



Briefing Paper on the draft Human Tissue and Embryos Bill May 2007



THE SOCIETY FOR THE PROTECTION OF UNBORN CHILDREN

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Overview of the Human Tissue and Embryos Bill

In May 2007 the government published its draft Human Tissue and Embryos bill. This bill, which the government will be introducing in the next session of Parliament in November, is 78 sections long with 6 additional Schedules. It contains many provisions which would cause serious concern for any decent person and in particular it raises considerable concerns for all pro-lifers. In this paper we explain some of our worries about the impact of this bill, should it become law.

Here we highlight the main points of this briefing paper.

Part A Embryology

The draft bill proposes to:

1. merge the two current authorities (The Human Fertilisation and Embryology Authority and the Human Tissue Authority);
2. extend the general scope of in vitro fertilisation;
3. extend the definition of “embryo” to include those created by cloning and other processes;
4. widen grounds for testing of human embryos to decide whether to transfer them to the womb;
5. widen grounds for research on human embryos that are not going to be transferred to the womb;
6. permit the creation of interspecies embryos for experiments;
7. permit gametes (sperm or eggs) to be taken from patients without consent.

Part B Abortion

Some politicians have indicated that they will try to introduce amendments to this bill aimed at removing current legal restrictions on abortion. Others wish to tighten certain criteria, in particular, the 24 week limit for ‘social’ abortions.

Attempts to link abortion to this bill must be vigorously opposed because:

1. the abortion law could be made even worse than it is at present;
2. the law does contain restrictions and safeguards, which are not but should be enforced;
3. there is a large majority of MPs in parliament in favour of extending the availability of abortion even wider than it is at present;
4. the current Labour government is likely to be sympathetic to attempts to loosen abortion restrictions;
5. attempts to improve abortion law by amendments introduced via a government bill have been tried in the past and have proved disastrous.

A Summary of SPUC's major concerns

- In May 2007 the government published its draft Human Tissue and Embryos bill (HTE bill). This bill significantly weakens protection of the right to life of human embryos and, by analogy, the right to life of all human beings.
- It proposes to legalise new abuses of human embryos.
- It raises the possibility of parliament amending the Abortion Act to provide legalised abortion on demand.

Please read the following pages for information and reasons behind those concerns **and for information about what immediate action you can take.**

The draft Human Tissue and Embryos Bill (the draft HTE bill)

Part A Embryology

Specific changes that the draft bill proposes;

1. Merging of the two current authorities (The Human Fertilisation and Embryology Authority and the Human Tissue Authority).

Although this merger is undesirable because it gives a necessarily anti-life body wider powers, it is not an issue that we are likely to be able to influence. The pre-legislative scrutiny committee has advised strongly against the merger,¹ which means the government may even have to consider dropping this idea.

2. Extending the general scope of in vitro fertilisation (IVF).

SPUC has opposed IVF over many years for many reasons, for example:

- The way in which IVF human embryos are made and treated is disrespectful to their status as human beings and demeans both the embryos and their parents;
- It jeopardises the lives of the embryos produced (the vast majority of IVF embryos die either naturally or by deliberate destruction before being transferred to the womb or having a chance to implant);
- It 'commodifies' early human life, encouraging such practices as commercial exchange of embryonic human beings and surrogacy;

¹ Report of the Joint House of Commons House of Lords Committee on the Human Tissue and Embryos (draft) bill, July 2007. (Referred to here as the scrutiny committee.)

- It assumes that it is acceptable to manufacture human beings in the laboratory rather than in the context of the relationship between parents;
- It creates the opportunity for such abuses as human embryo experimentation, 'quality control' testing, embryo freezing and storage, and arbitrary destruction of human embryos.

Although this relates specifically to human embryos, the attitudes that these practices foster threaten to create a general lowering of respect for all human life.

