

Ingrid Schneider

“Pro-life” and “Pro-choice”: Overcoming the Misleading Controversy

Feminist Perspectives from the North

Vortrag auf der Heinrich-Böll-Stiftung Konferenz “Within and Beyond the Limits of Human Nature”, Berlin 2003.

The challenges and conflicts raised by new genetic and reproductive technologies have often been overshadowed by old cleavages about abortion and women's right to choose. But framing the issues raised by the new technologies in either embryo-centric and “pro-life”-terms or in terms of liberal self-determination does not do justice to women's needs nor to the political strategies feminists have opted for. Such a framing, moreover, is an impediment to building broader alliances.

I think it is necessary to emphasize differences that are of normative significance. Therefore it is important to distinguish between what needs to be kept apart – and to think together about what is inherently connected.

First, I would like to refer to some distinctions that need to be drawn. In the second part I point to some of the challenges raised by embryonic stem cell research and human cloning.

1. The distinction between contraception and abortion vs. reproduction

Contraception and abortion are different to reproduction, because in reproduction a third party – a child - is (hoped to be) brought into existence.

As British biomedical philosopher Onora O’Neill has stated, while in the cases of contraception and abortion *»the aim of the woman or couple involved is **not** to reproduce: there is **no** need to consider the right, welfare or future of any child, since no child will exist. But where the aim is to reproduce, appeals to individual or personal autonomy are much less convincing. Reproduction aims to create a dependent being, and reproductive decisions«* must have as a primary goal to *»offer adequate and lasting care and support to the hoped-for child«* (O’Neill 2002: 62).

Thus in matters of reproduction the best interests of a child and the relationship with the parents-to-be have to be taken into account, which limits an individual’s autonomy in the traditional sense.

2. The distinction between defence rights and entitlements

What does autonomy and self-determination really mean in the context of procreation? Within debates about contraception and abortion, self-determination has primarily been conceptualized as a negative right or a **defence right** – in the traditional, liberal and *vertical* sense of a right to privacy against the state or/and the church, as well as in the *horizontal* sense of a defence right of a woman against a man, e.g. (her) spouse (or against a perpetrator in the case of rape). The right is *against* someone or something rather than *for* something or someone.

In the context of *contraception* as a feminist demand, a defence right has meant calling for: no forced sterilizations; no incentives or coercive measures to prevent procreation; a rejection of and resistance to both pro-natalist and anti-natalist population programs and policies.

In the context of *abortion*, this defence right was translated into the postulation of a woman's right not to be coerced into carrying an unwanted pregnancy to term and demanding access to legal and safe methods for pregnancy termination.

In the context of *procreation*, a vertical defence right could mean that individuals should not be hindered from obtaining access to technologies of reproduction, such as IVF. But this would not entail any obligation on the state or insurance companies to cover the costs of providing such technologies. Feminists have always emphasized the low baby-take-home-rates (around 15%) of IVF and the health risks for both women and children associated with the technologies.

But in many cases it seems that procreation nowadays is being framed in terms of a **positive right, an entitlement**. I think, however, that there *cannot* be an entitlement or “*right*” to “*have a child*” – who would be the legitimate addressee or focus of such a demand? Neither the state nor an individual man could be obliged to provide sperm to a woman to fulfill her wish for a child. An entitlement to have a child would go beyond that which can rightly be demanded and guaranteed. (And even less can there be an *entitlement to a healthy child*.)

Individuals might claim a right not to be polluted or subjected to radiation in order to have a healthy child, thus to be protected from environmental harm. And a doctor is of course obliged to do his work *lege artis*. However, the negative selection of a fetus according to norms of health certainly exceeds the medical mandate. It would be wrong to connect prenatal diagnosis with an “entitlement to a healthy child”, thus assuming or endorsing the notion that such prenatal testing gives a healthy child, whereas it (supposedly) rules out or indicates a certain condition. The main problem with prenatal diagnosis is that in most cases there follows no therapeutic intervention for the fetus and/or the mother-to-be, leaving abortion

seemingly as the only option. A “healthy child” can never be guaranteed, neither by doctors nor by the state.)

