

Babies for the socially infertile: how conceivable is it?

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I. INTRODUCTION: IVF and how it's changing the world

Infertility is considered by some to be the direst calamity that could befall any couple with a life-long desire to be parents. Couples stripped of the opportunity to experience the joys of parenthood can experience psychological distress, and marriage break-ups due to infertility are not unheard of. Defined medically as the failure to conceive after 12 months of unprotected intercourse, infertility affects approximately one in six couples, with both males and females accounting equally for the rates.¹ Luckily, with the advent of assisted reproductive technology, infertile patients can now have genetically related offspring with the use of in vitro fertilisation (IVF). It is estimated that, in New Zealand, around 450 babies are born every year via IVF.^{2,3}

Although hailed as a remarkable technology for assisting many infertile couples, IVF has not been without controversy. Initial concerns about a lack of foetal-maternal bonding in cases of surrogacy have now been superseded by concerns about IVF being used by a group of people known as 'the socially infertile'. This category includes those who are homosexual (gays and lesbians) and those who are single. To explore the issue, I will look primarily at homosexuals who yearn for biological children, as an example of the socially infertile.

Fertility clinics differ in their willingness to provide IVF for homosexuals, with some countries denying IVF treatment to homosexuals, privately and publicly.⁴ At private clinics in New Zealand, lesbian women are eligible for donor-insemination, and gay men are allowed to donate sperm for IVF.⁵ However, if publicly funded treatment is sought, one of the lesbian couple would have to be diagnosed with biological infertility, such as endometriosis or tubal disease.⁵ Therefore, for homosexuals who do not have the financial means to pay for private fertility treatment, any desire to have biological children would go unsatisfied. In this article I argue that the reasons against providing homosexuals with IVF treatment are not justifiable; that homosexual couples have the right to conceive biological children; and that it is not morally permissible to discriminate against this group.

2. ARGUMENTS ALLOWING IVF FOR HOMOSEXUALS

2.1: Procreative liberty: But it's their rights, right?

The World Health Organisation (WHO) defines reproductive rights as the

"Basic right of all couples to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so. It also includes their right to make decisions concerning reproduction free of discrimination, coercion and violence".⁶

From this it is clear that no individual should be denied the right to have children of their own and, no individual should be discriminated against should they make the decision to do so. Reproductive freedom is further explored by John Robertson, who introduced the concept of 'procreative liberty'.⁷ This is essentially the individual right to have or avoid having children, and importantly "one violates no moral duty in making a procreative choice and other persons have a duty not to interfere with that choice".⁷ Robertson states that just because homosexuals are attracted to people of the same sex, this does not mean they lack the desire to achieve fulfilment and meaning in life.² Supported by the American Society of Reproductive Medicine's ethics committee, many homosexuals seek fertility treatment, as they still want to be part of something so basic to every human's existence. That is, they desire a family of their own, for reasons of companionship, legacy, intimacy, love and nurture.⁴ Therefore, to deny homosexuals the chance to procreate would be denying them the right to experience something fundamental to human existence. If IVF were allowed for homosexuals, then we would be addressing one of their human needs and helping them live life with dignity and joy.

Some would argue that although it is important to recognise the procreative liberty of individuals, this does not confer any obligation onto the law, or any particular fertility clinic, to provide a means for individuals to exercise that right. Just because someone has the right to procreate, this does not mean the reproductive specialist would be automatically willing to carry out IVF; he or she may have moral and religious beliefs that go against the unconventional family. We can compare this situation with that of abortion. As the WHO definition of reproductive rights above indicates: patients have the right to decide whether or not to proceed with a pregnancy and, should they decide on termination, no one has the moral duty to interfere with that choice. Doctors are, however, under no legal obligation to offer abortions, based on the same reasons why reproductive specialists may deny IVF treatment to homosexuals. I feel that in order to explore this point further, we must ask whether the grounds for denying homosexuals the chance to procreate are justifiable. Reproductive specialists that do this may be acting on grounds of prejudice and discrimination against a minority group and, I believe all forms of discrimination should be eradicated, especially in the health sector. This, therefore, does not form a sound basis to deny IVF treatment to homosexuals.

