

A DISCUSSION ON THE ETHICAL DILEMMAS IN MEDICALLY ASSISTED HUMAN PROCREATION BY THE NATIONAL BIOETHICS COMMITTEE OF CYPRUS

The CNBC commenced the discussion for the preparation of an opinion on Medically Assisted Human Procreation (MAHP) in an effort to assist the executive authority and the legislator in the drafting of the relevant bill.

The opinion of CNBC is not yet finalized. I will try today to transpose to you some of the discussions made towards the preparation of this opinion. I will also present to you some of the **questions and ethical dilemmas arising from the various aspects of MAHP** that have been considered by the Members of CNBC.

These questions and ethical dilemmas relate to:

- The use of MAHP methods by specific social groups
- The use of surrogate mother
- The issue of supernumerary – surplus embryos in-vitro
- The issue of Sperm and ovum donation
- The use of PGD method

The Members of the CNBC considered it very important to define in advance and before any other discussion the terms “Embryo” and the “ethical and legal status of the embryo in-vitro”.

What does “embryo” mean?

Embryo is defined as the product resulting from the fertilization of an oocyte or the nuclear fusion of a somatic cell with an oocyte or the activation of an oocyte which then develops naturally, either in vitro or in vivo, from the stage of the zygote and thereafter, having the full potential of developing into a human being.

Ethical Status of Embryo In-Vitro

The discussion on the ethical status of the embryo in-vitro, unavoidably includes the following questions:

- When does life begin? Is there differentiation of the value of life based on biological stages?
- Is it ethical to destroy embryos?
- Is it ethical to use embryos for medical research?

Within the Members of CNBC two opinions are prevailing:

(a) Opinion A:

According to this opinion:

- Life begins with the conception.
- The value of life does not vary in relation to the developmental stage of the embryo.
- The embryo begins to live and develop both mentally and physically in a single entity towards its bodily, mental and intellectual completion from the date of its conception.

(b) Opinion B:

It is still under discussion, but the main points of view which were expressed up to now are the following:

- The fertilized ovum cannot be considered as human being, and consequently it cannot be morally equivalent to the human being.
- The fact that the foetus can be developed in a human being does not mean that it can be treated as if it is already a human being.
- However, the biological nature of foetus and its ability to develop into a human being impose the obligation to respect and protect it.

Legal Status of the embryo

Some of the ethical questions and dilemmas within the concept of the legal status of the embryo are the following:

- What type of legal protection should be given to an embryo?
- Is there any difference in the legal status of the embryo in-vitro and the embryo in-vivo?
- Is the performance of medical research on embryos or their destruction or their donation compatible with the requirement of Article 18(1) of the Oviedo Convention for adequate protection to the embryo in-vitro?

- What does the phrase “adequate protection” mean?

The Members of the CNBC made a review of the current legal situation in Europe in relation to the above mentioned questions and noted the following:

Legislation in the member states of the Council of Europe, irrespective of the legal personality assigned to the embryo in-vitro protects it through various ways such as:

- The number of ova that may be fertilized at any parental project in most of the EU countries is restricted between 2-3
- Legislation stipulates a maximum storage period which is necessary for maintaining the viability of the embryo
- In a number of EU countries donation of ovum and/or embryos is prohibited (e.g. Norway, Italy, Switzerland, Austria, Germany)
- Research on surplus embryos in-vitro is prohibited by law in a number of EU countries (e.g. Germany, Italy, Switzerland, and Norway).

The Members of CNBC, having in mind all the above, have expressed two opinions:

Opinion A:

- The embryo is created with the prospect of developing into a human being and it should be protected.
- The Cypriot legislation on the MAHP should have such provisions as to enforce the requirements of Article 18 of the Oviedo Convention and provide adequate protection to the embryo in-vitro procreated for parental projects.
- Such adequate protection could be possible through transparent procedures for the applications of MAHP and prohibition of the procreation of supernumerary embryos in-vitro in each parental project.

Opinion B:

It is still under discussion. The main point of it is that the use of prenatal forms of life for research purposes, which were created in vitro, and no longer constitute part of a fertilization program ("supernumerary" foetuses) can become acceptable under the conditions laid down by law and in accordance with the stage of growth of the embryo.

