

Commission of Canada, 130 Albert St, 7th floor, Ottawa, Canada KIA 0L6

To review, to expound, to react. I react because I sense a danger in this report. It is a danger of a very general kind. I can describe it in the following way. Society has a problem. In this case, some of its members die. The problem is (or is seen to be) increased by developments in technology and by, at least as measured by more than decades, a rising standard of life. Medicine contributes with a capacity to extend life with pain-killers and tranquillises. Easy life leads on to easy death. At this point a strange dichotomy appears. Individually we trust our doctor; collectively we distrust the technology doctors wield. On the other hand we say we distrust lawyers but seemingly ever more increasingly place our faith in their magic. And that magic's most potent form is the rule of law. We act as if every social problem can be cured by a law. And if it fails then the answer lies in a different medicine, a new law.

A former chairman of the English Law Commission (and there is no reason to think that Canadians suppose otherwise) once defined *law reform* as 'recommendations for changes and improvements in any part of the law which can appropriately be put forward by a body of lawyers on the basis of legal principle and pragmatic common sense, after due public consultation. The brief thus arrogated by the profession extends beyond technical accomplishment, ie beyond legal principle. The brief includes the ideas of 'appropriate', 'pragmatic common sense' and 'due' consultation with such people as respond to the methods chosen by the body of lawyers.

The danger in this is that we are relying on a body of people whose training, experience and intellectual tools are not in any way related to the subjects upon which we call on them to pronounce. In doing so we exclude the very people who have some experience of these matters. Pursuant to the assumption that all are equal, of the cult of individual rights, we disregard competence. I do not argue that the medical profession is always correct but I do say that as a policy we ought to beware of the rule of law (and of lawyers) because where there is law there are conflict, sanctions and penalties. And I say that lawyers (when they are not concerned with status and rights) think about those things. I do argue that the medical profession is more likely to provide a rule of harmony or of compassion or of co-operation. Law is a

means; those are desirable objectives.

Measured by what some will see as these idiosyncratic standards this Report of the Canadian Law Reform Commission on euthanasia, read on its own is, surprisingly, not altogether unhelpful. It does what such a body of lawyers ought to do: it points out ambiguities and logistic difficulties in existing law. Its prescriptions tend either to leave the law alone or to provide a greater immunity from the criminal law for Canadian physicians. In places it even recognises that the law cannot always tell people what they ought to do. What it fails to understand is that in matters of life and death the central issue is not whether there is a criminal homicide but more simply whether there is life or death. But then the central failure of law is that it cannot recognise facts without deontic consequences. In that limitation lies the danger of the universal use of the lawyer's medicine.

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Human Experimentation and Medical Ethics

Editors, Z Bankowski and N Howard-Jones, 505 pages, Geneva, SF30, (£10.50 from HMSO, London) Council for International Organizations of Medical Sciences, 1982

This volume is unfortunately topical and members of the UK Medicines Commission currently considering new guidelines for human volunteer experiments could find it a useful primer. Within the recent past two students have died in the British Isles as a consequence of their participation in volunteer drug studies. The lessons to be drawn from these two tragedies are still not clear. However, they are certainly not those intemperately expressed by the leader writer of *The (London) Times* who suggested that only pharmaceutical company employees should take part in drug studies. The whole issue of human volunteers is a complex one which this collection of papers explores in some detail. Particularly interesting are the papers which deal with fact rather than opinion and I single out for mention the chapter by N Howard Jones on historical perspectives on human experimentation.

Our forebears had a more robust attitude to adequate motivation of

research subjects. The condemned Newgate prisoners who volunteered for experimental variation in 1721 in return for their liberty (if they survived) probably had few second thoughts. Fascinating also is the account of 'auto-experiments' popular with physicians in the 19th century. These feats of daring are still in vogue in many physiological laboratories. A short history of drug disasters in the 20th century makes interesting reading since most of these large-scale disasters were caused by too little experimentation rather than too much. Dr Howard Jones quotes the US elixir scandal of 1937 in which an untested diethylene glycol solution of sulphanilamide was marketed, killed over one hundred patients, and led to the establishment of the Food and Drug Administration (FDA). However, he omits to mention that twenty years later a very similar large scale disaster occurred in France when 'Stalinon', an untested organic tin compound, was marketed for treatment of furunculosis.

It is inevitable that disasters and tragedies focus attention on human experimentation more clearly than abstract debates on the moral issues of informed consent. If medical research is to continue productive, human experimentation will have to continue and probably expand. If armchair theoreticians react by tedious and restrictive regulations of such experimentation, then no real benefit will result. Let us hope that common sense on such issues as risk and benefit, incentive and compensation, will prevail and that the principles elaborated in this consensus volume will be incorporated into a working arrangement.

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Making Babies: The Test Tube and Christian Ethics

Editors, Alan Nichols and Trevor Hogan, 116 pages, Canberra \$A7.95 Acorn Press, 1984

In Australia theology is taken seriously. A report of the Commonwealth's National Health and Medical Research Council, published in 1983, recommending the setting-up of a National Research Ethics Committee, lists theology among the disciplines to be represented on it. This is despite the

professed separation of Church and State to which Mr Justice Kirby draws attention in his foreword to the book under review. The book is a product of the Social Responsibility Commission of the Anglican Church in Australia. This review will concentrate, therefore, on the purported contributions to a Christian ethics of *in vitro* fertilisation and attendant practices, ignoring the chapters which outline the issues in ways now common to all such reports. It is a pity that, under this limitation, the two distinctive chapters by clinicians, W A W Walters and Gareth Jones, must be ignored.

