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WHY ECTOGESTATION IS UNLIKELY TO TRANSFORM THE ABORTION DEBATE: A DISCUSSION OF 'ECTOGESTATION AND THE PROBLEM OF ABORTION'

ABSTRACT

In this commentary I will consider the implications of the argument made by Christopher Stratman (2020) in 'Ectogestation and the Problem of Abortion'. Clearly, the possibility of ectogestation will have some effect on the ethical debate on abortion. However, I have become increasingly sceptical that the possibility of ectogestation will transform the problem of abortion. Here, I outline some of my reasons to justify this scepticism. First, that virtually everything we already know about unintended pregnancies, abortion and adoption does not *prima facie* support the assumption that a large shift to ectogestation would occur. Moreover, if ectogestation does not lead to significant restrictions to abortion then there is unlikely to be any radical transformation of the practice of abortion. Second, abortion is already associated with stigma and so the presence of ectogestation would need to create additional stigma to modify behaviour. Finally, I argue that ectogestation shifts the debate away from the fetus to the human subject of the artificial womb—the gestateling. Therefore, creating a new category of killing—gestaticide—and this would only reorient the debate rather than end it.

INTRODUCTION

Christopher Stratman (2020) defends the claim that there is no right to the death of the fetus when ectogestation is possible, even if they lack the moral status of a person. This is a conclusion I have argued for previously (Blackshaw and Rodger, 2019) in response to those who have argued to the contrary (Räsänen, 2017). Though there are many arguments against the claim that there is a right to the death of the fetus[1], it seems unlikely that the possibility of ectogestation will radically transform the abortion debate—especially that it will cause a reduction in the incidence of abortion.

[1] As have many others, see: Mathison and Davis, 2017; Hendricks, 2018; and Kaczor, 2018.

Here, I briefly outline some challenges against the claim that ectogestation—a period of gestation in an artificial *ex utero* environment—will radically transform the problem of abortion. First, I argue that virtually everything we already know about unintended pregnancies, abortion and adoption seems to suggest that a large shift to ectogestation is unlikely to occur. Moreover, if ectogestation does *not* lead to significant legal restrictions on abortion then there is unlikely to be any radical transformation of the practice of abortion. Second, abortion is already associated with stigma and so the presence of ectogestation would need to increase the existing stigma to modify behaviour away from abortion. Finally, I argue that artificial womb technology shifts the debate away from the fetus to the human subject of the artificial womb—what Elizabeth Chloe Romanis (2018) has termed the gestateling. It creates a new category of killing—gestaticide—which will more closely resemble the ethical debate around infanticide rather than abortion (Rodger, Colgrove and Blackshaw, 2020).

ADOPTION, HARM AND STIGMA

Women who have an unintended pregnancy can already entrust the moral and legal responsibilities of parenthood to a competent individual or couple—via adoption. In many ways, ectogestation allows for the same opportunities as adoption. In both cases the resulting gestatelings' or neonates' needs are met by something or someone else. Moreover, both provide a means for continued human existence, in contrast with induced abortion. One obvious difference is that in the case of ectogestation, the period of gestation would be less than completing a normal pregnancy (e.g. perhaps they could be transferred to an artificial womb at 24 weeks), otherwise there would be little reason to opt for ectogestation over adoption in the case of an unintended pregnancy.

Women with an unintended pregnancy are the group most likely to have an abortion, with 61% of unintended pregnancies between 2015 and 2019 ending in abortion (Bearak et al, 2020); globally 25% of pregnancies end in abortion (Sedgh et al, 2016). Therefore, ectogestation would need to be employed very early on in pregnancy—because women who would otherwise seek an abortion likely will not want to be delayed in relieving the burdens they perceive or associate with their pregnancy. In the majority of high-income countries at least 90% of induced abortions are completed before the 13th week of pregnancy (Popinchalk and Sedgh, 2019). The majority of women who consider abortion do not choose

to complete pregnancy and give their child up for adoption (Sisson et al, 2017). Unless it is medically indicated, women do not and are not legally permitted to request to deliver their fetus prematurely at the point of viability (24-28 weeks) with the intent that the child receive neonatal intensive care under the responsibility of adoptive parents. If ectogestation is to function as an alternative to abortion, this is what women would be expected to do. However, based on what is already known about women who consider and procure abortions, ectogestation would need to be available at a much earlier stage of pregnancy than the point of viability.[2]

The reasons for not opting for fetal transfer surgery, ectogestation and adoption are likely to be similar or the same as those given for not completing pregnancy and giving the child up for adoption. In fact there are additional reasons for women to object to this process—the need for invasive surgery to transfer the fetus into an artificial womb despite the fact that abortion obtained early in pregnancy is relatively safe for women (National Institute for Health and Care Excellence, 2019).

