Megan Best critiques the current HFE Act Review


Suzi Leather: HFEA Chairman

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Fertility furore

The *Warnock Report*[1] was written in response to the birth in 1978 of Louise Brown, the first child conceived through in vitro fertilisation. It later became the basis of the *Human Fertilisation and Embryology Act* 1990 (the HFE Act). Assisted reproductive technology (ART) is now involved in over 8,000 British births annually and rapid developments in the field have led to the need for a government review of the Act. The closing date for submissions was 25 November 2005.

Legislation has an educative effect. Experience shows that procedures permitted now, even in limited circumstances, will become socially acceptable under wider circumstances in the future (abortion is an obvious example). This is an important review as it will shape British families and society for years to come.

The scope of the review allows for public comment on the appropriateness and effectiveness of the HFE Act, but the government does not intend to revisit issues that it considers 'widely accepted in our society or which have been recently debated and conclusively resolved in Parliament'.[2] This includes the creation and destruction of human embryos for research, and the prohibition of human reproductive cloning. The government instead continues to rely on the Warnock report to justify human embryo destruction and is not planning to review the moral status of the embryo. This is a pity, because this issue lies at the heart of many of the ethical issues raised by the consultation.

Many consider destructive human embryo research as necessary for advances in ART treatment and medical knowledge. It was first allowed when the HFE Act was passed and then further relaxed in 2001 following advances in stem cell research. But if life begins at conception, then it must follow that any destructive human embryo research is unethical. Biologically, to suggest that human life begins at any point beyond conception is to draw an arbitrary line. Developmental embryology makes it clear that the early human embryo is a genetically unique, self-directed whole. For the Warnock Committee to choose the appearance of the primitive streak (14 days) as the beginning of individual development of the embryo is to rely on obsolete science. The debate deserves a fresh approach.

The *Warnock Report* is out of date yet its assumptions flavour the whole review. When genetic modification of embryos is discussed, it is obvious that some parties do not want barriers to any kind of new technology, even recommending creation of human-animal hybrids and chimeras for research. It is suggested that these and other experimental therapies should be allowed to go ahead 'when they are safe' – completely disregarding how many human embryos will be destroyed in research in the meantime. CMF has already responded to the review and raised its concerns on this matter.[3]

It is encouraging that the government has indicated that both the development and use of ART should continue to be subject to legislation. The current model of regulation under the Human Fertilisation and Embryology Authority (HFEA), however, is held up as a successful one, which may be of some concern to those who have seen its approval of procedures such as cytoplasmic transfer as controversial. However, it is recognised that legislation needs to be more explicit, thereby empowering the Government, rather than the regulator, to debate and amend the law. The HFEA and the Human Tissue Authority will be replaced with a single body with responsibilities across the range of human tissues and cells. Discussion of how the proposed Regulatory Authority for Tissue and Embryos (RATE) will operate is included in the review.[4]

It has always been a mystery to me why such decision-making was placed in the hands of a non-elected, non-representative group of lay people such as the HFEA. Now, with the increased responsibilities falling to RATE, the government plans to continue with substantial lay representation, but has noted that there will need to be either members or consultants with expertise in relevant fields. This is to be welcomed. ART is developing so quickly in terms of clinical requirements and research possibilities, that it requires committee members with some understanding of the area even to be able to ask the correct questions of their advisors. An alternative model is suggested in the CMF submission. It is to be hoped that the current review will consider letting more clinicians help with this aspect of regulation. Should this become a reality, it will be very important that Christians make every effort to become involved and influence the ethical debates that will inevitably arise.

Preimplantation genetic diagnosis (PGD) is currently allowed to avoid inherited genetic disease, sex-linked disease and other chromosomal abnormalities and to permit tissue-typing. The CMF submission argues that embryo screening is a highly discriminatory procedure, as even completely normal embryos may be destroyed if they do not have the desired characteristics. Extension of screening will increase the risk of offspring being considered as a commodity to meet specifications rather than as a gift to be accepted unconditionally.

Other issues covered in the review include the welfare of the child, counselling, data collection, research ethics, surrogacy and parenthood. Christian doctors are encouraged to review the CMF submission and remain alert to further opportunities to influence this important legislation.

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references

1. *Report of the Committee of Inquiry into Human Fertilisation and Embryology*. Cm 9314, July 1984, ISBN 0101931409.
2. Review of the Human Fertilisation and Embryology Act: A Public Consultation. Department of Health, 2005.
3. *www.cmf.org.uk/ethics/submissions/?id=39*
4. It is proposed that RATE will become the single authority responsible at national level for oversight of the quality and safety standards required as a result of the EU Tissue Directive and the EU Blood Directive and will take on certain regulatory functions from NHS Blood and Transplant.