

# **Prenatal Diagnosis and Reproductive Discrimination**

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## **1. Prenatal Diagnosis**

Most pregnant women are advised to undergo antenatal blood tests and ultrasound screening to ensure that the baby is developing as expected and to find out information that may be relevant to managing the pregnancy and the birth, such as the location of the placenta and whether there are twins.

However women are also advised that prenatal diagnosis is normal to determine whether the child may have a serious abnormality. The tests most often used include the Nuchal Translucency test for Down's Syndrome and Amniocentesis and Chorionic Villus Sampling. The Nuchal Translucency Test is a test using ultrasound and measuring the thickness of an area in the neck which is usually thicker in children with Down's Syndrome, this then is used as an indicator to undertake Amniocentesis to confirm the diagnosis. Amniocentesis involves using a long needle to take a sample of the amniotic fluid and genetically testing the foetal cells within it. Chorionic Villus Sampling involves using device to take some tissue from the placenta and genetically testing those. The latter two tests have significant miscarriage rates and may also damage the child. The results are not usually relevant to managing birth but are done in order to provide the option of abortion of the child carries a serious abnormality.

Women on IVF programs are also offered Preimplantation Genetic Diagnosis so that the abnormal embryos can be exclude and not transferred to the woman's uterus.

## **2. Morality and Prenatal Diagnosis**

The Congregation for the Doctrine of the Faith states that prenatal diagnosis, presents no moral objections if carried out in order to identify the medical treatment which may be needed by the child in the womb. However it is problematic if it is done to provide opportunities for proposing and procuring an abortion. This is eugenic abortion, justified in public opinion on the basis of a mentality-mistakenly held to be consistent with the demands of "therapeutic interventions"- which accepts life only under certain conditions and rejects it when it is affected by any limitation, handicap or illness.

When they do not involve disproportionate risks for the child and the mother, and are meant to make possible early therapy or even to favour a serene and informed acceptance of the child not yet born, these techniques are morally licit. But since the possibilities of prenatal therapy are today still limited, it not infrequently happens that these techniques are used with a eugenic intention which accepts selective abortion in order to prevent the birth of children affected by various types of anomalies. Such an attitude is shameful and utterly reprehensible, since it presumes to measure the value of a human life only within

the parameters of "normality" and physical well-being, thus opening the way to legitimizing infanticide and euthanasia as well.<sup>1</sup>

In general, amniocentesis and chorionic villus sampling are not morally acceptable because they involve a significant risk of one per cent or even greater, that the child may miscarry.

It is important that women make it clear to their doctors from the outset that they would not contemplate abortion and would not any tests done that are done only for the purpose of making abortion of an abnormal child an option, or which would significantly risk miscarriage.

### 3. Morality and Preimplantation Diagnosis

The Congregation for the Doctrine of the Faith writes that preimplantation diagnosis – connected as it is with in vitro fertilization, which is itself always intrinsically illicit – is directed toward the *qualitative selection and consequent destruction of embryos*, which constitutes an act of abortion. Preimplantation diagnosis is therefore the expression of a *eugenic mentality* that “accepts selective abortion in order to prevent the birth of children affected by various types of anomalies. Such an attitude is shameful and utterly reprehensible, since it presumes to measure the value of a human life only within the parameters of ‘normality’ and physical well-being, thus opening the way to legitimizing infanticide and euthanasia as well”<sup>2</sup>

By treating the human embryo as mere “laboratory material”, *the concept itself of human dignity is also subjected to alteration and discrimination*. Dignity belongs equally to every single human being, irrespective of his parents’ desires, his social condition, educational formation or level of physical development. If at other times in history, while the concept and requirements of human dignity were accepted in general, discrimination was practiced on the basis of race, religion or social condition, today there is a no less serious and unjust form of discrimination which leads to the non-recognition of the ethical and legal status of human beings suffering from serious diseases or disabilities. It is forgotten that sick and disabled people are not some separate category of humanity; in fact, sickness and disability are part of the human condition and affect every individual, even when there is no direct experience of it. Such discrimination is immoral and must therefore be considered legally unacceptable, just as there is a duty to eliminate cultural, economic and social barriers which undermine the full recognition and protection of disabled or ill people.<sup>3</sup>

### 4. The Human Genome Project and Reproductive Discrimination

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<sup>1</sup> John Paul II, Encyclical Letter *Evangelium vitae*, 63: AAS 89 (1995), 502.

<sup>2</sup> Congregation for the Doctrine of the Faith *Dignitatis Personae* 2008 n.22

<sup>3</sup> Ibid.

The expectation that gene therapies would rapidly develop has not been the reality. It is still the case that no gene therapies have become established therapy. What has developed as a spin-off of the techniques developed from the Human Genome Project is a rapidly increasing capacity to identify genetic difference or abnormality and to correlate this with disease states or propensity for disease.

Much has been written about the possibility of the use of this information in discriminatory ways in relation to employment, financial institutions, personal insurance, superannuation and pension entitlements. But there is an area of discrimination that has already become well-established, that is the area called “reproductive discrimination”, knowing that the term itself may provoke debate.

Reproductive discrimination happens when a person or a couple experience pressure not to reproduce a child who has their familial genetic traits, or where a particular type of person is not reproduced because it is judged that his or her genetic traits ought not be reproduced.

Reproductive discrimination may happen through pressure or influence for the purpose of preventing conception or birth of a child with a particular genetic trait:

- ✱ Pre-nuptially – by screening individuals who have decided to have a child
- ✱ Pre-fertilisation – by screening or altering gametes, or somatic cell nuclear transfer
- ✱ Pre-transfer – by embryo biopsy and selection
- ✱ Pre-birth – by pre-natal diagnosis diagnosis and selective abortion
- ✱ Peri-natal – by infanticide

The reasons for selection may be to

- ✱ Select against disability
- ✱ Select for disability (eg. deaf parents wanting a deaf child)
- ✱ Selecting for or against non-disease traits – gender, sexual orientation, enhanced capacities

Some would argue that reproductive discrimination is not discrimination at all but simply a matter of respecting the individual choice of the woman and her partner. There are three responses to make in that respect. First, it is emerging that the majority of women in the circumstances of late term abortion, (which is currently the most common stage at which a diagnosis is made that makes reproductive discrimination likely), report feeling powerless in the medical situation in which they find themselves subjected. I will discuss this point later. The second issue is that in later term abortion there are in fact two decisions made: to end the pregnancy and to ensure that the child is not born alive. Third, to say that an act of discrimination is an act of individual choice, does not make that choice any less discriminatory. Discrimination is almost always a matter of individual choice. What matters is when that discrimination forms something of a pattern so that a group or category of individuals suffers as a result of those choices.