The draft HTE bill moves away from regarding IVF as an "infertility treatment" – the original pretext for justifying the process in the 1984 Warnock Report², on which the existing law is based. Instead it stresses "reproductive technology" in which human reproduction is put at the service of those who demand it – for childbearing (whether they are infertile or not) – and to fulfil the misplaced notion that wanting a child gives one a right to have a child.

This trend is further accentuated by the weakening of the stress on the welfare of the IVF child, with the removal of the requirement to consider the child's need for a father.

IVF also becomes the route for eliminating embryos thought to have a disabling condition, for creating embryos to provide treatment for others, and for generating embryos for research purposes and commercial gain.

Thus IVF not only continues to result in huge loss of embryonic human lives, but in this draft bill embryos are made more freely available for experimentation and other abuses.

3. Extending the definition of "embryo" to include those created by cloning and other processes

The draft bill defines human embryo in a way that clearly includes those early human beings produced by processes other than fertilisation. At the same time, the Act does nothing to uphold the special status of any human embryo as a member of the human family, protected by the UN Convention on the Rights of the Child. The extension of the definition simply means that the embryology authority is more clearly empowered to license the creation and use of such embryos, and to mandate their destruction when it feels appropriate.

In 2001, the transfer of cloned embryos to the womb was banned by statute³, although creating such embryos for research has been permitted. The 2001 Act is to be repealed by the draft HTE bill, on the grounds that the bill introduces a new category of embryos, "permitted embryos", and only these may be transferred to the womb. In this way the current restrictions on cloning will be weakened, especially as the categories of "permitted embryos" are to be made by Regulations which may later be changed.

4. Widening the grounds for testing of human embryos

Although the draft HTE bill steers away from allowing sex-selection for social reasons, it permits it when a sex-linked hereditary condition is suspected. Embryo testing to eliminate those with disabling conditions is readily countenanced in the bill, and, it will be unlawful to discriminate in favour of embryos with an impairment (as some deaf parents have sought to do in the US). This

² Report of the Committee of Enquiry into Human Fertilisation and Embryology July 1984 Cmnd.9314

³ Human Reproductive Cloning Act 2001 (c.23)

provision could make IVF doctors reluctant to transfer any embryo with a known impairment to the womb – even if all the embryos produced for a given couple have an inherited condition.

A novelty in the bill is the introduction of testing to resolve mistakes in laboratories⁴ – where the wrong sperm and eggs have been mixed, records lost, or frozen embryos mislabelled, for instance. It will be lawful to test embryos to establish who (or what⁵) their parents are.

5. Widening the grounds for research and experimentation on human embryos

The grounds for research on human embryos were widened in 2001⁶ and these wider grounds are incorporated in the draft HTE bill. The reason for this widening was to allow stem cell research on embryos – which still remains far behind adult stem cell research in terms of providing treatments (no treatments are available using embryonic cells; seventy or more have been developed using adult stem cells⁷). A wholly new “research” purpose for which embryos may be created is introduced, namely the training of embryologists⁸. It will be legal to create IVF babies for the technicians to practise on.

6. Creation of interspecies embryos for experiments

One of the most controversial aspects of the draft HTE bill is the provision for creation of interspecies embryos (hybrids, ‘cybrids’, chimeras, genetically altered embryos). This is not an entirely new

suggestion, as the existing law permits fertilising animal eggs with human sperm as a way of testing the sperm. The scrutiny committee used this point to argue that as the principle of cross-species fertilisation had been accepted, there was no reason against extending the law to allow the creation, storage and use of such embryos for research. This is an example of how each advance in these monstrous activities is used later to extend them even further.

