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REPRODUCTIVE TECHNOLOGIES AND THE GLOBAL BIOETHICS DEBATE: A PHILOSOPHICAL ANALYSIS OF THE REPORT ON ART AND PARENTHOOD OF THE INTERNATIONAL BIOETHICS COMMITTEE OF UNESCO

abstract

Over the last few decades an increasingly pressing social demand for access to assisted reproductive technologies (ART) has emerged. Alongside the use of reproductive technologies, relevant bioethical and biolegal issues arise, such as the claim of a “right” to have a child, the so-called “reproductive rights”, of the prospective parents and the rights of children. This paper explores these and further challenges, both old and new, calling for a transformation of parenthood and filiation, from the perspective of the different theories of the contemporary pluralistic debate, with a descriptive and critical analysis of the recent Report on ART of the Unesco International Bioethics Committee, the first global document on these topics.

keywords

parenthood, best interest of the child, reproductive freedom, procreative responsibility, surrogacy

1. Introduction

The International Bioethics Committee of UNESCO (IBC), a transnational organism with the function of discussing bioethical issues on a global perspective, in 2017 decided to address the topic of assisted reproductive technologies (ART) with a specific focus on the transformations of parenthood and filiation, reflecting on the interactions between societal and technological developments, including the impact on cross-border practices and reproductive rights. Many problems belong to the “traditional” discussion on ART in Western Countries (the so called technologically advanced Countries), others are new, both as new challenges facing emerging technologies, or innovative ways to deal with “old” problems. The final version of the “*Report of the IBC on assisted reproductive technologies and parenthood*” was discussed in July 2019, after undergoing a series of changes during the two years of debate, before being published in 2020 along with a dissenting Opinion. This article will go through the main issues discussed, in a descriptive and critical way, outlining main questions still at stake in the international discussion both in bioethics and biolaw.

There was a huge discussion on the actual choice of the topic. The decision to discuss it came from a shared recognition of the need to update ethical reflection on ART above all from the perspective of their impact on the concept of parenthood, given the fact that the number of children born after the use of ART is regularly increasing. Worldwide about 2.4 million ART cycles are estimated every year, from which about 500,000 children are born each year, resulting in more than 7 million children being born worldwide to 2018, with more than 4 % of these annual births in rich countries (ESHRE, 2018). The increase in the number of children born now makes more visible some concrete and challenging ethical problems that were at one time only intuited. The document is an overview of the latest achievements of scientific knowledge and technological applications in the field, and focuses on the ethical, psycho-social, cultural and legal issues in a global perspective.

Consideration should be given to the fact that the context of the discussion in the IBC is global, with its experts coming from all over the world, from countries with different levels of technoscientific advancement, different religions and cultures, differences in socio-economic-political history and context, differing also in their ethical perspectives and regulations. All disciplines and ethical approaches are represented, so that the interdisciplinary and pluralistic discussion is finalized to reach (whenever possible) the “ethical minimum”, or “maximum ethical” consensus possible, accepting, at times, the need for “mediation” (not compromise) in order to identify common values.

One of the first main points in the document is the absence of the discussion on the status of the embryo. It has always been, right from the beginning, a delicate topic inside the IBC, and after a long discussion, the decision was taken to “acknowledge” that the moral status of the embryo is a “fiercely debated philosophical problem on which very different views are expressed”. For this reason the Committee decided “not to try to reach consensus” on this topic in the Report.

It is well known in the discussion that ART is strictly connected to the status of the embryo, as it involves forms of “manipulation” of embryos: the over-production and freezing of embryos in order to reach a high rate of success of the technology, the reduction of embryos or the random suppression of some of the implanted embryos to avoid the risks of multiparous pregnancies, the possibility of selecting (after preimplantation genetic tests) the embryos produced (Becker, 2000).

It seems a contradiction within the document, not to elaborate the status of the embryo. It is clear in the title that the focus is on “parenthood”, but children are also mentioned, and it is obvious that there would not be any children without embryos, as the condition of possibility of their existence. In the end, after a very lively debate, the first mediation was necessary in order to go on with the discussion on the delicate topics of ART, and the decision was taken unanimously not to open a neverending discussion on the embryo and prenatal life in general, considering it impossible to reach a consensus.

