

Stem cell research in Switzerland

Over the last few years research aimed at obtaining stem cell lines from human embryos has been an area of increasing interest for scientists and physicians, and has animated a heated debate on various ethical and legal issues. Relationships between the laboratory, academia and governmental bodies are closer, though they could be further improved and facilitated. (For an account of the latest and highly promising advancements in Switzerland, see the paper by Anis Feki et al. published in this issue [1].)

Switzerland, which is not part of the European Union but is member of the Council of Europe¹, has thoroughly discussed the advisability of a regulation of human stem cell research. After a long procedure of consultations, a specific law on stem cell research has been issued.² Before coming into force, this law had to overcome two important hurdles. Firstly, the new law could not be in conflict with other existing Swiss laws, and secondly it should be consistent with the Oviedo Convention on Human Rights and Biomedicine that is in the process of being ratified by Switzerland.³ Moreover, the new bill had to be conceived in a way that could eventually be submitted to the popular vote. On November 2004, the law on stem cell research polled 66,4% of the vote. The authors of the paper «A challenged choice: donating spare embryos to stem cell research in Switzerland» published in this number of the Swiss Medical Weekly [2], uncover some critical points regarding the relationship between the law on stem cell research and the law regulating the practice of assisted reproduction in Switzerland.

As a consultant during the preparation of the Swiss law on stem cell research, I feel comfortable with most of the ethical and legal analyses presented in this paper. The conclusion suggested by the authors is cautious and carefully drawn on the basis of the legal texts examined. Personally, I would have come to even more strict conclusions which are, at the same time, self-criticism.

In my opinion, the regulation of stem cell research in Switzerland was possible because the existing law on reproductive medicine provided for practices which were potentially in conflict with the intention of the law protecting human embryos. Indeed, Articles 15 and 16 of the Federal Act on Reproductive Medicine, which stipulate that surplus embryos have to be destroyed, were conceived with a view to protecting human embryos.⁴ As a consequence, a well-regulated use of such embryos could not be considered worse than their destruction.

In other words, the relationship between the

two laws might be viewed as «parasitical» since the Stem Cell Research Act providing for use of surplus embryos for research purposes was drafted in consideration of the fact that those embryos were doomed to be thrown away. Although the Swiss law on reproductive medicine aims at protecting human embryos, it gives to the embryo a status which is not absolute. Moreover, if one considers that a revision of some articles of the Swiss penal code concerning abortion⁵ was passed by popular vote a few years previously, one might conclude that the current legal framework gives different statuses to the human embryo, depending on the contexts (ie abortion, reproductive medicine, or research).

Rouven Porz et al. [2] focused on the procedure that, according to the Swiss legal framework, has to be followed for the donation of surplus embryos to research. Their suggestions for developing a fair informed consent procedure in Switzerland are realistic and put forward at the right moment, since the revision of the Stem Cell Research Act, as required in the text of the bill, is forthcoming. Above all, the authors are aware of the complexity of the interface between reproductive medicine and stem cell research.

I would like to encourage the readers of the Swiss Medical Weekly to read this contribution carefully and, to conclude, I would like to stress some basic requirements for the ongoing debate on the ethical and legal issues of stem cell research in Switzerland.

Firstly, the dialogue between researchers, ethical and legal experts, and governmental bodies has been very productive in Switzerland, and it is desirable that it will further develop in the future. The JESP research project and the ELSI part of it, in which the authors of the two papers published on this issue were involved, is a brilliant example of this cooperation.

Secondly, the media have become one of the main sources of information on advancements in stem cell research, and it is likely that they will play a crucial role in the Swiss social context that is based

1 The Council of Europe is an international organisation engaged in the regulation of biotechnologies.

Cfr. http://www.coe.int/t/e/legal_affairs/legal_cooperation/Bioethics/

2 Cfr. http://www.bag.admin.ch/the_men/medizin/03301/03361/03410/index.html?lang=de

3 The Convention has been ratified by Switzerland in July 2008.

4 Cfr. http://www.ejpd.admin.ch/ejpd/en/home/themen/gesellschaft/ref_gesetz_gabung/ref_abgeschlossene_projekte0/ref_fortpflanzungs_medin.html

5 See the new text of Articles 118-120, which was approved on 2nd June, 2002.

on a direct democracy. I am confident that this number of the Swiss Medical Weekly will contribute to a better knowledge of the ethical and legal issues currently arising in the area of stem cell research and to the political debate that might follow.

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- 2 Porz R, Bürkli P, Barazzetti G, Leach Scully J, Rehmann-Sutter C. A challenged choice: Donating spare embryos to stem cell research in Switzerland. *Swiss Med Wkly.* 2008;138(37-38):551-6.

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