The following arguments have been advanced against the creation of interspecies embryos:

- Although we cannot be certain of the nature of such embryos, those produced with a preponderance of human DNA would in all probability, according to experts, be human beings – having human characteristics and capacities. By using animal eggs, such embryos could be generated in much greater numbers than if human eggs were used, leading to much greater loss of life. The draft HTE bill requires that all such embryos must be killed.
- Of those embryos with a smaller proportion of human material, greater uncertainty arises as to the nature of the embryo – and therefore uncertainty as to whether such an embryo is a human being with due rights. How can it be right to generate such embryos when there is no clear answer to the question “how should we treat them”?
- Others argue that deliberate blurring of the boundaries between species is wrong.
- Some point out that, since the aim with some

⁴ HTE draft bill, Schedule 2, 3 (at lines 13-16)

⁵ With the permission for creation and storage of interspecies embryos, the parents of a mislabelled embryo might include a sheep or a rabbit.

⁶ Human Fertilisation and Embryology (Research Purposes) Regulations 2001 (SI 2001/188)

⁷ <http://www.stemcellresearch.org/facts/CheckTheScore.pdf>

⁸ HTE draft bill, Schedule 2, 2(2)a

such research is to extract cells to treat sick or disabled children or adults, there is danger to patients who may receive some animal genes.

- Some see the mixing of human and animal gametes (or the transfer of cells from an animal embryo to a human or vice versa) as an affront to human dignity.

7. Taking gametes (sperm or eggs) from patients without consent

The requirement of the existing embryology law for consent before gametes are taken from a person is weakened in two ways. First, those unable to write may give consent verbally (this is justified by citing people paralysed in an accident). This is seen as a relatively minor change.

Secondly, however, it will be permissible in certain circumstances for the gametes of children and those who are unconscious to be extracted without their consent having been given.

8. Lack of concern for public feeling

Not only are many of the proposed changes unnecessary, undesirable, and lacking in ethical justification, it is extremely doubtful whether the public at large has had a real opportunity to consider the complex proposals adequately and to respond.

The medico-scientific community, with the encouragement of politicians, is at risk of tarnishing its reputation even among those who do not object in principle to these practices.

Part B Abortion

The bill presents another serious danger because it gives the opportunity for amendments to be tabled to it, aimed at amending the law on abortion. The Labour Party has striven for decades to extend the abortion law, even to the extent that a special support group (Emily's List) was formed to promote women Labour candidates to become MPs **on condition** that they were pro-abortion.

Many Emily's List MPs are now in senior positions in the party, in the government and in the Cabinet. They, together with pro-abortion parliamentarians from other parties, will happily accept this chance of extending the abortion law.

We must do what we can to prevent this.

Some politicians have indicated that they will try to introduce amendments to this bill in particular aimed at removing current legal restrictions on abortion.

Attempts to link abortion to this bill must be vigorously opposed because:

- the abortion law could be made even worse than it is at present;
- the law does contain restrictions and safeguards, which are not enforced, but should be;
- there is a large majority of MPs in parliament in favour of extending the availability of abortion even wider than it is at present;
- the current Labour government is likely to be sympathetic to attempts to loosen abortion restrictions;
- attempts to improve abortion law by amendments introduced via a government bill have been tried in the past and have proved disastrous.

The abortion law can get worse – much worse

There is no 'right' to abortion under British law. Abortion is a criminal offence unless the conditions of the Abortion Act which permit exceptions are met. The Abortion Act only allows abortion for health reasons (albeit in general terms) but this is routinely flouted.

Some people wrongly assume that abortion law and practice in Britain could not be any worse (i.e. could not be any more pro-abortion) than at present.

The pro-abortion lobby itself firmly disagrees with this assessment and has recently launched a campaign to decriminalise abortion in early pregnancy and otherwise to extend abortion provision in law and practice by:

- allowing abortion explicitly on demand in the first 3 months of pregnancy;
- abolishing the safeguard of two doctors' signatures for abortions;
- extending the 1967 Abortion Act to Northern Ireland, where it does not apply at present;
- allowing abortion to be performed by non-doctors - specifically targeting nurses to become abortionists;
- providing for chemical abortion in family planning clinics and allowing abortion at home rather than in hospital.

Removing restrictions on early abortions will lead to more abortion and more abortion-related damage to women.

