

# The Vatican on Reproductive Technology

by Diana Bader

## Introduction

Everyone has a stake in the processes of human reproduction, and in what society encourages or allows by way of producing the next generation. Indeed, each of us has come into being through a successful enterprise in human procreation, and this gives the topic a common relevance for all of us. The interest in the topic, however, is much more complicated today in an age of advanced technology, and consequently every sector of society, including science, medicine, law, politics, economics, theology and religion have become actively involved in the dialogue — more often debate—about the use of our technology in procreating new human beings.

The Roman Catholic Church through its Vatican Congregation for the Doctrine of the Faith has entered aggressively into the worldwide debate, affirming long-held teachings, and rejecting many of the options that are now available through new technology. The vocal public reaction that greeted the publication of the *Instruction* in March 1987 is some reflection of the significance of the issues it raises.

## Why was the Instruction written?

Newsmaking events of recent months help to define the context of contemporary interest and concern. The Baby M case in New Jersey and the questions it raised about surrogate motherhood; the transplantation of tissues from a human fetus to patients suffering from Parkinson's Disease; proposals for using anencephalic newborns as organ donors; the insemination of would-be mothers with the sperm of men promising "superior" genetic qualities; the transfer of three fertilized eggs from a young woman (Y) to her mother (G) who will serve as the surrogate mother for her grandchildren (C) [will G be the mother or grandmother of C? will the biological mother (Y) be the sister of the new offspring or their mother?] — certainly the list could be extended. But this is sufficient to expose some of the fundamental

questions that we as a society must grapple with regarding human life in its origins. The relevance of marriage, the meaning of the family, the status of children and babies are at stake in all of this as we debate who is to participate in the generation of human life; how that life is procreated; and how it is to be treated from the first instant of conception. As Judge Sorkow aptly

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stated in his decision in the Baby M case in New Jersey: "What is technically possible is not for that reason morally admissible."

Thus it is questions like the following that disturb our long-held assumptions about the origins of human life:

- Modern science has given us three dramatic inventions: synthetic children through test tube babies, synthetic families through surrogate parenting, and synthetic sex through artificial insemination. Does this also pose a triple threat: to human dignity through manipulation and experimentation of the fetus? to the family through third party donations of egg and sperm to the procreative act? to sexuality through artificial insemination or in vitro fertilization to replace human sexual intercourse? (C. Krauthammer, "The Ethics of Human Manufacture," *The New Republic*, May 4, 1987, page 17-21).

- Do human beings have an unqualified right to do what they want in order to have a child?
- Is sexual intercourse within marriage the only ethically legitimate context in which procreation should take place?
- Are there any desirable limitations to research on human embryos or fetuses? — or do the goals of research — furthering the progress of science — justify whatever is necessary to attain the end?
- Are there any ethical constraints on "commercializing" the reproductive process and its products, whether this means selling human sperm and eggs, hiring a woman as surrogate, or selling organs from anencephalic newborns?

The stated reason for the Vatican *Instruction on Respect for Human Life in its Origin and on the Dignity of Procreation* is "to offer . . . some specific replies to the main questions being asked" and it addresses its teaching "to those responsible for the formation of consciences and of public opinion, to scientists and medical professionals, to jurists and politicians" to help them understand the moral principles that will direct society away from "the excesses of its own power."

## What does the Instruction say?

In its content the document does two fundamental things: it reasserts the role of religious, ethical and humanistic values in the application of medical technology; and it unambiguously condemns a number of procedures developed to overcome human infertility. It proceeds from a fundamental premise and assumption that human life is to be generated within the context of a marriage, and as the outcome of conjugal sexual intercourse between husband and wife.

On the positive side, the Church, refocusing our attention on the value-laden questions raised by new technologies, emphasizes that:

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- All human life, from the first moment of conception is worthy of respect. Thus, human embryos should not be exposed to disproportionate risk that may harm them by using them for scientific (research) or commercial (sale) purposes when these interventions offer no benefit to the embryo or the child.
- Good prenatal care is important. This includes prenatal diagnosis which may make it possible to correct certain defects earlier and more effectively.
- A child is not a "product" nor an "object of ownership" to which one has a right. In keeping with its dignity, a child needs a nurturing environment in which she/he can develop.
- Scientific technology is at the service of human progress, and does not enjoy a value-free existence independent of the goals for which it is used.
- There are fundamental connections between genetic, biological and social parenthood. The introduction of a third party (as donor of egg, sperm, or as surrogate mother) into the procreative process is both fraught with risks and is immoral.

