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NEW CHAIRMAN, NEW DIRECTIONS: LISA JARDINE AND THE HFEA

On 1 October, the new Human Fertilisation and Embryology Act 2008 (HFE Act 2008) came into force. It is the single greatest change to affect the UK fertility and embryo research sectors since the Human Fertilisation and Embryology Authority (HFEA) was established nearly two decades ago.

The HFEA's first chairman, back in 1990, was Professor Colin Campbell, followed in 1994 by Baroness Ruth Deech and in 2002 by Dame Suzi Leather, plus a couple of short-lived heads. Now, since April 2008, Lisa Jardine is in charge. Professor Lisa Jardine CBE is also the Director of the Centre for Editing Lives and Letters and Centenary Professor of Renaissance Studies at Queen Mary, University of London.

So, is she bioethically liberal or conservative? Will her rule be stringent or compliant? Has she already stamped her imprint on this disorderly organisation? Perhaps, not yet, but some of her recent statements are worrying, even alarming.

For example, she has recently called for a public debate to decide whether people who donate ova and sperm to infertile couples should be paid more than the current maximum of £250 for 'reasonable expenses'. The thought of trading in human gametes leaves a nasty taste in one's mouth. Will there be a standard price, or a premium for gametes from beautiful or intelligent people, or a discount for multiple purchases? Donations of bodily tissues, such as blood and organs, have traditionally been regarded in the UK as willingly-given, altruistic gifts. Payment would change everything, including coercion. Why the need anyway? The latest figures from the HFEA show that numbers of sperm and ova donors have steadily increased after a lull around 2005 when donor anonymity was removed. In fact there were 284 sperm donors and 1084 ova donors during 2008. Will increased payment increase these numbers? Probably not.

So far on the Jardine watch there has been a significant degeneration in both the ethics and practice of assisted reproductive technologies. For example, in July 2009, a British woman gave

birth to a baby boy after scientists had screened her ova for chromosomal abnormalities. The HFEA had previously approved a licence for Simon Fishel, director of the Care Fertility Group in Nottingham, to use this novel technique. Called array comparative genomic hybridisation, it scans ova for abnormalities such as extra or absent chromosomes. True, destroying unwanted ova is not in the same league as destroying surplus embryos, but it is still a eugenic procedure.

Furthermore, from September, Professor Jardine and the rest of the HFEA now preside over fertility treatments (began after 6 April 2009) that allow lesbian couples to enter both names on the birth certificate of a child born to one of them. The HFEA would no doubt argue that it was simply implementing changes brought about by the Human Fertilisation and Embryology Act 2008. Nevertheless, approving IVF is one thing, colluding in legal falsehood is quite another – after all, half of the ‘parental’ names on these certificates have no genetic relationship to the child. It is yet another corrosive element in our understanding of the family – no good citizen should promote that policy.

With regard to the new provisions of the HFE Act 2008, there is not much good in any of them. To give a flavour of the tangle we have now permitted, consider just two items. First, from the HFEA’s new online Frequently Asked Questions (FAQs) section, ‘Can the male intended parent in a surrogacy arrangement be the legal father where treatment is with donated sperm?’ Be honest, you had never even thought of that question had you? And the HFEA’s answer is, ‘Yes this may be possible. The surrogate would be the legal mother of the child. Speak to your clinic to make sure the correct consents are signed.’ Second, there are now 16 (yes, sixteen) different consent forms for various aspects of fertility treatment. These include the straightforward, ‘Consent to the use and storage of your sperm and embryos for your partner’s treatment’ to the more esoteric, ‘Consent to your partner being the legal parent’. How much simpler pregnancy used to be! The men in white coats and the lawyers have taken over.

One of the nightmares for IVF clinics must be mix-ups of patients’ sperm, ova and embryos. Some obvious cases have come to light, like the white woman who gave birth to black twins in Leeds in 2002. Or, as occurred earlier this year, Cardiff and Vale NHS Trust having to pay undisclosed damages to a couple whose last remaining embryo was transferred to the wrong woman.

But there are also too many anecdotal reports of disregard for the HFEA rules – errors in patient’s notes, missing signatures, lax procedural security. One witness of such misdemeanours, who became a whistleblower, was Bea Pavlovic, a clinical embryologist at Guy’s Hospital, London. She complained to the HFEA. For her trouble she got the sack and in November 2008 came within a whisker of being struck off the medical register. But earlier this year it was revealed that she was right, there had indeed been mistakes at Guy’s – the wrong sperm had been injected into the wrong ova.

How to minimise such disasters? One attempt is about to be implemented at the Liverpool Women’s Hospital, which plans to be the largest IVF centre in Europe – it will electronically tag embryos. Surely a more effective strategy is for the HFEA to apply beefy sanctions against clinics

which ignore or flout its safety guidelines, after all, the HFEA is called a watchdog, so it should both bark and bite. What is Professor Jardine's view on this? She believes that the HFEA is already tough enough and that implementing too strict a regime might drive patients to IVF clinics abroad. Oh, no!

To give a real insight into Jardine's thinking, consider this. In September 2009, she called for a debate on two topics – namely, gamete donation to a known family member of a different generation, and the provision of gametes between siblings. The first is known as 'inter-generational donation', and is exemplified by the 72-year-old British man who donated sperm to his daughter-in-law. The second could be the donation of semen by a man to his sister if she is using a donated ovum. In other words, the head of the HFEA is keen on, for example, a brother being an uncle as well as the biological father in order to help his sister. She apparently has no qualms about upsetting traditional parenthood and family structure – perhaps she sees them merely as 'culturally-specific beliefs'.

Finally, here is a little test of Jardine's bioethical fortitude. Currently the HFEA allows the use of pre-implantation genetic diagnosis (PGD) for 'medical reasons', meaning the detection of genetic diseases, in IVF embryos, but bans it for the testing of the embryo's sex for 'social reasons'. As a result, some British couples are travelling to the USA and elsewhere to enable them to select the sex of their IVF children. How long will it be before Jardine and the HFEA capitulate and allow PGD for sex determination in the UK for so-called 'family balancing' or to 'replace' a deceased son or daughter? Watch this space! One potential brake on such a change is that sex selection generally results in the destruction of more female embryos. Caroline Flint, the health minister, who steered the HFE Act 2008, noted this fact in the Parliamentary debates, and it will not have escaped the notice of Professor Jardine either.

We have long been alarmed by the bioethical and administrative lurching at the HFEA – incompetence and unethical decision-making have become its forté. This drift looks like continuing, even worsening, under its new chairman. Lisa Jardine looks like a dangerous woman.

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