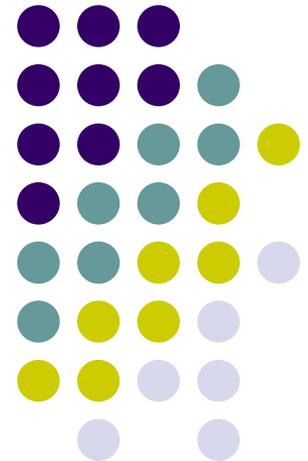
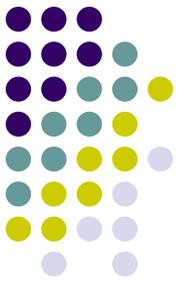


The ART Guidelines: Matters for Community Discussion

Rev Kevin McGovern ccche@svpm.org.au,
Caroline Chisholm Centre for Health Ethics:
Colloquium of
Australian Association of Catholic Bioethicists,
3 February 2014

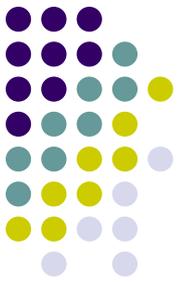


Outline



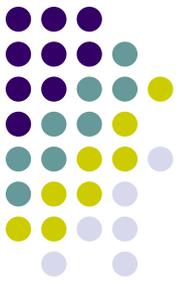
- A. Introduction to the ART Guidelines
- B. Liberalisation of Choice
- C. Concerns for Children

A. Introduction to the ART Guidelines



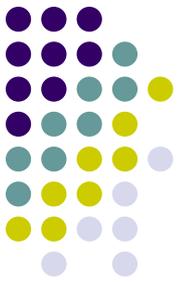
- ***Ethical Guidelines on the Use of Assisted Reproductive Technology in Clinical Practice and Research***
 - Approved by the National Health and Medical Research Council (NHMRC)
 - Prepared by (a committee of) the Australian Health Ethics Committee (AHEC)
 - Compliance with these guidelines is required for accreditation by the Reproductive Technology Accreditation Committee (RTAC)
 - ***These Guidelines are Australia's national standards for ART, covering both research and clinical practice.***

A. Introduction to the ART Guidelines (cont'd)



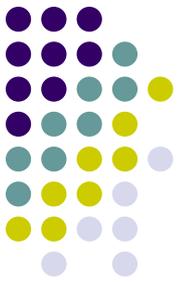
- Current Guidelines
 - approved in 2004
 - revised in 2007, after changes to Australia's laws on cloning and embryo research
 - **due (even over-due) for review**

A. Introduction to the ART Guidelines (cont'd)



- Part A – Introduction
- Part B – Clinical Practice
- Part C – Research
- Appendices
& other information

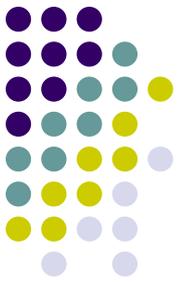
A. Introduction to the ART Guidelines (cont'd)



- **Part C – Research**

- Process of revision set out in Australian law (*Prohibition of Human Cloning Act 2002* and *Research Involving Human Embryos Act 2002*)
- Process “run” by the Australian Government
- Begins with a report from an independent review committee
 - The Heerey Report was tabled in Commonwealth Parliament on 7 July 2011.
- To date, the Australian Government has not responded to this report.

A. Introduction to the ART Guidelines (cont'd)



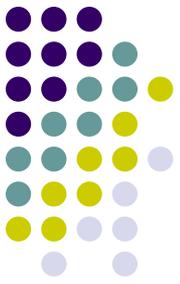
- **Part A Introduction & Part B Clinical Practice**
 - Process of revision “run” by NHMRC & AHEC
 - Will certainly involve one or more Public Consultations
 - **Please, please, please make a submission!**



B. Liberalisation of Choice

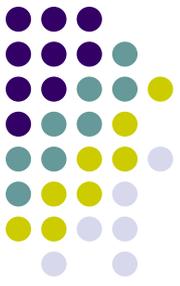
1. Commercial Surrogacy
2. Sex Selection for Social Reasons
& Family Balancing
3. Payment of Women for Ova

B1. Commercial Surrogacy



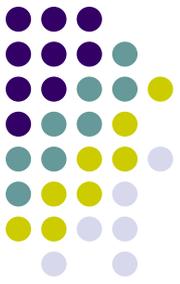
- Each year, 500 to 700 Australians pay for surrogacy overseas.
- mostly couples
- probably about 55% heterosexual, 45% homosexual
- Sam Everingham, founder of Surrogacy Australia
 - Sam & his same-sex partner Phil Copeland had 2 daughters, Ruby & Zoe, to 2 Indian surrogates in 2011.
- Prof Jenni Millbank (University of Technology Sydney)
 - “Parents say that the idea that they would ask someone to do that for free is abhorrent.”