Easier access to abortion places women under psychological pressure to have abortions, leaving them even more vulnerable to the misinformation and pressure which often accompanies abortion. Pregnant women are often put under intense

pressure and abortion can seem to be the only option. Experienced pregnancy counsellors report that many women and girls are making decisions to have abortions with little or no information about the development of their baby and the physical and psychological risks of abortion to themselves.

Isn't the requirement for a second doctor to authorise abortion routinely abused and thus ineffective?

This requirement is abused and some abortion doctors sign certificates authorising abortions on women they have never met but the removal of this requirement for two signatures would be a step in the wrong direction.

There are a number of ways in which the two doctors' signatures requirement can help save lives – such as the effect of stressing the duty of the doctor to assess the legal justification for an abortion. The requirement is related to the 1967 Abortion Act's conscience clause - it provides another opportunity for conscientious objection in the form of a conscientiously objecting second doctor.

What is Gordon Brown's government likely to do regarding any proposals to amend the abortion law?

SPUC has no doubt that, if abortion is introduced into the debate when the bill comes before parliament, the government will give at least tacit support to amendments to extend abortion provision.

Whether or not the government grants a free vote to backbench MPs, past parliamentary experience proves that the way backbench MPs vote is heavily influenced by signals from the government.

The new prime minister

Gordon Brown has voted consistently in favour of abortion. In 1988 and 1990, he voted with the pro-abortion lobby no fewer than 16 times in total:

- three times for abortion up to birth, including for disabled babies;
- twice for abortion on demand in early pregnancy;
- once to extend the Abortion Act to Northern Ireland;
- once for selective foeticide in multiple pregnancies;
- once to facilitate chemical abortion using the drug RU486;
- once to suppress information about abortions on disabled babies; and
- seven times for other pro-abortion positions.

The new health ministers

The appointment by Gordon Brown of a raft of pro-abortion ministers to life-related portfolios means any reform of the abortion law is likely to lead to more abortions:

- Alan Johnson MP, the new secretary of state for health:- soon after becoming a member of parliament in 1997, he signed two parliamentary motions, one defending an alleged "woman's right to choose" abortion and another condemning "restrictive abortion laws".

- Dawn Primarolo (minister of state for health):- has voted for abortion on demand and for the Abortion Act to be extended to Northern Ireland. It is Mrs Primarolo who has immediate ministerial responsibility on the issue of abortion.
- Ben Bradshaw (minister of state for health):- supports the Abortion Act 1967.
- Ann Keen (parliamentary under-secretary of state for health):- believes in a woman's right to choose abortion.

Other new ministers in relevant portfolios

- Jim Knight (minister of state for children, families and schools):- signed in 2002 a parliamentary motion calling for “universal access to comprehensive reproductive health services”, a phrase normally understood to include abortion on demand.
- Beverley Hughes (appointed minister of state for children, families and schools):- signed parliamentary motions in 1997 calling for abortion on demand and for the Abortion Act 1967 to be extended to Northern Ireland.
- Gareth Thomas (parliamentary under-secretary of state for international development):- is one of parliament's leading promoters of abortion on demand and population control.
- Harriet Harman (minister for women):- is a veteran member of the pro-abortion lobby in parliament.
- Jacqui Smith (home secretary):- was backed in her election to parliament by the pro-abortion Emily's List.

What is parliamentary opinion like at this time?

Within the last year, two bills motivated by pro-life concerns were proposed by backbench opposition MPs (Angela Watkinson and Ann Winterton). Both bills were modest in what they were trying to achieve; neither of them would have banned or restricted abortions performed on particular grounds or at particular times of pregnancy. Yet both bills were defeated by large margins, before they were even allowed to be tabled. (A third bill was introduced by Nadine Dorries who was ambiguous in her objectives: some MPs, who might generally have been expected to vote for abortion law restrictions, voted against her bill on tactical grounds).

