

## LEGAL ASPECTS OF ARTIFICIAL INSEMINATION\*

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The gigantic strides made by science and technology that have enabled mankind to probe outer space as never before, have similarly made possible the manipulation of the procreative process in a manner that has astounded people, opened up incredible possibilities to childless couples, and thrown the legal profession all awry. An outstanding development in the field of medical technology is human artificial insemination (AI).

Artificial insemination may be defined as the impregnation of a female with semen from a male without sexual intercourse. All that is needed to effect AI is the squirting of semen toward the uterine opening by means of a syringe inserted into the vagina. Depending upon whose semen is used, artificial insemination may be classified into AIH or homologous artificial insemination (husband's semen), AID or heterologous artificial insemination (donor's semen), or AIC or confused or combined artificial insemination (combination of husband's and donor's semen).

Experts estimate the number of AI births in the United States to be as high as 20,000 annually.<sup>1</sup> The practice is becoming more prevalent nowadays due to improved medical technology, a lack of adoptable babies, more liberal legislative enactments and judicial interpretations,<sup>2</sup> and the feminist movement which has loosened the traditional shackles on women.

In the Philippines, a predominantly Catholic country which frowns upon such practices on moral and ethical grounds, AI cases are shrouded in secrecy although it is admitted that many couples, particularly childless ones, have resorted to this remedy to alleviate their hapless condition. An estimate of their numbers, therefore, is difficult to obtain.

Why is AI resorted to? AIH is a valuable method of reproduction in cases of physical inability of the spouses to have copulation. Physical conditions of the wife that may prevent intercourse are vaginal tumors, partial vaginal obliteration through scarring, an abnormal position of the uterus, obesity, or a very small cervical opening; on the husband's part, conditions interfering with fertilization include physical impotence, low sperm count, obesity, malformation of the penis, or retrograde ejaculation.<sup>3</sup>

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<sup>1</sup> Shaman, *Legal Aspects of Artificial Insemination*, 18 J. FAM. L. 331 (1980).

<sup>2</sup> *Ibid.*

<sup>3</sup> *Id.*, at 332; Guttmacher, *Artificial Insemination*, 18 DE PAUL L. REV. 566, 569 (1969).

AID may be used when there is permanent sterility, when there are genetic disorders in the husband which the couple do not wish to transmit to their children—such as sickle cell anemia, hemophilia, Tay-Sachs disorder, or Huntington's chorea—or, as well, when there is possible chromosomal damage due to excessive exposure to drugs or radiation, or an incompatibility in the Rh blood factors of husband and wife.<sup>4</sup> In these instances, the semen of a donor may be preferable to that of the husband.

AIC is resorted to in order that the husband may still entertain a hope that it was his seed that successfully brought forth a child.<sup>5</sup>

#### I. FILIATION OF OFFSPRINGS PROCREATED BY ARTIFICIAL INSEMINATION

In AI cases where the semen of the husband is used, the legitimacy of the child may not be too problematical, particularly where the insemination has been done with the husband's consent, the process being equated with access by the husband to his wife. The only objection, if any, would be the artificiality of the procedure, the resultant offspring not having been the product of the conjugal bed. It would seem that this conclusion would similarly apply to *in vitro* fertilization (i.e. to "test-tube" babies), where immature ova (oocytes) are removed from a female, placed in a carefully prepared culture medium, and fertilized with sperm—as long as the semen, again, belongs to the husband.

In AID, because the semen that results in procreation is donated by a man other than the husband, complications set in due to the introduction of an alien seed into the womb of the wife. Even if the insemination is performed with the consent of the husband, there is no denying that the offspring is genetically that of the woman and a man other than her husband. In the past, the only way such an offspring could have been produced was by the woman's having sexual intercourse with another man. Hence, there was what was considered a "violation of the marriage bed" or adultery.

With the introduction of AID, however, there need not be actual physical intercourse by the wife with another man, particularly where the husband has given his consent. If only the element of moral turpitude were to be considered, obviously there would be no adultery. However, in an early Canadian case, *Orford v. Orford*,<sup>6</sup> Justice Forde stated:

[T]he essence of the offense of adultery consists, not in the moral turpitude of the act of sexual intercourse, but in the voluntary surrender to another person of the reproductive powers or faculties of the guilty person; and any submission of those powers to the service or enjoyment of

<sup>4</sup> Shaman, note 1 at 332.