In the Report the status of the embryo, even if neglected in theory, is considered in practice. In the scientific description of the status of the research in ART, on the basis of the achievements reached on the technological level and the success rate and negative consequences of the use of ART, it is clearly perceivable that there is consideration of the status of the embryo even beyond an explicit theorization. There is an effort, that is implicit in research (as highlighted in the document), to balance the success rate of the techniques with the protection of the embryo. No one in research and use of ART considers the embryo as a mere “object” to manipulate and use: this is evident in the scientific description of the state of the ART.

The Report underlines that the available research itself shows the importance of changing the perspective in ART: in the past, in order to increase the success rate, the risks for embryos (and also for women) were generally accepted. Now attention is paid to both elements: a single production, and consequently single transfer and implantation of embryo is considered preferable to over-production both in terms of success rate and reduction of risk of adverse outcomes for embryos (risks of low birth weight, preterm birth, and birth with neurological pathologies) and for women (risks of multiple pregnancies) (Rizck, Gerris, 2017).

Notwithstanding the position (or non position) on embryos, IBC calls for more “well-designed research studies into the causes and nature of adverse perinatal outcomes in children conceived by ART” in order to better guarantee the protection of embryos, newborn babies and the mother.

In the document it is outlined that the use of ART by single persons, same sex couples or heterosexual fertile couples made it clear that these techniques were not only used to treat infertility (the initial goal of these techniques), but that they also created a space for “fulfilling wishes” and going beyond biological limits in procreation. That is the reason why the use of these technologies raises a number of relevant bioethical and biolegal questions. Does the desire to have a child represent the claiming of a “right”? Do “reproductive rights” of prospective parents exist, choosing not only “if” and “when”, but also “how” to reproduce through technologies, and in the event within which limits? What are the implications of such claims on the transformations of parenthood? (Rizck, Gerris, 2017; Austin, 2016). The answers to these questions highlight the ethical, cultural, societal and legal implications on parenthood.

2. The status of the embryo as a neglected question in theory, but not in practice

3. The transformations of parenthood

In the Report there are two main positions on these topics: on the one hand, there is the conception of parenthood as a “changing institution”, in which the family is considered as a historical and social product (in the framework of a relativistic perspective), a phenomenon, variable and flexible according to needs and situations, where individuals will have pre-eminence over the “traditional” natural status of the family; on the other hand, the perspective which defends “a” family model, recognised as a “natural community” as a basic unit of society, the first condition for relationships, the place of the anthropological as well as the psychological, social and existential identification of the subject (Aristotle and Aquinas are identified in the document as philosophical sources for this position).

The mediation between these opposed conceptions of parenthood/family is found in the document in the acknowledgment that ART is configuring new forms of parenthood (like same sex couples, bi-motherhood or bi-fatherhood, mono-parenthood by a single man or woman), while recognising that ART does not change the role of the family as a fundamental unit of society, or the norms referring to parental responsibility and the child’s interests. This is the common ground recognized by all, regardless of their anthropological and ethical perspective: “a parent is someone who has rights, duties and responsibilities towards a child. Parents have decision-making rights over some areas of their child’s life: these rights are generally limited when life and health (considered as objective values and identified with the best interest of the child) are at stake”. In ART, as in natural reproduction, but even more so than in natural reproduction, the willingness to procreate through technologies also encompasses a responsibility towards those born.

The legal dimension of parenthood is a specific object of analysis in the document, starting from the existing regulation (both on a national level in a comparative way, and on an international level) and outlining the trends of development of the future normative framework. The Report highlights that the principle of using childbirth to recognise motherhood continues to be relevant today, including in the context of ART (laws have not changed in this sense), the rationale being that of assigning a person with an immediate responsibility for the care of the born child. Legal fatherhood is generally defined by marital presumption (if the mother is married), voluntary acknowledgment and court ruling (in the case of no acknowledgment of paternity and a non marital relationship). The “traditional” ways of establishing legal motherhood (via childbirth) and legal fatherhood (via marital presumption) are based on an actual or presumed biological relationship between the child and parents. But ART may separate genetic, gestational, and social aspects of parenthood, therefore new criteria for establishing parenthood have been developing.

