

MEN & ABORTION DECISIONS

BY JOHN HARDWIG

Whether to go forward with a pregnancy is often viewed as the decision solely of the woman. But much as motherhood should not be imposed on a woman, fatherhood should not be imposed on a man.

I was extremely uncomfortable. I was painfully aware that the moral instruction I was giving my sons was incoherent even as I was delivering it. I told them,

Women don't get pregnant all by themselves. In fact, a woman *can't* get pregnant by herself. But if a girl gets pregnant because she had sex with you, it will be totally her decision whether or not to have the baby. She may tell you about what she plans to do or not; she may listen to what you have to say or not; she may take your hopes, plans, and feelings into consideration or not. But if she decides to have the baby, you become a father. And that child will be at least partly your responsibility for twenty years or more.

Of course, I also told my sons that they did have a choice about becoming fathers: they could use condoms (and learn to use them correctly), they could avoid intercourse, or, if they knew and trusted

the woman, they could cede the responsibility for contraception to her. Unless and until the woman conceives, men and women have the same choices. But the male sexual partner often has no voice in abortion decisions, and the standard view in bioethics is that he ought not to have.¹ The consensus is that an abortion decision is and should be exclusively the pregnant woman's decision. By and large, the pro-choice and pro-life sides are united in this view even though they are divided about the morality of abortion.² After all, the developing fetus is in the woman's body; she bears the physical and lifestyle changes involved in being pregnant and the health risks associated with the pregnancy and with either childbirth or abortion. Consequently, so the consensus goes, the decision about having an abortion is her decision, and it is a private decision. Preservation of her privacy can legitimately be used to prevent her partner from knowing about the pregnancy or the decisions being made about it.

As if having a baby were the end of the matter. If it were, I would agree that the choice is the pregnant woman's. Hers and hers alone. But pregnancy—inconvenient, uncomfortable, stigmatizing, and even

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slightly dangerous though it be—is a very small part of what’s involved in having a child. Surely, every woman who has given birth and then raised a child would agree. And if so, we must get over the idea that abortion decisions are simply about whether to have a baby. People who think that way need to think much harder about having a grade school kid and a teenager.

On the prevailing view of the ethics of pregnancy, pregnant women should have a choice about whether they become parents, while their partners have—and should have—none. But if the burden of an unplanned pregnancy or even of an unavoidable childbirth (because an abortion is unavailable³) is only a small part of the burden of being a parent, then it is no longer clear why the decision about having the child should be hers alone.

In contrast with the consensus view, my view about abortion decisions following consensual sex between a man and a woman goes like this: If the man who will become the father of the fetus is known, if he believes that he will not be able (or permitted) to walk away from his biological offspring, and if he does not think it would be a good idea for him to become a parent with this woman or at this time, then the woman should have an abortion.⁴ Her partner has a strong and perfectly legitimate interest in a decision she makes about an abortion. Consenting to sex with someone is not consenting to become a parent with her or him. Also, many perfectly fine relationships are not good for parenting—an admirable lover or spouse may not make a good parent. Both the man and the woman should want to have a child (now and with this partner), and each should believe that she or he will be a good parent. If *either* partner does not want to become a parent at this time or with this partner, then the woman should have an abortion.

A pregnant woman who is planning to have a child over the objections of the biological father or without his knowledge is wronging

him. A woman may well have a right to have a child, but not a right to have *his* child. By making him a father against his wishes, she is altering his life and inflicting a serious harm to perfectly legitimate interests of his.⁵

For these reasons, I believe that it is wrong to have a child without the informed consent of the prospective father. If the woman wants to become a mother now, she should become a mother with someone else. A suitable sperm donor (formal or informal) is not that hard to find.

I intend this as a thesis about personal morality, not a proposal about government policy or the law of abortions. I assume for the sake of the argument that abortions are legally available and medically safe. Also, I intend my argument to apply to the entire range of relationships between pregnant women and their partners, ranging from “hooking up” or a one-night stand to a committed marriage, provided that the sex between the two parties was consensual. I will use the term “partner” to apply to all of these relationships even though in some cases the “partnership” will be very short and very thin, perhaps only sexual. I should emphasize that this is not a paper about the morality of abortion; my argument is intended to apply to most abortions that are morally acceptable, according to whatever view one holds about the morality of abortion. Moreover, I set aside cases of sperm donation, stolen or “misplaced” sperm, artificial reproduction of many kinds, and the practice of adoption. All provide rather difficult cases for the ethics of reproduction. But I do not think that we can arrive at an ethics of reproduction through focusing on these kinds of cases. We will do better by first considering the ethics of becoming a parent in more normal circumstances and then asking how they might be adjusted to apply to the less usual—even if increasingly common—cases.

The arguments for my position should need no rehearsing—they are, with a few important exceptions, the familiar arguments that are usually

taken to support the pro-choice position on abortion. But the major burdens (and rewards) of a pregnancy are just beginning to unfold when the baby is born, and I contend that the pro-choice view on abortion has not produced the arguments needed to support the conclusion that the choice should be the pregnant woman’s alone.

