

# IN-VITRO FERTILIZATION: STUDY MATERIAL AND GUIDELINES

A Social Document from the Lutheran Council in the U.S.A.



Evangelical Lutheran Church in America  
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## A Study Paper of the Lutheran Council in the U.S.A.

The standing committee of the Division of Theological Studies of the Lutheran Council in the U.S.A. has requested and received authorization from the member churches of the council to publish the following report prepared by the consultation of lawyers, physicians, and theologians which it commissioned to study in-vitro fertilization (IVF). On the basis of its review of this document, the division has concluded that this study makes a worthy contribution to the ongoing dialogue on this issue. It therefore commends this report to the churches for study and discussion.

As it releases this document, the division calls attention to its basic format. The report first defines the procedure of in-vitro fertilization. This is followed by a discussion of its medical, legal, and theological aspects. The report then presents the moral arguments which are most frequently used both to approve and to reject IVF. The conclusions of the consultation itself regarding in-vitro fertilization are not represented until the final section of the report under the heading "Guidelines for Christian Counsel and Pastoral Care." The consultation was unanimous in concluding that IVF "does not in and of itself violate the will of God as reflected in the Bible." At the same time, these guidelines also reveal differing viewpoints held by consultation participants regarding the restrictions which should govern the implementation of this procedure.

The standing committee of the Division of Theological Studies hopes that this report will be helpful to all those who struggle with decisions and concerns relating to in-vitro fertilization.

### Introduction

The standing committee of the Division of Theological Studies, Lutheran Council in the U.S.A., commissioned a study of "in-vitro fertilization" (IVF) in March 1980. The committee agreed that the topic IVF should be examined as a case study in order to determine whether there are any specifically Lutheran approaches that could be applied to it or ethical problems of a similar kind. Furthermore, the committee felt that the church has an obligation to deal with such issues before they are decided for us by society. And it is clear that IVF has important implications for our whole society.

Nine Lutheran experts in the fields of medicine, law, and theology were appointed to a study committee by the Lutheran Council's member churches through their representatives on the standing committee of the Division of Theological Studies. These nine (later to become eight as one could not continue) were joined by some members of the standing committee responsible for this document. All participants

represented the American Lutheran Church, Lutheran Church in America, and Lutheran Church-Missouri Synod and included:

- The Rev. Joseph A. Burgess, executive-director, Division of Theological Studies, Lutheran Council in the U.S.A., New York City.
- Dr. R. John Buuck, president, Concordia College, Milwaukee.
- Professor Arlen C. Christenson, law faculty, University of Wisconsin, Madison.
- Ms. Carol Grant, attorney, Meshbesh, Singer & Spence, Ltd., Minneapolis.
- Dr. Fred J. Hofmeister, gynecologist-obstetrician, Milwaukee.
- The Rev. Paul Jersild, dean, Wartburg Theological Seminary, Dubuque, Iowa.
- The Rev. Lowell H. Mays, director of the Department of Human Ecology of Madison General Hospital and member of the Department of Medicine and Human Oncology faculties of the University of Wisconsin Medical School, Madison.
- The Rev. Samuel H. Nafzger, executive secretary, Commission of Theology and Church Relations, Lutheran Church-Missouri Synod, Saint Louis.
- Dr. Warren Olson, Department of Psychiatry University of Wisconsin Center for Health Sciences, Madison.
- The Rev. Robert P Roth, Department of Systematic Theology, Luther Northwestern Theological Seminary, Saint Paul.
- Dr. James H. Thomsen, Department of Medicine, University of Wisconsin Center for Health Sciences, Madison.

Beginning in September 1981, seven meetings were held over the next two-year period in Madison, Wis. In trying to "set the stage" for consideration of the subject, the study committee recognized that the medical, legal, and theological disciplines involve different world views, thought processes, and jargon. The problem-solving method of each discipline was explored before the committee attempted to do any problem-solving of its own; the doctors, lawyers, and theologians found some common ground upon which they could build their thinking and reflections for the church. All committee members read a large amount of literature and viewed the latest films about IVF, including a videotape of the actual clinical laboratory procedure ("Nova:" broadcast originally January 17, 1982, on PBS). The physicians on the committee described how IVF is done; the lawyers reported on the legal status of IVF; and the theologians delineated the moral issues presented by IVF. An effort was made to suspend judgment about these moral issues while additional information was gathered. The study committee heard tapes of an interview by one committee member with Drs. Howard and Georgeanna Jones, co-directors of the nation's first IVF clinic in Norfolk, Va. It heard the pleas of two infertile couples who expressed anguish over their childlessness while being interviewed. The committee also sought opinions from interested individuals who are strongly in favor of the process as well as from those who are strongly opposed to it.

During the two-year study the participants were often reminded of the rapidity of change in social attitudes toward developments on the scientific and technological frontier. They witnessed the change of IVF from an experimental to a therapeutic

process, a more routine medical practice, and a realistic and available alternative for infertile couples. New clinics are opening up all over the world. As one committee member put it:

"I first became curious about IVF in 1972, when I heard a gynecologist speak on the subject. I had the feeling that others who heard the presentation leaned back, yawned, and dismissed IVF as a remote possibility, futuristic, or science fiction. I put the subject on the 'back burner.' In 1981 I was in Norfolk. I learned that the medical school there had the most active IVF clinic in the western hemisphere and certainly in America. A friend invited me to tour the clinic and talk to some people involved in the clinical research and my curiosity was heightened. The Lutheran Council in the U.S.A. took that which was on the 'back burner' and put it 'front and center.' Our LCU.S.A. committee has forced me to do some serious thinking about IVF. Even while the committee met, there were numerous scientific changes which altered the picture and therefore my thinking. Because of the rapidity of technological changes, attitudes which I had concerning IVF had to be readjusted."

Finally, committee members began articulating some tentative conclusions. While there was agreement that IVF in and of itself is not contrary to Christian values, there was disagreement about some of the issues associated with this process. This disagreement was not suppressed for the purpose of formulating rules to govern Lutherans contemplating IVF. There is always a temptation to create a synthetic stand on an issue when it involves many different theological points of view. In some ways, it would be comfortable to have the church dictate in every situation what is acceptable and what is not. But it is not in our Lutheran tradition to establish hard and fast rules to govern each facet of human behavior. As stated by one of the theologians on the committee:

"Lutherans seek to achieve consensus, but the gospel must be wrestled with, and uniformity may not be necessary or desirable in order to be faithful to the gospel. Unity *and* diversity are automatically presumed in any theological discussion."

The committee, therefore, decided to summarize its research, to define areas of agreement and disagreement, and to describe the reasoning used to justify the various positions set forth. It is hoped that this material will be helpful to clergy who counsel couples who suffer from infertility, to couples who want the church's input as they try to resolve the plight of infertility, and to professionals who look to the church for guidance in exercising their baptismal vocations.

A special word of thanks is due the Sichert Lutheran Foundation, Inc., Wauwatosa, Wis., whose grant enabled the Division of Theological Studies to conduct a more thorough study than might otherwise have been possible through Lutheran Council funds alone.

### **Definitions and Historical Background**

On July 25, 1978, the birth of the first "test-tube" baby was announced. The label "test-

tube" baby was a misnomer, since Louise Brown was actually conceived in a laboratory dish (not a test tube) through a process called in-vitro fertilization (IVF). "In-vitro" is derived from Latin and means "in glass." So IVF refers to the fertilization of an egg outside the living body in an artificial environment, such as a glass container.

IVF now fascinates the public. Scientists, however, have been interested in the process since 1878 when a German named W. Schrenk unsuccessfully attempted to fertilize rabbit eggs in a laboratory dish. In 1934 Gregory Pincus reported that he had used rabbit eggs to accomplish what Schrenk had not been able to do. In 1944 Dr. John Rock of Harvard University mixed eggs from female cadavers with sperm and reportedly observed fertilized eggs divide.