B2. Sex selection for social reasons or family balancing



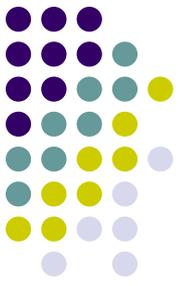
- mostly about preimplantation genetic diagnosis (PGD)
- The current Guidelines permit sex selection only for medical reasons. (*ART Guidelines*, 11.1)
- Australia’s “leading IVF doctors... almost universally believe the option should be available to all parents.”

B2. Sex selection for social reasons or family balancing (cont'd)



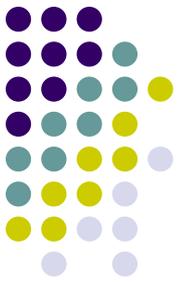
- Kippen et al, “Australian attitudes towards sex-selection technology,” *Fertility & Sterility* 95 (2011): 1824-1826:
 - in 2006, a survey of 2,781 people:
 - **7%** approve of using IVF for sex selection
 - **24%** neither approve nor disapprove
 - **69%** disapprove of using IVF for sex selection

B2. Sex selection for social reasons or family balancing (cont'd)

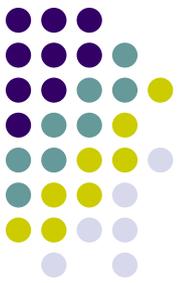


- Kovacs et al, “The Australian Community Does Not Support Gender Selection by IVF for Social Reasons,” *International Journal of Reproductive Medicine* (2013):
 - in 2011, Morgan Gallup poll:
 - Sex selection by couples already using IVF:
20.7% for, 5.9% undecided, 73.4% against
 - Fertile couples using IVF for sex selection:
17.6% for, 6.0% undecided, 76.5% against
 - Family balancing:
20.2% for, 5.6% undecided, 74.2% against

B2. Sex selection for social reasons or family balancing (cont'd)

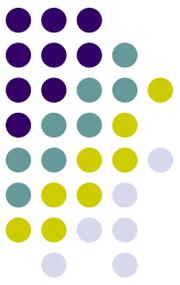


- Kovacs et al, “The Australian Community Does Not Support Gender Selection by IVF for Social Reasons,” *International Journal of Reproductive Medicine* (2013):
 - “The public is significantly out of step with the opinions of Australia’s leading IVF doctors...”
 - “Liberal ethicists... have not been able to get their message accepted by the community.”
 - “Among younger respondents (18-34 years) up to 31% supported one or other of the options, which may mean that attitudes may change in the future.”



B3. Payment of Women for Ova

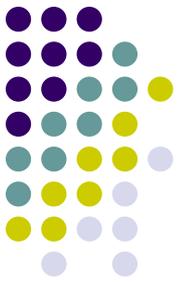
- Donated sperm = for heterosexual couples with male infertility, single women, and lesbian couples
- Donated ova = for infertile women, including women over 40
- The current Guidelines forbid payment (*ART Guidelines* 6.5), but reasonable expenses can be reimbursed.
- Is reimbursement shading into payment?
 - Melbourne IVF pay sperm donors for time attending appointments. They pay \$250 per donation.
 - I hope that **submissions will ask for more guidance in the revised Guidelines about reasonable expenses.**



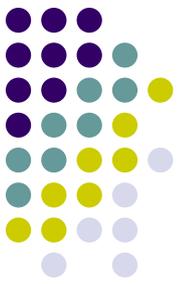
B3. Payment of Women for Ova (cont'd)

- Ethics & Policy Committee of the International Society of Stem Cell Research, “Position Statement on the Provision and Procurement of Human Eggs for Stem Cell Research,” *Cell Stem Cell* 12, no. 3 (7 March 2013): 285-291:
 - “Paying (in cash or kind) women for providing eggs... is ethically justifiable as a means of compensating them for their time, inconvenience, willingness to accept some risks, and reimbursement for out-of-pocket expenses.”
 - “The compensation is not for the eggs, but rather for undergoing the processes involved in providing those eggs.... Women will be entitled to the compensation even if no eggs are collected...”

B3. Payment of Women for Ova (cont'd)



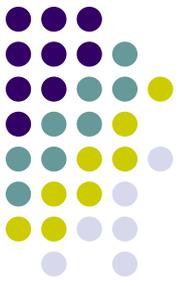
- Ethics & Policy Committee of the International Society of Stem Cell Research, “Position Statement on the Provision and Procurement of Human Eggs for Stem Cell Research,” *Cell Stem Cell* 12, no. 3 (7 March 2013): 285-291:
 - Compensation should be “limited,” and “set at a level to avoid attracting those who are merely financially motivated.”
 - The processes of collecting eggs should be overseen by independent ethics committees. Data should be collected and published.
 - Rather than “selling eggs,” this is simply “rewarding women for providing eggs.”