Bearing in mind that from a pro-life perspective, these votes concerned (a) very modest measures, and (b) a decision, not to enact these modest measures but only whether to debate them, it is very likely that 175 is an over-estimate of the number of MPs who would actually vote against abortion in any way.

Of those who have not voted recently, a substantial proportion have a definite voting record in support of the current abortion law in the past, bringing the total strength of known pro-abortion votes to well over 300. Furthermore, the strong government support for pro-abortion measures will mean that ‘the pay-roll vote’ – government MPs seeking to advance their own position in the government – will be strongly inclined to vote according to the wishes of their ministerial bosses, even if there is a free vote, not subject to a party whip.

MPs' recent voting on abortion

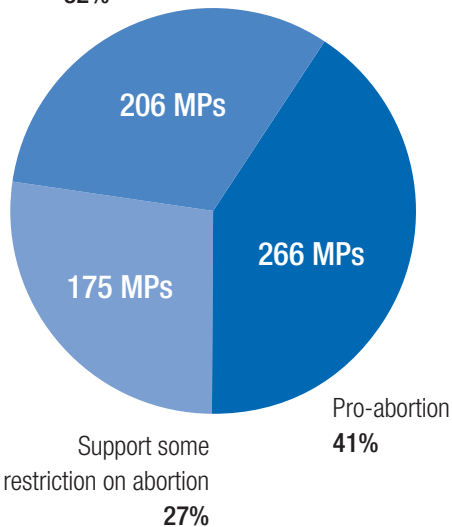
The following table shows the relative support for:

- the lobby in favour of some restrictions on abortion;
- the pro-abortion lobby.

The table is based on the votes in the bills introduced by Angela Watkins, Ann Winterton and Nadine Dorries ⁹.

Support some restrictions on abortion	175
Pro-abortion	266
Ambiguous voting pattern	8
Speaker, non-voting MPs	4
No recent vote	206
Total	659

No recent vote
32%



⁹ Where recognised pro-life MPs or pro-abortion MPs voted counter-intuitively, especially on the Dorries Bill. Those particular votes have been disregarded, and they have been counted in their recognised camp.

What is opinion like among the medical profession?

In June 2007, the British Medical Association (BMA) called for the law to be changed to allow abortion on demand in early pregnancy.

In July 2005, the Royal College of Nursing said that “the discussion on abortion should concentrate on ways to increase access to services in early pregnancy.”¹⁰

We do not believe that the views of these bodies necessarily reflect the true views of doctors and nurses but these and similar statements from these authoritative bodies will be used in parliament by pro-abortionists.

¹⁰ <http://www.rcn.org.uk/news/display.php?ID=1600&area=Press>

But hasn't even David Steel, who authored the 1967 Abortion Act, changed his mind in a pro-life direction?

No. Lord Steel has written: "Incidentally, I was misreported in one Sunday paper as advocating a lower limit for "social" abortions. There should be no such distinction - proper medical care takes all social considerations into account." (The Guardian 6 July 2004).

In March 2007, he endorsed a campaign for the law to be changed to allow abortion on demand in early pregnancy.

Could the pro-life lobby win with a good campaign and the truth on its side?

The parliamentary fight will not be won or lost simply on the basis of how hard we lobby, or how well parliamentarians argue the case on the floor of the House. It will depend on the arithmetic. Both sides can do the sums.

Wasn't the pro-life lobby successful in 1990, when the upper time limit was reduced from 28 to 24 weeks?

No. People mistakenly think that the time limit was reduced from 28 weeks to 24 weeks by the Human Fertilisation and Embryology Act 1990.

In fact, before 1990 there was no 28 week upper time limit as such - the limit was not a definitive time but the moment in each case when the child reached the stage of being "capable of being born alive" (Infant Life (Preservation) Act 1929). 28 weeks was simply a prima facie presumption of being "capable of being born alive", not a legal

time limit. As is widely known, many children have been born before 28 weeks – even before 24 weeks – and survived.

