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OPINION

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ETHICS OF RESEARCH AND CARE EN
OPINION ON ARTIFICIAL INSEMINATION USING A THIRD-PARTY DONOR WHERE THE MALE PARTNER IS HIV-POSITIVE

The National AIDS Council resolved on its own initiative to consider the issue raised by applications for artificial insemination by third-party sperm donors by couples in which the man is HIV-positive and the woman HIV-negative. This was in response to a request made by Professor Marie-Odile Alnot, director of the Centre d'étude et de conservation de l'œuf et du sperme humains (CECOS) / Human Egg and Sperm Conservation Study Centre at Necker hospital.

The National AIDS Council addressed this issue in two stages.

Firstly, a small working group was formed within the Council, the objective of which was to define the parameters of the problem, and then to hear evidence from a series of specialists faced directly with this issue: in addition to Professor Alnot, evidence was heard from Professor Henrion, at Port-Royal maternity hospital, Doctor Jouhanet at Paris-Bicêtre CECOS, Doctor Féline, consultant psychologist attached to the Bicêtre CECOS team, and Madame Prouvost, consultant psychologist attached to the Lille CECOS. Following these hearings, an initial overview summary was drafted by a Council member to serve as a basis for discussion in plenary session.

Secondly, the question was raised in plenary session. At the end of an initial discussion, the Council members thought it necessary to invite Professor Lansac, president of the French CECOS Federation, to come to the Council in order to describe the doctrine and practices of the centres. The aim, from a comparative standpoint, was to situate male HIV-positive status in relation to medical problems for which recourse to IAD is currently accepted, these being male sterility, low fertility and a small number of serious recessive genetic diseases. It was after hearing Professor Lansac, and a final exchange of views, that the National AIDS Council handed down its Opinion.

It is not part of the remit of the National AIDS Council to pronounce on the legitimacy of artificial insemination using a third-party donor. The only point upon which the Council considers itself authorized to respond is the question whether this practice should extend to couples in which the male partner is HIV-positive, and to justify its view by comparison with other cases in which IAD can be requested.

The National AIDS Council notes that, to date, the number of couples with an HIV-positive male partner applying to a CECOS for IAD has been quite small. Notwithstanding this, it observes that the latest statistical indications show a recent upward trend in this type of requests – a trend which, according to physicians, is likely to continue in coming years.

The National AIDS Council wondered whether HIV-positive status could be placed in the same category as male sterility. It reached the conclusion that is not the case, from both the physiological and psychological points of view. Couples in which the man is HIV-positive express a desire for IAD because of the risk of infection natural insemination entails for the female partner and, by the same token, any child thus conceived. If the concept of sterility is at all relevant here, it is a voluntary form of sterility, with the couple imposing on themselves the discipline of avoiding unprotected sexual relations. Such discipline becomes extremely burdensome, and there must always be a fear that adherence to it may not be total.

The National AIDS Council discussed the sociological and psychological implications of IAD in such situations. It also asked itself what might be the sociological profile(s) of this category of applicant.

While the Council fully recognized the legitimacy of the desire for a child and the concern to protect the mother from the risks involved in natural insemination, it also took the welfare of the child into consideration. In this connection, the Council wondered to what extent the fact of having an HIV-positive father, and de facto the threat of death hanging over the family unit, might not constitute major problems for successful upbringing. The Council also considered the risk that the father might in the end be doubly excluded, especially at the time the disease became active : a twofold exclusion caused by the fact that he would not be the biological father and by his medical condition.

Faced with these arguments, which would tend to favour a negative response to IAD applications from such couples, it was argued to the Council that such couples show a very great sense of responsibility in making this kind of application, a sense of responsibility which would help them overcome later the difficulties entailed by their decision.

Furthermore, the Council would be inconsistent if it asserted, one the one hand, that use of the condom is the only truly effective protection against the spread of AIDS while, on the other, refusing to assist couples who adhere to those selfsame recommendations in their sexual lifestyle. All the more so given that their application for IAD is not without sacrifice on their part (for the man, the sacrifice of biological paternity) or certain constraints (for the woman, subjecting her body to a medical process related to the insemination as such).

For the members of the National AIDS Council, it is clear that the key parameter in all the discussions is the sense of responsibility, firstly on the part of the couple – and the fact that they protect their sexual relations provides excellent proof and assurance of this – and, secondly, the medical team assisting the couple.

The National AIDS Council issues a favourable Opinion on extending IAD to couples in which the man is HIV-positive. Under no circumstances however does this indicate that IAD is an inalienable right for such couples.

On the contrary, the National AIDS Council feels that the CECOS must be extremely prudent in acceding to requests made to them, the principal criterion being their assessment of the couple's capacity to protect itself genuinely and effectively during sexual intercourse, i.e. their sense of responsibility toward each other. Furthermore, the CECOS should not only be sure of the material circumstances in which the future child would be brought up, but should also assess the couple's psychological maturity in coping with future parental responsibilities, given the highly unusual context in which those responsibilities would be met. In conclusion, it is the task of the medical team of each CECOS to examine and assess applications made to them, accepting some and rejecting others, basing their decisions on evaluative criteria that are essentially psychological and situational.