Dr. Landrum Shettles of Columbia University wrote in 1953 that he had used some of Dr. Rock's techniques and had induced fertilized human eggs to grow into a solid mass of cells.

Some people were skeptical about the claimed success of IVF. Dr. M.C. Chang of the Worcester Foundation of Experimental Biology in Massachusetts was especially concerned, believing that fertilized eggs which gave the appearance of early embryological development were actually deteriorating. Chang removed sperm from a male rabbit and an unfertilized egg from a female rabbit. He combined the egg and sperm in vitro and then inserted the egg into the womb of a second female rabbit (which had been segregated from male rabbits). The second female rabbit became pregnant, proving that IVF had occurred.

Following Chang's success, interest in IVF with humans was quickly renewed. In 1961 an Italian doctor named Daniele Petrucci claimed the successful accomplishment of IVF with human egg and sperm, resulting in the development of an embryo. A heartbeat was detectable in the embryo, which was destroyed after 29 days due to tissue malformation. When the Vatican learned of Dr. Petrucci's research, he was pressured into discontinuing it. An editorial in L'Osservatore Romano announced that IVF violated God's natural law.

The success of Dr. Petrucci prompted researchers in other parts of the world to continue investigating. LYE Physicians in Melbourne, Australia, were the first successfully to implant eggs fertilized in vitro to bring about a human pregnancy. The pregnancy, however, lasted only a short period of time. Meanwhile, Drs. Robert Edwards and Patrick Steptoe of Cambridge University in England perfected the IVF process by administering hormones to stimulate the production of more than one egg per month and by using new tools called laparoscopes to recover the eggs. As a result, a woman from Bristol, England, became pregnant and gave birth.

The demand for IVF is growing. Since July 25, 1978, numerous IVF clinics have been established, and a growing number of test-tube babies, including twins, have been born. For infertile couples who can afford it, IVF will become a routine procedure in their attempt to have a child.

## **Medical Aspects of IVF**

### *The Medical Method*

Medical researchers use the "scientific method" to solve problems. First a hypothesis (what the researcher wants to prove) is stated. Next experiments are conducted and facts are gathered to support or disprove the hypothesis. Finally a conclusion is drawn, based upon the experimental data. The scientific method asks what is, not what ought to be. The method sounds objective, but even facts may be viewed differently by different people. For example, the question whether IVF is safe cannot be resolved by the scientific method. What one person considers safe, another does not. It is important to know the underlying factual basis of any conclusion, even one drawn by a scientist.

### *Typical Conception Process*

Every woman stores hundreds of microscopically small eggs in her body. Once a month, an egg is released from a sac (ovary) in the pelvic region. It then travels through a "fallopian" tube. During sexual intercourse a man ejaculates sperm into a woman. The sperm travel up the fallopian tube. If a sperm unites with an egg there, conception occurs. The fertilized egg then implants into an organ (uterus, or womb) at the end of the fallopian tube. The egg begins to divide, and nine months later a baby is born.

### *Infertility Problems*

Some women are born without fallopian tubes. Some have had the tubes removed after an infection or an ectopic pregnancy (where the fertilized egg begins to grow in the tiny tube, rather than the elastic uterus, bursting the tube). Disease itself may destroy the tubes. Some women are born with tubes that are too small. Others have been sterilized by having their "tubes tied" and later have tried to reverse the sterilization, but unsuccessfully. In all of these cases the egg cannot travel to meet the sperm and be fertilized. On the other hand, a man's sperm count may be too low for conception to occur. Or sperm may be "rejected" by the mucus in a woman's organs due to an immunity problem.

### *Details of the Procedure*

IVF may solve many infertility problems because the egg is fertilized with sperm in a laboratory dish. The egg does not have to travel through a fallopian tube in order to be fertilized. IVF also may eliminate infertility even when the cause is unknown.

Every month a woman typically produces one egg which may be fertilized. When certain hormones are taken or birth control pills are stopped, "superovulation" may occur, and many eggs may be available for fertilization. The result could be a "litter" of children.

Even if a woman undergoing IVF has superovulated, a single egg may be taken from her body using a technique called laparoscopy. The egg is removed by making small incisions in the abdominal wall. A lighted viewing telescope (laparoscope), suction needle, and forceps are passed through the incisions. The harvested egg is put in a

laboratory dish, where it "matures" or ripens. Fresh sperm is added to the dish. The egg is then watched through a microscope. If it has been fertilized and its cells properly divide, it is carefully returned to the woman's body. She is told to lie perfectly still for many hours. Her blood hormone levels are measured for a number of weeks after the egg transfer to see if there has been a successful pregnancy.

The chance of establishing pregnancy through IVF of an egg is currently around 10 percent. Several eggs may be removed from, and returned to, the body of a woman who has superovulated in order to increase to 60 percent the chance that pregnancy will result.

### *"In-Vitro" Fertilization*

A variation of IVF requires a couple to have sexual intercourse just before an egg is removed from the female's ovaries. The egg is implanted in her uterus, and the couple has intercourse again. Conception takes place in the body, rather than in a glass dish; but otherwise in-vivo ("in life") fertilization is like IVF.

### *IVF Prerequisites*

Clinics in this country commonly set prerequisites for IVF. These are usually similar to the prerequisites at the first IVF clinic established in the United States by Drs. Howard and Georgeanna Jones and located in Norfolk, Va. At Norfolk patients meeting the following criteria are accepted:

1. The couple should have a stable marriage.
2. The couple should be childless.
3. The couple must be infertile due to an abnormality of the fallopian tubes, low sperm count, the woman's mucus being hostile to sperm, or unexplainable infertility.
4. The woman's uterus must not be small, bifid (with two cavities), or otherwise abnormal.
5. The woman's hormone levels, menstrual cycle, and glandular functions should be normal.
6. The woman should be less than 35 years old to avoid the increased probability of chromosome defects that occur during the aging process.
7. The couple should be in general good health, like any couple who plan to adopt a child.
8. The couple must be able to pay the clinic and must be willing to follow directions of the clinic's staff

### **Legal Aspects of IVF**

#### *The Legal Method*

Many people think that there are laws which contain all the answers to issues which arise about every subject. In fact, there are no laws to resolve many disputes, especially disputes regarding matters as new as IVF. And even if there are laws which cover a topic, they may be subject to different interpretations. Therefore we can only suggest the probable or possible outcome of most IVF litigation.

In the United States there are three branches of government (legislative, executive, and judicial). Legislators, administrative agencies, and judges all have the power to create law, subject to checks and balances. If legislators pass a law, for example, judges may invalidate it on the ground that it is inconsistent with the Constitution. What is more, we have parallel federal and state legislatures, federal and state supreme courts, a president, and governors. Each system deals with different governmental problems.

Executive agency administrators and legislators make broad policy decisions after soliciting testimony and investigating issues. Special-interest groups participate heavily in this process and have a major impact on legislation and administrative rules. Judges and juries, on the other hand, are supposed to consider only one case at a time and decide that case consistently with past decisions in similar cases (precedent).

However, no two cases are exactly alike. There is a lot of room for argument about whether one case is sufficiently similar to another so that the same rule should be applied. Since there are many judges in this country, there may have been different decisions in cases that are alike, and lawyers argue that their position is supported by the weight of authority in addition to arguing that their position is just.

How do these lawmakers decide what the law should be? It is possible to identify several different ways legal decision-makers decide. First, decisions are often made implicitly, without recognizing that they are being made or explaining how or why. A court must, in every case, decide whether or not the case before it is governed by a particular rule. In doing so it is making law by deciding the parameters of the rule. Often this is done without much thought or any consideration of method. Legislators, of course, are under no compulsion to rationalize their decisions. They may decide on the basis of their own present knowledge and values, the views of their constituents, the pressure from organized groups, or for any reason or no reason.

