Procreative Liberty, Biological Connections, and Motherhood

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Given the complex and dramatic array of issues currently facing us in reproductive ethics, bioethicists working on the topic might be forgiven feelings of trepidation when they cast their minds toward the next century. Currently, technologies such as artificial insemination by donor (AID), once the source of intense controversy, are used on a routine basis; mainstream newspapers carry advertisements offering "excellent compensation" to ova "donors;" courts are arguing whether women who serve as gestational or "surrogate" mothers have any parental rights; and proposals resurface to jail pregnant women who take street drugs. Sorting out which developments are to be welcomed and which are to be resisted--and why--will require us not only to clarify some of our most basic value commitments, but also to reflect on our understanding of concepts, such as motherhood, that we previously had the luxury of thinking obvious. Let me highlight two issues I think we will be forced to confront as we try to navigate the ethics of reproduction into the twenty-first century--namely, the value of biological connection and the meaning of motherhood.

Procreative Liberty and the Value of Biological Reproduction

People who are unable to conceive a child or to carry one to term now face a variety of extraordinary means of procreative assistance: they can buy sperm and ova, undergo in vitro fertilization, or contract another woman to gestate and give birth to the baby. Those who are enthusiastic about these new technologies and arrangements often explain their support in terms of many people's deep desire or even right to bear children biologically related to them; those who are suspicious of the techniques often explain their resistance by criticizing our culture's "pronatalist" emphasis on biological rather than social relations with children. Focusing on such clear-cut positions, though, undersells the complexity and difficulty of the issues involved. Few want to dismiss altogether the importance of biological connection; but the question remains, what measure of importance should it be granted? Or again, while most agree that procreative liberty is one of our most fundamental rights, the question remains, whose procreation, in what context, and by which means? The truly difficult questions, that is, pertain to how we are to value biological relatedness and how we are to draw the contours of procreative liberty.

One perspective emerging in current debates urges an expansive answer to these questions, arguing that the new reproductive technologies and arrangements deserve constitutional protection. Procreative liberty is deeply important, it is urged, given how fundamental the decision to have or to refrain from having children is to our sense of dignity, identity, and meaning of life. But if we recognize a right to reproduce coitally, it is claimed, we should also recognize a right to reproduce noncoitally: people with infertile partners should no more be barred from exercising their right to "beget, bear, and raise" children biologically linked to them
by using surrogate arrangements or AI/D than those who are blind should be barred from exercising their right to written information by using Braille texts.

The fundamental question is whether the value of biological reproduction persists when pursued outside of the intimacies of marriage and family that form its traditional home. The new reproductive technologies and arrangements, after all, represent a departure not simply because they are noncoital but because they involve reproduction with strangers, under contract, and for pay. One question that demands our reflection, then, is whether the procreative liberty we value attaches to individuals atomistically, as it were, or to individuals only insofar as they are in relationships of an intimate and ongoing nature.

Other developments on the horizon sound a restrictive note about procreative liberty. Many IVF clinics, for instance, have denied services to would-be single parents or to gay or lesbian couples. Some legislators have proposed making certain welfare payments for women conditional upon their use of contraceptives such as Norplant—an odd view if one regards procreative liberty as a fundamental right. After all, we do not usually make the receipt of public aid contingent on waiving a constitutional right. (Imagine the government stipulating that people are eligible for welfare only if they waive their right to vote in presidential elections.) Such proposals again press us to reflect on the contours of procreative liberty: does it attach only to those who are economically self-sufficient? [End Page 393] does it attach only to certain kinds of intimate relationships, such as heterosexual marriage?

Overall, we as a society need to think through the kinds of procreative "opportunities" we mean to protect and to think through the contexts in which biological reproduction assumes a value that is sufficiently fundamental to deserve our highest protection.

The Meanings of Motherhood

Reproduction is, of course, an area that particularly affects women's interests. Certain developments in the reproductive arena demand our ethical attention because of the implications—or confusions—they carry for the concept of motherhood. Let me mention two questions that press with particular urgency.