In the same spirit, the *Instruction* rejects as immoral most technological interventions into the reproductive process. It specifically names:

- Medical research and experimentation on live embryos when there is a risk to its physical integrity or life; and condemns experimentation that does not directly benefit the embryo in some way.
- Artificial insemination either by donor or husband as a means for achieving conception.
- The introduction of a third party into the procreative process, either through donation of sperm, donation of eggs, or as a surrogate mother.
- In vitro fertilization, regardless of whether it involves the sperm and egg of husband and wife or those donated by a third party outside of the marriage.
- Abortion for any reason.

Prenatal diagnosis linked to the abortion of a defective fetus is "condemned as a violation of the unborn child's right to life and as an abuse of the prior rights and duties of the spouses."

## What are the issues that call for further reflection and dialogue?

In its conclusion, the *Instruction* issues an invitation for further interdisciplinary study of these questions. There is no question that the study and dialogue is continuing among those in churches as well as within society in general. While there clearly is solid support for many of the positions enunciated in the *Instruction*, some issues continue to be problematic and deserve careful continuing study and response. For many who have commented on the *Instruction*, from a stance of respected scholarship and moral sensitivity to the plight of infertile couples, there are questions that remain unresolved.

- Is faithful married love inseparably tied in its sexual expression and childbearing to the biological structure of sexual intercourse? Might not a child conceived through artificial insemination using the husband's sperm be as desired and loved as a child conceived through sexual intercourse? Where an incurable medical condition in the husband or wife prevents successful conception, is a married couple less moral, less faithful, or are they less loving parents if they attempt to enhance their prospects of conceiving through fertilization outside the woman's body?
- Is every technique used to achieve procreation by husband and wife, when it interrupts or replaces sexual intercourse, immoral and unworthy of human beings? Is love diminished or compromised when technological means are used to overcome infertility?
- Does an absolute prohibition against research on human embryos foreclose the possibility of future discoveries in the treatment of genetic diseases?

Advances in medical science have often come as a result of research that offered no direct benefit to the research subject.

- Finally, is the use of human technology in the area of human procreation necessarily an "abuse?" Must it be interpreted as the "domination of technology?" While we embrace gratefully the technology that makes it possible to restore sight through laser eye surgery, or that confers additional years of life through the surgical excision of a complicated brain tumor, or the restoration of mobility through prosthetic devices, why must technology become suspect — even immoral — when used to enhance the potential for human fulfillment in the area of procreation?

## What will be the effect of the Vatican Document?

Today infertility afflicts an estimated 4.5 million people who desire children, 20-30% of married couples. These are couples who sincerely want to have a child. In response to their legitimate desire, there are over 108 In Vitro Fertilization programs in the United States, and over 153 worldwide. In spite of widely ranging success rates in producing successful pregnancies, at a cost anywhere from \$3,000 to \$5,000 per attempted pregnancy, citizens in the United States have invested heavily in providing the resources for overcoming infertility. While adoption remains an alternative for infertile couples who desire a family — albeit a limited alternative — the desire to generate through one's own genetic material remains strong. The Vatican *Instruction* is not likely to weaken that desire nor to halt the growth of fertility services to match the public need.

Most Catholic institutions that follow the *Ethical and Religious Directives for Catholic Health Facilities* will not likely find any source of conflict with the *Instruction*. For example, Catholic facilities that offer such services as prenatal diagnosis are not in the business of abortion, though hospitals and clinics cannot control

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the motives and future actions of their patients. Where genetic counselling is available, it is a service that attempts to guide couples in decisions that will minimize their risk of conceiving genetically damaged children. Some Catholic facilities that offer fertility services to married couples limit their interventions to the GIFT (gamete intrafallopian transfer) procedure, which has not been specifically condemned by the *Instruction*, and in fact, has been defended by a number of respected Catholic moralists. All institutions will continue to study and probe their pastoral responsibility in supporting the legitimate desire of infertile couples for children through high quality medical care, while observing the essential principles that call for respect for the dignity of human life, the unity and quality of marriage, and the respectful generation of new life within a stable, loving and nurturing family. Part of their service will include commitment to research into the causes and remedies for infertility that will in many cases reduce the need for technological assistance in reproduction.