Second, legal decision-makers sometimes use a method akin to the "scientific method" used by physicians and scientists. Legislatures, administrative agencies, and courts will seek data on the impact of alternative rules of law and adopt the rules which seem best. The U.S. Supreme Court, for example, when it decided that "separate but equal" education systems segregated by race were "inherently unequal:" based this decision in large part upon sociological and psychological data.

Third, lawmakers sometimes simply follow precedents or the "weight of authority." Courts are prone at least to explain their decisions in these terms. As we have seen, however, this approach seldom actually explains the reason for the decision since it does not examine whether or not the present case is or is not sufficiently similar to the precedent to be governed by it.

Fourth, legal decision-makers sometimes make decisions using a method that

appears similar to theological exegesis. A court may seek, through a variety of techniques, to determine the "intent" or "will" of the legislation as expressed in a law or the "founding fathers" as expressed in the Constitution. This process is much like a theologian's search for the will of God as expressed in the Bible.

Decisions about the laws are made by several institutions using various articulated and unarticulated methods of decision making. For this reason statements about what the law is can seldom be made in absolute terms. It is necessary to speak in terms of probabilities. Readers of the following discussion should have this in mind.

### *IVF Is Not Illegal*

The law does not specifically prohibit IVF. In most states there are laws prohibiting fetal experimentation, and IVF opponents could argue that these laws cover IVF. The argument probably will be rejected, for it is clear that these laws were intended to cover experimentation with fetuses that had matured beyond the test-tube stage. In 1980 an Illinois law encouraged the prosecution of doctors for child abuse if the "life" of any fertilized egg was endangered. The law has temporarily halted the use of IVF in Illinois, but the law is being challenged as unconstitutional.

A blanket prohibition of IVF appears to be unconstitutional because the right of privacy and the right to decide whether to have a child are fundamental rights, and fundamental rights are protected by the Constitution unless "compelling" reasons dictate otherwise. Even the Illinois concern (over the "life" of any fertilized egg) would not be considered "compelling" by the U.S. Supreme Court, which has held that the destruction of fertilized eggs is not against the law. Thus the decision to abort a fetus during the first three months of pregnancy is to be a decision by the mother and her physician. During the second trimester a state may regulate the abortion procedure only to ensure maternal health. During the final trimester a state may prohibit abortion, but only when it is necessary to preserve the mother's health. The Court, after considering religious views, concluded that we cannot be certain when life begins, but that there is strong medical, philosophical, and theological support for the view that conception is a process over time rather than an event. The interest in potential human life is important, the Court added, and at some point outweighs the woman's privacy. During the first few months of pregnancy, however, what to do with fertilized eggs must remain an individual decision.

### *How It Is Done Affects Legal Status*

Of course, IVF can be carried out in many situations. As these situations become less conventional, legal barriers are of greater concern.

If IVF is not necessary to conceive but is desired to screen for genetic defects or even to control the timing of a pregnancy the right to IVF seems less fundamental; but it would probably be protected by the Constitution, much as the right to abortion is protected regardless of motivation.

If an IVF husband is sterile so that donor sperm must be used to fertilize the wife's egg,



the wife still has certain childbearing rights, probably protected by the Constitution. What she seeks to do with the approval of her husband is not too different from artificial insemination, a procedure that is widely available today.

When a donor egg rather than donor sperm is required, the husband's childbearing rights probably would justify IVF under the law.

If both donor sperm and donor egg were required, however, the courts might not acknowledge a fundamental right to IVF Adoption, even through IVF, is more a privilege than a right.

Some states have laws prohibiting payment to a biological parent in connection with the adoption of a child. In these states a contract hiring a surrogate mother probably is void. Whether laws which outlaw surrogate motherhood are constitutional is another question. It can be argued that if the use of a surrogate mother is the only way a couple can have their own child, that method must be protected. On the other hand, courts might hesitate to extend principles that have their origin in the privacy of two-person intercourse, If the use of a surrogate mother is unnecessary, of course, the courts will be less receptive to the idea.

It might be argued that an interest in preserving the integrity of the family would justify laws limiting IVF to married couples. But the law presently holds that even single people have some right to be free from governmental interference with procreative decisions. It is possible that limiting the use of IVF to married women would be considered unconstitutional.

One of the few governmental interests that is considered "compelling" is the interest in protecting future generations from genetic abnormalities. There are a few laws which prohibit men with venereal disease and other genetic defects from becoming sperm bank donors. These laws would apply if sperm were donated to a couple using IVF The laws also suggest that states may constitutionally deny ) access to IVF by persons with hereditary and communicable diseases.

Before any constitutional challenge can be made, the legislature must pass a law prohibiting IVF or prohibiting it under certain circumstances. So far there are few or no legal restrictions governing IVF, and almost anything is possible. If legal barriers are erected, they may or may not be invalidated, as indicated above.

### *Government Regulations*

While the government may not easily prohibit access to IVF, it may reasonably regulate IVF to promote the public welfare. To protect future generations from genetic defects, a law may be passed which would require the destruction of eggs developing abnormally, for example. The Department of Health and Human Services, an executive administrative agency, has already issued some regulations which affect all research programs involving humans. These regulations require that the institution involved study potential risks and benefits of research, the rights and

personal welfare of proposed subjects, and the need for their informed consent. If an experiment exposes human subjects to possible physical, psychological, or social injury, an independent review committee must find that the risks are outweighed by the benefits to the subject and by the knowledge to be gained. All subjects must give informed consent.

Recognizing that fetal research has saved thousands of lives, DHHS has approved research involving fetuses less than 20 weeks old where the parents have consented, and an ethical advisory/medical institution review board monitors the procedure. Risk to the fetus and pregnant woman must be the least possible, consistent with the objectives of the research. No money or other inducement may be offered to terminate pregnancy for the purpose of the activity. These rules supplement laws restricting fetal research in some states.

Similarly, IVF research is considered vital and may be conducted with DHHS involvement as long as embryo transfer is attempted only with married couples upon their informed consent. There are no rules which govern research with un-implanted fertilized eggs. Research with implanted fertilized eggs that cannot survive outside the womb may be conducted to obtain "important biomedical knowledge which cannot be obtained by other means." The federal government through DHHS may fund IVF programs and provide Medicaid reimbursement for IVF, but only if the safety of the technique is demonstrated (as with animal studies) and the legal responsibilities of parties are clarified.

### *Family Obligations*

If donor sperm is used to accomplish IVF, some states have laws which require the husband rather than the sperm donor to support the child, as long as the husband accepted the procedure. The husband probably would be granted reciprocal parental rights in the event of a custody battle at the time of a divorce or for inheritance purposes. If the husband does not know about or consent to artificial insemination, the situation is murky. Only six states have expressly severed any obligation between the sperm donor and the child.

If a donor egg is used to accomplish IVF, the wife who did not contribute the egg probably would be treated like a natural parent for legal purposes just as the husband would be treated in the case of "donor sperm."

An incredible number of legal questions may arise in the surrogate mother situation. How can anybody ensure that the surrogate mother conduct the proper health maintenance during pregnancy? Can a surrogate mother be forced to give up a child after birth? Can she exercise parental rights? Does she have any obligation to support a defective child? These questions and others may be discussed by contract before conception. Anyone considering involvement with a surrogate mother, however, should be aware that it is almost impossible to resolve these issues by contract; and even contract rights may be almost impossible to enforce.

## *Negligence*

Every person has a legal duty to exercise reasonable care to avoid hurting others. Failure to exercise such care is negligence and subjects the careless person to a lawsuit.

Parents could sue on behalf of a child for injuries inflicted before or during the IVF process, but only if the child is born alive.

