

**Catholic Bishops' Conference of England and Wales
and Linacre Centre for Healthcare Ethics
Joint Response to the Human Tissue and Embryos
(Draft) Bill**

1. Introduction

1.1 We welcome the opportunity to respond to the Human Tissue and Embryos (Draft) Bill: a Bill which raises profound issues of human rights. These issues range from respect for human life to respect for the value and meaning of parenthood, and for the long-term rights of those conceived by gamete donation (e.g., their right to information regarding their genetic relatives). They also concern the implications of respect for parenthood on the creation of interspecies embryos, both those that are certainly non-human, and those who may be human beings.

2. Embryo experimentation, testing and sex selection practices

2.1 We are opposed in principle to many of the procedures covered by the Draft Bill: procedures which we believe violate human rights, and thus should not be licensed under any circumstances. That said, we would very much welcome a ban on particular human rights abuses, even if other abuses, no less unjust, are unfortunately licensed by the State. An example would be a prohibition in primary legislation of the creation of embryos from the ova of aborted human foetuses,¹ or of the creation of embryos in greater numbers than will be immediately transferred to the body of the mother. While we are opposed to all 'production' of embryos by a non-sexual act of manufacture, we would urge a prohibition of at least the mass-manufacture of embryos, many of whom will be discarded.

2.2 The destruction of human life is our most serious concern, particularly when such destruction is not merely permitted, but effectively mandated in relation to some human lives (for example, those conceived from cloning or other novel technologies). It may be objected that there is disagreement in our society as to when human

¹ The Bill prohibits this only where the intention is to transfer embryos so created to the body of a woman (3A).

life begins. In fact, there is little disagreement among human embryologists that most human lives are formed from sperm and ova, and not (except for twins or clones) from other cells or groups of cells. Where there is more disagreement is over what respect is due to human lives at certain stages of development. Yet once a human individual comes to be, we must surely acknowledge that individual's objective interests in his or her welfare: interests which give rise to certain rights. If children already born can have interests and rights concerning benefits of which they are unaware – e.g. life, health, friendship, education – so, too, can unborn human beings. If an individual can benefit from something, whether immediately or later in life, that 'human good' is in his or her interests, with all that this morally entails.

2.3 The concept of a 'permitted embryo' is one we reject: in particular, we find offensive the application of quality control regulations providing for the 'withdrawal from use of [...] embryos that are intended for human application but are known or suspected to be unsuitable for such application.' (8A). Unfortunately, the mechanical process by which IVF embryos are created tends to encourage a mindset according to which they are seen as products and possessions of older human beings. In view of the moral/symbolic inappropriateness of IVF, it is all the more important to protect those conceived by IVF from being treated as products thereafter – e.g. subjected to quality control. While we welcome the proposed ban on social sex selection of embryos, discrimination on grounds of disability is no more acceptable than discrimination on grounds of sex.

3. Surrogacy and ovum donation

3.1 There are various ways in which reproductive technologies can exploit those affected, including ovum donors and 'surrogate mothers', who are asked deliberately to become the mothers of children they will then deliver to third parties. We are opposed to the facilitation of surrogacy by permitting surrogacy organizations to advertise for, and pay 'expenses' to, surrogate mothers. This also applies to the recruitment of ovum donors, who are also put at risk by drugs used to produce multiple ova. Both surrogacy and ovum donation fragment human motherhood, and should not be socially condoned.

4. Inter-species embryos

4.1 With many others, we are very disturbed by the proposed expansion of conditions under which embryo research may be performed. In particular, it is proposed to allow for the permission of research on

human embryos - or what may be human embryos - created by the combination of human and animal material.² In other cases, there may be a real risk of creating a genuine, though damaged human embryo, and the reasons against such experiments will be consequently even more serious. If an embryo is conceived with a single animal gene, or even if a human nucleus is placed in an animal ovum, this may be compatible with the presence of a genuine human embryo following the procedure. Such an embryo, in the latter case, would be a clone deprived of all human parents, and would thus be still further alienated from any possibility of parental protection.

4.2 We oppose the exclusion of interspecies embryos from the definition of embryo in the Act. At very least, embryos with a preponderance of human genes should be assumed to be embryonic human beings, and should be treated accordingly. In particular, it should not be a crime to transfer them, or other human embryos, to the body of the woman providing the ovum, in cases where a human ovum has been used to create them. Such a woman is the genetic mother, or partial mother, of the embryo; should she have a change of heart and wish to carry her child to term, she should not be prevented from doing so.

5. Prevention of Gestation

5.1 In the same way, while we oppose the permission the Draft Bill envisages for germ-line interventions involving mitochondrial DNA (3ZA (5)), we do not believe that embryos so created should be discriminated against, or prevented from being transferred to the ovum provider. The same applies to embryos subjected to other forms of experimentation: the initial wrong done to the embryo cannot justify the further wrong of ending his/her life.