Finally, the Vatican *Instruction* calls for civil legislation and public policy to assure that society is regulated according to the "fundamental norms of the moral law in matters concerning human rights, human life, and the institution of the family." While it is unlikely that many of the positions enunciated in the document will find their way into U.S. legislation and public policy, it is important that the general message of the Vatican be heard, and that its assumptions, insofar as they are shared by the general populace, be further explored, and that the document itself serve as a catalyst for continued dialogue on the morally grave issues surrounding the origins of human life.

*Diana Bader, OP, Ph.D.*, is Senior Associate, Clinical Ethics, The Catholic Health Association of the United States.

An Ohio court has held that a viable fetus is a "child" within the meaning of state child abuse statutes, thus enabling the state to prosecute for child abuse the heroin-addicted mother of a child born with drug withdrawal symptoms.

Baby Luciano was born with pronounced drug withdrawal symptoms, and the physician was informed that his mother had admitted to being a heroin addict who had used the drug intravenously within two weeks prior to delivery. Surveying the developing law regarding the extent to which an unborn child enjoys legal protection, the court noted that while the fetus is protected under property, probate and patrimony laws, it is not recognized as a "person" under the state's homicide statutes. The court declined to "award full 'person-child' rights at the time of viability," leaving the issues for "scholars." It confined its holding to the issue before it: whether the fetus could be considered a "child" under the child abuse statutes of Ohio. Borrowing reasoning from *Roe v. Wade*, 410 U.S. 113 (1973), the court determined that "at the time of viability, the state has an interest in the 'child's' care, protection, and physical and mental development." Therefore, the viable fetus is included within the definition of child under the statute, and the allegations of child abuse against the mother were considered to have been established.

*In Re Ruiz*, 500 N.E.2d 935 (Ohio Com. Pl. 1986).

A prisoner in New York suffering from AIDS has been denied participation in a family visitation program due to the disease.

The Auburn Correctional Facility in New York operates a "Family Reunion Program" which provides for conjugal visits between qualifying prisoners and their spouses in a trailer on the prison grounds. Joe Doe, not eligible for parole con-

sideration until January, 1988, married Jane Doe during his confinement at the facility. Having qualified for the program, he was permitted to spend 48 hours with his wife in November, 1985. The following month, he was diagnosed as having AIDS. His subsequent requests, in which he was joined by his wife, for permission to continue participation in the Family Reunion Program were denied by prison administrators because of his having a "communicable disease."

While noting that its decision was necessarily a "complete bar" to the petitioner's participation in the program due to the incurable nature of AIDS, the court considered that the exigencies of the disease dictated its decision. It considered the crucial point to be the fact that no guarantee exists "that the AIDS virus will not be transmitted. . . regardless of whether (the couple) engage(s) in sexual contact." Noting the probability of transmission only through contact with blood or semen, the court nevertheless admitted concern with the prison authorities' inability to adequately "scrutinize the hygiene of the facilities utilized." It considered the risk of transmission through casual contact "an unresolved question," one which the prison authorities in a state with a disproportionately high incidence of AIDS, dealing with an extremely high-risk prison population, could not afford to answer incorrectly. With a note that the conjugal visit is a privilege and not a marital right, the court refused the petition. A state appeals court affirmed.

*Doe v. Coughlin*, 132 Misc. 2d 709, 505 N.Y.S.2d 534 (N.Y. Sup. Ct. 1986), **affirmed**, 509 N.Y.S.2d 209 (N.Y. App. Div. 1986).

An ALS patient's right to care by familiar people in a familiar place has been held to outweigh the hospital's interest in determining the conditions of care in the institution.

by Toni Blackwood