A surrogate mother could inflict injuries on an unborn child and is legally obligated to use reasonable care to avoid such injuries. In addition, she must obey contract restrictions (such as a prohibition against smoking, drinking, and the use of drugs during pregnancy), or she may be sued.

If a child is born dead or is capable of surviving outside the womb but does not survive, a "wrongful death" lawsuit may be successful.

Doctors have been sued for mis-diagnosing German measles and failing to inform parents that amniocentesis was available to detect genetic defects. Sperm banks have been sued for storing sperm negligently. Parents have been sued by their own children for failing to terminate a pregnancy after learning about a genetic defect. If defective eggs or semen are negligently used or an abnormally developing fertilized egg is not destroyed, an IVF child could claim that he or she should not have been born at all and start a "wrongful life" lawsuit against his parents or their doctor. Only a few of these suits have been successful, yet the wrongful life theory may be on the verge of legal acceptance.

When parents sue because a doctor's negligence led to the birth of a deformed child, the lawsuit is called "wrongful birth." The negligence may take the form of an unsuccessful abortion, unsuccessful sterilization, or a failure to diagnose chromosomal defects in a fetus. The parents may request compensation for the cost of medical care and support during their child's lifetime as well as for economic loss and physical and emotional suffering arising from negligent procedures which led to the birth of a deformed child, including negligent IVF procedures. In one case IVF parents were awarded \$50,000 for the pain and suffering caused by the deliberate destruction of an un-implanted fertilized egg by a member of the hospital staff if the parents had given informed consent to this procedure, though, they would not have been able to sue.

Informed consent represents the positive value that patients should share in the medical decision-making process. In view of the importance of informed consent, IVF doctors typically should disclose to the IVF patient:

1. The availability of effective alternatives to IVF (e.g., surgical reconstruction of the fallopian tubes).
2. The discomforts and risks of laparoscopy and other segments of the IVF process.

3. That there may be risks to the child which scientists cannot currently identify.
4. The probability that IVF will not succeed the first time or successive times that it is tried.
5. What will happen to sperm, eggs, or fertilized eggs not used in the transfer attempt.

Once the patient is thus informed, her consent may insulate the doctor from lawsuits.

In any event, while potential parents may bring many kinds of lawsuits, there are proof problems (e.g., that a physician was actually negligent, or that the negligence actually caused harm) which may make winning a lawsuit difficult.

### **Theological Aspects of IVF**

#### *The Church and Social Issues*

There are Lutherans who for various reasons would question the appropriateness of the church's addressing the subject of IVF. Some would argue that the church's message relates to our eternal destiny and cannot be expected to address the various social issues which come and go. Others would reject this view as unduly limiting the full meaning of the gospel, but they are nonetheless suspicious of any attempt on the part of the church to take a stand on social issues because it may lack the necessary knowledge and expertise that is needed. Still others note that Lutherans disagree among themselves on the proper response to many social issues.

This study committee recognizes the legitimacy of many concerns which Christians have raised. At the same time, the church cannot abdicate its responsibility to provide moral counsel and direction to those who quite naturally would seek it. Particularly in the area of biotechnology IVF is but one of many issues whose implications for the social fabric of the world are tremendously complex. If there is a word of moral wisdom to be offered in the light of such developments, the church should be concerned that such a word be spoken and heard. The church should make every effort to use members who are well informed and morally sensitive to help provide a responsible perspective on whatever subject is being addressed. The fact that there will be those who disagree with a stand taken by the church does not remove the responsibility of the church to address any issue of moral consequence which affects the lives of its people.

#### *The Theological Method*

When we address a moral issue such as IVF, the first requirement is that we become fully informed about it. Ethical judgments on any issue cannot be responsible without accurate information based on careful study. This was done by the study committee in the manner described in the introduction.

In addition to gaining clarity concerning the facts of the matter, we also bring certain moral and theological convictions to the consideration of an issue. Since the Scriptures exercise particular authority in the shaping of those convictions, it is important to be clear on the appropriate use of the Bible in seeking moral direction.

Some use it as a moral handbook, expecting to find ready-made and guaranteed answers to every problem we face. While this leads to gross misuse of the Bible, it is true that we as Lutherans do find imperatives in Scripture which exhort us to responsible living and which we want to take seriously. But we should resist the temptation to find in Scripture an answer or an imperative which will speak directly to every current social issue. Luther had an astute observation on this point: "Heretofore I have held that where something was to be proved by Scriptures, the Scriptures must really refer to the point at issue. I learn now that it is enough to throw many passages together helter-skelter whether they fit or not. If this be the way, then I can easily prove from the Scriptures that beer is better than wine."

Sometimes two biblical passages seem contradictory. Lutherans try to avoid both absolutizing and relativizing Scripture. The truth of the gospel is that it embraces some compelling paradoxes in reality. For example:

1. Although we are saved by grace, we are required to make appropriate choices based on faith.
2. Although God's law is holy, it defines and therefore increases sin.
3. Although the kingdom of this earth is God's good creation, because of the fall it is doomed, and we wait for a new kingdom.
4. Although we are sinners, we are at the same time saints.
5. Although Christ is infinite as lord, he is capable of becoming finite through the sacrament.
6. Although we must wait for judgment and salvation, we are already saved through baptism and our incorporation into the church.
7. Although some use the historical-scientific method to criticize Scripture, it is not history that reveals Christ, but Christ who reveals himself through history.

When we acknowledge that we must live with paradoxes like these, we will let Scripture speak as a living word to our situation.

When we talk about the use of Scripture in seeking moral direction, we should also be aware that one never uses Scripture in a vacuum. We come to it with certain theological orientations or stances that have been shaped not only by the scriptural message itself but by the larger theological and moral tradition of our church, by the culture in which we have been raised, and by our individual experiences.

Consider the following stances, all found within Lutheranism today:

— As creatures bearing the image of God, we are to exercise our creative and imaginative powers in every way that will bring blessing and improvement to the human race. This may involve risk-taking, but that is to be expected in a dynamic and changing world. Scripture itself is not a static truth "above history" but the living word of God which gives new insight and direction as the times change. It reveals a changing world that is moving toward its fulfillment through the redemptive and liberating work of God. That work should liberate us in the use of our gifts and the

world's resources. Thus we should be willing to venture any scientific and technological advance which promises a more humane environment.

— There is a divine order inherent to our lives and the world in which we live. It can be recognized through our reason, for we are creatures of God, as well as in the witness of Scripture. This is the concept of "natural law:" which identifies specific structures that we disregard only at our peril. For example, any attempt to tamper with procreation, regardless of good intentions, puts us in danger of transgressing boundaries which are meant to protect us. Science and technology are not unmitigated blessings but rather tempt us to play God in setting aside the limitations which are to govern our lives.

— The Holy Scripture is the normative authority for moral decisions. To be sure, a proper distinction must be made in its content between law and gospel. While not a moral handbook, the Scripture presents God's immutable will in the form of the moral law. This law encompasses certain orders in creation which are valid for all times and places. Where there is a clear direction in God's written word regarding what is right and wrong, this settles the matter. Recognizing, however, that many problems in life are not directly addressed in Holy Scripture, one seeks in whatever moral judgments one makes to remain faithful to the parameters of God's law as presented in Scripture. This view is related to that of natural law in its stress upon a moral order, but Scripture receives greater emphasis than reason, and there is greater caution, supported by an evangelical concern to avoid legalism, about our ability to spell out all the implications of the moral order for our concrete behavior.

As broadly described here, these stances may not be entirely exclusive of each other, but each one clearly has implications for a consideration of IVF. The first is likely to favor it; the second to reject it. The third may or may not accept it, depending on how it is prone to read certain passages in Scripture or what implications it finds in the notion of a moral order. Even when people agree on the facts concerning a given issue, they may still disagree in their moral judgment of it because of differing theological understandings and moral priorities they bring to it.

