

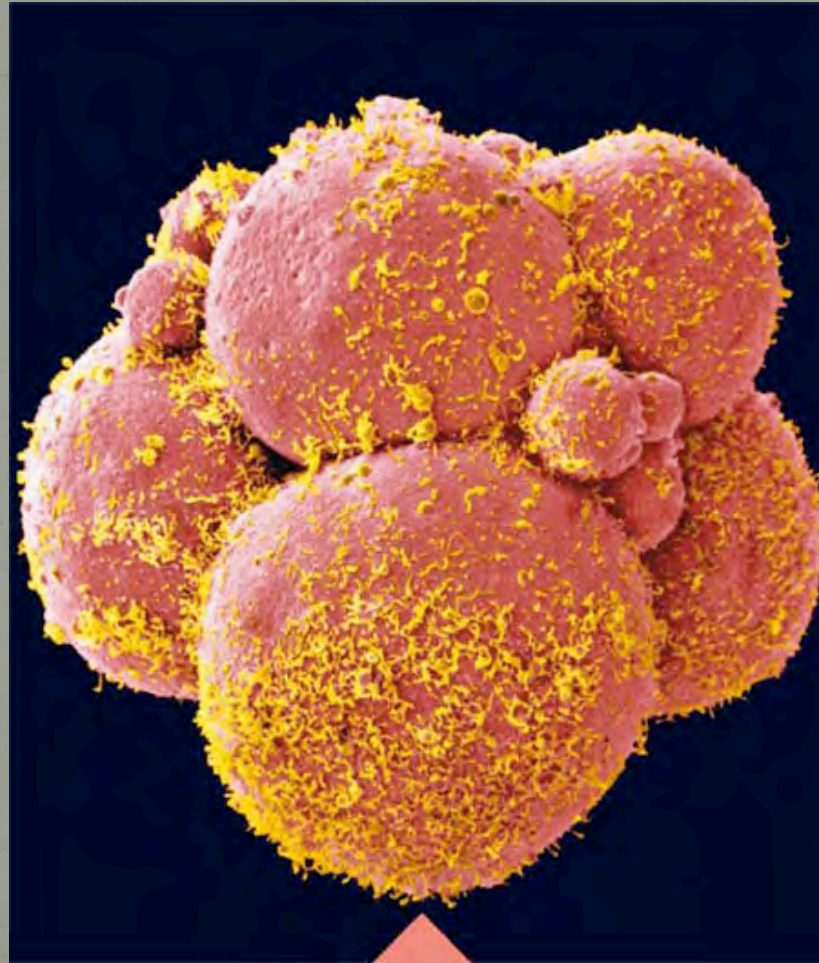
SACRED COW
Restrictive Law
case study:
Italy

ICSI ISTANBUL 2010
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SOS INFERTILITA'
ITALY

WHO ARE WE AND WHAT WE DO

- Our Association has born 4 years ago, thank to the hard work of several of us that, after years of experience giving information in the website of mammeonline.net, gave birth to Sos Infertilità Onlus, to help patients overcome loneliness, lack of correct information, limitations of Law n° 40.
- Through which ways? Through a help free-line who receives hundreds of telephon calls every year,, meetings with patients and professionals, a website rich in useful contents, discussion forum, congresses, a newly opened free help and info point with psychologist and reproductive medicine gynecologist at disposal of patients who desire a first orientation consulting service.
- We have a strong and continuous cooperation with Milano Provincial Government.

THE ITALIAN SACRED COW



SACRED COW AND SACRED LAW

- Law 40/2004 on ART, introduced in Italy strong limitations to infertile patients:
- -Access to ART to infertile patients only and not to couples with genetic and infectious problems. (Art. 4)
- -Limits in the number of embryos to be created in vitro, no more than 3. (Art. 14)
- -All the generated embryos must be replaced in the patient's womb. (Art. 14)
- -Embryo freezing has been forbidden (except than in particular cases). (Art. 14)
- -Donor ART is not permitted at all (oocytes, sperm, embryos). (Art 4)
- -Prohibition of PGD. (Guide Lines of the Law)
- -Prohibition of Stem Cells Research (Art. 13)
- -Surrogacy, forbidden by this law (Art. 12), was prohibited even before because of the principle "The mother is that one who delivers"

WHY THIS “SACRED LAW”?

- Embryo is considered by the Church the same as a full human being, even in the first 48 hours of its life.
- They say “The embryo is one of us”
- It should be treated as a person
- That’s why it can’t be cryopreserved, being a person, neither diagnosed genetic disorders and selected.

OTHER RELIGIOUS AND FILOSOFICAL POINTS OF VIEW

- Ancient greek philosopher Aristotele (384 b.C.) believed spirit animates the embryo at 40° day after conceiving. Empedocle said the final “animation” is possible only after birth; according to the founder of western medicine Ippocrate (380 b.C.) the complete “humanization” of embryo happens in four stages all along pregnancy.
- Catholic Theologist S. Agostino (354-430 a.d.) said spirit enters the foetus after 60 days from conceiving and not in the first days, the so said “animation”.
- Other religious and filosofic traditions, such as Islam, Induism, Buddhism, Taoism express the same principle, fixing the animation moment always after the first month from conceiving moment.
- In Induism, for instance, a miscarriage before the 60° day from conceiving doesn't need any ritual; after that day it does, being the first “animation” already happened.