<sup>5</sup> *Ibid.*; Wadlington, *Artificial Insemination: The Dangers of a Poorly Kept Secret*, 64 Nw. U. L. Rev. 777, 782 (1970).

<sup>6</sup> 58 D.L.R. 251 (Ontario Sup. Ct. 1921).

any person other than the husband or the wife come within the definition of adultery.

In other words, is adultery limited solely to the act of a man and a woman having physical union outside the married state or does it encompass the union of two seeds, the egg and the sperm of an unmarried couple, this being considered a surrender of their reproductive faculties outside of wedlock? Put in another way, what is the essence of adultery that makes it abhorrent in the eyes of man and God? If it be the "immorality" of a man and woman's having carnal knowledge of each other without benefit of clergy, then AI falls outside the ambit of the definition. But if it be the introduction of a false strain into the family, then AI, particularly through the sperm of a third party donor, shall indeed fall within the scope of the definition of adultery, as categorically declared in *Orford v. Orford*.

### 1. American Law

A survey of American jurisprudence on the issue of whether the AID child is adulterous, and therefore illegitimate, is relevant at this juncture.

The New York Supreme Court held in *Strnad v. Strnad*,<sup>7</sup> that the child conceived through AID with the husband's consent was not illegitimate and therefore, the husband was "entitled to the same rights as that acquired by a foster parent who has formally adopted a child, if not the same rights as those to which a natural parent under the circumstances would be entitled."<sup>8</sup>

Contrary to the aforesaid ruling, the case of *Doornbos v. Doornbos*<sup>9</sup> stated that the AID child, even if conceived with the husband's consent, was illegitimate. Similarly, in the case of *Gursky v. Gursky*,<sup>10</sup> the New York Trial Court ruled that though a husband consented to his wife's use of AID, the insemination was still adultery and the child illegitimate. However, modifying the *Doornbos* case, the Court held that after a divorce, the husband was still liable for the support of said illegitimate child, since he had consented to the procedure.

A landmark case that pronounced an AID child legitimate is *People v. Sorensen*.<sup>11</sup> The facts show that seven years after the marriage of a couple, it was medically determined that the husband was sterile. His wife desired a child, either by artificial insemination or by adoption. At first reluctant, the sterile husband agreed to artificial insemination of his wife fifteen years after the marriage. They consulted a physician and signed an agreement requesting him to inseminate the wife with the sperm of a white

<sup>7</sup> 190 Misc. 786, 78 N.Y.S. 2d 390 (Sup. Ct. 1948).

<sup>8</sup> *Ibid.*

<sup>9</sup> 23 U.S.L.W. 2308 (unreported decision of Super. Ct., Cook County, Ill., Dec. 13, 1954).

<sup>10</sup> 39 Misc. 2d 1083, 242 N.Y.S. 2d 406 (Sup. Ct. 1963).

<sup>11</sup> 68 Cal. 2d 280, 437 P. 2d 495, 66 Cal. Rptr., 7 (1968).

male. The semen was to be selected by the physician, and under no circumstances would the parties demand the name of the donor. The agreement contained a recitation that the physician did not represent that pregnancy would occur. The husband knew at the time he signed the consent that his wife could become pregnant from the treatments, and agreed that if a child were born, it would be treated as her child. After the treatment, Mrs. Sorensen gave birth to a boy. The birth certificate indicated the husband as the father.

For about four years, the family had a normal family relationship, with the husband representing to all that he was the child's father and treating the boy as his son.

In 1964 Mrs. Sorensen separated from her husband. She granted him a divorce and told him that she wanted no support for the boy. Accordingly, although demand was made by the District Attorney, the husband gave no support for the child. The Municipal Court found him guilty of the crime of failing to support the child. The issue before the California Supreme Court was thus whether the husband of a woman, who with his consent was artificially inseminated with semen of a third party donor, was guilty of the crime of failing to support a child produced by such insemination.

The threshold ruling that had to be made was whether the husband of the artificially inseminated wife could be considered the lawful father of the AID child brought about with his consent. If so, his failure to support his child was a violation of the criminal law and, therefore, punishable.

