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Title: What Will Become of Unwanted Embryos?

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With test-tube babies, surrogate mothers and, now, embryos in deep freeze, being fruitful and multiplying has never been so complicated. To some we have become a society obsessed with baby-making and devil-may-care the consequences.

Consider that infertility clinics nationwide now house upward of 16,000 frozen embryos waiting to be thawed and transferred to a welcoming uterus.

In five years some of the parents of these embryos will be divorced, dead or medically unable to carry a child. Others will have gone the route of adoption, become pregnant through other means or simply had a change of heart.

CUSTODY BATTLES

Indeed, the celebrated 1989 embryo custody case of Junior and Mary Davis may seem trifling in years to come when stacked against the fates of thousands of "orphan embryos" cuddled up in liquid-nitrogen tanks around the world.

What will become of the scores of abandoned embryos collecting frost come a latter-day big chill? Will some be tossed out if they're the "wrong sex" or the parents decide two kids are enough?

Will the fertilized eggs be used for experimentation if no one claims them after five years? Will leftovers be donated to other couples against the parents' wishes to destroy them? Or perhaps sold to infertile couples through the classified ads?

FREEZING WORKS

Medically, there is no doubt about the value of freezing.

Fifteen percent of infertile couples undergo IVF and the ability to save unimplanted embryos indefinitely can double their chances of having a baby without more surgery for egg retrieval.

Many prickly questions remain, however, about the legal status of these four- to eight-celled "beings" sometimes referred to as pre-embryos.

Anti-abortionists celebrated the unprecedented Davis custody case as a legal endorsement of their views of when life begins.

Siding with the mother's desire to bring her embryos to term, Tennessee circuit judge Dale Young decreed the state had a duty to act in the embryos' best interests - which meant awarding the mother custody, despite her husband's objections to becoming a parent and the couple's pending divorce.

"The Davis decision has ominous implications," reflects Lori Andrews, a reproductive-rights lawyer with

the American Bar Foundation in Chicago and author of "Between Strangers: Surrogate Mothers, Expectant Fathers and Brave New Babies" (Harrow, 1989).

REPRODUCTIVE RIGHTS

Specifically, Andrews fears the emergence of embryo-protection laws that will "fly in the face of reproductive freedoms."

Recent technology offering a clearer-than-ever view of the fetus may be partly responsible for the swell of protective sentiments toward embryos.

But, Andrews says, this is not compelling enough to infringe on the right to avoid procreation.

Scientists worry too that a verdict conferring rights to embryos is a setback for research.

Cryopreservation could be viewed legally as a procedure that threatens life because 40 percent of frozen embryos don't survive the thaw.

Such embryos-are-people-too thinking could ultimately make physicians reluctant to treat pregnant women lest a drug they prescribe inadvertently harms their embryos.

Or could a clinic with a malfunctioning nitrogen tank be implicated in embryo deaths?

With one out of six couples suffering infertility, there's the embryo marketplace to consider, too.

HAWKING FROZEN WARES

No one's yet attempted to hawk their frozen genetic wares, but doctors suggest it's only a matter of time before couples try to sell their spares.

To be sure, other countries are far ahead of the United States in IVF management.

In 1982 a parliamentary committee in Victoria, Australia, created IVF clinic guidelines recommending such things as embryo-donor registries (to prevent unwitting marriages between genetic siblings) and a five-year limit or review on the time embryos can be stored.

Laws also require that clinics provide prenatal adoption programs to find parents for embryo orphans.

But instead of distracting ourselves with these complex policy questions, we should be examining and preventing the causes of infertility - from unnecessary surgery to harmful contraceptive devices - maintains Nadine Taub, a law professor and director of the Women's Rights Litigation Clinic at Rutgers University in Newark, N.J.

ADDRESSING CAUSES OF INFERTILITY

Even poor day-care and maternity-leave options may unintentionally force working women to postpone pregnancies until after age 35 when infertility rates increase, she points out.

In addition, all the hoopla about high-tech baby making reinforces society's stigmatizing message that

raising one's own genetic children is a crucial experience, Taub says.

Other voices of conscience question how we can endure grueling, expensive IVF procedures when there are so many unadoptable babies around and people who cannot afford basic health care.

Nonetheless, cryopreservation continues to ride the ever-rising tide of what is medically possible.

Whether what is possible is also desirable is a long way from being determined.