One final word should be addressed to the witness of the Lutheran Confessional writings. It should be clear that they cannot be used as a moral handbook any more than can the Bible. We cannot turn to a chapter or verse for the answer to the questions posed by IVF. In regard to questions of morality, the Lutheran heritage we share acknowledges that we have our God-given endowments of reason and moral discernment and that we are to use them responsibly. We make a critical distinction between law and gospel, which means that the answers we give to moral questions do not bring us salvation. That is God's gracious work. Thus we may "sin boldly" in earnestly trying to be responsible, even if we discover in the process that we may not have acted responsibly. Because moral decisions are often filled with ambiguity, it is well for us to remember that God's grace is sufficient and that we can only trust in his forgiving mercy. With this understanding we can address current moral issues in a spirit of both confidence and humility.

## **Moral Arguments Against IVF**

*The following moral arguments against IVF are intended to make the strongest case. Obviously persons will give different weight to various arguments, and not everyone opposing IVF will necessarily hold to every argument cited.*

### *Natural Law*

Pope Pius XII opposed artificial insemination on the ground that it reduces the sanctity of the family to nothing more than a laboratory exercise. Some people use the same line of reasoning to reject IVF.

Scripture says that two will become one flesh through the marriage union. Helmut Thielicke, a Lutheran theologian from Germany, has observed that it is through this union that a couple is to be "fruitful and multiply." New life should be created during a loving embrace between husband and wife. Love and life go together. This is the natural order or natural law, which has been designed by God, and humans must respect it.

When a physician uses artificial means to bring about fertilization, a third party violates the "two-in-one-flesh" concept. A laboratory has been substituted for a natural environment. To use such a setting for the conception of life is dehumanizing. It places more emphasis on procedures and products than on children, parents, and families. The process could lower appreciation of human life to a point where it would simply be a commodity which can be purchased, like any other material item.

### *Destruction of Embryonic Life*

Experimentation was required to develop IVF. In the process fertilized eggs have been destroyed. Most IVF clinics discard only fertilized eggs which develop abnormally. But it would be possible to fertilize several eggs with a view to selecting the most "promising" egg and discarding other healthy eggs. The sex of a child might someday be selected in this way. Many people would regard it as "mini-abortion," believing that human life begins at conception and that each embryonic cell is endowed with a complete set of chromosomes, all of the genetic information necessary for the full and complete development of a new person. The premeditated termination of embryonic life, whether in vitro or elsewhere, constitutes a questionable, if not unacceptable, treatment of life.

### *Adoption as an Alternative*

Must we assume that having one's own child is an absolute good which should not be denied anyone? Is it not more noble and more rewarding to adopt a child rather than to have one's own? Two hundred thousand American children wait to be adopted. No childless couple can be told that adoption is a moral obligation, but adoption does constitute an option which should be recommended. It is rewarding for the couple, gives a new future to the child, and makes a significant contribution to the welfare of society.

### *Accepting Sacrifice*

A remarkable ability to manipulate the environment encourages a low tolerance level for any kind of suffering or frustration. There are negatives which we reject as unacceptable; we ordinarily assume that whatever is required to avoid suffering should be obtained. But Christians recognize that suffering is not an unmitigated evil which must be avoided at all costs. The suffering of childless couples may be edifying in the sense that they will be better for having taken up some of the reality of what it means to be human. Suffering is consistent with the Christian experience. Jesus suffered to redeem humankind, and Christians understand that their own suffering can be a sharing in the suffering of Christ.

This does not mean that we are to seek out suffering, but it does mean that we should put into perspective our disappointments and not be driven to remove them, whatever the cost. Sorrow may bring strength, and the Christian community may assist those who suffer and ease their burdens.

### *Cost*

An IVF attempt now costs approximately \$4,000. Depending upon how many fertilized eggs are returned to the mother, an attempt will be successful 10-60 percent of the time, according to reports at the time of writing. If an attempt is unsuccessful, the procedure can be tried again and again.

How many clinics, how many medical practitioners, how much staff assistance, and how many dollars are required to give even one-fourth of America's infertile women a chance to bear a child? Should not these resources be devoted to eliminating disease and starvation in those already born? Basic human health needs are going unmet. When people in the world are dying because they don't have the "basics:" such as food, clothing and medicine, it seems frivolous to devote resources to IVF. The significance of needs beyond the basics (heart surgery, brain surgery, emergency and critical care) still dwarfs the need for IVF. Christians need to ask if continuing to provide those who "have" with even more is right, when the plight of those who "have not" is so compelling. Considering the alternatives, procreation should be seen as a privilege and not a right.

### *The Limits of Creaturely Freedom*

What we can do and what we ought to do are not always the same, although there will always be intense pressure to do what we are able to do.

This pressure will sometimes arise from simple curiosity. The urge to know is part of human nature. But we must never forget that our natural curiosity becomes a vice when it is motivated by a desire for mastery and control of the world rather than an opportunity to exercise the dominion of stewardship granted to us by God. Because we are limited creatures responsible to our creator, it is necessary for us to grant that sometimes Christians ought not to do all that they can do. Technology is not something which has to be used. It can become a thirst which recognizes no moral limits.



Pressure to do what is possible arises not only from curiosity but also from the desire to benefit others. Even this praiseworthy motive, however, does not justify any and every deed. The desire to benefit others may be misguided. Who decides what benefits others? What if the decision is wrong? There are also bad means to good ends. The positive duty to help others must be carried out within the limits of God's will as originally placed in the human heart and revealed in Holy Scripture. Because we are creatures, there are limits on the means we can adopt to attempt to bring about good results. To imagine that we ought to do whatever is necessary to achieve even praiseworthy aims is to begin to think of ourselves as gods, as world creators, as those responsible for delivering the ultimate and final blow against evil and for good. But human beings are not responsible in this way. Only God is.

The limits of our creaturely freedom must be taken into account in considering the morality of IVF. We are bodily creatures who are capable of giving birth to children through a physical act of giving and receiving. It has always been possible in our freedom to transcend that physical act, as for example in choosing to live a celibate life devoted to the undivided love of God. Such an exercise of freedom transcends biological nature without dissolving it. But it is now possible through the use of IVF to transcend the sexual act and produce a child in the laboratory. Here we transcend an old limit and manifest freedom, but we do so in a way which serves to devalue the significance of the body for our person and acts. Such an exercise of freedom must finally prove self-destructive. Indeed, this might be said to be the glory of the creature created in God's image: the freedom to destroy ourselves by refusing to accept God's limits to that freedom.

Christians, governed by the first article of the Apostles' Creed, must be willing to be creatures. This means that we must be willing at times not to do what we can do. It is for this reason that IVF should be rejected as a way of overcoming childlessness.

#### *Hazards to Women*

The desire to have a child of one's own is a deep-seated human desire and is for many women so intense that infertility causes tremendous pain, frustration, and distress. The elimination of such anguish is a worthy goal. Yet, much as one might sympathize with the plight of infertile women, compassion should not lead to the endorsement of a procedure which not only involves moral difficulties, but also subjects women to potential physical harm and a high risk of exploitation.

Health hazards to women are present during a variety of stages in the IVF process. Superovulation, the production of more than one egg for fertilization, is often encouraged by the administration of hormones, a therapy which may produce ovarian cysts. Risk is more immediate during the removal of eggs by means of laparoscopy, a surgical procedure which requires a general anesthetic. There also exists a risk of damage to the uterus during embryo transfer. New techniques have been developed to monitor a pregnancy; they probably will be used when a pregnancy has resulted from IVF, and questions regarding the safety of these

techniques have been raised.