The Court held that the husband was indeed the father of the AID child, since the term "father" is not limited to the biological or natural father. The determinative factor is whether the legal relationship of father and child exists, since the anonymous donor of the sperm cannot be considered the "natural father," as he is no more responsible for the use made of his sperm than is the donor of blood or a kidney. One who consents to the production of a child cannot create a temporary relation to be assumed and disclaimed at will, but the arrangement must be of such character as to impose an obligation of supporting those for whose existence he is directly responsible. The court stated that "No valid purpose is served by stigmatizing an artificially conceived child as illegitimate." The public policy favors legitimation.

On the question of whether, as had been suggested, the doctor and the wife committed adultery by the process of artificial insemination, the Supreme Court said:

Since the doctor may be a woman or the husband himself may administer the insemination by a syringe, this is patently absurd; to consider

it an act of adultery with the donor, who at the time of insemination may be a thousand miles away or may even be dead is equally absurd.

Interpreting the term "adultery", which is defined as "the voluntary sexual intercourse of a married person with a person other than the offender's husband or wife," the Supreme Court concluded that the AID offspring was lawfully begotten and was not the product of an illicit or adulterous relationship.

The ruling of the Supreme Court of California pronouncing the AID child in *People v. Sorensen* found legitimate support in the 1973 decision of the New York court in "*In the Matter of the ADOPTION OF ANONYMOUS*."<sup>12</sup>

Applying Sec. 24 of the Domestic Relations Law, the court ruled that "a child born of consensual AID during a valid marriage is a legitimate child entitled to the rights and privileges of a naturally conceived child of the same marriage." It declared:

Under that statute a child born of a void or voidable marriage, even if the marriage is deliberately and knowingly bigamous, incestuous or adulterous, is legitimate and entitled to all the rights (inheritance, support, etc.) of a child born during a perfectly valid marriage. In the face of a liberal policy expressed by such a statute, it would seem absurd to hold illegitimate a child born during a valid marriage, of parents desiring but unable to conceive a child, and both consenting and agreeing to the impregnation of the mother by a carefully and medically selected anonymous donor . . . It serves no purpose whatsoever to stigmatize the AID child; or to compel the parents formally to adopt in order to confer upon the AID child the status and rights of a naturally conceived child.

In the U.S. it was the state of Georgia that first passed a legislative enactment in 1964 which created a legal presumption of legitimacy for AID children when the mother and her husband, the putative father, have given their consent to the procedure. Some twenty-four other states have since passed laws relating to artificial insemination. Obviously, the growing trend in the U.S. borne out by both statute law and court decisions, has been to favor the legitimacy of AID children born of parents who have both consented to the act as a matter of public policy.

## 2. Philippine Law

What is the state of the law in the Philippines as regards the filiation of children born of artificial insemination? Since the Catholic Church looks with disfavor on any but the traditional forms of procreation, AI has not been brought out of the closet, so to speak, although it is a fact that there has been a growing number of AI practitioners due largely to the inability, for one reason or another, of couples to bear children. Hence,

<sup>12</sup> 74 Misc. 2d 99, 345 N.Y.S. 2d 430 (Surr. Ct. 1973).

no official pronouncement has been made by the judiciary on the matter, one way or the other; much less has it been the subject of legislative enactment. However, in the project being undertaken by the U.P. Law Center to revise the Civil Code of the Philippines, more specifically, its family law portion, the committee members are realistically confronting the issue and formulating proposals that shall hopefully accommodate the pressing needs of childless couple without these couples having to resort to adultery.

The most crucial issue in regard to procreation by AI is the legitimacy of the offspring. As a general rule, children born in lawful wedlock, i.e., of parents who were married at the time of the birth of the child, regardless of their relationship at the time of conception, are presumed to be legitimate.<sup>13</sup> This presumption applies although the mother may have been sentenced as an adulteress.<sup>14</sup> In the event that she should commit adultery at or about the time of the conception of the child, the latter shall still enjoy this presumption of legitimacy as long as there was no physical impossibility of access between her and her husband.<sup>15</sup>

The question that begs answer is: what constitutes adultery? Under the Revised Penal Code, "adultery is committed by any married woman who shall have sexual intercourse with a man not her husband . . ."<sup>16</sup> Without going into the strained interpretation in *Orford v. Orford*,<sup>17</sup> the conclusion is inescapable that artificial insemination, even with the sperm

<sup>13</sup> CIVIL CODE, art. 258: "A child born within one hundred eighty days following the celebration of the marriage is *prima facie* presumed to be legitimate. Such a child is conclusively presumed to be legitimate in any of these cases:

"(1) If the husband, before the marriage, knew of the pregnancy of the wife;  
"(2) If he consented, being present, to the putting of his surname on the record of the child;

"(3) If he expressly or tacitly recognized the child as his own."

