

Import and export of gametes and embryos
Consultation meeting with Bishop Richard Randerson
24 May 2013
(Final: revised 3 June 2013)

Present

Bishop Richard Randerson

Dr John Angus, Chair of ACART

In attendance

Betty-Ann Kelly

ACART Secretariat

Note: FGS = Full Genetic Sibling(s)

General approach

- While the ACART discussion document identifies appropriate criteria and considerations, not all criteria have equal weight, and need to be grouped according to their different weightings under these headings:
 - Fundamental purposes – essential criteria
 - Desirable criteria – criteria that embody significant principles but are secondary to fundamental purposes.
 - Other criteria

Fundamental purposes (FP)

- One of the purposes of the Human Assisted Reproductive Technology Act 2004 is to secure the benefits of assisted human reproduction, taking appropriate protective measures.
- From this perspective, the fundamental purposes which should underpin policy on import and export are:
 - to facilitate people having children (primary purpose)
 - to enable children to have full genetic siblings (a close second).
 - to help others (through export of gametes or embryos). For instance, expatriates living in New Zealand might wish to share surplus embryos or donate sperm to help family members in their country of origin.

Desirable criteria (DC)

- Altruistic supply and access to identifying information about donors are highly desirable criteria.
- Where these criteria are achieved in tandem with the fundamental purposes above, then a “gold standard” would prevail. Wherever possible this standard should be sought.

- However, if in some circumstances these criteria are not achieved, a “silver standard” would apply and be sufficient if:
 - the fundamental purposes were achieved, and
 - the outcomes could be managed. For instance, the wellbeing of a child raised by loving parents may be able to be managed if he or she is unable to access identifying information about a donor. This factor needs to be weighed against the considerations listed under *Case Study* below
- Where the desirable criteria are not present, and are manageable, this situation should not be a block to pursuing the fundamental purposes. A situation where DC frustrate the achievement of FP shows a failure to weigh appropriately the different criteria. The tail is wagging the dog.

Case Study: While living in the USA, Jack and Jill created six embryos using Jill's eggs and sperm obtained via a clinic from an anonymous person. A fee was paid. One child was born in the USA and, having now returned to NZ, Jack and Jill wish to repatriate the remaining embryos for fertility treatment here. They are unable to do so because the criteria of altruistic supply and knowledge of genetic parent are breached. The downside of this decision is manifold:

- Jack and Jill will suffer significant parental grief at finding their future babies are locked up by a set of criteria which, while desirable in themselves, deny them access to their own children
- The existing child is denied the fullness of having full genetic siblings (FGS) he/she otherwise might have had
- There is a significant justice issue involved, Parents who have the financial ability to return to the USA and have the embryos implanted over there have an advantage denied to many New Zealanders
- From the perspective of the health and well-being of mother and child, having treatment abroad is less desirable than having treatment in NZ where everything, including whanau, is close at hand
- Such parents might also be tempted to have multiple implants to save money, with the attendant risks associated with that.

Here is a case where I believe ACART should frame a guideline for making an exception where parents' own embryos and FGS are involved, *while retaining in general the important matters of principle which would normally apply*. There may be other “hard cases” also

Other criteria

- Informed consent to import or export is essential – but in the case of export, this needs to include informing people that once gametes or embryos leave New Zealand, full control over the use of the gametes or embryos may not be able to be guaranteed.
- Protecting the safety, health and wellbeing of children and mothers is essential, and may need to be secured through restrictions. For instance, import could be only from approved clinics which have standards comparable to those in New Zealand.
- Sex selection for non-medical reasons – e.g. where there is a family gender imbalance – does not seem to be harmful in a country such as New Zealand which does not allow discrimination on the grounds of gender. The issues associated with sex selection in a patriarchal society do not apply here or in other developed countries.

- Export for research purposes should be acceptable for approved purposes in licensed clinics and laboratories.

Donor expenses

- The level of expenses paid to New Zealand sperm and egg donors appears very low, particular for egg donors. Egg donation requires preparation beforehand through the use of drugs, is invasive, and involves time travelling to and in clinics.
- While the boundary between justifiable expenses and fee payment could be blurred, there seems to be room to increase donor expenses to a level that recognises the opportunity costs involved.
- A modest fee might be set to facilitate supply (see below)

Conclusions

1. ACART should consider providing an exception to the rule of “no import” where the criteria of altruism and genetic parental information have not been met. This should only occur in situations such as in the Case Study above where parents “own children” or FGS are involved. The general criteria should not be waived in other circumstances
2. Altruism is a very desirable principle, but there is a lack of gametes on offer in NZ and this is driving those who can to go overseas for treatment abroad. A modest fee to attract gametes locally might be considered. The fee should be established by regulation in accordance with a consideration of demand matching supply, and should prohibit commercial gamete sales on the open market.
3. I think sex selection should be allowed for family balancing purposes only (see under Other Criteria).

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