3. The distinction between abortion as a decision to have or not have a child vs. abortion because of the “bad quality” of the fetus

There is a difference between the right not to carry an unwanted pregnancy to term (or, in other words, to decide whether or not to have a child) and the decision to abort because certain traits of the fetus have been discovered (or, bluntly speaking, because the “quality” is not sufficient).

As feminists have learnt from discussions with people from the disability movements, there is a significant difference between the two. Selective abortion implies the affirmation of derogatory and negative cultural value judgments and norms. On the practical level, of course, this does not translate into an obligation to carry a pregnancy to term, but does mean that the widespread supply of prenatal diagnosis or testing as a screening method must be questioned and that independent psycho-social counseling before and after such diagnosis must be insisted upon. On the social level, more social and financial support for those who care for people with disabilities is much needed, as is advocacy and empowerment of people with disabilities for themselves.

4. The distinction between an embryo in a woman’s body (in vivo) and an embryo in a petri dish (in vitro)

All these conflicts are exacerbated by the technique of Pre-implantation Genetic Diagnosis (PGD). When this technique is employed, there is no longer an intimate, corporeal connection and bonding between the woman and an embryo (or fetus) as in pregnancy. Instead, there is a separation of the woman and the embryo, which has a (social and institutional) existence in the petri dish, in vitro.

Selection for certain embryos and against others is aggravated in this case:

- because of the large **quantity** of embryos (usually 6-10) deliberately produced in order to select some and not others, on the one hand; and
- because of **qualitative** aspects, particularly the added option of “positive selection” of desired genetic traits, on the other.

5. Embryonic stem cell research and human cloning: objectification of women

Embryonic stem cell research and human cloning require an enormous supply of oocytes and embryos, thus degrading women into “producers of raw material” for third parties. This scientifically created “need” calls for measures to meet the demand, either for financial or for emotional reasons. Both the commodification of egg and embryo donation, as well as the so-called “altruistic” donation, is – in my opinion – detrimental to the practical and strategic needs of women.

5.1. Gametes and embryos: gift or commodity?

There are numerous controversies within feminist debates centered on the question of self-instrumentalization and the supply of body materials and services as a gift or for sale. Many analogies could be drawn: I would like to draw attention to the topics of prostitution, “surrogacy” or contract motherhood, as well as to bioethical debates regarding the living donation of organs, or of blood as a gift or a commodity.

Because of space, I cannot go into the details of all these debates. But I would like to refer to a matrix that seems to be typical for debates on these questions. The debates are largely configured in antagonist oppositions.

One dichotomy is that between gift and commodity or – in the terms used to describe circulation – between the rules of gift exchange (Mauss 1990), which creates a never ending chain of social relationships, bonds, obligations and reciprocity on the one hand and the rules of commodity exchange which is governed by contract and market competition on the other hand.

Often the connotations and conclusions drawn are that the gift is positive, a voluntary contribution, very much in line with Judaeo-Christian values of altruism, whereas the sale is negative and hence disapproved of.ⁱ

I would like to argue, however, that it is not so easy to make the normative distinction between gift and sale – because *gifts* can imply very strong *obligations* in terms of gratitude, guilt and debt. These implications have led US sociologists Renee Fox and Judith Swazey to speak of “the tyranny of the gift”. I quote from their work on organ transplantation:

„ what recipients believe they owe to donors and the sense of obligation they feel about repaying „their“ donor for what has been given, weigh heavily on them. This psychological and moral burden is especially onerous because the gift the recipient has received from the donor is so extraordinary that it is inherently unreciprocal. It has no physical or symbolic equivalent. As a consequence, the giver, the receiver, and their families may find themselves locked in a creditor-debtor-vise that binds them one to another in a mutually fettering way. We have called these aspects of the gift-exchange-dimensions of transplantation the >tyranny of the gift< (Fox /Swazey 1992: 40).