2.2: Professional autonomy and non-discrimination

According to the New Zealand Human Rights Act of 1993, there is to be no discrimination based on sexual orientation.⁸ Homosexuals have long struggled to obtain the same rights as everyone else. As health professionals, we are bound to treat everyone with fairness and with equal respect.⁴ This implies that homosexual couples should not be denied IVF treatment due to their sexual orientation. As explained earlier, some may argue that it is within the health professional's moral and religious rights to deny treatment. However, in some states of the USA, such as California, the refusal to provide treatment on the basis of religious freedom actually violates the laws which prohibit discrimination based on sexual orientation.⁴ So, the need to eradicate discrimination is considered more important than one's religious freedom. Furthermore, one could argue that if the reproductive specialist denied treatment based on moral and religious grounds, but then referred homosexual couples to another specialist willing to perform IVF, then surely they would still be indirectly responsible for homosexual pregnancies, and would thus be defying their principles.

3. ARGUMENTS DENYING IVF TO HOMOSEXUALS

3.1 *The supernatural: How can it be natural?*

Historically, many have found it hard to comprehend and accept same-sex relationships. Hence, when it was put forth that IVF could be used for homosexual couples to have biological children, there was a lot of protest. Some argued that it was 'unnatural' to have two mothers or two fathers in a household, as it went against traditional family values and the structure of the nuclear family. On a political website on gay rights, Molly Bennett commented on how parenting should ideally include a father and a mother, and that this is the child's basic right.¹¹ Bennett further explained that humans "evolved over years to reproduce and that is natural. Trying to procure life by any other means while obviously possible makes it unnatural".¹¹ One could argue that if one strongly supported this 'unnatural' argument then IVF should not exist at all. Fertility treatment is also unnatural, and perhaps biological infertility is nature's way of preventing an individual from being a parent, so should not be tampered with. In the same article, Ian Dunt put up a valid argument in response. Dunt maintained that humans have evolved to make use of their tools and knowledge to overcome the obstacles of the world. He said that it is not unnatural for humans to build a bridge to cross a river to reach our destination, and "the use of tools to overcome the limitations set on us by our environment constitutes one of the earliest known behaviours of mankind".¹¹ In other words, humans have evolved with time as it is natural to do so, and what is even more natural is our way of developing new technologies to ease the load on our lives. There is thus nothing more natural than homosexuals using IVF as a means to overcome the barrier of their social infertility.

Talking about evolution, I feel that as a society, we are evolving towards becoming more tolerant, with a greater acceptance of things that, in the past, may have seemed 'unnatural'. One aspect of this is the concept of family. Many of us may be acquainted with the notion of the nuclear family. The family dynamics is, however, changing rapidly and the definition of family now constitutes more than what some may refer to as the 'conventional family'. Divorced families, families with single parents, and families with no parents but with grandparents raising children are not uncommon. Therefore, the question is, do you consider these conventional families? If so, how can we classify homosexual families (children with homosexual parents) as unnatural, or how is it even morally correct to exclude that minority? The most important thing we have to consider is that the definition of family has changed. I am less concerned about the constituents of the family, but more concerned that there is love, support, communication, security, sense of belonging and culture in the family. I believe those values are sufficient to define a family.

3.2 *Doing more harm than good: welfare of child at stake*

Welfare is described by Peterson to be the material and psychosocial well-being of a person, and often encompasses stability, love, warmth, caring and compassionate relationships.¹² It has been thought that the influences of both the father and the mother on the child are essential for its psychosocial development, and that psychosocial stimuli could impact on the child's self-esteem, aspirations, moral beliefs and emotional state.¹² Some believe that fathers are important in a child's life as they are not only providers, but also disciplinarians, models, companions and teachers.¹³ Mothers on the other hand, are said to be nurturing, understanding and supportive. It is thus argued that homosexuals should not have biological children, as the child will be growing up either without paternal or maternal attributes, putting their welfare at stake. However, we have to realise that homosexuals often have extended family and the child in question may indeed have other female and male influences, such as uncles, aunts, grandparents and close friends.

It has also been stated that more harm will be done if children are born to homosexual parents as it is likely that the child will be stigmatised and bullied at school, and this will have severe consequences on the child's self-esteem. Stigmatisation has always been around, but this could be eradicated if society were to become more accepting of homosexuals. As explained above, the trend is moving towards more acceptance and tolerance, and I'm hopeful that in the future, stigmatisation of children based on their

parents' sexual orientation will be completely eradicated.

Some maintain that homosexual relationships are volatile and this could also be harmful to the child.¹¹ To refute this point, I think it is valid to say that there is no guarantee a child would be any better off with heterosexual parents, given the current high divorce rates. It is thus an unfair attack on homosexuals to prevent them from undergoing IVF solely because of a concern for the child's welfare.

