

ECTOGENESIS AND THE RIGHT TO LIFE:

Discussion Note on Pruski and Playford's,
"Artificial Wombs, Thomson and Abortion – What Might Change?"

– Prabhpal Singh –

Abstract: In this discussion note on Michal Pruski and Richard C. Playford's "Artificial Wombs, Thomson and Abortion – What Might Change?," I consider whether the prospect of ectogenesis technology would make abortion impermissible. I argue that a Thomson-style defense may not become inapplicable due to the right to life being conceived as a negative right. Further, if Thomson-style defenses do become inapplicable, those who claim that ectogenesis would be an obligatory alternative to abortion cannot do so without first showing that fetuses have a right to life, something that Thomson assumed rather than argued for. I also include a discussion on ethical problems concerning what to do about children born from artificial wombs put there by those who looked to terminate their pregnancies because they sought to avoid parenthood.

Keywords: Abortion, Ectogenesis, Artificial Wombs, Adoption, Right to Life

Received: 11th of November 2022

Accepted: 20th of December 2022

Published: 23rd of December 2022

In a recent article published in *Diametros*, Michal Pruski and Richard C. Playford argue that Thomson-style defenses of abortion can no longer apply once partial ectogenesis is possible.¹ Judith Jarvis Thomson influentially argued for the permissibility of abortion.² Thomson argues that even if a fetus is a person, or otherwise has a right to life, abortion is still permissible because a right to life does not include a right to use or occupy another's body against their will. Assuming a fetus has a right to life, abortion is not a violation of that right to life because depriving a fetus of the continued use of the pregnant person's body does not deprive that fetus of anything it has a right to in virtue of having a right to life. Pruski and Playford also argue that ectogenesis would be an obligatory alternative to abortion because it preserves the life of the fetus.³ Ectogenesis is the process of developing embryos in artificial conditions outside of a uterus. The subjects of ectogenesis are what Elizabeth Chloe Romanis calls "gestatelings," a term used to distinguish fetuses that ge-

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¹ Pruski and Playford (2022).

² Thomson (1971).

³ Pruski and Playford (2022): 40.

state inside someone's uterus from developing human beings in the process of ex-utero gestation.⁴ I argue that, even if a Thomson-style defense of abortion no longer applies, it cannot be concluded that ectogenesis would be an obligatory alternative to abortion because it cannot be assumed that fetuses, and by extension gestatelings, have a right to life. After arguing this, I consider the ethical problem of what to do about children born from artificial wombs who were put there by people who sought to terminate their pregnancies to avoid parenthood. I consider Pruski and Playford's proposition that such children could fall under the care of adoption and foster or residential care institutions and examine data that suggest this might be unethical in its own right. I conclude that, for the reasons discussed, ectogenesis technology will not be an obligatory alternative to abortion, meaning that abortion would not be impermissible even if ectogenesis were available.

Ectogenesis has been thought to be a resolution to the abortion debate. For example, Christopher Kaczor suggests the development of sufficiently advanced artificial womb technology could resolve the abortion debate because such technology could result in outcomes attractive to proponents of both the pro-choice and anti-abortion positions.⁵ Ectogenesis could provide, as William Simkulet argues, an opportunity for moral compromise.⁶ This is because turning fetuses into gestatelings by moving them to artificial wombs would terminate pregnancies without killing the fetus. For this reason, it has been argued that if safe and inexpensive access to ectogenesis were available, then abortion would be impermissible.⁷