John Henley, in a chapter headed 'The Formulation of Official Policy: Principle versus Procedure,' outlines principles to be accommodated in ethical discussion. The 'policy' of which he complains was that of a committee established in the State of Victoria which used the terms 'acceptable' and 'unacceptable' in its judgements without further explication. It is not clear, however, whether these judgements, however expressed, contravene Henley's principles.

John Morgan assays a distinctively Anglican statement of the ethics and moral theology involved. His argument amounts to a cautious endorsement of IVF within marriage, and of the experimental use of 'spare' embryos but not of ova fertilised for use in research. His conceptual tool, borrowed from modern Roman Catholic theology, is 'proportionate reasoning', combining deontological with teleological arguments as necessary. He rejects the extremes, both those who 'leave it to God' to give them a child, or accept their infertility from Him if He does not, and those who condemn any intervention which interrupts the single process of marital union and conception. In his justification for research on cleaving embryos he relies on Anglican writers in the UK and the USA, and on Roman Catholic writers – Häring and Kung – in Europe. A line or two must have dropped out of his text somewhere on pp 37f, for he is too informed a scholar not to know how different were the pronouncements on contraception in the Lambeth Conferences of 1930 and 1958; here they are confused.

Michael Hill attempts courageously a task too often evaded, to delineate 'a Biblical perspective' on IVF and the like. But does he succeed? He disowns text-chopping, and desiderates 'a unified and integrated biblical theology'. He looks for a 'theory of

moral obligation' to set beside a utilitarian one. He wobbles on whether one exists or not, and then chooses a 'teleological theory' (set against a 'deontological theory') on the ground that it is 'more capable of use in relation to contemporary issues not envisaged in the Scriptures' – and this because scripture 'is concerned with the purposes of God'. The ultimate principle (*sic*) thus curiously begotten is *always to do that which generates or maintains love relationships with God and man*. This ultimate good, obfuscated rather than clarified as an 'agape-relationship', is a psychological state. This was grounded in the family in Old Testament times, the unit of inheritance and so of the material assurance of God's blessing. Hill has to admit, on the evidence of St Paul's rhetorical championing of the Gentiles in Galatians 3: 28, that the relationship can cross genetic boundaries. But then he is betrayed by slovenly modern translations into bringing it back into the genetic family, for the purpose of putting a marital restriction on IVF. In New Testament Greek *oikos* does *not* mean 'the family' as we now know it; it means the household, which included servants and slaves as well as kin. His wish so to restrict the service of IVF is not contested; but his case will not stand on shallow exegesis like this. Similarly he brings in those who condemn the intentional destruction of human embryos as 'a form of murder'. But instead of examining this allegation by careful exegesis of his own Biblical material on 'the sanctity of life', he dodges the moral analysis by suggesting techniques to avoid the offence: he dodges the moral analysis by suggesting techniques to avoid the offence: either taking and fertilising only one ovum at a time, or, if more are taken, implanting the lot to let the poor mother take her chance of a multiple birth. Someone, some day, must tell us how *not* to use the Bible in medical ethics.

The Revd John Fleming's 'Case Against IVF Based on the Moral Status of the Embryo' is good, swashbuckling stuff; it can only grieve those who wish to see a reasoned argument against IVF sustained. Two early sentences illustrate his treating the basic question to be examined as a closed question, self-evidently in his favour: 'One of the principal objections to IVF is that thousands of human beings are sacrificed each year in the IVF programs around the world in order to achieve relatively few pregnancies. The human beings that die are human

embryos'. The IVF practitioner 'behaves with a reckless indifference' to the fate of the embryos not brought to term even in the simplest case. It would be tedious to multiply examples of such indisciplined language. Typically the moralist selected as the defender of IVF is Joseph Fletcher of the USA, who is liberally quoted, in all his absurd extravagances, with the added insult of bogus Latinity – gestation *ex corpo!* The most serious criticism of this book, therefore, is that the case against IVF goes by default. This reviewer has no wish to argue that case; but it ought to have been argued. Some compensation is to be found in Alan Nichols's outline of 'Issues for the Family', and in Roy Bradley's 'Exposition of Pastoral Care'.

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Rights, Killing, and Suffering: Moral Vegetarianism and Applied Ethics

R G Frey, 256 pages, Oxford, £17.50
Basil Blackwell, 1983

Although Frey's primary interest is in the ethics of meat-eating, he addresses issues in practical ethics, such as the value of life, of interest to medical ethicists. His concern is with moral rather than prudential considerations leading to vegetarianism and, specifically, with animal-based arguments. Challenging the three principal arguments for moral vegetarianism, namely the wrongness of killing, the violation of moral rights and the wrongness of inflicting pain and suffering, he argues that they all fail to establish the wrongness of meat-eating. Disputes concerning the value of life, he points out, have reached an impasse, but even if agreement could be reached, one could not move from the wrongness of killing to the wrongness of meat-eating. Equally sceptical of arguments based on the moral rights of animals, Frey contends that we are 'at sea in a tide of theoretical claims and counter-claims, with no fixed point by which to steer'. Such arguments are simply 'excess baggage' to the debate, diverting us from more fundamental questions. Arguments from pain and suffering are more pressing, he says, but he seeks to establish that a concern with suffering is compatible with meat-eating. Here his