“Procreative intentionality” of prospective parents is considered the source of legal parenthood in ART: third parties involved (gametes donors, surrogates) cannot be considered parents, as they are external to the project, even if biologically linked. Informed consent to access ART is considered as an *a priori* legal recognition of parenthood and filiation, that generally in most legislations cannot be denied after birth (with the anonymity of the mother or disavowal of the father). When donors of gametes or gestation (even if they have genetic linkage or give birth to the child) sign the informed consent, they relinquish all parental rights, as well as parental obligations.

Another ethical and legal discussion in the Report on parenthood is referred to in the determination of whether the claim/ desire to have a child through technologies constitutes an expression of freedom or an entitlement. In the document there is a mention of the development of “reproductive autonomy”, as “a hard won freedom” versus “a coercitive freedom”, in the context of a strong social and political control. There is a mention of the horrific violations of individual freedom in the domain of reproduction, as forced contraception and forced sterilization in eugenic programs and restrictive reproductive policies aimed at slowing population growth.

In this context, the Report makes a distinction between a right as a “liberty or freedom”, and a right as an “entitlement or benefit”. The former implies protection against interference by the State, removal of obstacles to the exercise of freedom, so long as it does not harm others (negative rights); while the latter entails also the provision of assistance by the State and others to fulfil that right (positive rights). In this framework, reproductive negative rights are against coercive interference in decisions regarding procreation, positive rights refer to entitlement to assistance in procreation. The document recognizes that there is a growing consensus in bioethics that reproductive autonomy includes both the “right to reproduce” and the “right not to reproduce”, but also that there are many ethical controversies due to the interpersonal relevance of the decision to reproduce, affecting a third party, the future child. The Report underlines that: “not procreating is personal; procreating is interpersonal”, considering that the right not to procreate and the right to procreate are not symmetrical.

A parenthood right determined as “a right to have children” cannot be accepted because it would reduce children to properties or commodities: the child as “something”, and not “someone”, intentional parents are entitled to “have”. The Report starts from a general consideration that sometimes those wishes, claimed as rights, are exacerbated by the cultural and social pressures of having a child. This pressure is a combined result of the “technological imperative”, which considers the development of the new technologies as “prior” and “inevitable” as an innovative solution to fertility problems or to the fulfilment of desires, needing to be accepted for the benefit of society, regardless of costs and safety (Fisher and Monahan, 2011), and the parallel development of a “reproductive market” and “shopping forum” of reproductive technologies and services, emphasized by the media, advertisement and publicity referring to technological successes using great power of persuasion, without considering the problems of safety and justice. ART is often advertised as “the” response to infertility or to the claim/ desire to have “a healthy baby”, hiding the risks and/or costs, and increasing societal expectations and acceptance. Both the technological and commercial pressures, together with the societal pressure placed, above all, in Western societies on women for them to have their “own” baby, are always to be considered in the concept of autonomy and rights in the area of procreation.

In this framework the IBC underlines that “reproductive autonomy” should always be strictly connected to “procreative responsibility” to be considered the “new paradigm”. In the document there is no specific discussion on the different technologies to be used and specifically connected problems (gamete donation, same-sex couples, single mother or father, late or delayed parenthood). Discussing the “traditional” arguments for and against, the positions in the IBC are very different on each of these (some in favor, some against), but the general consideration was not to focus on the “claims” of the parents but to better understand, regardless of the technology chosen, the transformations of parenthood and rights/interests of the child.

A specific issue at the centre of the discussion in the IBC is the practice of surrogacy, due to the global increase in the phenomenon. In the Report there is a descriptive analysis of the reasons, considered relevant, for and against surrogacy, followed by a reference to the internal positions in the IBC.

The reasons against surrogacy are referred to as social injustice arising above all in poor countries, with the exploitation of women, often illiterate, in disadvantaged socio-economic and cultural conditions; the lack of real informed consent, considering the difficulty in having awareness and freedom of choice; the commodification and exploitation of the woman through her social role as mother; the control over lifestyle and private life and possible conflict between the surrogate mother and the intended parents; the psychological

4. The focus on gestational surrogacy

problems of the surrogate; commodification of children, conceived as the best “product”, the “best child”, in which perfection seems to be buyable; and the risk of abandonment if the child does not meet the parents’ expectations (Madeira, 2015). A final argument against surrogacy is the reference to family as the core institution in societies: the Report mentions the Universal Declaration of Human Rights (Article 16 paragraph 3, “The family is the natural and fundamental group unit of society and is entitled to protection by society and the State”), and the International Covenant on Economic, Social and Cultural Rights (Article 10 paragraph 1, “the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children”).