Because gestatelings would gestate in artificial wombs rather than inside a person, one could not appeal to a right to bodily autonomy to justify the termination of a gestation process that resulted in the death of a gestateling because the gestateling would never use or occupy another's body. Because the right to bodily autonomy plays a significant role in Thomson's defense of abortion, its irrelevance would seem to mean that Thomson-style defenses no longer apply. This, however, does not lead to the conclusion that ectogenesis should be an obligatory alternative to abortion. There are two reasons for that: First, it is not clear that Thomson-style defenses are not applicable, considering Thomson's conception of the right to life as a negative rather than a positive right. Second, even if Thomson-style defenses do not apply, it still does not follow that abortion would be impermissible when ectogenesis is available because this conclusion depends upon fetuses, and by extension gestatelings, having a right to life. The issue is that Thomson assumes for the sake of argument that a fetus has a right to life rather than arguing for it. In cases where Thomson-style defenses would no longer apply, such as with ectogenesis, there is no reason to continue to hold onto the assumption that fetuses, and by extension gestatelings, have a right to life. Either way, it cannot be concluded that ectogenesis would be an obligatory alternative to abortion.

If fetuses do have a right to life, it does not follow that ectogenesis would be an obligatory alternative to abortion despite not killing the fetus because it needs to be

⁴ Romanis (2018): 751.

⁵ Kaczor (2010): 215–230.

⁶ Simkulet (2020).

⁷ Blackshaw and Rodger (2019).

shown that this right to life includes a right to be placed into an artificial womb. It is not clear that it does. This is because, for Thomson, the right to life is the negative right not to be unjustly killed rather than the positive right to be provided with that which would sustain life. This is why on Thomson's view depriving a fetus of what it needs to survive, namely the pregnant person's body, is not a violation of its right to life. Abortion, while entailing the death of the fetus, does not violate its right to life because it does not deprive it of anything it has a right to in virtue of having a right to life.

Moreover, if Thomson-style defenses no longer apply once ectogenesis becomes available, it still does not follow that ectogenesis would be an obligatory alternative to abortion. This is because the impermissibility of abortion where ectogenesis is available depends upon the assumption that the fetus has a right to life. Thomson's defense of abortion began with such assumption. The claim that fetuses have a right to life cannot be assumed and must be argued for. If it is the case that fetuses do not have a right to life, then it would not be morally impermissible to choose abortion even if ectogenesis were available. If fetuses do not have a right to life, then neither do gestatelings. Because it still needs to be shown that fetuses and gestatelings have a right to life, ectogenesis technology will only reorient rather than resolve the abortion debate.⁸

So either Thomson-style defenses might still apply when ectogenesis becomes available because a right to life, in virtue of being a negative right, may not include a right to be placed into an artificial womb, or Thomson-style defenses no longer apply once ectogenesis becomes available, in which case the assumptions of Thomson-style defenses can be abandoned and it would first need to be shown that fetuses really do have a right to life. In both cases, it cannot be concluded that ectogenesis would be an obligatory alternative to abortion.

A further issue I wish to discuss is the question of what to do with children born from artificial wombs. If ectogenesis is meant to be an alternative to abortion, then it will need to be able to handle the cases of people using artificial wombs to avoid having to become parents. Many people seek abortions for this reason. So, use of artificial wombs as an alternative for these people will need to entail that they do not become parents to the children that the gestatelings may become.

What then is to happen to the children born from artificial wombs? Pruski and Playford suggest that they would fall under the care of the state, specifically by way of adoptive parenting, foster homes and care homes.⁹ This suggestion is made too quickly. Especially amongst members of the anti-abortion movement, adoption is often imagined to be some silver-bullet alternative to abortion. But the reality is that this raises significant ethical problems of its own, mostly stemming from the ineffectiveness of such systems and institutions in serving needy children and the harms such systems do to the children that go through them. Given the shortcomings of the existing systems and institutions, treating ectogenesis as a replacement for abortion would only serve to exacerbate existing problems, which would be unethical in its own right.

Children born from artificial wombs would effectively be abandoned children. While their biological progenitors may still be living, these children would lack co-

⁸ Rodger (2021).

⁹ Pruski and Playford (2022): 46.

nventional parental figures. So, using ectogenesis as an alternative to abortions that are sought to avoid parenthood is effectively a method of producing abandoned children. The World Health Organization estimates that around 73,000,000 abortions take place each year worldwide.¹⁰ If ectogenesis is to replace abortion as the way to terminate a pregnancy without the pregnant person becoming a parent, something needs to be said about the influx of 73,000,000 more abandoned children each year.