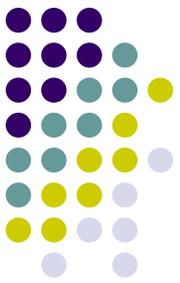
C. Concerns for Children

1. Welfare of Children is Paramount
2. Anticipated Consent & the Rights of Children
3. Double Donation

C1. Welfare of Children is Paramount

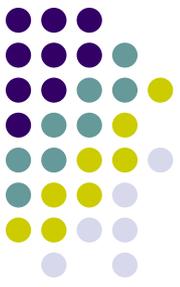


- “The welfare of people who may be born as a result of the use of ART is paramount.” (*ART Guidelines*, 2.5)
- “Clinical decisions must respect, primarily, the interests and welfare of the persons who may be born, as well as the long-term health and psychosocial welfare of all participants, including gamete donors.” (*ART Guidelines*, 5.1)
- Those with concerns for the children conceived through ARTs would like more guidance in the Guidelines about the interests and welfare of these children, and how their interests and welfare may best be respected.



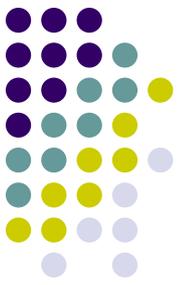
C2. Anticipated Consent

- Margaret Somerville, “Children’s Human Rights to Natural Biological Origins and Family Structure,” *International Journal of the Jurisprudence of the Family* 1 (2011): 35-53:
 - “The ethical doctrine of **anticipated consent**... requires that when a person seriously affected by a decision cannot give consent, we must ask whether we can reasonably anticipate they would consent if able to do so. If not, it’s unethical to proceed.” (p. 42)
 - “If we cannot reasonably assume that someone affected by our decision, who is not present, would consent if present, it is not ethical to proceed.” (p. 46)



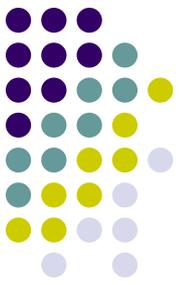
C2. Rights of Children

- Margaret Somerville, “Children’s Human Rights to Natural Biological Origins and Family Structure,” *International Journal of the Jurisprudence of the Family* 1 (2011): 35-53:
 1. **“Right to a natural biological heritage”** (p. 38): “a right to be conceived from untampered biological origins” (p. 38), “a right to come into being with genetic origins that have not been tampered with” (p. 36)
 2. **“Right to know the identities of their biological parents”** (p. 36): “a right to be conceived from a natural sperm from one, identified, living, adult man and a natural ovum from one, identified, living, adult woman.” (p. 38) “When being conceived,” children should have “at least the chance... of meeting their biological parents.” (p. 38)



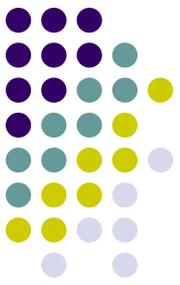
C2. Rights of Children (cont'd)

- Margaret Somerville, “Children’s Human Rights to Natural Biological Origins and Family Structure,” *International Journal of the Jurisprudence of the Family* 1 (2011): 35-53:
 3. **“Right to be reared by their biological mother and father within their genetic family”** (p. 53): “a right to be reared within their biological families and to have a mother and a father, unless an exception can be justified as being in the ‘best interests’ of a particular child.” (p. 35)
- These rights are not absolute. However, if a proposed course of action would override one or more of these rights, very serious and thoughtful consideration is needed.



C2. Rights of Children (cont'd)

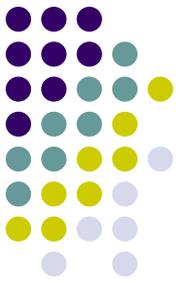
- Margaret Somerville, “Children’s Human Rights to Natural Biological Origins and Family Structure,” *International Journal of the Jurisprudence of the Family* 1 (2011): 35-53:
 - In these circumstances, we should reflect above all on **anticipated consent**. Think of the person who may be conceived in this way as a child, as an adolescent, and as an emerging adult. Can we be confident that their origins will not cause them concern or distress? If not, we should not proceed.
 - In this, we should use the “precautionary principle” from environmental ethics: “we should exercise wise ethical restraint... unless we are reasonably certain that it is safe and ethical to act.” (p. 46)



C3. Double Donation

- Both the ovum and sperm come from donors.
- → The child will not be raised even by one of his/her biological parents.
- prohibited in France
- rare in Australia
- not discussed in the current Guidelines
- I hope that **the revised Guidelines ask for very serious and thoughtful consideration whenever double donation is proposed.**

Conclusion



- There is a rumour that the NHMRC ART Guidelines are going to be reviewed.
- This process of review will certainly involve one or more Public Consultations.
- **Please, please, please make a submission!**
- Even short submissions addressing only one or two topics are helpful.