While the medical complications of IVF are troublesome, so is the fact that infertile women are vulnerable and subject to exploitation from a variety of sources:

1. *By Physicians*

As previously noted, IVF clinics often destroy fertilized eggs that are developing abnormally and/or require a woman to have an abortion if the fetus is developing abnormally. In either case, for many this is an unacceptable practice even though this is a requirement for IVF. A woman who wants her own child may consider this mini-abortion, but may be forced to accept it in order to be eligible for IVF. One can imagine a requirement that "extra" fertilized eggs be frozen or used for research, although that requirement would be illegal in many states.

2. *By Scientists*

The anguish of infertile women is being used to seek and justify massive sums of money for IVF clinics at a time when funds for general research are limited. However, few such women will be helped, since the criteria for admission to a clinic are so strict.

3. *By the IVF Procedure Itself*

The technology and language of IVF is such that a woman is led to view her developing child as an embryo or fetus, terms which do not imply a relationship. Moreover, bonding between mother and child is now believed to begin in the womb. Laboratory conception, the invasive technology used for monitoring an IVF pregnancy, the tentative nature of that pregnancy, and the emotional anxiety of a woman whose child has been conceived through IVF could have a serious impact on the bonding process.

4. *By the Male Partner*

An infertile woman may be subjected to undue coercion, however subtle or unintended, from a marriage partner with a need for a child of his "own flesh."

5. *By the Woman (Self-Exploitation)*

The anguish which leads a woman to say, "I will do anything to give birth to a child:" can also lead her to undertake a host of impositions and disruptions to her life which are unwise. Personal heartache may cause her to accept otherwise unacceptable costs and the emotional stress of a laboratory pregnancy as well as psychological trauma if IVF fails. She may view herself as a patient, when she is, in fact, a subject for experimental technology in that infertility is not a disease or illness in the usual sense. She may undergo IVF even if she believes it violates her bodily integrity.

### *Hazards to Children*

Many rights are involved in the decision to have a baby. For too long the rights of the

innocent, the unborn, and the incompetent have been overlooked. People contemplating IVF must consider risks to a child so conceived.

Unfortunately, the range of risks cannot be identified with certainty, due to the absence of any long-range studies about the process. Some researchers maintain that there is no problem, but base their opinions on the results of animal experimentation. Others, who claim that the danger of increased birth defects is not high, base their conclusions on the health of those children who have been born after IVF. The "sample" of IVF children is far too small to permit those conclusions! And it ignores the possibility of delayed reactions. Decades are required to resolve these concerns; IVF children must be observed. Their physical condition, especially during the reproductive years, and the physical condition of their offspring must be studied. Therapies long thought to be safe, such as thalidomide and diethylstilbestrol, have been discovered to be unsafe. People have begun to ask questions about amniocentesis; yet this procedure is minor compared to the chemical and surgical intrusions required by IVF. Its effect on emotional, mental, and social well-being is even more conjectural.

Problems will undoubtedly multiply if an IVF child is conceived out of marriage, in a surrogate womb, or with the aid of an unknown male sperm donor, even a deceased sperm and/or egg donor. We are now facing the problem that someday frozen embryos may be "banked." What insecurities might emerge during critical times in the lives of such children ) at puberty, for instance, or when they become parents? What anxieties are built into children as a result of "special" fertilization and gestation?

These fears do not seem unrealistic. Were there not risks, the medical and scientific community would not go to such lengths to secure immunity from lawsuits as a result of the IVF process. We know that hormones may be administered to stimulate extra egg production. Once fertilized, some of these eggs do develop abnormally. When the abnormality is obvious, the egg is destroyed. One can imagine a situation in which the mother is required to consent to an abortion if an error is made during the IVF process. Delivery by Caesarian section also increases the potential for harm to IVF children. The issue of risk should be resolved before IVF is practiced. We owe it to the children.

### *Conception Alternatives*

Certain means of conception arguably violate God's natural law. These techniques may never be used or realized, but deserve discussion since they are compatible with IVF.

A woman with healthy eggs may have medical problems so that she cannot carry a child in the womb. Such a woman and her husband can engage in sexual intercourse so that conception occurs, but the embryo will be transferred to a willing third party's womb. That third party completes a normal pregnancy and is a surrogate or substitute mother. The child she carries is returned to the couple upon

birth, if a woman with a defective womb also has defective fallopian tubes, IVF may be necessary. The fertilized egg is then transferred from the glass dish to the surrogate, rather than natural, mother.

Someday a surrogate womb may replace the surrogate mother. One can imagine a mechanical device where a fertilized egg would be nourished and develop over a nine-month period, and that egg could be fertilized in vitro.

There are 15 sperm banks in the United States. Egg banks or even embryo banks are possible. Third-party sperm or eggs may be used in the IVF process if there is something wrong with a couple's sperm or eggs. An embryo conceived through IVF can be preserved in an embryo bank when an embryo conceived through natural processes is frozen.

Some people say that surrogate mothers, surrogate wombs, and sperm, egg, or embryo banks discount the highly valued relationship of husband and wife which, in turn, is part of the order of creation. The artificial womb additionally may affect the psychological growth of a child; there would be no interaction between the developing embryo and the mother. The embryo bank threatens to change spontaneous creation into a matter of choice. The process could lower appreciation of human life to a point where it is simply a commodity which can be purchased like any other material item.

### **Moral Arguments for IVF**

*The following moral arguments for IVF are intended to make the strongest case. Obviously persons will give different weight to various arguments, and not everyone approving IVF will necessarily hold to every argument cited.*

#### *Blessing of Human Creativity*

Pagan tribes thought of their gods and goddesses as projections of human nature. The Bible teaches, however, that we are created in the image of God. This means we have powers of creativity, as God does. We are also free to shape our destinies creatively, for our welfare and for the glory of God. We have, in fact, been doing that since the beginning of civilization, developing the arts, sciences, and social order.

Medicine does not violate natural processes; it assists nature. We are awed by what we learn about the cell, and we apply that knowledge to cancer research. In one case the division of cells destroys life, and in another case cellular division contributes to the development of life. How can we help but be curious about this phenomenon? The wonder of creation should not be stymied. The church should not discourage us from being curious about the marvelous experiences of our existence.

What humans make artificially is, of course, distinguishable from what happens naturally, but the artificial is not necessarily unnatural or against nature. Indeed, it is in the natural God-given order of things for us to use imagination and intelligence to

improve our lot in life. Research is done so that we can follow God's order to be fruitful, multiply, and subdue creation.

The Bible says that God put human beings in the Garden of Eden to work in it and care for it. The only restriction was to avoid eating from the tree of the knowledge of good and evil. The devil, through a serpent, tempted Adam and Eve to disobey this restriction. Adam and Eve freely chose to believe the serpent's lie. There is nothing in the story that restricts us in our task of working in the garden. The restriction concerns our relationship with God, not our stewardship of creation. The restriction is on how we relate to God, not on technology.

This theme is repeated in the New Testament. With the coming of Jesus the veil of the temple was rent. No longer were the social, political, and cultural restrictions of the Jews acceptable. All precincts of the temple, for example, now were open to women and Gentiles. No longer was anything secret or sacred in the sense of being "off limits." There is no limit placed on the acquisition of technical knowledge, but we must everlastingly decide whether to use our knowledge for good or evil.

#### *The Limits of Creaturely Freedom*

There is no evidence that IVF was developed to satisfy idle curiosity or for "mastery and control" purposes. It was developed by people who wanted to help couples in distress. IVF clinical standards prove that ethical concerns have not been disregarded. Most clinics have a tremendous waiting list. In the end it is these patients who must decide whether IVF is a blessing, for that decision is not simply a matter of consensus. It is a matter of God-given freedom of choice, to be exercised after looking to the Bible for guidance.

If life is for God, there may be some kind of obligation to produce life for him. Some people should not reproduce for a variety of medical, psychological, and sociological reasons. But if a woman can produce a healthy egg and she wants to have a child with her husband, IVF should be regarded as a blessing.

