

Virtual Mentor

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Adopting the Unborn

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In vitro fertilization has helped to produce tens of thousands of children since the procedure became widespread in the mid-1980s.¹ As with any new medical technology, several unexpected problems developed, such as what to do with the more than 200,000 excess frozen embryos stored in fertility clinics around the country.² While many countries have national policies governing how long such embryos can be stored, the US does not. Entrenched in the debate over what to do with unwanted embryos is the uncertain legal and moral status of the embryos themselves.

A US couple faced with the question of what to do with their excess embryos currently has 3 options: (1) discard the embryos, (2) donate the embryos to a non-federally funded lab for research purposes, including embryonic stem cell research, or (3) donate the embryos so that other infertile women may use them.

In late August, the Bush administration announced its plan to publicize what it refers to as "embryo adoption" by offering individual grants ranging from \$200,000 to \$250,000 and totaling approximately \$1 million.³ Like embryo donation where couples give their unused embryos for research, couples may also give extra embryos to another infertile couple for "adoption." Babies born by this process are considered the children of the recipient couple. Organizations may apply for the federal grant dollars to fund public awareness campaigns promoting donation of embryos.

The term "embryo adoption" was originally coined by Nightlight Christian Adoptions.⁴ The director for Snowflakes, the agency's embryo program, explained that "we use the adoption language and materials with the hopes of setting a precedent that someday the court will say embryos need to be handled like any other child."⁵ Knowledge of the origin of the term embryo adoption has fueled sharp criticism of the Bush administration by abortion rights groups.

One pressing question about this program is why embryo adoption is deemed to need governmental support. Critics argue that the administration is using the embryo adoption program to confer upon the embryo the rights of a fully developed person, as if it were a baby. Much of this argument stems from the use of the term "adoption." How, critics argue, can one "adopt" a 6-celled embryo as if it were the equivalent of a child? Certainly a private laboratory that uses donated embryos for

research purposes does not adopt them but merely accepts a donation. Nor does a person who donates blood or a kidney give these tissues up for adoption.

Senator Arlen Specter (R-Pa) inserted the grant program into a Health and Human Services spending bill. Although Sen. Specter supports both abortion rights and embryonic stem cell research, he also supports the grant program because "if any of those embryos could produce life, I think they ought to produce life."⁴ Specter is of the opinion that while couples are free to discard or donate their embryos for research, it should be a last resort option. If the goal of the federal government were to develop a workable solution, than more than one of the available options would be examined. Promoting 1 out of 3 possible options demonstrates a clear bias on the part of the Bush administration.

Although the current administration supports and has offered financial assistance to promote embryo adoption, only 5 states have any legal protection for the recipients of donated embryos, and embryo adoption is not legally recognized.⁴ The federal government may face some difficulty promoting a course of action that has such little legal support.

With an ever-growing number of people seeking in vitro fertilization treatment, the problems of excess frozen embryos and disagreements about what to do with them will only increase in number and complexity. Who should address these issues? Some have called for additional regulation of the industry, either at the state or federal level. Others think that such regulation should come from within the profession—from the specialty organizations, fertility clinics, and physicians. It will certainly take the cooperation of all these parties to establish comprehensive procedures. In the absence of legislation and regulation, disagreements will end up in the courts, which will lead to case by case decisions that fail to address the broad underlying problems.

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