

Designer children: The market world of reproductive choice

by Ted Peters

Children of Choice: Freedom and the New Reproductive Technology.

By John A. Robertson. Princeton University Press, 296 pp., \$29.95.

THE EXPLOSION of progress in reproductive technologies is creating new choices in baby-making. Fertile women can stop baby-making with Norplant, RU486 or abortion, while infertile couples can make babies with the help of artificial insemination, *in vitro* fertilization (IVF), donor semen, donor eggs, frozen embryos and surrogate mothers. Soon we will be able to control the health and perhaps the genetic makeup of children with the aid of genetic screening, genetic engineering, nuclear transplantation, egg fusion, cloning, selective abortion and *in utero* fetal surgery. A woman can become a mother at age 62. And if experiments in ectogenesis and interspecies gestation prove successful, she may become a mother without becoming pregnant.

John A. Robertson, professor in the law school of the University of Texas, celebrates these and other achievements in technological control. "The decision to have or not have children is, at some important level, no longer a matter of God or nature, but has been made subject to human will and technical expertise." "Choice" is no longer a term reserved for the discussion of abortion: it is now the banner waving over the expanding influence of technology on the future of our children.

Technology and choice quickly translate into markets. The already nascent reproductive industry is likely to expand as new technologies open up new possibilities for baby-stopping, baby-making and baby-selecting. As infertility clinics expand the range of services, their clientele will expand to include fertile couples and even those seeking to design their baby's genes.

Under market conditions will babies become commodities to be bought and sold? To my mind the more important issue is the value that children will have when they are the result of engineering or selection.

Parents naturally want their children to enjoy good health. But in reproductive technology, choice may mean selecting the healthy baby and discarding the unhealthy. Parents naturally yearn for a child with certain traits or talents or abilities. But genetic screening for acceptable embryos or engineering for enhanced genetic configurations

may lead to such an emphasis on the perfect child that children born the old-fashioned way may be led to feel inferior. And since technology is not perfect, something might go wrong in the production process. Will parents be tempted to deprive the less than perfect child of unconditional affection?

On the basis of how Jesus behaved with the poor and the diseased outcasts, and also on the basis of the theology of the incarnation wherein God loves the imperfect world

enough to become a part of it, I submit the following fundamental principle: God loves each of us regardless of our genetic makeup, and we should do likewise. My central concern is that children—perfect or imperfect, the product of choice or destiny—receive unconditional love from their parents and equal opportunities in society. Babies made by reproductive technology must be treated as ends in themselves and not merely as means for fulfilling social or parental values. Perhaps I am a consequentialist, for I want an ethic that successfully places the love of children first and foremost, an ethic that orients all other concerns regarding reproductive technology or parental fulfillment toward this greater end.

Genetic screening of embryos may lead to a world in which children born the old-fashioned way are scorned.

THE AMERICAN ethical psyche is schizoid. Like two housecats who hiss at each other, then later nap together in a single ball of fur, Americans operate out of two ethical visions that sometimes compete with each other and sometimes complement each other. On the one hand, Americans are deeply committed to the libertarian vision. This view maximizes individual liberty, assumes that each of us is born free and that the primary ethical or political task is to prevent criminals or government from eclipsing this freedom. Though these values derive from the liberal vision of the 18th-century Enlightenment, many today call this the conservative position. On the other hand, Americans are also deeply egalitarian. They think the primary ethical and political task is to liberate people from prejudices, economic forces or political structures that prevent them from having equal opportunity or equal access to resources. Today we call this the liberal position.

Children of Choice belongs squarely in the libertarian camp. Robertson has developed a comprehensive philoso-

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phy he calls "procreative liberty." At its most general level, procreative liberty refers to the freedom either to have children or to avoid having them. Even though this freedom is most frequently exercised by couples, Robertson is cultivating a rights-based political philosophy rooted in modern individualism. It follows that procreative liberty belongs not just to traditional married couples but also to individuals and to gay and lesbian couples.

Robertson does not endorse unbridled individualism. His strong stand in favor of procreative freedom does not mean that the individual's procreative choice should always triumph. There may be occasions in which the community's interest in protecting people from harm overrides a couple's choice. But Robertson emphasizes that procreative liberty should always be presumed; those who would limit it have the burden of showing why the exercise of this choice would harm someone else.

