**PENULTIMATE DRAFT**

**There is no right to the death of the fetus**

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**Abstract:** Joona Räsänen, in his article ‘Ectogenesis, abortion and a right to the death of the fetus’ (this journal), has argued for the view that parents have a right to the death of the fetus. In this brief article, I will explicate the three arguments Räsänen defends, and show that two of them have false or unmotivated premises and hence fail, and that the support he offers for his third argument is inconsistent with other views he expresses in his article. Therefore, I conclude that there is no right to the death of the fetus—or, if there is one, Räsänen has not shown it.

1. **Introduction**

Joona Räsänen has recently defended the view that parents have a right to the death of the fetus.[[1]](#footnote-1) In this brief article, I will explicate Räsänen’s arguments, and show that the first two arguments fail, and that his support for the third argument is inconsistent with views he expresses in his article. Therefore, I conclude, there is no right to the death of the fetus—or if there is one, Räsänen has not shown it.

1. **Räsänen’s** **Arguments**

Many philosophers who argue that abortion is morally permissible hold that the woman only has a right to *detach* the fetus, not a right to the death of the fetus; a right to detach an organism from oneself does not entail a right to the death of the detached organism.[[2]](#footnote-2) Räsänen does not assent to this view, and, indeed, defends three arguments against it. In this section, I will critically examine these arguments*.*

**2.1 *The Right not to Become a Biological Parent Argument***

Räsänen argues that even if it is possible for fetuses to develop outside of the womb, that individuals have a right not to become biological parents, and that this endows them with a right to the death of the fetus.[[3]](#footnote-3) He states the argument as follows:

1. Becoming a biological parent causes harm to the couple because of parental obligations towards the child.
2. The couple has the interest to avoid the harm of parental obligations.
3. Therefore, the couple has a right to the death of the fetus to avoid the harm of parental obligations.[[4]](#footnote-4)

A common objection to this argument, he says, is that it is intuitive that sperm donors, gamete donors, and biological parents who have given their children up for adoption, do not have obligations toward their children, and thus we ought to reject premise (1). He responds by noting that numerous philosophers have argued the contrary: such donors and parents *do* have obligations to their (adopted out) children. In light of this, he says that though the thesis that biological parents have obligations to their children even if they have given them up for adoption “might be against someone’s intuitions…the intuitions alone are not a sufficient reason to”[[5]](#footnote-5) reject that thesis. Furthermore, he says that if “one wants to reject the right not to become a biological parent, one should offer a parental responsibility theory that exonerates genetic parents from their parental obligations altogether or give another reason why the argument fails.”[[6]](#footnote-6) Thus, even if one has the intuition that parents do not have obligations toward the biological children that they have given up for adoption (or produced via sperm or gamete donations), it (the intuition) does not warrant one in rejecting premise (1); one must have a theory of parental responsibility (or some non-intuition based reason) that conflicts with premise (1) if she is to reject it.

 I will not contest Räsänen’s claim about intuition based objections to premise (1) here, but his stance on them will be important later. Rather, I will argue that we have other reasons to reject the argument.

 In order to derive the conclusion (i.e. (3)) from premises (1) and (2), the following sub-premises are needed:

(2.a) If the harm caused by becoming a biological parent is sufficiently great, then the couple has a right to avoid the harm, i.e. a right to the death of the fetus.

(2.b) The harm caused by becoming a biological parent is sufficiently great.

While (2.a) is no doubt controversial, I will not contest it here. Rather, I will merely note that (2.b) is *unsupported* by Räsänen; we are given no reason to think that the (alleged) harm a couple endures by being biological parents is significant, let alone sufficiently great. Indeed, providing support for (2.b) appears to be a tough task: I know of no good reason to think that it is true. (Surely, any minor social harms (e.g. judgment passed on a couple for giving up their child for adoption) do not meet the qualification “sufficiently great.” Or, if they do meet it, it is not obvious, and hence we are in need of an argument for their meeting it.) Since (2.b) is unsupported, we have no reason to affirm (3). Hence, *The Right Not to Become a Biological Parent Argument* fails.[[7]](#footnote-7)

**2.2 *The Right to Genetic Privacy Argument***

Räsänen’s second argument is *The Right to Genetic Privacy Argument*. He states it as follows:

1. People have a right to genetic privacy.
2. Ectogenesis abortion violates the genetic privacy of the genetic parents of the fetus.
3. Therefore, genetic parents have the right to the death of the fetus.[[8]](#footnote-8)

The justification for premise (4) is that “if a mad scientist finds a way to clone humans, steals my DNA and creates a fetus that is genetically identical to me, which he then gestates in an artificial womb, my right to genetic privacy is violated.”[[9]](#footnote-9) Unfortunately, Räsänen’s justification for premise (4) misses the mark. In the mad scientist story that Räsänen tells, there is no doubt a right that is violated. But it is not the right to *genetic privacy*. Rather, it is the right to not have part of my body (non-consensually) taken from me. The action of the story that is wrongis when the mad scientist takes my DNA without my consent, not when a clone is made; the situation does not magically become more wrong once the mad scientist creates a clone. Thus, premise (4) is unmotivated, and hence we have no reason to accept the conclusion of the argument.

