence. This includes prohibiting research on human zygotes and embryos, in addition to adopting legislative terminology which reflects a respect for human dignity.

We have compassion for those who are infertile, both in our community and in the general public. While reproductive technologies can offer hope, they also have the capability of exploiting Canadians. There is the danger that infertile couples will be taken advantage of by either clinics or commercial parenthood contracts. Surrogate mothers may be exploited by an appeal of financial stability or gain. Zygotes and embryos may not be accorded the respect that is their due, and may be

experimented on in ways which we would not countenance if used on other human beings. While we do not oppose all reproductive technologies, we recognize the harmful potential of some technologies.

We urge the government to focus on ways to cure infertility, rather than bypassing it. Reproductive technology can facilitate the introduction of third, fourth and fifth parties into the parenting equation. These practices do not make an infertile couple fertile, they merely circumvent the infertility by using someone else’s sperm, ovum or womb. While we affirm the Bill’s decriminalization of many reproductive technologies, we question whether some technologies should be used even in non-commercial circumstances.

One reproductive practice we find objectionable is that of sperm “donation”, particularly anonymous sperm donation, which breaks biological ties and denies children the answers to basic questions of identity. It is also inconsistent with other statutes such as child support legislation, which emphasizes the parental responsibility of support. Another questionable practice is non-commercial surrogacy arrangements, in which children are conceived **in order** to be “given” to others.

We urge Parliament and the relevant Ministries to consider the financial implications of utilizing and further developing new reproductive technologies over against other means of supporting parenthood, including promoting the emotional, psychological and physical well being of those families already in existence, promoting adoption as a viable alternative for those couples who are unable to have biological children of their own and restoring fertility for infertile couples.

## Specific Concerns

### 1. Section 2 - Concerning definitions:

The term “donor” is inappropriate when used to describe the biological parent. One does not speak of “donating” one’s child. Calling a parent a “donor” devalues the children and reduces the reproductive process to an impersonal transaction.

The term “donor” should be replaced by “parent” or “biological progenitor”

Using the term “human organism” to refer to zygotes and embryos devalues that which is a unique human life at an early stage of development. The term “human reproductive materials” obscures the nature of sperm, ovum, embryos and zygotes. “Materials” are objects that are valued for their utilitarian uses, not their intrinsic value.

“Human organism” should be replaced by “human being” and “human reproductive materials” should be replaced by “sperm,” “ovum,” “zygote” or “embryo” as the context

requires.

2. Section 4(1)(b) - “No person shall knowingly cause the fertilization of a human ovum by sperm of an animal or the fertilization of an animal ovum by human sperm, for the purpose of producing a zygote that is capable of differentiation”:

The Bill prohibits animal-human hybrids created for a particular purpose, that is to produce a zygote that is capable of differentiation. We believe that the formation of this kind of hybrid should be prohibited regardless of the purpose intended. Allowing animal-human hybrids is a fundamental affront to human identity and uniqueness.

The Bill should prohibit any fertilization between animal and human sperm and ovum.

3. Section 4(1)(d) - “No person shall knowingly implant a human embryo in an animal or an animal embryo in a woman”:

Although we endorse the prohibition in this subsection, we are concerned that it is not comprehensive enough. We recommend that zygote as well as embryo implantation in these circumstances be prohibited.

The Bill should add the words “or zygote” after the terms “human embryo” and “animal embryo”

4. Section 4(1)(j) - “No person shall knowingly maintain an embryo outside the human body”:

The phrase “maintain outside the human body” is ambiguous and needs to be clearly defined. It should explicitly prohibit cryopreservation and storage of embryos. If embryos are created outside the womb by means of in vitro fertilization, they should be implanted as soon as possible. This prohibition should discourage the creation of ‘spare’ embryos for possible future implantation.

The phrase “maintain an embryo outside the human body” should be defined and should include cryopreservation.

The Bill should prohibit the creation of “spare” embryos.