THE SACRED COW, EVEN ON A PHILOSOPHICAL-
RELIGIOUS PERSPECTIVE, HAS NOT ALWAYS BEEN
UNTOUCHABLE AND NOT EVERYWHERE



TO TRANSFORM IT WE ALSO NEED OF CULTURAL
STRONG AND CONTINUOUS WORK ON THIS
POINT:

OVER PROTECTION OF THE EARLY STAGE EMBRYO
IS ONLY ONE OF THE POSSIBLE POINTS OF VIEW,
EVEN IN THE CHURCH

TRYING TO “KILL THE LAW”

- June 2005, failure of a referendum trying to transform the “sacred cow”, to eliminate from the law its key point “embryo is a person”.
- In September and December 2007, in Cagliari and Firenze, 2 couples needing PGD filed a petition to Court and they won, they got the permit to undergo PGD in Italy.
- . In January 2008, following another lodged appeal, the Court of Lazio Region abrogated Law 40 Guidelines, the ones forbidding de facto PGD and claimed Art 14 of the Law (the one related with limits to 3 embryos to be created and obligation to transfer them all) to go against Constitution because damaging woman’s health.
- .

THE SACRED COW LEFT THE LAW

- 1° april 2009:
- Italian “Constitutional Court”, the highest Court, the one who decides if a law respects or not the Constitution, having in this higher power than the government itself, declares, with sentence n° 151, art. 14 of law 40/2004 to be against Constitution and rewrites it



- Constitutional Court, with a partially abrogative sentence, **eliminated the key point of the law, the strict limit to create in vitro no more than 3 embryos. Now they can create as many embryos as necessary in every situation.**
- The Court also made wider the possibility to criopreserve embryos: “everytime there is a risk for women health if criopreservation is not performed”





- Doctors, biologists, professionals of ART, are free again to perform their profession in the interest of the patient and not of a unscientific law.
 - They can use again all their instruments.
 - They had back the dignity of their job.
- They can decide again how many eggs fertilize, how many criopreserve/vitrify, how many embryos transfer and how many criopreserve.



- Patients are treated again according best international standards and not according an ethical principle, the “sacred cow”, that nothing has to do with medicine.
- They are not obliged anymore to undergo ART in Italy with lower PR or to go abroad in order to obtain the right treatment they deserve.

HOW WAS IT POSSIBLE?

- Sos Infertilità and Hera Patients' Associations helped couples who wanted to file petitions to civil courts in order to obtain the possibility to skip the limit of 3 embryos to be created in vitro.
- A group of Lawyers from north, middle and southern Italy – Ileana Alesso, Massimo Clara, Mariapaola Costantini, Marilisa D'Amico (professor of Constitutional Law at Milano University), Sebastiano Papandrea – found for us the path to bring the cases to Constitutional Court, that decided as above explained.

WHAT HAPPENED IN CLINICS AFTER SENTENCE 151?

- OUR ASSOCIATION IS GIVING COUPLES A QUESTIONNAIRE IN ORDER TO KNOW IF AND HOW ALL THE CLINICS ARE RESPECTING NEW ART. 14, THE ONE REWRITTEN BY THE COURT:
 1. 68% of patients answer that their clinics do fertilize as many as eggs necessary, even all of them if needed and, if needed, criopreserve embryos.
 2. 56% answer their clinics are able to criopreserve either eggs or embryos with good results.

The research is still going on

A NEW LEGAL SUCCESS

- IN JANUARY 2010, THANK TO ANOTHER BRAVE COUPLE WHO FILED A PETITION TO OBTAIN ART WITH PGD DESPITE BEING NOT INFERTILE BUT “ONLY” AT GENETIC RISK, AND THANK TO THE ASSOCIATION “AMICA CICOGNA”, SALERNO COURT GAVE TO THE COUPLE THE REQUESTED POSSIBILITY:
 - ANOTHER STEP FORWARD IN THE TRANSFORMING TABOO PATH

NEXT STEPS?

- WE ARE TRYING TO “KILL” THE OTHER SACRED COW: THE OBSESSION FOR THE BLOOD LINE THAT CREATES A BIG TABOO AGAINST DONOR ART.
- WE ARE GOING THROUGH THE SAME PATH WITH THE SAME LAWYERS, WITH COUPLES FILING CLAIMS TO CIVIL COURTS, WITH THE HOPE THAT CIVIL JUDGE DECIDES TO SEND THE CASES TO CONSTITUTIONA COURT.



- HOPE TO BE WITH YOU AGAIN NEXT YEAR TO TELL YOU ABOUT A NEW VICTORY, A VICTORY THAT WOULD FINALLY HELP ITALIAN INFERTILE COUPLES TO NOT NEED TO TRAVEL ANYMORE FOR REPRODUCTIVE REASONS!

- Thank you for the attention
 - Rossella Bartolucci
 - www.sosinfertilita.net