Moreover, as US feminist sociologist Janice Raymond has emphasized, the “gift” is often loaded with a strong gender bias, namely the cultural norm of the altruistic woman »who is infinitely giving and eternally accessible (which) derives from a social context in which women give and are given away, and from a moral tradition that celebrates women’s duty to meet and satisfy the needs of others« (1990: 8). »On a cultural level women are expected to donate themselves in the form of time, energy, and body« (Raymond 1990: 9) – and nowadays in the form of oocytes and embryos.

But power imbalances are also very much interlaced: “those with less power in the family will be expected to be more altruistic« (Raymond 1990: 10) ⁱⁱ

Therefore, some feminists have come to the conclusion that »payment for services [and body materials such as gametes- IS] questions gender norms« (Anleu 1990: 72).

I have very strong doubts that this is in fact the case. For myself, I do not see the concept of property rights over the body as being an emancipatory one.

5.2. Inalienability

I would like to conclude by saying that what seems to be needed is a **new culture of inalienability** of the human body. Inalienability not only in terms of market-inalienability (Radin 1987, Holland 2001), but also in terms of absolute inalienability, in terms of non-procurement and non-circulation.

I do not think, that we need to *sacralize* gametes and embryos in order to make them “untouchable” for research and commodification. Instead we should think about *secular* ways of protecting women (as well as men) from being objectified and reified, and from subjecting themselves to instrumentalisation (or we might possibly go as far as to talk of alienation and expropriation of their reproductive potential).

In my opinion, gametes deserve a special status, because they are the material substrate of the human procreative potential – as such they represent fertility and potency. As a genealogical bridge between past and future, entailing relationships with our progenitors as well as with our present partners and with future generations, they are different from all other body substances. They not only carry half the chromosomal set, but they are also “half” insofar as they need a “counterpart” to become a child – and of course a woman willing to become pregnant and carry a pregnancy to term.

As British ethicist Donna Dickenson has elaborated very well, we should not focus too much on the *material* substances but on the *relational* aspects of reproductive body parts:

»in a somewhat figurative but emotionally real sense, gametes are not owned. At most they might appear to be lent – although even that metaphor presupposes that someone did own them somewhere along the way. ... gametes as belonging solely to the individual is ethically wrong and politically ill-advised. (...) We need to view both sexes as only possessing their reproductive potential in relation to past and future generations, not as owning it unequivocally.»(Dickenson 1997: 157).

In my opinion, however, we should also focus on differences between male and female gametes, because gender in this aspect does make a difference: while sperm is more like a regenerative resource, which is relatively easy to provide, the extraction (or the “harvest”, in the language of reproductive technology providers) of oocytes requires invasive, painful and risky medical procedures, involving hormonal stimulation and potential lesions during ova retrieval which can have negative effects on a woman’s health.

Therefore, it would be quite legitimate to have different attitudes and different legal regulations concerning sperm and oocyte donation.ⁱⁱⁱ

We should question, moreover, whether all kinds of genetic “mixtures” and all pluralisations of parenthood (e.g. several biological ‘mothers’, or gay men awarding a contract to a child) should be welcomed in an age of reproductive technologies which *»makes it possible for any number of persons of either sex to commission a pregnancy«* (Shanley 1995: 158)? (This is a hotly-contested topic, but we should not neglect the best interests of a child.)^{iv}

I think we must try and think about concepts and strategies to **set limits** to genetic and reproductive technologies without falling into the old traps set by conservative family

ideologies, on the one hand, and by liberal technological optimism, scientism and uncritical allusions of control and progress, on the other. Our challenge is not to lapse into old separations but to commit ourselves to building new alliances.