Possibilities and associated dilemmas of the use of MAHP methods by the following specific social groups:

1. Heterosexual couple having a relationship outside the frame of a marriage (ecclesiastical or political)
2. Homosexual couple
3. Single parent

1. Heterosexual couple having a relationship outside the frame of a marriage (ecclesiastical or political)

The Members of the CNBC addressed the following questions and ethical dilemmas arising from the possible recognition by the legislation of the use of MAHP methods by unmarried couples:

1. Many difficulties exist regarding the assurance of the stability of the relationship of an unmarried couple wishing to undergo MAHP. This stability is essential for the benefit of the child to be born.
2. What will happen to the child if the relationship terminates? Is the State ready to give adequate protection to the child?
3. Is family as the corner stone of the society in danger? New concepts and environments for the growing of children are being developed? What could be the impact on their personality and welfare?

Two opinions were expressed on this topic:

Opinion A

- The regulation by law of the use of MAHP by unmarried heterosexual couples could constitute an indirect legal recognition of the free living together practice.
- Legalisation of this practice means official acceptance and creation of new social structures. Additionally this increases the need for protecting the best interests and well-being of the child to be born. Such protection should include additional financial support and other social grants.
- The legislative acceptance of the use of MAHP by unmarried heterosexual couples raises ethical questions as for its social necessity. This necessity should be contrasted with the social dangers that are arising and with the pledges that the State should provide by enacting such legislation.

Opinion B

- The Cypriot State today recognizes and protects the children that are born without the intervention of MAHP in a relationship outside the frame of marriage, terminating thus decades of social stigmatization.
- Taking into consideration that no society is static, that the social ethics develop continuously promoting simultaneously the respect of human rights and the condemnation of social stigmatization and discrimination, it is proposed that MAHP covers also the unmarried heterosexual couples that have constant symbiotic relation, (taking all the measures that will ensure the legal, financial, social rights of the child).

The Members of the CNBC, having in mind the above mentioned two opinions, concluded that it is preferable MAHP methods to be used by married couples with either ecclesiastical or political marriage.

Homosexual couples

As far as homosexual couples are concerned, the CNBC considers that:

- The MAHP constitutes a solution of need and not of a choice. MAHP should be used when there is no possibility of natural procreation solely for medical reasons. This is to say, that the medically assisted individuals have the biological potential to become parents, but they are unable for medical reasons.
- In the case of homosexual couples they don't have the biological potential to become parents, at least in the frame of the relationship that they have selected
- For this reason MAHP is not right to be used for covering the weakness of procreation that derives solely from the homosexual choice of the individual.

The CNBC rejects the use of MAHP methods by homosexual couples for all the above mentioned reasons.

Single Parent:

The deliberate creation of children in a single parent family by using MAHP is not ethically acceptable for the following reasons:

- The children will lack the opportunity to grow up in a family with both parents.
- This puts in risk the well being and the psychological development of the children.
- The legal recognition for applications of MAHP in single individuals could encourage the creation of single parent families with unknown social implications.

Possible use of surrogate mother raises a lot of bioethical questions such as the following:

1. Does the use of surrogate mother contradict with the freedom of the person?
2. Is it inconsistent with the concept of family and its respect?
3. Could surrogacy be developed in a service for financial gain and incentives to be given to vulnerable people?
4. Is a new type of slavery and commercialization of the human being created?
5. The separation of a surrogate mother from the child after the birth, leads to several ethical, psychological, social, legal, and medical questions due to the bonds developed between them through the pregnancy?

Possibilities for use of Surplus Embryos in-vitro

The IVF procedure gives the possibility for the creation of more embryos in-vitro than the necessary ones, for the parental project. Consequently, in order to avoid this situation it is the opinion of the CNBC that only one embryo in-vitro should be created in each parental project. Exception could be made for women aged above 40 years old where 2 or 3 embryos could be created and implanted in the uterus.

The CNBC discussed the various options available in case of surplus embryos in-vitro:

1. Storage and use of the surplus embryos by the same couple for future pregnancies
2. Donation of surplus embryos to other couples with infertility problems
3. Immediate disposal of surplus embryos
4. Use of surplus embryos for research purposes

Many ethical dilemmas arise from the options above, mainly from options 3 and 4.

Storage and use of the surplus embryos by the same couple for future pregnancies

- Storage is possible only for a limited period of time (for example in UK, Spain, France storage period is 5 years, in Sweden 1 year, in Denmark 2 years and in Norway 3 years).
- Thus ethical dilemmas arise from the fact that these embryos if not used within the specific period, are condemned to reach their natural end and being disposed.
- That's why in some countries, storage of embryos in-vitro is prohibited.
- Another ethical dilemma is the fate of the cryopreserved (stored) embryos in case of divorce of the couple or death of one of the husbands.