The argument that love-making and baby-making should never be separated is not persuasive. The use of the laboratory dish in fertilization is no more depersonalizing than the use of forceps in birth. In no way does clinical aid intrude on the mutual love and one flesh union of marriage. To think otherwise would be to deny the whole medical enterprise; we could use the same argument against efforts to improve the law and order of society. Indeed, the loving care of nurse and physician may strengthen the bond of marriage since everyone involved in the IVF process is working together to enlarge the Christian family.

#### *Moral Status Counts*

Doctors can remove one egg from a woman for fertilization. In most clinics where several eggs are removed, the same number of fertilized eggs is returned to the woman. There is no wastage. Would the destruction of several cells, because they were developing abnormally or for other reasons, be sinful? The Bible says that we

should not ask whether a cell is living, but whether it has a moral status. We are fearfully and wonderfully made in the womb, but we are also baptized. The church does not baptize the unborn. Their moral status is clearly distinguished from that of a child or an adult.

Lutherans do not idolize human eggs or sperm. Some argue that if it is not wrong to destroy either an egg or sperm before they are united, then it is not per se wrong to discard them after they are united. The fertilized egg contains only a few cells. It has no brain or nervous system. It cannot feel anything, and it is not conscious in any way. Such fertilized eggs are destroyed in nature as well as in the clinical laboratory. Every normal female between puberty and menopause wastes an egg each month that she does not get pregnant; after puberty every normal male wastes millions of sperm in sexual intercourse in which contraceptives are used or in which the woman is not fertile. In fact, IVF is less "wasteful" of fertilized eggs than nature is. Researchers point out that experimental study of abnormal fertilized eggs will help us to understand chromosome defects, including cancer in young women and genetic malformations. There are great benefits to be derived from the study of a few-celled organism having no moral status.

#### *Adoption as an Alternative*

We cannot presume to say that adoption is better than IVF if would-be parents yearn for a child of their own, an adoptive child may be seen as a "second-class citizen." There are too few children available for adoption now; they should be placed in the homes where they are most wanted.

#### *Needless Suffering*

Jesus never hesitated to respond to suffering. If doctors have the ability to relieve suffering, should they remain idle? There is an abundance of suffering in every life. After using IVF to eliminate the suffering of some childless couples, there will still be more than enough suffering to "edify" those couples.

The anguish of infertility cannot be approved as "character building" anyway. It is too deep to be appreciated by most people without reproductive problems. It involves one of the most important decisions in a lifetime. Many childless couples are simply overwhelmed by suffering and cannot learn a thing from it. They can never develop a philosophical appreciation of the situation.

#### *Benefits Outweigh Cost*

Who is to say that the cost of IVF is not justified? A person who is not enthusiastic about children? A parent who has been able to fulfill his or her familial desires? Who is to say that the emotional need to have a child is any less important - or part of God's design - than physical needs?

Yet few people have the courage to donate all their money to charity or the church. While such a vow of poverty might result in the greatest good, it is rarely permitted by human nature. More realistic is the process of using some material gifts to increase

personal happiness while sharing other gifts with those less fortunate. A couple can achieve personal joy by using IVF and, at the same time, can be extremely generous with their resources.

#### *Hazards to Women: Speculative*

Physicians say that IVF creates some small risks for women. There is a slight possibility that the womb wall will be ruptured during egg removal. Amniocentesis requires the introduction of a needle through the abdominal wall into the sac which surrounds the fetus. Some fluid in the sac is removed. It indicates the genetic status of the fetus. The risks of amniocentesis are small, but the benefits are great, for the procedure reveals whether or not a fetus is developing abnormally. The greatest risk from IVF arises in the need for general anesthesia. Even that risk is small and one which most women are willing to take.

Alternatives to IVF create much more danger to women. For example, new surgical techniques to unblock fallopian tubes carry a risk of the egg developing outside in a dangerous ectopic (wrong position) pregnancy.

Birth control involves the long-term ingestion of hormones or implantation of a device in the woman's body. There have been problems with diaphragms, and the incidence of blood clots seems to be higher among older women who smoke and use the pill. Still, the benefits of birth control outweigh its risks for many women. The latest research suggests that the pill may protect women from breast cancer, a hitherto unknown finding. The benefits of IVF are great; the risks are far more speculative than the risks of birth control. With bio risks come bio blessings.

It is difficult to see how IVF subjects women to exploitation:

1. *By Physicians*

A woman may be disturbed about the destruction of fertilized eggs that are developing abnormally, and such destruction may be required by IVF clinic rules; but if an abnormally developing egg is returned to the body, it probably will be aborted by nature's processes anyway.

2. *By Scientists*

IVF is not nearly so profitable as other branches of medicine. Money for more research is desirable so that new techniques can be developed, and the criteria for admission to a clinic can be broadened.

3. *By the IVF Procedure Itself*

There is no evidence that IVF couples view their developing children any less personally than other couples.

4. *By the Male Partner*

A new opportunity arises; two people must cooperate to take advantage of the opportunity; and the opportunity involves more inconvenience to one of

the people than the other. Whenever such a situation occurs, pressure to seize the opportunity may be exerted on the inconvenienced person. The problem is not in the opportunity, but in the situation. As in marriage, the people required to cooperate must respect each other's feelings.

5. *By the Woman (Self-Exploitation)*

The satisfaction of needs always involves a trade-off. Usually it requires spending money. Sometimes it requires passing up a good time. Or it may require some compromise of competing desires. If a woman decides that she wants to accept the constraints of IVF in order to have a child, she has made the right decision, for it is a personal decision based on factors that no one but the woman herself can appreciate. The law, for example, would not require a woman to undergo an abortion if she originally agreed to accept such a recommendation by her doctor, but then changed her mind.

*Hazards to Children: Speculative*

It is difficult to see what in the IVF process would encourage birth defects. The hormones which may be used to stimulate extra egg production are the same hormones already present in a woman's body. The sperm and egg which unite in vitro are no different from the sperm and egg which unite in vivo. Amniocentesis does not disturb the fetus; it merely permits the removal of fluid from a sac so that doctors can verify that the fetus is developing normally. A woman's body usually rejects through miscarriage an egg that is not developing normally, and the same thing would happen with a defective egg fertilized in the laboratory. In fact, there have been no IVF-related birth defects reported among several dozen test-tube babies born throughout the world.

Color television sets *may* emit radiation dangerous to those who sit too close. Microwave ovens *may* emit deadly radiation, too. Yet at some point we must recognize that the risks of a new product are too speculative to prevent the public from enjoying its benefits. Once that decision has been made, the public has a right to know about any latent or hidden risks; but the decision whether to accept these risks is one that must be made individually. The unborn cannot make decisions. Couples must make conception decisions, and all couples want healthy children. They have taken the advice of their doctors, who are convinced that it is a reasonable medical certainty that IVF poses no identifiable hazards to children.

*"Parade of Horribles"*

IVF, like all scientific breakthroughs, is subject to abuse. Perils and difficulties, however, should not nullify a course of action which has proved to be a blessing. Hypothetical dangers have not invited the wrath of God. Adam and Eve's expulsion from the garden of Eden, the subsequent flood, and the scattering of people from Babel seem to indicate a kind of judgment against arrogance. But the judgment is really against the abuse of God's gifts and not against their proper use. *Abusus non tollit usum*: abuse does not invalidate use.



IVF opponents can arouse much passion and prejudice by confusing IVF with "surrogate mothers," "surrogate wombs," and "embryo banks." Some people believe that if a medical problem with the fallopian tubes justifies fertilization in an environment outside the natural mother (test tube), a medical problem with the womb justifies gestation in an environment outside the natural mother (surrogate mother). In any event, a surrogate mother can accept an egg fertilized in the body of the natural mother, without using IVF. An argument against surrogate mothers is an argument against surrogate mothers, not an argument against IVF. Similarly, concerns about the use of "donor sperm" or "donor eggs" are directed at something other than the IVF process.

