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BIOETHICS IN NEW ZEALAND: 1991-1993

Ethical issues in the delivery of health care have continued to have a high public profile in the period under review. Much of the debate has been sparked by the radical changes to the health care system introduced by the government in July 1991. The effect of these changes has been evident throughout the health sector, raising anxieties about the introduction of commercial and competitive elements into what was primarily a national health care system similar to that in the United Kingdom (itself undergoing radical change in the same period).

Other legislative changes or proposals for change have provoked debate regarding consent to treatment, confidentiality, no-fault compensation and discontinuation of treatment. Notably absent from public debate in this period have been the highly contentious areas of abortion, maternal-fetal conflicts, and active euthanasia.

I. NEW REPRODUCTIVE TECHNOLOGIES AND PRACTICES

There continues to be a legislative vacuum in New Zealand regarding reproductive technology. Over the past ten years, successive governments have received recommendations to set up a committee to clarify the situation and to propose legislation, if necessary. The latest of these recommendations came from a report entitled Biotechnology Revisited, prepared for the Medical Council of New Zealand (the licensing body for doctors) by the Otago University Bioethics Research Centre [4]. This report, when released for public discussion, produced a lively response from a wide range of individuals and organizations, with very strong support from medical and legal professional bodies, as well as from various consumer groups, for more decisive government action. Although the Ministry of Justice had established an Interdepartmental Monitoring Committee on Assisted Reproductive Technology (IMCART) in 1987, little had emerged from its meetings.

Thus, it was a good sign of renewed political will to confront this contentious area, when, on May 3, 1993, the Minister of Justice reported to Parliament the establishment of a two-person Ministerial Committee to study and report on assisted reproductive technologies. The two members are Dr. Paparangi Reid, Medical Practitioner and Researcher at Wellington School of Medicine, and Mr. Bill Atkin, Reader in Law at Victoria University. The choice of Dr Reid, a Maori health professional, signals the government's
intention to ensure that there is a proper bicultural input. For the Maori culture, issues of birth and genealogy are of very high social and religious significance, and within that setting extended family relationships are particularly powerful. Surrogacy, for example, is viewed very differently within a culture that does not depend upon the Western nuclear family for its support systems.

The two-person committee is clearly addressing ethical as well as legal issues raised by assisted reproductive technology (ART). Among the questions in its document requesting public response is included: "Are there any underlying and fundamental principles which should be taken into account in making decisions on ART?" The committee is also seeking submissions and expression of views on issues such as the "right" to reproduce, the status of the embryo at different stages of development, surrogacy, research on embryos and gametes, and the balancing of "rights" and "interests" of groups involved in ART.

A second body dealing with ART has also been established by the Minister of Health, but only as an interim measure and without any requirement to propose changes to existing practices. The Interim National Ethics Committee on Assisted Reproductive Technology (INECART) was set up in April 1993 in response to representations from clinics providing infertility services. At present these providers participate in a voluntary licensing scheme, which requires ethical approval for new treatment or research initiatives. However, because of the absence of legislation or of any kind of national ethical guidelines, the clinics were unable to gain such approval from the existing ethics committees. It is envisaged that, when a National Advisory Committee on health service ethics is established (see Section V below), guidelines will be established to enable local ethics committees to consider these issues. In the interim, INECART is receiving proposals from providers of infertility services and determining whether ethical approval can be given for specific initiatives, or whether no decision can be reached until the formulation of national guidelines or the enactment of specific legislation. A specific case in point is surrogacy using reproductive technology (e.g., donor insemination or in vitro fertilization). Considerable uncertainty surrounds these practices in New Zealand, since there is no specific legal framework for such arrangements and much debate about their ethical acceptability. To date, INECART has not given ethical approval to any form of surrogacy.

II. CARE OF SEVERELY DISABLED NEWBORNS

It is perhaps significant that the only published report on the topic of the care of severely disabled newborns in the past two years is one written in the context of setting priorities in health care. With the ever increasing emphasis on cost containment created by major curbs on public spending, the justification for high cost neonatal intensive care has been questioned. The