



IVF, ART, and Surrogacy:

Three Key Reforms for Policymakers

Executive Summary

This guide does not attempt to settle the many questions raised by the widespread use of IVF/ART and surrogacy. Rather, we are providing this as a brief introduction to the complexities of the issue, focusing on three immediate challenges: the making of excess embryos; surrogacy; and selective reduction. We conclude with three commonsense policy reforms aimed at addressing the most immediate problems caused by IVF/ART and surrogacy.

What is IVF/ART?

Infertility is rising sharply across developed nations, including the United States. Contributing factors include delayed childbearing, declining sperm counts (down more than 50 percent since the 1970s), chronic health conditions, environmental toxins, and lifestyle factors. In tandem with the rise in infertility, there has been an increase in the use and public acceptance of IVF and ARTs. What do these terms mean? Technologies intended to help a couple reproduce are termed “assisted reproductive technologies” (ARTs). In vitro fertilization (IVF) is the most common form of ART.

IVF collects mature eggs from a woman’s ovaries and fertilizes them in a lab. Following this process, one or more of the fertilized eggs are placed into a woman’s uterus to implant into the uterine wall, with the goal of producing a live birth.

Another type of ART is surrogacy. Surrogacy is not a technology in the colloquial sense. Rather, it is a practice whereby a woman (the surrogate) carries a pregnancy for others (the intended parents). There are two main types of surrogacy: traditional and gestational. In traditional surrogacy, the child carried by the surrogate is biologically related to the surrogate (i.e., the surrogate is also the egg donor, with sperm coming from a donor or the intended father). In gestational surrogacy, the surrogate bears no genetic relation to the child, and instead has an embryo fertilized through IVF implanted into her uterus.

While ARTs may appear to be a straightforward path to parenthood at first glance, their use raises profound moral concerns that policymakers must consider as they craft legislation related to IVF/ART.

Perhaps most fundamentally, there is a distinct ethical and legal overlap between abortion, ARTs, and non-traditional family structures. Even pro-abortion, pro-ART academics have noted this connection, describing it in great detail. For example, Naomi Cahn, a law professor and expert in family law and abortion rights, together with Sonia M. Suter, a law professor and legal scholar whose work “focuses on issues at the intersection of law, medicine, and bioethics, with a particular focus on reproductive rights, emerging reproductive technologies, and ethical and legal issues in genetics” gave a talk entitled “IVF and Abortion – Two Sides of the Same Coin,” discussing the legal and ethical connection between trends in abortion regulation and personhood laws which run afoul of the ART industry. The two likewise published a paper for a Harvard Law School conference on “Embryo Law and Politics” titled “IVG in a Post-Dobbs/Skrmetti World: Parentage, Personhood & Regulation.” The paper extrapolates the logic used to protect access to IVF to a similar, but distinct, procedure called IVG. Specifically, they assert: “In vitro gametogenesis (IVG), which creates gametes in a petri dish, would enable people who are medically and socially infertile to procreate in much the way that in vitro fertilization (IVF) currently does.” This procedure raises many ethical concerns, among them “allow[ing] multiple people to have genetically related children together,” which the authors say “rais[es] issues of the state’s approach to multi-parent families” (emphasis added).

In short, by divorcing the making of human life from the natural, biological act of reproduction, which properly occurs within the marriage of one man to one woman, ART and surrogacy are undermining marriage, as well as parental rights, and even property rights.

While ARTs raise a myriad of ethical and legal issues, this guide will focus on three select problems that can be easily solved with carefully crafted policy: (1) the making of excess embryos, (2) surrogacy, and (3) selective reduction.

PROBLEM I: Excess Embryos

Conventional IVF relies on high-dose fertility drugs to stimulate the ovaries to produce a large quantity of eggs, which are then retrieved and fertilized. Some embryos will be transferred to the woman's uterus for implantation right away, while the remaining embryos are stored for potential later use. At some point, parents will be faced with making a decision about the fate of these children. None of the options is appealing. Couples could discard the embryos, knowing that life begins at conception and these human persons will die. Another option is to indefinitely pay storage fees, knowing also that the IVF industry sometimes takes a cavalier attitude toward these embryos. (Between 2009 and 2019, for example, couples filed more than 100 lawsuits involving the negligent destruction or mishandling of embryos.) A final option is to donate the embryos for scientific research. This option raises a separate set of ethical questions, but it's worth noting that Germany, because of its tragic past with Nazi experimentation on human subjects, is one of few countries that neither allows scientific experimentation on embryos nor the making of excess embryos.

Problem II: Surrogacy

While IVF raises many of its own ethical concerns, other forms of ART are also problematic. Surrogacy, for instance, separates motherhood from parenthood and departs from God's design for the family. Surrogacy also leans into the idea that parenthood is a legal construct, as opposed to a natural phenomenon, triggering questions regarding the definition of "parent" and "parenthood." When surrogacy is legal, surrogate mothers must sign away their parental rights, often to someone with no relation to the child. Furthermore, they often do so for money, raising doubts about the practice's voluntariness. When surrogacy contracts are legal, what is one to do when a surrogate mother regrets her decision and wants to be the child's mother? Is it acceptable for the government to take the child away or charge the mother with a crime? In the United States, regulations vary by state, but, for the most part, there are few guardrails.