5. Section 4(1)(k) - “No person shall knowingly cause the fertilization of an ovum outside the human body for purposes of research”:

We agree that human zygotes or embryos should not be deliberately brought into being for the purpose of research. 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.

The Bill should prohibit any creation of zygotes or embryos

for the purpose of research.

6. Section 5(4) - “For the purposes of this section, a surrogate mother is a woman who carries a child, conceived from an ovum, sperm or zygote provided by a donor, with the intention of surrendering the child after birth”:

While we endorse the prohibition against commercial surrogacy arrangements, we recommend that a more precise definition of surrogate mother be given, one which includes embryos and which specifies the practices of conception and implantation. Our suggestion is that the definition be amended as follows.

The definition of a surrogate mother should be amended to read: “For the purposes of this section, a surrogate mother is a woman who is artificially inseminated or implanted with a zygote or embryo with the intention of surrendering the child after birth.”

7. Section 6(1) - “No person shall sell, purchase, barter or exchange, or offer to sell, purchase, barter or exchange, any ovum, sperm, zygote, embryo or foetus”:

We affirm this prohibition against selling, purchasing, bartering or exchanging any ovum, sperm, zygote, embryo or foetus and the prohibition against offering to do so. However, foetal tissue should be included in this list. The importation into Canada of the foregoing should also be prohibited.

The Bill should prohibit the sale, purchase, barter or exchange, or offer to do so, of foetal tissue. The importation of any ovum, sperm, zygote, embryo, foetus or foetal tissue into Canada should also be prohibited.

8. Section 7 - Concerning research with consent:

This section of the Bill prohibits research on zygotes and embryos without the consent of the progenitor. We believe that all research which is non-therapeutic, ie. not beneficial to the life of that particular zygote or embryo, should be prohibited because it devalues human life. While the explanatory notes for this Bill state that research on embryos later than 14 days after conception will be prohibited, this is not explicit in the Bill. Also, the foetus is missing from this prohibition against research.

The Bill should prohibit all non-therapeutic research on zygotes, embryos and foetuses.

9. Section 11 - “A prosecution for an offence under this Act may not be instituted unless it is consented to by or on behalf of the Attorney General of Canada”:

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.

The requirement that the federal Attorney General consent to prosecutions under the Act should be deleted from the Bill.

## VI. Summary of Recommendations

- The term “donor” should be replaced by “parent” or “biological progenitor”
- “Human organism” should be replaced by “human being” and “human reproductive materials” should be replaced by “sperm”, “ovum”, “zygote” or “embryo” as the context requires
- The Bill should prohibit any fertilization between animal and human sperm and ovum
- The Bill should add the words “or zygote” after the terms “human embryo” and “animal embryo”
- The phrase “maintain an embryo outside the human body” should be defined and should include cryopreservation
- The Bill should prohibit the creation of “spare” embryos
- The Bill should prohibit any creation of zygotes or embryos for the purpose of research
- The definition of a surrogate mother should be amended to read: “For the purposes of this section, a surrogate mother is a woman who is artificially inseminated or implanted with a zygote or embryo with the intention of surrendering the child after birth”
- The Bill should prohibit the sale, purchase, barter or exchange, or offer to do so, of foetal tissue. The importation of any ovum, sperm, zygote, embryo, foetus or foetal tissue into Canada should also be prohibited.
- The Bill should prohibit all non-therapeutic research on zygotes, embryos and foetuses
- The requirement that the federal Attorney General consent to prosecutions under the Act should be deleted from the Bill.

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## Endnotes

<sup>1</sup> See *New Reproductive Technologies: A Brief to the Royal Commission*. The Social Action Commission of the Evangelical Fellowship of Canada, November, 1992.

<sup>2</sup> See *A Brave New World? A Response to the Government Discussion Paper A New Reproductive and Genetic Technologies: Setting Boundaries, Enhancing Health*. The Evangelical Fellowship of Canada, October, 1996.

<sup>3</sup> *Rodriguez v. British Columbia (Attorney General)* [1993] 3 S.C.R. 519 at 585.