The arguments in favor of surrogacy in the document refer to: the opportunity to become parents, considering motherhood as a social construct separate from gestation which can be regulated by the market (Lyzwinski, 2013); the acknowledgment of the possibility to negotiate a contract also privately between afferents (private clinics/organization) and intended parents; the legitimization of compensation to the surrogate for the costs of pregnancy and inconvenience to her working or family life; the consideration of cross-border surrogacy as an option, which for some couples might come with an advantage due to the territorial distance between the intended parents, the child and the woman, avoiding any relationship between the child and the surrogate.

In the context of this discussion, the IBC unanimously restates the unconditional value of human dignity, rejecting any form of commodification of the human body. The surrogate is vulnerable due to the risks to her health and the strong psycho-physical bond with the foetus, with the possible trauma of separation. The contract usually contains conditions that oblige the surrogate to undergo specific health treatments and to follow certain rules and an appropriate lifestyle for the health of the foetus, in addition to possible agreements for an abortion should there be genetic pathologies or malformations that the intended parents refuse to accept.

Within this framework, there are three positions that are supported within the IBC. For some members, surrogacy should be rejected because of the risk of exploitation of the surrogate mothers (both paid and altruistic surrogacy), the best interest of the child and the threat to the central position of the family as an institution. Other members of the IBC argue that altruistic surrogacy under special conditions can be accepted as a way to create a family with a child: securing the interests and rights of the child; securing the autonomy and welfare of the surrogate and her family; and enabling the successful involvement of all parties, with appropriate counselling and psychosocial assessment (including intentional parents), and in the case of the surrogate, also medical assessment and adequate follow-up. A third group of members holds the position that altruistic surrogacy could be acceptable in some specific cases, but doubts whether the conditions required can be met in reality.

5. The best interest of the child

The *United Nations Convention on the Rights of the Child* (UN, 1989) states that the best interests of the child shall be a primary consideration in all actions affecting children (Article 3) and specifies that “the child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents” (Article 7). This international declaration was taken by the IBC as the basis for the discussion on the best interest of the child in ART. The concept of “best interest” related to ART is a general notion that may cover medical interests (e.g. safety of medical procedures, evaluation of risk/benefit ratio), psychosocial interests (e.g. security and identity), and legal interests (e.g. recognition of filiation), and it was not easy to achieve consensus on what it means in the context of ART.

In the Report there are two rights unanimously recognized as belonging to the best interests

of children: the right to know their own origin in the context of gamete donation and the right to acquire nationality in the context of cross-border reproductive services (expression preferred to “bioethical or reproductive tourism”: Donchin, 2010; Lyzwinski, 2013; Paraskou, George, 2017).

The right to access information on the identity of the gamete donor at a certain time, if requested, is considered important for two main reasons. The first reason is the relevance of the genetic link, as a basic element of inheritance that marks the genealogy of each human being. In this sense it may be considered connected to the right to health, as genetic origin is the main source of information needed for a correct diagnosis or prediction of hereditary disease. The second reason is psychological, existential and anthropological: hiding a person’s knowledge about his/her origin (when requested) could imply denying one of the constituent elements of identity. It does not mean that the State has an obligation to tell the truth, but that the State should not prevent access to information about the donor, as it could mean depriving the person of an important aspect of his/her identity.

Based on the fact that the requirement for anonymity affects the rights to personal identity and the development of the personality of the child, the Report affirms that those rights should prevail above any other rights either from parents or from donors. The right to know the child’s origin includes not just the right to access information that would make it possible to trace one’s roots and to know the circumstances of one’s birth. The knowledge of their origin can be confined only to the knowledge of genetic origin (without knowing the anagraphical traits of the donor) or the knowledge of both, including knowledge about half-brothers and half-sisters which would enable the avoidance of possible accidental incest. It is a right to know about the past, and to develop the future.