ROBERTSON RECOGNIZES the rising anxiety over the prospects of noncoital baby-making. Some people are worried that noncoital reproduction will undermine the boundaries that define families, sexuality and procreation. The worry is that "the technical ability to disaggregate and recombine genetic, gestational and rearing connections and to control the genes of offspring may . . . undermine essential protections for offspring, couples, family and society."

Anxiety alone, however, does not warrant restricting or discouraging use of the new reproductive technologies. When this anxiety generates criticisms of such technologies, the criticisms need to be fairly evaluated. Often these criticisms assume a moral tone, frequently buttressed by a specific religious or deontological ethic. Robertson is unsympathetic to religious ethics or deontology, and claims that they have no place in making public policy for a pluralistic society. Critiques of procreative liberty "seldom meet the high standard necessary to limit procreative choice. . . . Without a clear showing of substantial harm to the tangible interests of others, speculation or mere moral objections alone should not override the moral right of infertile couples to use those techniques to form families. Given the primacy of procreative liberty, the use of these techniques should be accorded the same high protection granted to coital reproduction."

In addition to discussing contraception, abortion, IVF and surrogate motherhood, Robertson considers genetic selection—both preconceptual and postconceptual selection—and the risk of turning children into commodities. He notes that the Human Genome Initiative will increase the capacity to screen out undesirable traits "by identifying new genes for carrier and prenatal testing, including, potentially, genes for alcoholism, homosexuality and depression." We already can test fetuses *in utero* for such things as cystic fibrosis or Down's syndrome and abort those with defective genes. This method can also be used

Procreative liberty should be presumed, Robertson argues. Those who would limit choice must show why choice is harmful.

to discriminate between genders, which usually entail the aborting of female fetuses. In the future, through selective abortion or the more sophisticated selection of embryos *in vitro*, couples will be able to screen out potential children with undesirable genes. Past experience teaches that "most affected fetuses will be discarded based on a judgment of fitness, worth or parental convenience." Because abortion is currently the simplest method of selection, these developments will make any pregnancy "tentative" until prenatal screening certifies that the fetus is acceptable.

Parental choice may mean that criteria such as fitness, worth and convenience will determine which children see the light of day. "The danger is that selection methods will commodify children in a way ultimately harmful to their welfare. Carried to an extreme, parents will discard less than 'perfect' children and engineer embryos and fetuses for enhanced qualities. A worst-case scenario envisages repressive political regimes using these techniques to create a government-controlled Brave New World of genetically engineered social classes."

Yet, after alerting us to these dangers, Robertson returns to his defense of individual liberty: "The perceived dangers of 'quality control' appear to be insufficient to remove these choices from the discre-

tion of persons planning to reproduce." Unless we can establish on a case-by-case basis that harm will be done to someone other than the planning parents, he says, then the presumptive right to procreative choice requires social and legal protection. In Robertson's view, no religious ideals or cultural norms regarding family life are sufficient to justify restricting procreative liberty.

Robertson also seeks to protect the right to refuse to use the new technologies. Public action to prevent the birth of genetically handicapped offspring by mandatory means—a potential public threat revealed in the current debate over community rating of health care insurance—is unjustified. Families should be permitted to rely on the luck of the genetic draw and still retain their rightful place in the communal health care system. Some couples will employ the new reproductive technologies, others will accept the roll of the procreative dice.

FEMINISTS' REACTION to procreative choice will be mixed. Those advocating a pro-choice position on abortion will likely see Robertson's notion of procreative liberty as an extension of the rights outlined in *Roe v. Wade*. New reproductive technologies provide women (with or without spouse) with an increased range of options. On the other hand, feminists with a more essentialist vision—a vision of some essential quality unique to women or unique to a woman's relationship to her child—will find Robertson's doctrine unacceptable. Many pro-life feminists argue that the relational bond between mother and child is so fundamental that it cannot be

surrendered. Robertson's procreative-choice doctrine runs counter to this deep dimension of human nature.

Pro-choice feminists who employ an essentialist argument against Robertson will have to deal with an inconsistency, however: advocating freedom to choose to abort is inconsistent with the claim that the mother-fetus bond is more fundamental than choice. Robertson's argument is finally an extended form of the pro-choice position that "assures women a large measure of control over their reproductive lives."