Donation of surplus embryos to other couples with infertility problems

Members of the CNBC unanimously believe that if this option is to be adopted, then it is necessary for both couples to receive non directive counseling so as to give their free informed consent. This could protect both sides, from any future claims (legal, financial and other).

Ethical dilemmas arising from the donation of surplus embryos mainly relate to:

- (1) the possibility the child to be born to have confusion about his/her identity.
- (2) the child may develop psychological problems from the fact that he/she will have no physical resemblances with his/her "parents".

Immediate disposal of surplus embryos

The ethical dilemmas that arise from the immediate disposal of surplus embryos depend on the belief of each person regarding the ethical status of the embryo.

For those who believe that the embryo, from the moment of its conception, has the moral status of a human being, any activity, no matter how well intended, which could destroy an embryo, is unthinkable and totally unacceptable.

For those who believe that the embryo acquires its moral status in accordance with its developmental stage the disposal of the embryos in-vitro is acceptable always in conjunction with its stage of development.

Possibility for Use of surplus embryos for research purposes

1. The creation of embryos in-vitro for research purposes is prohibited in accordance with the provisions of Article 18, of the Oviedo Convention.
2. The law should adequately protect the embryo in-vitro, with clear and unambiguous provisions, because it is a vulnerable entity and it lacks the protection of its mother.
3. The embryo in-vitro is being created for its own worth.
4. The legislation should pose all the necessary safeguards in order to avoid the manipulation of the IVF procedures and the creation of supernumerary embryos for research purposes.
5. The surplus embryos from an IVF parental project is not acceptable to be used for research purposes if the couple does not give it's inform consent for such a use in advance and after a non directive counseling.
6. The use of supernumerary – surplus embryos in-vitro for research purposes and their consequent destruction is ethically balanced by the uncertain prospects of curing others? Is this in conflict with the principle that medicine is benefiting and not damaging?

Sperm and ovum donation

- Through the donation of sperm and ovum, a third person interferes in the couple. Thus, the fact that one of the husbands is the biological parent and the other is not, can create its own tensions in the family.
- The donors have to go through careful genetic screening and medical examinations. This is to ensure that there is no risk of transmission of genetic, hereditary or other diseases to the child to be born. It is worth noting that it is not scientifically possible to check for all genetic related diseases.
- The right of the child to be born to know his/her biological parents contradicts with the right of anonymity of the donor and the right of autonomy and privacy of the parents.
- It creates risks for commercialization, exploitation and reproductive tourism.
- Risk of having cases of incest if the number of children from each donor is not controlled
- The right of the child to have access to his/her biological parents in case of a hereditary disease is questionable
- There is no respect towards the concept of family, towards the person in the couple with fertility problems and towards the genetic identity of the child to be born
- It raises the issue of compensation to the donor for the donation. Do human parts and biological material have a price? Could this lead to a new form of human exploitation of those who have economic problems?

- What is the definition of “Reasonable Compensation”? This is a subjective phrase, as it depends on the financial standards of the country where the donor is coming from.

Use of Preimplantation Genetic Diagnosis (PGD) method

Opinion A:

- Under PGD method there is a screening of cells from embryos in-vitro for the detection of genetic and/or chromosomal disorders before the embryo is transferred in the uterus.
- PGD gives rise to the creation of a number of embryos in-vitro. Thus more surplus embryos to be used outside the parental project.
- It gives rise to the use of IVF procedure not only to cases where there is an infertility problem of the couple involved but as well for other reasons outside this main scope.
- It open's the door for sex selection of the child to be born
- It gives the possibility for birth of a child that will be HLA compatible with a sick sibling for transplantation purposes. Do we want the child for his own worth or we want it to become an organ donor?
- The continuous enlargement of the list of the purposes and the diseases, for which the PGD could be used, will probably drive the societies to see and understand PGD as a necessity for the avoidance of giving birth to diseased children. This contains the risk for a change in the society's morality and understanding towards the sick and the suffering.

Opinion B:

The opinion B is under discussion. Its main point of view is that PGD is a useful method for families with severe hereditary or genetic disorders and subsequent pregnancy failures.

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