5.2 Nor do we believe that there should be any time-limit for the storage of embryos (as opposed to gametes), not least because when embryos are unfrozen, the intention, and not merely the expectation, will often be that the embryo die. In particular, it should not be possible, where the genetic mother of an embryo wishes to have the embryo transferred to her womb, for her partner and/or the genetic father to veto the transfer. As the existing mother of the embryo, the woman should be permitted to act as a mother in supporting her child and carrying him or her to term.

² For more detail on this, see the Linacre Centre's submission to the Science and Technology Committee on hybrid and chimera embryos (available online at <http://www.linacre.org/hybridchimeras.pdf>).

6. Parenthood and rights of offspring

- 6.1 We strongly oppose the removal of the requirement to take account of the child's need for a father in providing fertility services. That children need fathers is a fact supported by millennia of human experience; moreover, the testimony of those separated from their genetic fathers, including those conceived from donor sperm, underlines the importance of the genetic paternal relationship for a healthy sense of identity.³
- 6.2 This proposed change in the law would have profoundly harmful consequences, both for children and for wider society. Of course there are many children whose family circumstances are such that they do not know their father, and who nonetheless grow into healthy adults. But this does not take away from the reality that to have a mother and a father is a profound human need. Deliberately to sanction the conception of children who will be deprived of both a genetic and a social father is to place the wishes of adults above the human rights of the child.
- 6.3 In the light of emerging evidence that donor-conceived adults can feel profoundly damaged by their lack of contact with genetic parents and other relatives, we find extremely rash the proposals of the Draft Bill with regard both to who may receive fertility services, and who may count as a parent of any child conceived. The Draft Bill's provisions are radical, directing that while the ovum donor is not to be regarded as a parent by that fact, the same-sex partner of a woman being treated is to be regarded as a second parent - even if she dies before the pregnancy begins. Moreover, the Draft Bill requires that no-one is to count as the child's father where a second female parent has been recognized. This involves a re-writing of history of the kind that adult donor offspring very reasonably dispute. If a man who conceives a child naturally is rightly counted by the law as a father, even if he had no intention to conceive and was not married to the mother, a donor who deliberately assists in the conception of a child should surely count as a father, at least for the purpose of registering the birth, thus facilitating later contact with the child.

³ [3] See e.g. *Who Am I? Experiences of Donor Conception*, Idreos Education Trust 2006; A.J. Turner and A. Coyle, 'What does it mean to be a donor offspring? The identity experiences of adults conceived by donor insemination and the implications for counselling and therapy', *Human Reproduction* 15 (2000): 2041-2051; A.W. Cordray, 'A survey of people conceived through donor insemination', *DI Network News* 14 (1999/2000): 4-5; A. McWhinnie, 'Gamete donation and anonymity: Should offspring from donated gametes continue to be denied knowledge of their origins and antecedents?' *Human Reproduction* 16 (2001): 807-817.

6.4 We welcome the fact that identifying information is already available to at least some donor-conceived people on their genetic relatives. However, we would urge that this provision be extended to those conceived before the change in the law, and that all donor-conceived offspring should be advised at the age of 16 of their donor origin, and of their legal rights, by the holders of their records. We would also urge that the rights of donor-conceived people to information on their siblings not be constricted by the fear that donor fathers will also be identifiable if siblings are identified (31Z A (3)). While a wish for privacy on the part of siblings - who were not, of course, party to the decision to use donor gametes - should certainly be respected, it is, we believe, sufficient to prohibit the *deliberate* disclosure of information concerning siblings. In the case of the gamete donor, unwillingness to be identified should not preclude even direct identification of the donor, given the fact that he deliberately engaged in donation, and thus chose to do what in effect created some parental responsibilities to those conceived.

7. Flaws in the Parliamentary process

7.1 Although some of the proposals in the Draft Bill have been the subject of considerable public consultation and discussion, others have not. In particular, Part 3 of the Draft Bill includes far-reaching proposals with massive long-term implications for parenthood and family life in society which have been barely debated at all. This section of the Draft Bill includes proposals to remove the reference to the need of a child for a father when considering the welfare of the potential child, and to extend legal parenthood to civil partners and other same-sex couples in relation to children born as a result of assisted reproduction.

7.2 These proposals should be the focus of extended and major public consultation before these matters are presented to Parliament. We do not believe that there has been anywhere near sufficient public consultation on the matters in question. In our view, to proceed in haste with regard to issues of such grave and long term importance is both improper and dangerous. This is not a criticism of the scrutiny committee process (which is not to say this process could not be improved) but rather of the government's unwise rush to the statute book.

20th June 2007