The advance in reproductive technology is carrying us into complexities unanticipated by *Roe v. Wade*. The key to the legalization of abortion was the identification of the fetus with the mother's body during the first trimester, thereby ceding to the mother the right to do with her body what she wills. The court consciously denied to the fetus protection under the 14th Amendment. Such legal logic depends entirely on the premise that the child-to-be is part of the mother's body. But what about phases in embryo development outside the mother's body? What about cases in which the genetic bond between mother and child is broken?

Take the case of *in vitro* fertilization. The creation of a genetically unique individual takes place in a petri dish, perhaps miles away from the mother-to-be. Normally, many eggs are fertilized at once. In some cases genetic selection takes place in the petri dish; those eggs with desirable traits are chosen and the others discarded. In the future, actual engineering of genetic inheritance will take place at this point. The desired pre-embryo will then be transferred to the woman's uterus or the fallopian tube. By law it then becomes part of the mother's body. But what is the legal or moral status of the preimplanted embryo?

To complicate matters, a family that is planning to bring a new baby into the world may use semen from a donor or eggs from a donor. They may use cryopreservation, freezing semen or even embryos for future implantation. And to bring the baby to term they may employ a surrogate mother. In the most complex case, a child could be born with two fathers—the semen donor and the man who plans to rear the child—and three mothers—one for the egg, one for gestation and one to rear the child. The costs for such a child run about \$45,000. Choice after choice is being made here. We find ourselves in a new situation.

What is the ethical status of the pre-embryo whose genes are subject to parental choices and the clinic's technological capabilities? The Vatican in its *Instruction on Respect for Human Life in Its Origin and on the Dignity of Procreation: Replies to Certain*

Questions of the Day offers an answer: the human being must be respected as a person from the first instance of his or her existence as a fertilized egg. This implies a number of things, including the view that the right to life prevails over the mother's right to an abortion. As in the case of IVF, noncoital baby-making is judged to be contrary to moral law. The Vatican also seeks to protect the integrity of marriage. The ideal child is one produced by a sexual union of two married parents. Marriage and sexual union within marriage are part of the essence of human nature, and the connection between genes, gestation and family life should not be broken. Like the essentialist feminists, the Vatican

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appeals to a depth dimension in human ontology that goes deeper than choice and that would justify restricting procreative liberty.

I would not argue that individual freedom of choice must be the bottom line in every ethical deliberation. Nor am I interested in restricting choice on the basis of appeals to an essentialist ontology or to increasingly outmoded assumptions about the necessary ties between sex, baby-making and family life. I am single-mindedly interested in one thing: loving children who are already here and children yet to be. This stance derives from a theological truth and an ethical response: God loves us unconditionally and we should similarly love one another (1 John 4:11). Although Robertson allows for no religious ideals or deontological mandates, I do.

In itself, taking advantage of new reproductive technologies will neither enhance nor diminish a parent's motive for bringing a new child into the world. Robertson is quite optimistic on this score. On genetically enhancing a child's IQ or physical strength, he comments: "Enhancement could be seen as an act of love and concern, rather than a narcissistic effort to make the

child a product or commodity." In advocating the use of donors and surrogates, he says that "rather than undermine family, these practices present new variations of family and community that could help fill the void left by flux in the shape of the American family." I like such optimism.

Nevertheless, we need to remind ourselves that the ethical burden for loving children and not treating them as commodities lies in the commitment by parents and community to love each child and to seek his or her fulfillment regardless of the child's genetic makeup or form of procreative origin. Neither appeals to traditional family values nor claims of an intrinsic value to sexual mating will allow us to escape the challenge posed by new reproductive options: we must choose either to commit ourselves to loving the babies we make or not. Our ancestors faced this choice when coital reproduction was their only option; it is our choice today as well. The glitter and glitz of the new reproductive technologies may dazzle us with options, but the sparkle should not keep us from providing what children need: to be wanted, loved and cared for. ■

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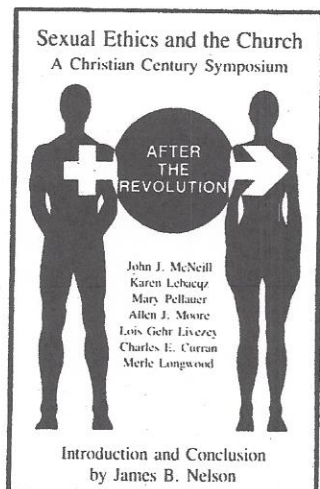
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