 But premise (4) is not the only problematic premise of this argument: premise (5) is false as well. This is because in the case of an ectogenesis abortion,[[10]](#footnote-10) the fetus *already has DNA from its genetic parents*. Hence, having an ectogenesis abortion does not violate one’s right to genetic privacy, for it has *already* been violated. That is, *if* there is a right to genetic privacy, it is not violated by having an ectogenesis abortion, for the parents’ DNA has already been spread. In other words, the right to genetic privacy (if there is one) only allows one to *prevent* her DNA from spreading. But, of course, in ectogenesis abortion, this has already occurred—the parents’ DNA has already been spread. Therefore, premise (5) is false, and *The Right to Genetic Privacy Argument* fails twice over.

**2.3 *The Right to Property Argument***

The final argument that Räsänen defends is *The Right to Property Argument*. He argues that parents *own* the fetus and *own* embryos that they have created. Now, since one is free to do with her property as she pleases, it follows from this that parents have the right to the death of their fetus. He states the argument as follows:

1. The fetus is property of the genetic parents.
2. People can destroy their property.
3. Therefore, genetic parents can destroy their fetus.[[11]](#footnote-11)

While premise (7) is (to say the least) controversial, I will not attack it here. Neither will I attack premise (8). Rather, what I will do is show that the support Räsänen offers for these premises is inconsistent with ideas he previously expressed in his article.

In support of *The Right to Property Argument*, Räsänen says that “[c]ommon intuition seems to support both premises and therefore the Right to Property Argument.”[[12]](#footnote-12) He then provides several examples to try to pump the reader’s intuitions in line with his. (Whether his examples are accurate is not at issue here, though I am dubious about them.) What is of interest at this point is Räsänen’s views stated prior in his article. Recall that he dismissed objections to *The Right not to Become a Biological Parent Argument* (section 2.1) that were based on intuition; he held that intuition based objections were insufficient to undermine it, and that a good objection required a full theory of parental obligation or perhaps a different, non-intuition based reason. But notice that Räsänen does *not* offer a theory of property rights that support the argument, nor does he offer a non-intuition based reason; rather, he explicitly and exclusively appeals to *intuition*. Are we to believe that raw intuition suffices to *support* an argument, but that it is insufficient to *undermine* one? Hardly. Thus, it appears that Räsänen must either supplement his intuitions in *The Right to Property Argument* with a full-fledged theory of property rights (or some other, non-intuition based reason), or he must give up his objection to intuition based objections to *The Right not to Become a Biological Parent Argument*. In other words, either we must (a) disregard his prior dismissal of intuition based objections to *The Right not to Become a Biological Parent Argument* or (b) disregard his evidence for *The Right to Property Argument*. He may pick his poison.

1. **Conclusion**

In this short article, we have seen that the Räsänen’s first two arguments fail: they have false or unmotivated premises. Therefore, they fail as a defense of the parents’ right to the death of the fetus. The third argument, we saw, brings out an internal inconsistency in Räsänen’s thought: either the argument is unsupported, or he leaves his first argument open to objections he had previously dismissed. I conclude, therefore, that there is no right to the death of the fetus—or, if there is one, Räsänen has not shown that there is one.

1. **References**

Greasley, K. and C. Kaczor. (2017b). *Abortion Rights: For and Against*. Cambridge University Press.

Kaczor, C. (2011). *The Ethics of Abortion: Women’s Rights, Human Life, and the Question of Justice*. Routledge.

Mathison, E. and Davis, J. (2017). Is there a right to the death of the foetus? *Bioethics*, 31, 313- 320.

Räsänen, J. Ectogenesis, abortion and a right to the death of the fetus. *Bioethics*. 2017; 31: 697- 702.

Thomson, J.J. 1971. A defense of abortion. *Philosophy and Public Affairs*, 1, 47-66.

Warren, M.A. 2010. The moral difference between infanticide and abortion: A response to Robert Card. *Bioethics*, 14, 352-359.

1. Räsänen J. Ectogenesis, abortion and a right to the death of the fetus. *Bioethics*. 2017; 31: 697-702. His paper is a response to Mathison, E. and Davis, J. 2017. Is there a right to the death of the foetus? *Bioethics*, 31, 313-320. Mathison and Davis critique the three arguments Rasanen defends. [↑](#footnote-ref-1)
2. The two most famous examples are Warren, M.A. 2010. The moral difference between infanticide and abortion: A response to Robert Card. *Bioethics*, 14, 352-359 and Thomson, J.J. 1971. A defense of abortion. *Philosophy and Public Affairs*, 1, 47-66. [↑](#footnote-ref-2)
3. The right is a *collective* right of the parents, according to Räsänen. [↑](#footnote-ref-3)
4. Ibid, 698. [↑](#footnote-ref-4)
5. Ibid. 699. [↑](#footnote-ref-5)
6. Ibid. 699. [↑](#footnote-ref-6)
7. It is also perhaps worth mentioning that, as Christopher Kaczor has pointed out (2011 *The Ethics of Abortion: Women’s Rights, Human Rights, and the Question of Justice* and his contribution to Kate Greasley and Kazor 2017 *Abortion Rights: For and Against.* Cambridge University Press), once an embryo begins to exist, those who begat it are already biological parents. Hence, this argument is irrelevant—couples that have a fetus are already biological parents. [↑](#footnote-ref-7)
8. Ibid. 699. [↑](#footnote-ref-8)
9. Ibid. 699. [↑](#footnote-ref-9)
10. An ectogenesis abortion would be an instance in which a fetus is removed from the womb and put into an artificial womb to develop until it is ‘born’. [↑](#footnote-ref-10)
11. Ibid. 700. [↑](#footnote-ref-11)
12. Ibid. 700. [↑](#footnote-ref-12)