Because of amendments to the law made by the 1990 Act, the limit contained in the 1929 Act was abolished and a 24 week time limit was introduced **but only for certain cases**. In other cases (including where the abortion is carried out on grounds of chance of disability) abortions can be carried out right up to the time of birth.

So the effect of the 1990 Act was to **increase** the time limit for abortion in almost every case and in many cases right up birth.

It was pro-lifers who pressed for the 1990 Act to contain provisions relating to abortion, in the hope of being able to insert some restrictions, particularly early time limits.

MPs knew that they couldn't get "time-limit" amendments through without making exceptions to allow some babies to be aborted past the "limit". The result was a 24 week "limit" (not the 18 weeks we had campaigned for) but for disabled babies, and other cases, all limits were removed – abortion up to birth. This was a bitter, tragic result, and it arose from two clear mistakes, a mistake of tactics and a mistake of principle.

There were not enough MPs on the pro-life side and so a tactical decision was made trading the right to life of some unborn babies (disabled babies in particular) for votes. This betrayed the principle that all babies have the right to life. MPs were asked to vote for a measure that denied protection to some babies while trying to save others. This flies in the face of the general principle that one mustn't do evil hoping that good may come of it – because it won't.

SPUC was among the groups which, three years earlier, backed an upper limit bill in spite of our reservations, which we now bitterly regret. It was a bitter lesson but one which must not be repeated and from which we must learn.

Does this mean that the only course of action is to campaign for immediate repeal of the 1967 Act?

We must continue to campaign against the Abortion Act, but there are many other things that MPs and pro-life campaigners can do. However, in 1990 MPs were asked to vote for measures that denied protection to some babies while trying to save others. This kind of trade-off is not pro-life and no good can come from it as the result of 1990 shows.

There has been no reduction in the number of abortions attributable to the 1990 changes. In fact the number has risen. The time-limits approach has been tried, tested, and proven to fail.

Conclusion

Parliamentarians should not attempt to open up the abortion law on the floor of Parliament whilst a government-backed pro-abortion majority holds sway, lest there be a repeat of the 1990 debacle.

The pro-life movement should expose the disregard for ethics and justice enshrined in this bill. SPUC realises that as a government bill, if the government wishes it to become law, it will become law. However, in conscience and in action we must oppose this Human Tissue and Embryos bill in its entirety and fight especially against any attempt to use it to extend abortion provision.

Action

Contact your MP using the postcard provided by SPUC or writing your own personal letter if you prefer. Make your concerns known now. Urge your MP:

- to uphold the principle that human embryos should be offered the respect due to all human beings;
- to oppose any bill that could lead to the creation of inter-species (human-animal) embryos;
- to support a complete ban on human cloning;
- to oppose amendments that will lead (even inadvertently) to more abortions.*

* Since the 1980s many pro-life campaigners have opposed amendments to the law aimed at reducing the time limit for abortion. One reason for this is that such proposals attract counter-amendments from abortion advocates to allow certain abortions with no time limit. The overall effect is more abortions.

If you are not sure who your MP is, visit www.locata.co.uk/commons or call Anthony Ozimic at SPUC on 020 7222 5845 or email him at political@spuc.org.uk

You should write to your MP at: House of Commons, London SW1A 0AA

Please use the reply form on the inside back page of this booklet to order leaflets and postcards. For further help and guidance call Anthony Ozimic on 020 72225845.



Reply form

Return to Anthony Ozimic, SPUC, 5/6 St. Matthew Street, Westminster, London, SW1P 2JT

I would like to leaflet my street or a neighbouring street.

Please send me 25 50 100 200

Other leaflets

I would like a postcard to send to my MP/postcards for me (and for others).

Please send me 1 5 10 Other postcard(s)

Name: _____ Mr, Mrs, Miss, other _____

Address: _____

_____ Postcode _____

Telephone: _____

Email address: _____

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