CIVIL CODE, art. 255: "Children born after one hundred and eighty days following the celebration of the marriage, and before three hundred days following its dissolution or the separation of the spouses shall be presumed to be legitimate.

"Against this presumption no evidence shall be admitted other than that of the physical impossibility of the husband's having access to his wife within the first one hundred and twenty days of the three hundred which preceded the birth of the child.

"This physical impossibility may be caused:

"(1) By the impotence of the husband;  
"(2) By the fact that the husband and wife were living separately, in such a way that access was not possible;

"(3) By the serious illness of the husband."

<sup>14</sup> CIVIL CODE, art. 256: "The child shall be presumed legitimate, although the mother may have declared against its legitimacy or may have been sentenced as an adulteress."

<sup>15</sup> CIVIL CODE, art. 257: "Should the wife commit adultery at or about the time of the conception of the child, but there was no physical impossibility of access between her and her husband as set forth in article 255, the child is *prima facie* presumed to be illegitimate if it appears highly improbable, for ethnic reasons, that the child is that of the husband. For the purposes of this article, the wife's adultery need not be proved in a criminal case."

<sup>16</sup> Art. 333, par. 1 reads: "Who are guilty of adultery — Adultery is committed by any married woman who shall have sexual intercourse with a man not her husband and by the man who has carnal knowledge of her, knowing her to be married, even if the marriage be subsequently declared void."

<sup>17</sup> Note 6.

of a donor, does not constitute adultery, for under the legal definition of the act, sexual intercourse is a necessary element.

The issue may indeed be vexing for some, since the laws pertaining to adultery were enacted at a time when the legislators could not possibly have conceived of the act of adultery being committed in a manner other than through actual physical contact of two bodies of the opposite sex in the unmarried state.

Opinion has been expressed that in the context of our law, the term "adultery" should not be interpreted in the traditional restrictive sense; that rape may be subsumed thereunder inasmuch as "it is the act of a stranger having sexual union with the wife, and not the legal name of the act, which causes the illegitimate offspring, the reason for the law being present in rape . . ."<sup>18</sup>

Be that as it may, if the presumption of legitimacy applies although the wife had committed adultery, or to extend the term, had been raped, at the time of the conception of the child, as long as there was no physical impossibility of access between her and her husband, the same presumption should, of necessity, be held to apply if a child produced by AID is born under the same circumstances.

Anyhow, the presumption being a rebuttable one, the husband has the option of judicially impugning this legitimacy, thereby repudiating paternity of the child. Thus, in cases of adultery and rape, he may take this course of action. Where he consented however to AID, it is not likely that he would dispute the paternity of the child.

Another side issue that may arise particularly from AI with the husband's semen, is the filiation of a child who is born after 300 days or ten months following the death of the husband. In the past this would have sounded ridiculous or absurd, but not anymore. Present law provides that there is no presumption of legitimacy or illegitimacy of a child born after 300 days following the dissolution of the marriage say, by the death of the husband or annulment of the marriage, or the separation of the spouses. Whoever alleges the legitimacy or illegitimacy of such child must prove his allegation.<sup>19</sup> Through the science of cryo-preservation, however, there have been cases of procreation made possible with the use of the frozen sperm of a deceased husband. Applying the law cited above, anyone who seeks to dispute the legitimacy or illegitimacy of such child would have to bear the onus of proving his allegation. In cases like this, the new

<sup>18</sup> TOLENTINO, CIVIL CODE OF THE PHILIPPINES 520 (3rd ed., 1968).

<sup>19</sup> CIVIL CODE, art. 261: "There is no presumption of legitimacy or illegitimacy of a child born after three hundred days following the dissolution of the marriage or the separation of the spouses. Whoever alleges the legitimacy or the illegitimacy of such child must prove his allegation."

and reliable paternity test called Human Leucocyte Antigen (HLA) test is indeed a boon to parents, both natural and putative.<sup>20</sup>

## II. RESPONSIBILITIES OF THE DONOR

Why is it so important to establish the legitimacy of a child who has been procreated through artificial insemination? Discounting the stigma which society still attaches to bastardy, there are of course rights which the legitimate child is entitled to, such as bearing the surname of his father, receiving support from him, his ascendants, or in a proper case, his brothers or sisters, and the right to legitime and other successional rights in his favor.<sup>21</sup> In line with the reasoning that a child procreated by AID has the presumption of legitimacy in his favor as long as his mother's husband consented to the practice and there was no physical impossibility of access between the spouses at the time of the conception of the child, the latter should then bear the putative father's surname and be entitled to support and successional rights.