The invasive surgery required for a fetal transfer is likely to be analogous to the surgery required for a caesarian section, and therefore the risks involved will be closely aligned. Given that the vast majority of induced abortions occur before the 13th week of pregnancy the overall risks (e.g. rates of serious complications) are likely to be lower—where abortion is legal—than those that would be associated with fetal transfer surgery, *if* they reflect the risks associated with caesarian section[3]. This in itself is not an argument for abortion, otherwise the increased complication risks associated with naturally giving birth compared with early abortion could be used to argue that abortion would be clinically indicated for all pregnancies [4]. This point merely shows that the increased risks that would be associated with fetal transfer surgery, when compared to the comparitively lower risks of *early* induced abortion are likely to reinforce the decision to opt for abortion and not ectogestation.

In a study of women in the United States who had abortions, the reason they gave for not giving their child up for adoption was that giving up one's child was considered morally unconscionable (Finer et al, 2005). This is congruent with the existing research that explores women's views of ectogestation compared with abortion (Cannold, 1995; Simonstein, and

[2] Realistically, ectogestation would need to be available prior to 13 weeks to act as an alternative to abortion.
[3] For a discussion of a similar point and an argument for why ectogestation should not be considered as an alternative to pregnancy or abortion, see Romanis et al (2020).
[4] For a discussion of this point, see Blackshaw and Rodger (2020).

Mashiach–Eizenberg, 2009). In a qualitative study by Leslie Cannold (1995, p.60), adoption (and ectogestation) was understood by some women as an 'irresponsible abdication...of their maternal responsibilities'. Moreover, the use of ectogestation for resolving an unintended pregnancy was viewed negatively by women irrespective of their views on abortion, even when ectogestation was described as being no more medically risky or inconvenient than abortion (Cannold, 1995). This means that even if there is no right to the death of the fetus, the possibility of ectogestation is unlikely to affect women's decision making if adoption is perceived as being psychologically distressing (Jones et al, 2007).

The primary reason that we would expect women to opt for ectogestation would be if legal restrictions were implemented against abortion based on the presence of artificial womb technologies. This is of course theoretically possible but improbable—especially in countries where legal abortion is not connected to fetal viability. It would require a significant shift in the current cultural and international trajectory of abortion legislation. This trajectory is evidenced by the trend towards decriminalising abortion, most recently in Northern Ireland in 2019 (Aiken and Bloomer, 2019), and expanding the legally permitted grounds for abortion (Guillaum and Rossier, 2018). In other words, international trends appear to be moving towards broadening abortion access, not restricting it in ways that would be required were ectogenestation to become available.

A central question, therefore, is this: if—many or most—women who are considering abortion tend to pursue abortion rather than adoption today, what reason do we have to think this will change when ectogestation becomes a reality?

First, given the additional risks that are posed—however small—there does not seem to be any obvious reason why women who would consider abortion would opt for ectogestation when they so rarely choose to complete gestatation (or at least wait until viability) and then give their child up for adoption. In fact, not only are there risks posed by surgery but presumably there would also be some risk to the gestateling from the transfer to the artificial womb; risks that are likely to outweigh those it would be exposed to if the pregnancy was left uninterrupted. Ectogestation, if completed around the time that most abortions are completed, would entail that women with an unintended pregnancy are spared the responsibilities and challenges of an extended period of pregnancy, but if one *intends* to give one's child up for adoption—for the child's long-term benefit—then why not opt for completing the pregnancy without all of the additional risks?