Sperm banks already are widely used by women whose husbands who have a medical problem which makes conception impossible. But there will be people who become upset if donor sperm is used to accomplish IVF.

We must always bear in mind the risks of research, but we should never abandon it for fear that we are playing God. Here, with Luther, we can sin bravely or boldly. Only when we think we can create from nothing and redeem sinners do we play God. God requires us to choose between good and evil. We cannot avoid this choice by curtailing research or clinical practices which strengthen family life.

### **Guidelines for Christian Counsel and Pastoral Care**

For two years the members of this study committee have examined the legal, medical, and moral aspects of IVF. As Lutherans we have sought guidance and direction about this complex and sensitive issue from the Holy Scriptures interpreted from a perspective which carefully distinguishes law and gospel.

The committee has unanimously concluded that IVF does not in and of itself violate the will of God as reflected in the Bible, when the wife's egg and husband's sperm are used. All committee members believe that marriage partners may in good conscience consider using IVF to conceive and give birth to a child. We believe that this procedure can in certain circumstances offer the blessings of parenthood to would-be loving parents who suffer from infertility for a variety of medical reasons. The creative intervention in procreation required to accomplish IVF is consistent with the biblical injunction to "be fruitful and multiply and have dominion over the earth" (Genesis 1:28).

In coming to this conclusion, all members of the committee agree that there are a number of important issues which must be considered before making a decision to employ IVF. Not all members of the committee agree, however, on whether these issues are decisive. Noting areas of disagreement, the committee offers the following guidelines for Christian thought and pastoral counseling:

1. 1. Some committee members hold that IVF is unobjectionable only when it is carried out subject to two limitations:
  - a. Because the biblical injunction to be fruitful and multiply was given by God

to a man and a woman united in the one flesh union of marriage (Genesis 1:28; 2:21-25), only the sperm and egg of a man and woman united in marriage may be employed. Any use of donor sperm or eggs involves the intrusion of a third party into this one-flesh union and is contrary to the will of God. For the same reason surrogate wombs must not be used.

b. Because the unborn are persons in God's sight from the time of conception (Job 10:9-11; Psalm 41:5; 139:13-17; Jeremiah 1:5; Luke 1:41-44), all fertilized eggs must be returned to the womb of the woman. Any experimentation with, destruction of, or storage of unneeded or defective fertilized eggs fails to accord respect and reverence for new life brought into being by God at the moment of conception and is contrary to his will. The same considerations preclude any agreement to permit the interruption of an IVF pregnancy for any reason other than to prevent the death of the mother.

Some participants believe that these factors, while deserving of careful consideration, should not necessarily limit the use of IVF. They state their concerns as follows:

a. When properly motivated, the use of donor sperm or eggs, or even surrogate wombs, does not violate the sanctity of marriage. But the problems of donors and surrogates are not absolutely insurmountable, and if all the sociological and legal complications can be resolved, the contribution of a third party may strengthen the Christian family.

b. While experimentation with, destruction of, or storage of unneeded or defective fertilized eggs should not be done for frivolous reasons, it may be justified by the need to avoid birth defects or for other good reasons.

Between these positions there is a range of opinion about the situations in which IVF is appropriate.

2. Caution needs to be exercised so that couples use IVF to fulfill God's will and not to fulfill a hedonistic (pleasure-serving) or a narcissistic (self-serving) appetite.
3. Infertile couples must confront and forthrightly deal with the nature of human suffering. Parenthood is a gift of God, and couples should remember that conception and parenting is a privilege.

For their part, pastors need to be aware that human suffering (which may be quite different in regard to infertility compared to other forms of suffering) needs to be dealt with forthrightly. Human suffering is part of the human predicament, and therefore pastoral ministry will be offered to support people with their share of pain. Scriptural references to God's concern for the childless may help people recognize God's desire that the gift and heritage of children be enjoyed. Human frailty, however, may interrupt this normal desire and

consequently individuals, in wrestling with their humanness, may need unique pastoral care.

4. Before IVF is employed as the therapeutic remedy for infertility, other alternatives (such as fallopian-tube surgery and adoption) should be explored. This recommendation is not made because of negative feelings about IVF, but because other techniques might be or become simpler, cheaper, and more successful.
5. The strength of a marriage, the psychological balance of husband and wife, and their ability to celebrate as well as to cope with disappointment must be assessed.
6. Infertile couples must be thoroughly informed before they consent to participate in the IVF process.
7. Couples must responsibly consider the financial obligation which IVF entails. It would be unwise for a couple to deplete their resources in order to have a child so that they would be unable properly to care and provide for the offspring when born.
8. Scientists and clinicians involved in infertility therapy deserve counseling and support as they deal with the issues which arise during the IVF process. They must remember that they have a special role to play in assisting creation and should understand that the process deserves respect and awe. They should offer counsel to prospective users of IVF and safeguard against exploitation.
9. Research about infertility constitutes continued stewardship of God's mysterious creation. It can diminish pain and suffering and bring peace. Researchers ought to be reminded that they are participating in God's creative processes and are responsible for possible misuse of those processes.
10. The Christian community has a responsibility to the infertile. Through its liturgical life the care of the people of God may extend not only to the joy of birth but also to the pain of infertility and the celebration which may be shared within the context of the body of Christ as conception takes place. It should therefore not be considered unusual if intercessions are made for those who suffer the pain of infertility and childlessness as they seek to fulfill God's will and also as some live with handicaps. Prayers may be said, liturgical blessings sought, and counsel from the Scriptures and the wisdom of the church applied when persons wrestle with the struggles of creation. Pastors would be wise also in the judicious use of occasional-service rites which may support those who are childless as they too seek to fulfill God's will.
11. Those who regard past decisions about IVF as contrary to God's will should be reassured of the forgiveness acquired for the sins of the world in Christ's

suffering, death, and resurrection.

12. Counsel for clergy. The clergy of the Lutheran Church will be sought by thoughtful Christians for spiritual advice on in-vitro fertilization. An understanding of the issues involved in in-vitro fertilization is essential to provide for competent pastoral counsel.

The clergy need to recognize that the pain of infertility for some is greater than for others. Because the desire to be parents is intense, many couples will go to great lengths in order to share in the gift of parenthood. The clergy need to be mindful that they may assist some couples in thinking through their financial resources and their motives before engaging in IVF.

Pastors need to remember that IVF is not automatically a remedy for infertility and therefore the stress of infertility may remain in a marriage. Furthermore, pastoral ministry should help a couple assess the strength of their relationship before they decide on IVF as a remedial activity. Disappointment may be hard for a couple to tolerate, and the marriage needs to be strong. On the positive side, a similar kind of assessment needs to be made in order to assist the couple in deciding whether their marriage is one into which a child can be born and adequately cared for.

Pastoral care of medical scientists, clinicians involved in infertility therapy, and those who support clinical intervention should also be offered. Congregations whose members are researchers and clinicians need to celebrate with those individuals the vocation which such a priesthood involves and these individuals deserve pastoral support as they assist in the building up of the body of Christ and God's continuing creation. In addition, researchers are often disappointed, and clergy need to be mindful that research is not always steady progress. In every case the clergy should be ready to offer counsel and support to those in research and development.

Pastoral care should be offered not only to the female undergoing IVF but also to the male who may have questions and emotional concerns related to his involvement in the provision of sperm. The pastor should be ready to be an advocate in behalf of the patient when this is needed. At times it might be necessary for the pastor to be in conversation with clinicians to help interpret vocational questions, needs, and the human spirit to the clinician. On the other hand, the clergy may also be a broker in the clinical context, making sure that couples seeking IVF are adequately informed and comprehend what they are being told.