America is the exception here, though. Countries as ideologically and religiously divergent as France, Germany, Italy, Turkey, Saudi Arabia, and China have all banned surrogacy, with many more (e.g., Australia, India, and the U.K.) banning commercial (i.e., paid) surrogacy.

PROBLEM III: Selective Reduction

Selective fetal reduction is a procedure that terminates the life of one or more embryos in order to increase the odds of a successful pregnancy for the remaining embryo. To increase the odds of a successful pregnancy, doctors often transfer multiple embryos into the uterus. When more than one embryo implants, parents are sometimes advised to undergo what's called "selective fetal reduction." This "reduction" is actually a form of abortion.

Using ultrasound as a guide, a needle is inserted through the mother's abdomen into the gestational sac of the selected baby, and a chemical solution is injected to stop the baby's heartbeat. The remaining child or children continue to develop, while the others die in the womb.

While there is no national tracking of selective reduction procedures, it is less prevalent today than in the early years of IVF. In any event, selective reduction is irreconcilable with a pro-life ethic. Selective reduction is no different, morally speaking, from an early abortion.

Commonsense Policy Guardrails: Three Ideas

Ban Selective Reduction

The first commonsense guardrail pertaining to IVF/ARTs would be legal prohibitions against direct violations of the right to life, such as the use of selective reduction. Selective reduction, morally equivalent to abortion, is not pro-life in any way. As such, states concerned with protecting life should make selective reduction illegal.

Encourage Natural Cycle IVF

Second, indirect threats to life must be avoided. As mentioned above, conventional IVF runs the risk of producing “excess” embryos. These children, whether they are ultimately killed or doomed to remain frozen in a lab, are not being treated as bearers of the image of God. However, producing excess embryos is not strictly necessary for IVF. Natural cycle IVF offers an alternative approach to fertility treatment by working in harmony with a woman’s natural reproductive rhythm. Instead of producing and harvesting multiple eggs, this practice retrieves a single egg produced during the mother’s regular cycle. The result is the making of only one embryo at a time, which is then fertilized and implanted immediately. By taking this approach, natural cycle IVF eliminates the practices of producing, freezing, or destroying excess embryos, offering couples a pathway to parenthood that better respects both human life and the body’s natural processes.

Exercise Oversight over the IVF Industry: 4 Specific Ideas

Finally, the ART industry requires oversight proportional to the significance of its endeavors. Currently, there is a lack of oversight over the IVF industry, which contributes to the issues mentioned earlier, allowing unfettered selective reduction and excess embryo production. But there are other common IVF practices within this system that also raise serious ethical concerns. At a minimum, the following four reforms are offered to protect children, respect parents, and uphold the sacred design God intends for family life.

1. Require Inspections and Objective Safety

Standards for IVF Clinics: Strict legal oversight of IVF clinics is essential to ensure ethical and accountable medical practices. This oversight should include mandatory licensing, registration, transparent reporting, and regular government inspections to safeguard both patients and embryos. Clinics that violate ethical or professional standards must be held accountable. Additionally, taxpayer subsidies for IVF should be prohibited to ensure that public funds are not used to support procedures that raise significant moral and ethical concerns.

2. Require Comprehensive Screening for Parents and Donors: Comprehensive screening for parents and donors is essential to uphold ethical and responsible practices in assisted reproduction. Like adoption safeguards, these should include thorough background checks, home evaluations, counseling, and informed consent for all participants to ensure readiness and protect the welfare of resulting children. Additionally, mandates requiring private or public insurance to cover IVF should be avoided, so as not to shift costs to other policy holders or taxpayers who oppose ART for religious or ethical reasons.

3. Ban Non-Medical Genetic Selection: Modern IVF doesn’t just make life – it manipulates it. Through polygenic screening, embryos can now be selected for traits like sex, eye color, and intelligence. Parents are urged to choose which children deserve to be born, while the rest are destroyed or frozen indefinitely. Regulations to prohibit the deliberate destruction of embryos or selection for non-medical traits, such as sex, intelligence, or appearance, are necessary.

4. Ban Foreign Surrogacy: The U.S. IVF and surrogacy market is projected to exceed \$14 billion annually by 2030, facilitating a high-profit trade in human lives with no protections for the most vulnerable – the children themselves. Though surrogacy is legal in the United States, it is prohibited in many other countries, making the U.S. a prime destination for a lucrative industry with little oversight. A standard regulatory framework is desperately needed, but in the meantime state policymakers can follow the lead of Florida, which recently banned foreign surrogacy involving parties from certain “foreign countries of concern.”



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MISSION

The mission of AFA Action is to inform and mobilize voters and government officials to align policy with biblical and constitutional principles.

VISION

The vision of AFA Action is to see a society of citizens successfully preserving life, liberty, and the ability to pursue happiness.

VALUES

Evangelism and Discipleship

AFA Action believes that Christians should remain unhindered to evangelize the lost and disciple the believer.

Sanctity of Human Life

AFA Action upholds the truth that all human beings, including the unborn, are created in the image of God and are worthy of life, liberty, and the pursuit of happiness.

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AFA Action aims to uphold biblical marriage and protect the right of parents to raise godly children.

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AFA Action believes that its ministry as well as everything in the heavens and on earth belong to God, and our role is that of a trusted manager.

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AFA Action believes true morality flows from biblical principles and directs people to the manner in which God intends them to live.

Religious Liberty

AFA Action believes that all men and women, whether in private or public, should be free to exercise their faith without hindrance from the government.