The principle of the anonymity of human gamete donors that was recognized at the beginning of the debate and of regulation is today called into question. In Europe, several countries (such as Sweden, Germany, Switzerland, the Netherlands, Austria, Finland, Iceland, Norway, the United Kingdom and Portugal) have decided to follow a similar practice. There is a growing tendency to give priority to the rights of donor-conceived persons to know their origins and to favour waiving the anonymity of gamete donors. None of the legislations recognize neither donor’s legal establishment of parenthood nor any rights and duties towards the born child (Kramer, 2016).

The Report underlines that no decrease in donations has been noted in the countries which have granted the right to have access to one’s origins. The different studies have shown a substantial change in the donor profile, as they are generally older and have had time to think about their decision, but not a reduction in their number.

The IBC recommends that regulation of the child’s right to know should be implemented in the national legal framework without retroactive effect, unless there are medical reasons involved or there is a possibility to have the consent of the donor. The recognition of the right to know represents an option given to the child (normally on reaching the age of majority) to access information. Proper guidance, counselling and support should also be offered to donor-conceived children before they decide whether to exercise their right to access information containing the identity of the donor and during the decision (with a sort of “accompanied right to know”).

In this sense the right of the child should prevail over the rights of adults (both parents and donors). Many parents do not want to disclose this information to their children for various reasons: to protect them against negative reactions from others knowing they are the result of ART; to protect themselves from the stigma of infertility leading to negative social and psychological effects; to prevent the impact of the disclosure from disrupting family unity. The main reason put forward in support of the choice to remain anonymous by donors is the claim

of privacy regarding the choice, avoiding any kind of implication in the donation of genetic materials.

The second right of the children recognized by the IBC is the right to identity and nationality in case of surrogacy. In the document there is a reference to the European Court of Human Rights that guarantees childrens' identity (*Mennesson v. France*, 2014; *Labassee v. France*, 2014; *Foulon and Bouvet v. France*, 2016; *Laborie and others v. France*, 2016): respect for the best interests of the child requires guaranteeing the cross-border continuity of filiation relationships constituted by surrogate pregnancy, referred to those cases in which there is a biological link between the minor and, at least, one of the parents.

The prohibition of surrogacy should not affect the proclaimed rights of the child, above all, those related to national identity. The child can not be deprived of his/her nationality and filiation because one of their biological parents decided to resort to surrogacy. In any case, the solution to the conflict should be resolved considering always the best interests of the child because ART is not aiming at giving a child to a family but of giving a family to the child, considering solely his/her best interest.

Beyond the recognition of these two rights (the right to know the origin and the right to nationality and identity), the Report recognizes, in general, the importance of the protection of the child's particular vulnerability. Children may be in a condition of weakness, possibly being the objects of adults' choices and not the subjects, as not yet capable of expressing their own choices and autonomy. They are at risk of harm and damage, without the ability to protect themselves (*Berntsen et al.*, 2019).

Childrens' vulnerability in the context of ART is connected to their health condition.

Some reproductive technologies employing invasive interventions and leading to multiple pregnancies involve risks for children, both physical (premature birth, neurological damage etc.) and pshychological (confusion and disorientation). Today it is not possible to foresee what the future consequences might be on the unborn child, as well as on the affective and psychological relations with the parents. No sufficiently documented psychological studies exist on the subject yet. But the mere possibility that such a situation could upset the delicate process of the child's anthropological, psychological and existential identification should lead to the tackling of this issue with great caution. There is no mention in the document of the possible recognition of the right to have two parents versus single parenthood, of different sex versus same-sex couples as parents, because no consensus was possible in the IBC. But the vulnerability of the child born with ART is one of the main unanimous concerns in the Report.

6. Future challenges: artificial uterus and artificial gametes

In the Report there is also a reflection on the artificial uterus and artificial gametes, as remote emerging future issues of ART, but no explicit position has been taken, due to the novelty of the theme (still dynamically evolving) and the need for consolidation of the discussion both on the scientific level as well as on ethical, legal and societal levels.