With regard to the matter of support, it must be borne in mind that in AID, the practice is for the donor's identity to be kept a secret, partly to prevent his being held financially and emotionally responsible for the children he may have sired through the use of his sperm. Considering that a man's semen may have been used repeatedly to fertilize many a frustrated wife, it would be unfair to saddle him with the burden or duty of supporting all his progeny, not to speak of the emotional toll it may exact from him.

If support, which is at best a temporary obligation, may not be imposed upon the sperm donor, with more reason may he not be obligated to make his artificially-inseminated issue a compulsory heir.

## III. RESPONSIBILITIES OF THE DOCTOR

Another area that is fraught with possible complications is the responsibility of the doctor practicing artificial insemination. The threshold question to ask is whether general practitioners are authorized to perform artificial insemination. A doctor who practices AI is duty bound to observe all necessary precautions to protect everyone concerned—the woman into whose womb the sperm shall be implanted, the donor who is making possible the procreation of a child, the putative father who, to all intents and purposes in the eyes of society is the natural father, and not least, the doctor himself.

<sup>20</sup> See, e.g., Dedal-de las Alas, *HLA Test: The Revolutionary Paternity Test*, 1 BATAS AT KATARUNGAN 17 (1982).

<sup>21</sup> CIVIL CODE, art. 264: "Legitimate children shall have the right:

"(1) To bear the surnames of the father and of the mother;

"(2) To receive support from them, from their ascendants, and in a proper case, from their brothers and sisters, in conformity with article 291;

"(3) To the legitime and other successional rights which this Code recognizes in their favor."



First, because of the physiological, psychological, social and moral aspects of artificial insemination, a physician who is approached by a couple that desires to have a child artificially should impart all necessary information, such as the manner of performing the insemination, the risks involved, and the implications of the method upon all concerned, including upon the child.

Once a well-considered decision is made to undergo AID, the donor should be screened well, and his medical history taken to ensure the absence of hereditary or genetic defects which might be transmitted to the child. In the United States, donors are often recruited from medical students, residents and interns because of their availability and knowledgeability of the matter. But precisely because the doctor assumes that such donors are aware of the safeguards needed, there is a tendency to ignore or gloss over the same. To minimize his accountability due to possible risks to which the married couple and the child may be exposed, the doctor generally requires the couple to give their informed consent. It is, however, still problematical whether such a sworn statement absolving the doctor from any liability arising from possible defective offspring will actually accomplish its purpose. Such physicians may be charged of malpractice where they have undertaken the artificial insemination without the necessary authority or the consent of the putative father. In such cases, the doctor may be held liable for a tortious act, for having caused damage or injury to another through his fault or negligence.<sup>22</sup>

#### IV. TRACING THE PATERNITY OF AN AID CHILD

What may in the future spawn litigable issues is the search by the AID child for his biological father. This may arise, as in the case of the adopted child, from an obsessive desire to establish his real identity. Many an adoptee has suffered the psychological burden of not knowing where his biological roots lie.

Aside from the identity crisis which might be precipitated in the child, a medically sound reason for the need of tracing a child's parentage is to determine whether he may have any hereditary predisposition to a disease or an allergy. He may, moreover, wish to determine who his relatives are, as in one case where an adoptee alleged that he wanted to help his blood relatives. On the other hand, it is possible that his attempt to establish such consanguinous links may stem from a desire to claim successional rights and support.

Where a donor repeatedly offers his sperm to wives residing in the same community or town, the possibility of blood brothers or sisters inter-

<sup>22</sup> CIVIL CODE, art. 2176: "Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. Such fault or negligence if there is no pre-existing contractual relation between the parties, is called a quasi-delict and is governed by the provisions of this Chapter."

marrying is not far-fetched. Hence, the need to know one's biological father may be motivated by a desire to avoid incestuous marriages. Many a story and movie-plot has been woven around the search by an adoptee for his blood parents and relatives with startling results. This may well apply to the offspring of AID.