First, who is the mother? Varieties of "collaborative reproduction" pursued today have made us all familiar with the difficulties that result when the traditionally unified notion of parent disaggregates into separate biological and social relationships. That tension is most apparent in contract or "surrogate" motherhood. By introducing the possibility of splitting gestation and birth from genetic and social relationships to a child, surrogacy arrangements press us to reflect on the meaning or import that gestational and birthing connections should carry. Here we face dangerous tendencies of very different kinds. On the one hand, two court cases recently decided that women who gestate the embryos genetically unrelated to them have no standing as mothers; the cases appealed to what amounts to a male model of biology, in which a genetic relationship was the only sort of biological parental relation recognized (Smith vs. Jones, 85-53201402, Michigan Cir. Ct., Wayne County, 14 March 1986; Johnson vs. Calvert, California Super. Ct. AD 57638, 22 October 1990). On the other hand, many who defend the motherhood of those who gestate and give birth do so by appealing to "natural" facts of motherhood. While the relevance of male biology to fatherhood has historically been mediated through public policy considerations—we separate sperm donation from fatherhood, for instance, to increase certain procreative opportunities for the infertile—the biological processes involved in gestation are regarded by many as intrinsically maternal. Gena Corea (1985) reads this tendency as a reflection of how deep our collective anxiety over mother abandonment extends; certainly gestation carries connotations of nurturing that are starkly absent from the idea of a man ejaculating into a jar for $50. In the end, we will need to consider gestation in its own right, but do so in a way that does not play into suspect meanings traditionally attached to it.

Second, and less obviously, where is the mother? A cluster of issues in reproductive ethics
concerns so-called "maternal fetal conflict." Here, I think, we face grave danger that women's independent interests are gradually being rendered [End Page 394] less visible. Certainly double standards abound when we compare the contours of maternal and paternal responsibilities. Legal "duties to assist," for instance, are far more extensive for pregnant women than for fathers of children already born. Courts have ordered women to undergo cesarean sections without their consent in order to increase incrementally fetuses' chances of survival, while courts routinely deny attempts to force fathers to undergo procedures such as kidney transplants or even blood transfusions in order to save their existing children (see, e.g., Daniels 1993). Less dramatically if no less telling, social standards of "responsible parenting" are often different when applied to pregnant women than to fathers. For instance, concerns about the dangers that alcohol poses to a fetus focus almost exclusively on women's dangerous proclivities—as we see reflected in the cautionary signs in bars and labels on bottles—even though fetuses also face significant harm from drunk men battering their pregnant partners. Or again, public health campaigns concerned with fetal damage from tobacco smoke almost never target expectant fathers' responsibilities not to smoke around their pregnant partners.

The invisibility of women's agency has been reinforced in more subtle, though no less real, ways by certain prevalent metaphors and images. The widespread use of sonograms, amniocenteses, and fetal monitoring, while affording some very real medical benefits, has affected in worrisome ways the metaphors and images surrounding pregnancy and birth, partly because they allow us to know of the fetus directly, without going through the woman's experience. Our shared cultural image of pregnancy is now the ubiquitous sonogram picture, in which the womb disappears, replaced by a black space, and the fetus is talked about as an "astronaut" connected by a "supply line" to some distant and separate "mother ship" (see, e.g., Petchesky 1990). When these become our dominant images and metaphors, it is easier to forget women's independent interests and agency. Gestation is more easily seen as something passive or mechanical rather than something active that a human being does with her choices of what (not) to eat and do. The fetus is more easily seen as an independent patient rather than as a being whose very development is integrally linked to another person, and the mother more easily seen as a "fetal container" or "gestational environment" rather than as an agent with autonomous interests worthy of respect.

As we near the next century, the issues we will have to face in reproductive ethics will be tremendously challenging ones, in large part because they press us to reflect on the value of biological reproduction and the very concept of motherhood.

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Note


References