- Anleu, Sharyn R. Loach (1990), Reinforcing Gender Norms: Commercial and Altruistic Surrogacy, *Acta Sociologica*, 33, p. 63-74
- Biller-Andorno, Nikola 2002: Gender imbalance in living organ donation, in: *Medicine, Health Care and Philosophy* 5, p. 199-204.
- Daniels, Ken/Haimes, Erica 1998: *Donor Insemination. International Social Science Perspectives*. Cambridge.
- Dickenson, Donna (1997), *Property, Women and Politics. Subjects or Objects?* Cambridge.
- Fox, R.; Swazey, J.; Watkins J.C. 1992: *Spare Parts: Organ Replacement in American Society*. New York.
- Goyal, Madhav et al.: Economic and Health Consequences of Selling a Kidney in India, in: *JAMA*, vol. 288, no. 13, p. 1589-1593
- Holland, Suzanne (2001), »Contested Commodities at Both Ends of Life: Buying and Selling Gametes, Embryos, and Body Tissues, *Kennedy Institute of Ethics Journal*, vol. 11, No.3, p. 263-284.
- Mauss, Marcel 1990 [1923]: *The Gift. The Form and Reason of Exchange in Archaic Societies*. London.
- O'Neill, Onora (2002), *Autonomy and Trust in Bioethics*, Cambridge.
- Raymond, Janice (1990), »Reproductive Gifts and Gift Giving: the Altruistic Woman«, *Hastings Center Report*, Dec., p. 7-11.
- Schneider, Ingrid 2000: The body as a biomedical resource, International Women's University Hannover, ifu open space, 15.9.2000 (manuscript).
- Schneider, Ingrid 2003a: Ein Markt für Organe? Die Debatte um ökonomische Anreize zur Organspende, in: Fuat S. Oduncu/Urich Schroth/Wilhelm Vossenkuhl (Ed.): *Organtransplantation, Organgewinnung und – verteilung, Perspektiven*. Göttingen: Vandenhoeck & Ruprecht, p. 189-208.
- Schneider, Ingrid 2003b: Gesellschaftliche Umgangsweisen mit Keimzellen: Regulation zwischen Gabe, Verkauf und Unveräußerlichkeit, in: Sigrid Graumann/ Ingrid Schneider (Ed.) 2003: *Verkörperter Technik - Entkörperter Frau. Biopolitik und Geschlecht*, Frankfurt am Main/New York: Campus, p. 41-65.
- Shanley, Mary Lyndon (1995), »Surrogate Mothering and Women's Freedom: A Critique of Contracts for Human Reproduction«, in: Patricia Boling (Hg.), *Expecting Trouble. Surrogacy, Fetal Abuse and New Reproductive Technologies*, Boulder, p. 156-176.

Dr. Ingrid Schneider
 University of Hamburg
 FSP BIOGUM (Biotechnology, Society and the Environment - Medicine/Neuronal Sciences)
 Falkenried 94
 D- 20251 Hamburg
 ph: 0049 – 40- 42803-6311
 Fax.: 0049- 40- 42803-6315
 E-mail: Ingrid.Schneider@uni-hamburg.de

Ingrid Schneider, PhD, Political Scientist, scientific staff and lecturer at the Research Center on Biotechnology, Society, and the Environment (BIOGUM), Research Group on Medicine/Neurosciences at the University of Hamburg (Germany). She did her PhD on »Fetal Tissue Transplantation: the fetus as a biomedical resource - medical technology, body politics and social responsibility«. In the 1990s she was active in FINRRAGE (Feminist International Network of Resistance to Reproductive Technologies and Genetic Engineering). From 2000 to 2002 she was a member of the German parliamentary commission (Enquete) on “law and ethics of modern medicine”. Her current research is on the use of substances and the generation of biomedical information from the human body and on questions of privacy protection, ownership/property rights, scope of biotechnology patents and social justice.

Organization:

Reprokult -Women's Forum on Reproductive Medicine. Reprokult, founded 1999, is a nationwide network composed of women from the social and natural sciences, politicians, and women from professional organizations involved with women's health and counseling centers (midwives, gynecologists, psychologists, social workers), activist groups, and the media. The name “Reprokult” derives from the cultural embeddedness of reproductive technologies and aims to express a critical view of technological fixes and Assisted Reproductive Technologies as a new “cult”.