The systems currently in place are not equipped to handle such an influx of new children in need of care. They are already failing to address the needs of existing orphans and children in need. In 2020, there were 632,000 children and youth in the US foster care and adoption system.¹¹ In the same year, there were only 57,900 adoptions. These numbers are representative of any given year, meaning each year only about 9.16% of children needing to be adopted find a new home. Outside of the US, the data that has been collected indicates 1,225,700 children living in residential care institutions with some estimates being as high as 8,000,000, although even these are made with gaps in global data owing in part to many unregistered institutions meaning the true number may be higher.¹²

The idea of adding 73,000,000 more orphans per year to the existing population of orphans or children who otherwise lack a protective family environment is absurd. Of course, if ectogenesis does become a practical reality, it will not completely replace abortion, and the number of new abandoned children per year will not be as high. It would be naïve to think that ectogenesis technology would be equitably accessible to everyone worldwide. 45% of worldwide abortions are unsafe and 97% of unsafe abortions take place in developing countries.¹³ Unsafe abortions are a consequence of inadequate access to proper abortion healthcare services. Given that safe abortion is not sufficiently widespread and accessible at present, what reason is there to think that ectogenesis technology will be? In all likelihood, if the technology comes to fruition, it will not be adequately accessible for many, especially those in developing countries. Even if the number of people who could adopt children were to dramatically increase, such demand could not feasibly keep up with the increase in the number of children in need of adoption if ectogenesis did come to replace abortion.

Furthermore, there is robust evidence that a child living in a foster or residential care institution is exposed to significant harms. 80 years of observational studies have shown that children living in these institutions suffer deficits in physical growth, cognitive function development, neurodevelopment, and social-emotional and psychological development.¹⁴ Long-term effects for such children include increased risk of homelessness, criminal record, and suicide.¹⁵ To toss children into such systems and institutions is to condemn them to such risks, harms, and suffering. This would be unethical. Therefore the reason why ectogenesis may not be an obligatory alternative to abortion is because it is plausible that replacing abortion with ectogenesis which was sought to avoid paren-

¹⁰ World Health Organization (2021).

¹¹ U.S. Department of Health and Human Services (2021).

¹² Lumos (2017a), author's calculation.

¹³ World Health Organization (2021).

¹⁴ Berens and Nelson (2015).

¹⁵ Lumos (2017b).

thood would entail doing something unethical, given the significant and mass scale of harms related to sending children born from artificial wombs into the care of adoption and foster or residential care institutions.

To conclude, Thomson's conception of a right to life as a negative right suggests that the right to life of fetuses and gestatelings does not include a right to be kept alive, including by being placed into an artificial womb. Because of this, Thomson-style defenses of abortion may still apply in cases where ectogenesis is an available alternative to abortion. If Thomson-style defenses do not apply, then their assumptions, namely the assumption that fetuses have a right to life, can be abandoned. If it is to be argued that ectogenesis should be and obligatory alternative to abortion, it must be argued and not merely assumed that fetuses have a right to life. If they do not, then it would not be impermissible to have an abortion even if ectogenesis was available. Additionally, the suggestion that children born from artificial wombs could fall under the care of adoption and foster or residential care institutions raises ethical problems because doing so at the scale required for ectogenesis to be a replacement for abortion would exacerbate existing problems with adoption and foster care systems and residential care institutions. Given the great harms that would be created by effectively producing abandoned children and condemning them to a life of significant risk, harm, and suffering, the development of ectogenesis technology faces a difficult ethical question concerning what to do with children born from artificial wombs who were put there by people who sought to terminate their pregnancies to avoid parenthood. For these reasons, ectogenesis technology will not be an obligatory alternative to abortion and thus abortion would be permissible even if ectogenesis were available.

Funding: None

Conflict of Interest: The author declares no conflict of interest.

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