

從胚胎法律地位談胚胎植入數目

林 忠 義*

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關鍵詞：胚胎、胚胎植入數目、人工生殖法、生殖輔助醫療、多胞胎妊娠、多胎減數術、胎兒法律地位

Keywords：embryo, the number of embryos implanted, Artificial Reproductive Law, assisted reproductive technology, multiple pregnancy, multifetal pregnancy reduction, the legal status of fetus

責任編輯：黃右瑜

* 臺灣臺中地方法院檢察署主任檢察官，國立清華大學科技法律研究所兼任助理教授。

摘要

面對不孕夫妻飽受不孕的痛苦，生殖專家們念茲在茲的是如何幫助他們順利懷孕生下寶寶，過程中就希望經由排卵藥，多取幾個卵子，製造多一些胚胎，然後多植入胚胎，以增加懷孕率及活產率。這裡就產生幾個問題，胚胎是否跟人類其他細胞一樣，未植入人體前，只是物，乃單純權利客體，所有人可以支配、處分及交易，或是胚胎具有某種法律地位，國家對之有保護義務？尚未植入或植入剩餘胚胎可否任意進行研究或銷毀？得否為研究而製造胚胎？胚胎植入前，為確定是否帶有遺傳性疾病，甚至僅是為了訂製「完美寶寶」，可否進行植入前基因篩檢？能否為增加懷孕率多植入胚胎？誰來決定該植入多少個胚胎？植入胚胎該不該有數目限制？現行人工生殖法的植入數目限制適當否？多胞胎妊娠對孕婦、胎兒、其家庭，甚至整個社會都有很嚴重的負面效應，要如何避免生殖輔助所產生的多胞胎妊娠？面對多胞胎妊娠，是否可以任意進行減胎術？以上這些問題都不容易回答，不過重視胚胎法律地位，可以讓我們對胚胎的實際應用抱持著審慎的態度，瞭解胚胎帶有人類的因素，不能過度侵犯，但也不需因噎廢食，胚胎合理使用對於人類社會還是利大於弊。

An Analysis for the Number of Embryos Implanted Based on the Legal Status of Embryos

Lin, Chung-Yi

Abstract

Facing with infertile couples who suffer from infertility, reproductive experts have thought about how to help them have babies successfully. And the reproductive experts hope that through the use of ovulation drugs, they can get more eggs, manufacture more embryos, and then implant more embryos in order to increase the pregnancy rate and birth rate. Some questions thus arise here, whether embryos are the same as any other human cells that are just objects of private rights before implantation, so the owner can dominate, dispose and trading, or the embryo has some kind of legal status that the government has the duty to protect it? The embryos before implantation or surplus embryos after implantation can be used for research or be destroyed casually? Whether it is permitted to create embryos for research? Prior to implantation, for the purpose of diagnosis if there are hereditary diseases, even only for making "perfect baby", shall we take a pre-implantation genetic screening? Could we implant more embryos to increase pregnancy rates? Who has the right to decide how many embryos should be implanted? Shouldn't there be any restrictions for the number of embryos implanted? Are the limits of the number of embryos implanted in Artificial Reproductive Law of Taiwan appropriate or not? Multiple pregnancy for pregnant women, fetuses, their families, and even the society as a whole has very serious negative effects, so how to avoid it generated from the assisted reproductive technology? Facing with multiple pregnancy, can we proceed the multifetal pregnancy reduction arbitrarily? These questions are not easy to answer, but if we appreciate the legal status of the embryos, that will allow us keep prudential attitude to the practical applications of the embryos, and we can understand the human embryos are with humane factors. Neither can they be over infringed, nor can they be stunted. Reasonable use of human embryos to this society will bring more benefits than harm.