Reprokult has worked out critical position papers on Preimplantation Diagnosis, Prenatal Diagnosis, Oocyte Donation, Embryo Research, Disability and “Enhancement” of Human Life, which serve as a platform for political action and for building alliances. The Women's Forum addresses politicians, has lobbied parliamentarians, and has generated political pressure in the context of discussions about proposed new legislation governing reproductive medicine and human genetics in Germany.

The Women’s Forum supports the current German ban on PGD, embryo research, and cloning, and strongly opposes any weakening of the current legal restrictions. Reprokult tries to raise awareness of the social implications of new medical technologies, especially for women, and criticizes narrow, embryocentric discourses. In November 2001, we held a big conference in Berlin on “Reproductive Medicine and Genetic Engineering – Women between Self Determination and New Social Norms”. The proceedings are soon to be published in English and can be downloaded from our homepage: <http://www.reprokult.de> or ordered free of charge.

ⁱ I would like to emphasize that I regard the commercial sale of blood and the trade in human organs as a human rights violation. But whereas I think the voluntary and altruistic donation of blood for transfusion purposes is for a good cause, I am more concerned about the donation of organs. The donation of organs *inter vivos* implies a serious breach of the imperative governing medical practice which is derived from the Hippocratic oath »Do no harm!«. Living donation (e.g. kidney explantation) involves an invasive procedure on a healthy person without a medical indication for the person herself. In terms of (old) medical ethics, it is a mutilating act without therapeutic need. The fact that the benefits and risks of this practice are accounted for interpersonally is very critical, because if these were generalised as a social norm, anyone and everyone could be damaged or harmed if it was for the sake of another's good (Schneider 2003a). Whether autonomy and individual informed consent are sufficient to legitimize these kind of practices needs much more discussion. Statistically, one in 100 kidney donors suffers from medical complications, while three in 1,000 die. In cases of liver donation, the figures are more dramatic: 1-2 out of 100 liver donors die as a result of the procedure.

Sometimes the sale of kidneys is proposed or justified as a way for donors to improve their economic situation and by this way to benefit them. The sale of an organ is thus equated with the sale of one's labour. Sometimes it is even argued that protecting or preventing the poor from selling their kidneys is hypocritical and even authoritarian and paternalistic, because prohibiting the sale of body parts would remove an option from poor people to decide autonomously for themselves and thus would imply in a practical sense "let people die" from their poverty. But there is empirical evidence that the sale of organs does not improve the economic status of kidney vendors and does not lead to their long-term economic and medical benefit. A survey conducted in 2001 among 305 persons, who had sold a kidney six years before in Chennai, India, showed that 96% of them sold their kidneys to pay off debts. The average amount they received was US\$1,070, most of which was spent on paying off debts and food. Some 71% of the vendors were women, some of whom had been coerced into selling their kidneys by their husband or relatives. Average family income declined by one-third after nephrectomy, and the number of participants living below the poverty line increased. Three-quarters of participants were still in debt. About 86% reported a deterioration in their health status after nephrectomy. Some 79% would not recommend that others sell a kidney (Goyal et al 2002). Information such as this shows that under the disguise of "autonomy", the interests of privileged groups are defended.

ⁱⁱ A very strong *male bias* is also evident in organ donation *inter-vivos*, both in donor recruitment and in recipient selection. In kidney donation, the ratio is inversely proportional: two out of three kidneys are donated by women whereas two out of three recipients are men. Predominantly wives donate to their husbands, mothers to their children and sisters to their brothers (for figures for Europe and North America, see Biller-Andorno 2002).

ⁱⁱⁱ In Germany, for instance, oocyte donation is prohibited whereas sperm donation (heterologous insemination) is allowed under certain circumstances. What is needed is a donor registry and non-anonymous donation to enable children created by artificial donor insemination to trace their genetic father when they are adults if they want to.

^{iv} For a long-term analysis of the social implications of Donor Insemination for the resulting child as well as for donors and recipients, see Daniels/Haimes 1998. For egg donation and surrogacy, there has been very little investigation into the psycho-social and cultural implications, and even less on the perceptions of the parties involved, most notably from the children resulting from such procedures.