---- V. ARTIFICIAL INSEMINATION OF AN  
UNMARRIED WOMAN

A unique case of first impression decided in 1977 by the Juvenile and Domestic Relations Court of Cumberland County, New Jersey, has pointed up other possible complications arising from genetic engineering, such as whether a single woman may be allowed to have a child through the artificial insemination of a donor's sperm.

In the case of *C.M. v. C.C.*,<sup>23</sup> an unmarried woman successfully inseminated herself with the sperm of her fiancé without any physical contact. While her sweetheart assumed that he would be treated as the father of their child, he was not even allowed visitation rights after the birth of the child. Hence, the issue posed for decision was whether he was entitled to visitation rights and correspondingly obligated to provide support and to pay the expenses incident to the delivery of said child.

Probably acutely aware that it was venturing into a veritable no man's land in jurisprudence, the court here invoked considerations of public policy when it ruled that, whenever possible, it was in the best interest of a child to have two parents. In spite of the artificiality and "strained uniqueness" of the conception, C.M. was held to be the natural father of the child through the use of his sperm, and was accordingly granted custodial and visitation rights, as well as obligated to support and maintain the child. In other words, no distinction was drawn between a child who is conceived naturally and one who is conceived artificially insofar as the rights and obligations of the natural father are concerned.

Under Philippine law, C.C.'s child, having been born outside of lawful wedlock, albeit to an affianced couple, has the status of an illegitimate, natural child. Natural, because at the time of his conception, his parents were not disqualified by any impediment from marrying each other.<sup>24</sup> In order to settle the issue of whether the father was entitled to visitation rights, the court was impelled to make a prior ruling that C.M. was the natural father of the child procreated through his sperm. Such offspring would be held in this jurisdiction as a natural child acknowledged by his father in statements before a court of record. He would then be entitled to bear his father's surname, to support, and to a share in the inheritance equal to half that of the legitimate child.

<sup>23</sup> 152 N.J. Super. 160, 377 A. 2d 821 (Cumberland County Ct. 1977).

<sup>24</sup> CIVIL CODE, art. 269: "Only natural children can be legitimated. Children born outside wedlock of parents who, at the time of the conception of the former, were not disqualified by any impediment to marry each other, are natural."

Suppose the donor were unknown, still the issue would be deemed a natural child, since the mother, who is the recognizing parent, had capacity to marry. In such cases, it is presumed that the other parent likewise had capacity to contract marriage at the time of the conception of the child.<sup>25</sup>

#### VI. PROPOSED CHANGES IN THE LAW

In light of the growing trend towards artificial procreation and the novel as well as complicated issues spawned by it, the U.P. Law Center is proposing the introduction of a legal provision in the civil law that would recognize artificial insemination as reality and meet head on the thorny problem of the filiation of the AI child, thus:

*Children conceived as a result of artificial insemination with the sperm of the husband or that of a donor or both are likewise legitimate: PROVIDED, that the husband and the wife authorized or ratified such insemination in a public document executed before the birth of the child. Such public document shall be recorded in the civil registry together with the birth certificate of the child.*

The above provision accords legitimacy to a child that is the result of procreation with the sperm of either the husband or a donor on the assumption that the resultant impregnation is tantamount to access by the husband to his wife. Consent of *both* husband and wife has to be manifested in a public document which must have been executed before the birth of the child. To ensure the giving of the consent prior to the delivery of the child, it is required to be recorded in the Civil Registry together with his birth certificate. This being a juridical act, the consent may conceivably be vitiated by fraud, intimidation, error, violence or undue influence, in which case the ensuing legitimacy may be impugned.

#### CONCLUSION

Obviously, there is no stemming the tide of scientific progress in all areas of our lives. As doors open up into the unknown realms, people will dare to enter, partly out of curiosity and partly to experiment with novel approaches to life's problems.

In the seminal field of genetic engineering, one stands in awe at the unorthodox practices now finding ready acceptance in modern societies. Law, ever conservative, ever the advocate of the traditional and the tested, predictably hesitates to take the plunge, particularly where the innovations fly in the face of religious and moral scruples.

Be that as it may, legislators would do well to keep open minds and prepare themselves for policy shifts in crucial areas which vitally affect the lives and the happiness of the many. Human artificial insemination is one such area.

<sup>25</sup> CIVIL CODE, art. 277: "In case the recognition is made by only one of the parents, it shall be presumed that the child is natural, if the parent recognizing it had legal capacity to contract marriage at the time of the conception."