Birth from an artificial uterus, also called ectogenesis, concerns the possible, still futuristic prediction regarding technologies allowing for an extracorporeal pregnancy in an artificial womb that can be either partially or totally realised (*Corea*, 1985). Partial or tardive ectogenesis (on which animal experimentation has been carried out, recently through the "biobag" in which a lamb developed through a crucial phase of its gestation and was successfully 'born') would come into play after a first phase of intrauterine life, or more precisely from the moment in which the foetus has its umbilical cord to attach to machines able to feed, oxygenate and purify the blood. The complete artificial gestation, from fertilisation to delivery, foresees the manufacturing of wombs like incubators with an artificial placenta, surrogate membrane and amniotic fluid able to let an embryo and foetus survive outside the mother's womb, substituting for the maternal organism in the nutrition and

exchange functions from the moment of implantation up to the end of gestation. This is a technique that still cannot be reproduced experimentally, given the functional complexity of the human placenta. Despite the fact that this technology has not yet actually been realised (at least with humans), bioethics is already debating its legitimacy or illegitimacy, reflecting on the issues relative to the availability of the body, as well as the implications in the context of parenthood and children's interests (Segers, Pennings, Mertes, 2020; Smajdor, 2012).

The supporters of such a technological advancement affirm its therapeutic usefulness both with reference to the mother and the unborn child: the possibility of carrying pregnancies for wombless women, without having recourse to gestational surrogacy; the prevention of miscarriages or abortions (transferring foetuses from mothers who do not accept pregnancy to artificial wombs); the prevention of harmful effects on the embryo of mothers with risky behaviour (alcoholics, drug addicts, heavy smokers or also those with inadequate diets); the possibility to control the different stages of development of the child that is undoubtedly superior to prenatal diagnoses with the planning of therapeutic interventions too.

That is why in the Report there is an explicit acceptance of the technique when proved safe to be used in humans, which would allow extremely premature infants (23-25 weeks old) to survive. The high morbidity and mortality of this group of vulnerable infants might justify the application of this technology "if ethically acceptable clinical trials could show dramatic improvements of their outcomes". The therapeutic aim is to give premature infants in incubators, with undeveloped lungs, a chance to thrive. Further prospects for the artificial uterus may include the possibility of bringing children to life through development of foetuses or embryos in the very early stages of gestation outside the natural uterus.

Undoubtedly ectogenesis could represent an important advancement for biomedical technology if considered for therapeutic reasons, or aimed only at saving foetuses from abortions, anticipating the time necessary for gestation outside the mother's body. Nevertheless, together with such a hypothesis an unavoidable bioethical issue remains open: in the experimentation phase of an apparatus that substitutes the womb, embryos and human foetuses would be used and instrumentalised, with the likelihood of a very high number of damaged ones possibly or probably being destroyed. The use of embryos as guinea pigs for the functionality of an artificial womb would also contradict the generally accepted principles of the experimentation of drugs or medical apparatus on human beings. Experiments must be carried out with respect to the physical integrity of the subject in question, with the aim of improving health and not reducing or harming it.

In the document many challenges are raised, both medical and ethical. This would represent a "disconnection" of gestational development of the child and the natural biological process of pregnancy, and even birth, if the embryo was to develop in an artificial uterus from the very beginning. It is a project that presupposes a de-naturalisation of reproduction which opens up scenarios of the complete artificialisation of the unborn child, able to produce a child devoid of any relationship with human bodies from the very beginning to birth.

Artificial gestation coincides with the de-incarnation of motherhood and the cancelling of the physical- psychological bond with the mother. Not only in scientific studies but also from human experience, it is now widely reported that gestation is a phase of intense interrelation between mother and child and that the prolonged relationship of interaction of the mother towards the foetus has a strong impact on the health of the unborn child and its psychological and emotional /development. The artificial uterus would break the bond between mother and child definitively from a natural point of view, a bond which could not be substituted by surrogate mechanical support and would take away from the unborn child not only unreproducible elements (insofar as these are extremely complex with respect to technical reproducibility) but no longer recoverable for the child once born. This raises fundamental

challenges to human dignity and human rights, raising possible forms of instrumentalization of human life.

Such a technique would furthermore constitute a premise for the possible radical de-sexualisation of procreation, opening also possible scenarios of the production of children without parents, anonymous procreations in which orphans could be brought up in collective facilities, with the consequent end of the family, and also parenthood. The child's right to be born in contact with the mother and the right to an interaction with the mother's body as the conditions for an appropriate development of personality will be at stake.

