

## Infertility Treatment Act or forced sterilisation program?

**TO THE EDITOR:** Before starting chemotherapy, many young men with cancer arrange to have their sperm stored to allow them the chance to father a child later. However, hundreds of these Australian cancer survivors have been informed that their stored sperm samples were to be destroyed by government order.

The Victorian *Infertility Treatment Act 1995* mandates that stored sperm must be destroyed after 10 years.<sup>1</sup> In contravention of the Universal Declaration of Human Rights and even the preamble to the Infertility Treatment Act itself, it would seem that the main action of Infertility Treatment Authority (ITA) policy is to stop genetically unfit people from reproducing. Because some cancer and leukaemia survivors will have germline mutations that caused their disease, the 10-year storage cut-off is a tool for eugenics. Although eugenics policies of the 1930s and 1940s have been rescinded and are looked back upon with disapproval by many ethicists and civil libertarians, none have spoken out against the current Act. Australian civil rights groups speak out about forced sterilisation in other countries; why have none looked at the government actions in our own country?

When I appealed to the ITA 7 years ago for an extension of storage time, I found the response I received to be arrogant and insensitive. The ITA representative implied that the legislation exists merely to deal with samples that people have forgotten about. When one has to pay several hundred dollars every year to continue storing sperm, I expect most people would stop paying if they didn't want the sperm stored any longer.

It is a physical, emotional and financial ordeal to survive leukaemia or cancer in

youth and young adulthood. Many young men who survive choose not to have a family immediately after initial treatment because they don't know their chances of survival. In my own case, this was highlighted by the circumstances of a friend who had a bone marrow transplant several years earlier and chose to have a child by in-vitro fertilisation. Unfortunately, he died from an unexpected complication of his treatment soon after his baby was born. Unable to get life insurance after leukaemia treatment, many individuals choose to wait until they are more financially secure (leukaemia or cancer will quickly throw a young person into debt) before starting a family.

Being a doctor, I am prepared to fight such authoritarian directives, but many other men, now cured of their disease, would simply have given up their hope of having a family after receiving this draconian news. Forced sterilisation is unacceptable in this country, and this legislation must be amended.

### Leukaemia survivor and bone marrow transplant recipient

1 *Infertility Treatment Act 1995 (Vic)*. <http://www.ita.org.au> (accessed Jan 2009). □

### Jock Findlay

**IN REPLY:** The Victorian Government develops policy around matters concerned with the storage of gametes and embryos and determines the length of storage time for sperm, eggs or embryos via specific clauses within legislation (the *Infertility Treatment Act 1995*<sup>1</sup>). It is the role of the Infertility Treatment Authority (ITA) to administer the Infertility Treatment Act. Section 51 of this Act provides that gametes must not remain in storage for more than 10 years, unless the ITA has given its approval for a longer period.

The ITA approves storage extensions on application from men or women who have stored gametes before undergoing chemotherapy for cancer. The ITA is sympathetic to people requiring a longer storage time for medical reasons and makes every attempt to discuss any issues arising with storage. People who have stored gametes for their own use have, to date, been granted an extension.

The intent of the legislation is not to restrict people undergoing chemotherapy from having children, but to provide a timeframe for review of storage of gametes by the owners. If the owners of gametes or embryos have not kept their contact details up-to-date with the place where their reproductive material is stored, then the gametes or embryos can be removed from storage once they reach the statutory time limit, rather than being kept indefinitely.

The current Act will be replaced by the *Assisted Reproductive Treatment Act 2008*, passed by the Victorian Parliament in December last year. The requirement for gaining approval for extension of storage will not change; however, applications for extension of storage beyond 10 years will now be made to a new Patient Review Panel.

The ITA would be more than happy to provide further information about how the application process works, and the Chief Executive Officer, Louise Johnson, can be contacted on (03) 8601 5250 or [ita@ita.org.au](mailto:ita@ita.org.au).

**Jock Findlay**, Chairperson  
Infertility Treatment Authority, Melbourne, VIC.  
[ita@ita.org.au](mailto:ita@ita.org.au)

1 *Infertility Treatment Act 1995 (Vic)*. <http://www.ita.org.au> (accessed Jan 2009). □