The artificial womb technology being developed is aimed primarily at reducing neonatal mortality caused by premature birth (Partridge et al, 2017), and would likely be utilised by women experiencing a pregnancy that poses a risk to their own health (Romanis et al, 2020). It is not being developed as an alternative to abortion as the technology is not expected to be within the purview of early pregnancy. If ectogestation entails a risk to the mothers' health, an additional risk to the gestatelings' health, and adoption is viewed by women considering abortion as psychologically harmful and morally irresponsible, then ectogestation is unlikely to radically transform the problem of abortion.

Second, one must consider the potential social changes that the possibility of ectogestation could bring about. Artificial gestation compared with natural gestation would be visible—gestation becomes observable in a way that was only possible infrequently under ultrasound. This is not beyond the realms of possibility as the Biobag used to gestate lamb fetuses for up to 28 days by Partridge et al (2017) was transparent and therefore observable throughout the process. Artificial gestation could become something of a spectacle that can be enjoyed by the parent/s, family, friends, and the community. It may also have the effect of humanising the subject of ectogestation—the gestateling—and creating increased stigmatisation of induced abortion. It is possible that ectogestation will cause an increase in stigma that could discourage some women from obtaining an abortion. However, given the risks involved with ectogestation outlined above, an increase in stigma towards abortion may lead to an uptake in adoption without the use of ectogestation. Moreover, stigma against abortion already exists (Cárdenas et al, 2018; Biggs, Brown and Foster, 2020) and adoption is already an option. Ectogestation, therefore, would have to create additional stigma to have any real effect on the incidence of induced abortion.

PROBLEMS THAT MUST BE OVERCOME

The problems I have outlined are not insurmountable. It could be the case that ectogestation can one day start safely from the first trimester of pregnancy; there are hundreds of thousands of individuals or couples willing to adopt; fetal transfer surgery turns out to be low risk and without much inconvenience; restrictions to legal abortion are implemented in several countries; and there is both the technological and medical capacity to support hundreds of thousands of gestatelings each year. On balance I think each of the scenarios I

have described is unlikely to materialise to the scale required to radically transform the problem of abortion.

A NEW PROBLEM: GESTATICIDE

A further question raised by transferring unintended pregnancies—or for other reasons—to an artificial womb means creating a new category of killing—*gestaticide* (Rodger, Colgrove and Blackshaw, 2020). Gestaticide describes the deliberate killing of the subject of an artificial womb. It has long been the case that some philosophers have argued that infanticide is morally permissible, and arguments that justify infanticide are likely to also apply to the gestateling. As both are independent of the mother, the case for infanticide and gestaticide must be made on grounds other than bodily autonomy. Peter Singer (2011) has argued that because infants lack characteristics such as rationality, autonomy and self-awareness, then killing them cannot be considered the moral equivalent of killing a human that does possess these characteristics. On such accounts the newborn, like the fetus—and gestateling—should not be understood as persons with a corresponding right to life.[5] Therefore, fewer reasons would be needed to justify killing them compared to an individual who possesses the characteristics necessary to have a right to life. Similar arguments have been put forward by other philosophers such as Michael Tooley (1983), Nicole Hassoun and Uriah Kriegel (2008), and Alberto Giubilini and Francesco Minerva (2012).[6] So, even if we accept that there is no right to the death of the fetus—whilst *in utero*—this may only result in a new ethical debate surrounding the permissibility of gestaticide—which will conceptually resemble the ethical debate surrounding the permissibility of infanticide rather than abortion.

CONCLUSION

In summary, I have argued that even if ectogestation becomes possible that this is unlikely to transform the abortion debate. Unless the presence of ectogestation is conjoined with significant abortion restrictions, women are unlikely to opt for ectogestation for the same or similar reasons that they rarely opt to give their child up for adoption. Moreover, the additional stigma created by not using ectogestation is unlikely to be significant enough to modify behaviour to the extent required to transform the problem of abortion. Finally,

[5] For a discussion of moral status and the relevance of birth, see Colgrove (2019); Romanis (2019); and Colgrove (2020).
[6] More recently defended by Räsänen (2016).

assuming women were to transfer their unintended pregnancies to an artificial womb for ectogestation, this would simply generate debate concerning a new category of killing—gestaticide. Rather than ending the debate around abortion, it may only reorient it to whether—or when—it is permissible to kill humans undergoing *artificial* gestation.

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