Scientists are also exploring the possibility of creating gametes in vitro, producing artificial sperm in males and artificial oocytes in women. The state of knowledge on functionality and safety of these methods is currently limited. Possible future use of artificial gametes could increase the availability of gametes and represent a possibility for infertile persons who now use donated gametes to have a child who is genetically related to them. The current situation is such that this is only a remote possibility at the moment. The first report of experimentation in animals, failed.

Artificial gametes pose a fundamental challenge to many assumptions about the limits to human reproduction. The possibilities that these techniques may represent raise issues related to how infertility, gametes and parenthood are understood and a number of ethical concerns, including the commodification of human reproductive material. The main ethical question is related to the legitimacy of the research itself in this field, because of the potential genetic or psychological harm to the offspring, and gender and parenthood issues. Artificial gametes raise the problems of possible gamete theft and the prospect of unwitting parenthood, issues that may be particularly difficult to be elaborated (Smajdor, Cutas, 2015).

In the context of divergent theoretical positions in the ethics of ART, the Committee found some shared recommendations in the global discussion, recognising the need for a broad debate and implementation of evidence-based policies, including public debate, as these technologies have a broad cultural and social impact. The IBC calls on scientists, governments, and civil society at large to promote multidisciplinary scientific research and discussions on the emergence of new models of families and parenthood, the protection of the rights of the individuals involved, balancing them with the best interests of the child. The focus is also on the safety of reproductive technologies, specifically considering the risks for women, men and children in a condition of particular vulnerability.

The Committee underlines the need to balance the right or liberty with responsibility towards the child, promoting an intergovernmental debate aimed at ensuring non-commodification of gametes and clarifying it in the context of the discussion on organ donation and the prohibition of making a profit from the body and its parts. One recommendation is devoted to promotion of a debate about perceived risks in the implementation of reproductive technologies as a way of avoiding genetic diseases and possible consequences for the rights of persons with disabilities.

The Committee urges the promotion of research on the causes of the increase of infertility and sterility and the methods of preventing infertility and sterility on a medical, psychological and social level and calls for the promotion of psychological and social research on the implications for children born as a result of reproductive technologies and on parents using such technologies.

The Committee calls upon National Governments to establish regulations for ART to avoid legal uncertainty. In the case of surrogacy, the Committee asks for the position of the child born with the help of a surrogate to be regulated, whether surrogacy is accepted or not in a specific Country; in all cases the identity and nationality of these children should be clear.

The Committee, unanimously, recognises the need for a ban, on a global level, of commercial surrogacy and the commodification of children.

The Committee underlines the need to establish and ensure justice regarding access to

reproductive technologies. It is interesting to note that the Committee affirms the need to promote public policies to prevent infertility, and calls on professional organizations of physicians and other relevant health professionals to promote a constant evaluation of the safety of technologies, the development of ethical guidelines and adoption of precautionary measures for their application, unequivocally focusing on medical ethics over business interests. The Committee recognizes that the counselling of persons using reproductive technologies, especially those using donated gametes should be human-rights based and oriented at providing information to all persons involved. It is essential that the counsellor makes sure that the information has been understood by the people who are advised, so that they can make a free and informed decision, avoiding any kind of undue interference on the decision-making process.

In the Report there is a dissenting opinion on two specific paragraphs in the recommendations considered uncorrelated with the UN Convention on Children's Rights. Specifically, the recommendation on the "balancing" of parents' rights and children's rights, as "balance" does not recognize the best interests of the child. The specific words of the Convention are the following: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration" (Article 3); the term "balancing" means to find a sort of compromise, not to attend to the best interest of the child as a prevalent principle over the rights of the others parties involved (the parents, and donors).

The dissenting opinion focuses also on a recommendation, which calls to "observe neutrality on different forms of family and parenthood chosen and not discriminate... any of their citizens on the basis of their choice under the scope of each national legislation". The reference to the "scope of each national legislation" is considered vague and ambiguous and an explicit reference to the best interest of the child is also needed in this context for coherence within the document. To mention the "neutrality" of States with regard to the parenthood chosen means that the State doesn't have the duty to protect the best interest of the child over protection of the form of parenthood chosen, instead, the State must remain neutral and tolerate the parents' choices whatever they are. This point is not shared by those in the field of reproductive technologies who underline the need to prioritise the interests of the child over the rights of the parents.

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