Some not in favour of IVF for homosexuals have put forth the argument that gay couples are more likely to mistreat their children, such as exposing them to sexual abuse, and that offspring of homosexual couples are more likely to be homosexual themselves.⁴ Research has, however, shown that children of homosexual parents develop normal gender identity and normal sex-type behaviour.^{4, 13} Furthermore, research has also elucidated that competency of gay parenting is not an issue, as development (personality, self-concept and conduct) of children of homosexual couples shows little difference to that of children of heterosexual couples.⁴ There is thus no sound evidence to deny homosexual couples IVF based on welfare concerns. I think those who oppose the use of IVF for homosexuals based on the welfare argument have overlooked the 'non-identity problem'. Characterised by Derek Parfit, the 'non-identity problem' basically states that the child in question cannot be characterised as 'harmed', because they would not even exist if the 'no IVF for homosexual' law was adopted.² The arguments based on the welfare of a potential child sound feasible, but they are based on protecting the rights of a child who is probably non-existent; thus those are weak claims and are merely discriminatory attacks on homosexuals.

3.3 *Gay people are not really infertile! How is it justifiable?*

In vitro fertilisation was created to help biologically infertile patients regain some dignity and meaning to life. Since homosexuals are only socially or 'psychologically infertile' and they have functioning reproductive systems, some maintain that it is not justifiable to allow them IVF as it was not developed with them in mind. It has been argued that if we were to allow the psychologically infertile to utilise IVF to have biological children, then what would this mean to others in society who have other psychological issues? It is thus argued that it is 'just wrong' for homosexuals to use IVF, as they are not infertile by nature, but by choice.

I feel that to deny someone fertility treatment based on lack of physical ailment is not appropriate, as there are currently many medical conditions that do not affect someone physically but psychosocially. Some of these include depression, schizophrenia and bipolar disorder. Having said this, I am in no way indicating that homosexuality is a mental health disorder and that homosexuals should be treated psychiatrically in any way. But rather; if homosexuals yearn for biological children and cannot produce any due to psychological and social constraints, then health professionals have the responsibility to ensure IVF is not denied, and that homosexuals are treated like any other infertile heterosexual patient.

It has been maintained that homosexuals are infertile by their lifestyle choice and that it seems unjustifiable to allow IVF in those circumstances. However, it can be argued that a proportion of women are also infertile based on lifestyle choices such as delaying child-bearing until their late 30s or early 40s. Does this mean we should deny these older infertile women IVF as well, since they are infertile based on their lifestyle choice of prioritising their career over child-bearing? Is this not similar to homosexuals who are infertile based on their lifestyle choice of having a partner of the same-sex? If we were to extrapolate this argument to say we should not treat a subset of people based on their lifestyle choices, does this mean we are to refuse treatment to lung cancer patients who are smokers, and inevitably became sick due to their lifestyle choice of smoking cigarettes? Many people would be appalled if we were to deny treatment to a terminal lung cancer patient. So the question is, should we treat homosexuals any different, such as denying them IVF, based on their lifestyle choice? A response would be that we are more tolerant of smokers than homosexuals, so ideally lung cancer patients should be offered treatment. However, I stand by my belief that we are evolving towards a more accepting society, and discrimination against homosexuals will gradually evaporate. It is thus not justified to deny them

IVF because they are socially infertile and do not fit the physical criteria of infertility.

3.4 Scarcity of resources

Allocation of scarce resources in medical treatment is always a contentious problem, and this issue underpins an argument in favour of denying IVF to homosexuals. In our health system, there is often not enough funding for every patient and every condition. This is one reason why publicly funded treatment in New Zealand is only available for lesbians who exhibit some form of biological infertility. The 2006 New Zealand Census data shows that 0.7% of the population live in a same-sex relationship, and that around 7.8% of young people are attracted to the same sex.¹⁴ With these estimates, it may be argued that the proportion of our homosexual population who may request IVF is too insignificant to cause an impact on the utilisation of health resources, and resistance to providing them IVF based on a scarcity of resources cannot be justified.

4. CONCLUSION:

The use of IVF for the socially infertile is a contentious problem, and different countries will continue to adopt different laws and regulations. I think it will be impossible for everyone to reach a consensus on whether or not IVF use will ever be fully justified for homosexuals. As stated throughout, I hold a firm belief that IVF should be allowed for homosexuals, as we have to not only acknowledge their procreative rights, but also the fact that it is morally incorrect to question their parenting rights and competency. Arguments resisting IVF for homosexuals are largely based on traditional and biased beliefs, and are not sufficient to deny fertility treatment. I think that although babies for the socially infertile may seem unnatural to some, the concept is conceivable to me.

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⁹ Article 26 of the International Covenant on Civil and Political Rights state that: All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

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