Paternity and Moral Responsibility

Becoming a father is certainly the most serious and long-term commitment I have ever made. When my first son was born, I had the awe-inspiring feeling that suddenly, for the first time in my life, I could see twenty years into my future—this tiny baby would be a fixture in my life, and I would be responsible for him for at least the next two decades. Barring death or mental illness, I would have to do whatever I could to ensure that this vulnerable infant flourished and turned into a good man. Or so I thought and still think today. My view about abortion decisions hinges on a view about the moral responsibilities of biological fatherhood.

I do not believe that a woman can release the father of the child from his moral responsibility even if she wants to. The responsibility relation in question is between a man and a child, not between a man and the mother of the child. It is the welfare of the *child* that is the primary issue.

I take biological paternity seriously. Perhaps I am wildly off base in respect to the weight I place on biological fatherhood (a point to which I shall return), but consider a couple of cases: A thirty-something-year-old man’s former lover—a friend from his college days—shows up one day out of the blue with a twelve-year-old girl and says, “This is your daughter.” He accepts that he is probably her biological father. He is unable to say, “No, she’s not; she has nothing to do with me.” He feels obligated to try to be a father to her, at least as far as he can at a distance of six hundred miles. Is

he wrong to feel that way? Or how about this case? A young adult shows up on the doorstep in real need and with convincing evidence that he is biologically the child of the man who opens the door. Could that man treat him the same way that he would treat any other stranger who knocked on the door? I could not. I would feel morally obligated to at least consider whether I had very weighty responsibilities to this (merely) biological child of mine—for example, to donate a kidney to this person I had never met before or to offer financial assistance.

I certainly would never claim that, for most purposes, only the biological parents will do. But my claim is that, absent adoption, important moral responsibilities of biological parenthood are simply nontransferable.⁶ They are certainly not transferable by a unilateral declaration or an agreement with the other biological parent. Some are not transferable at all. Non-transferable moral responsibilities are not all that unusual. Sometimes, we are *prohibited* from fulfilling someone else's responsibilities—we could not ethically promise, "I'll do your jury duty," "I'll cast your ballot for you," or even, "I'll grade your papers." And sometimes it is *impossible* for anyone else to fulfill one's responsibilities because they arise out of the specific relationship one person has to another—we cannot legitimately offer, "I'll go to your parents' fiftieth wedding anniversary for you." Responsibilities within a family are quite often non-transferable for this second reason. Third, particularly in cases of time-consuming, long-term responsibilities like parenthood, it often will not suffice for someone to agree to take on another's responsibilities, at least partly because no one knows that she will be in a position for all of the next twenty years to discharge such major responsibilities.⁷ In my view, the most anyone else can offer in such cases is, "I'll do what I can to help you with your responsibilities."

We are most comfortable with responsibilities that are freely chosen

or consented to and that are transferable by mutual consent. But not all moral responsibilities are like that. Responsibilities sometimes *befall* us; they grow out of the contexts within which we find ourselves. The family—especially one's family of origin—is perhaps the most obvious example of these unchosen responsibilities. Such responsibilities can be quite burdensome, and they are also among the most difficult to undo. One can and sometimes should divorce one's partner. But it is both morally and psychologically much more difficult to divorce one's parents or one's children.

One may still, of course, choose whether to *shoulder* and *live up to* unbidden responsibilities. But if one

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chooses not to do so, one is usually being irresponsible. There is simply no way around that. And some people, of course, fail to recognize their moral responsibilities. But some people—perhaps many—are psychologically or morally unable to choose *not* to live up to certain responsibilities. "I had no choice; I just had to do it"—that's the way a friend expresses his decision to shoulder all parenting responsibilities for his infant daughter.

Despite all this, monumental moral responsibilities should, if possible, be freely assumed, even chosen. That is one of the pillars of the pro-choice position on abortion. Advocates of the pro-choice position argue that no woman should be forced to take on the responsibilities of parenthood against her will and her better judgment. I agree, but I think the same is true for her partner. In having sex, there is no more implied consent to

become a parent for a man than there is for a woman.

Points of Clarification

I acknowledge that a woman reluctantly deciding to have an abortion out of consideration for her partner is far from the ideal outcome. Ideally, the two would talk openly and honestly about the decision and reach an agreement about the desirability of becoming parents together and at this time. But that is often an unrealizable goal. Sometimes the two cannot talk about issues this sensitive or about the issue of an abortion, in particular. Sometimes attempts to do so quickly escalate into fights and threats that deeply injure one or both

parties or that serve only to alienate them from one another. Sometimes the partners have discussed the issue as well as anyone could hope and yet the disagreement about having a child now is unresolvable. My point is about what the decision should be when the man does not want to become a father (now or with this partner) and agreement between him and the pregnant woman proves elusive.

It is worth pausing to note that my view does not mean that a woman who is planning to have an abortion needs to discuss this decision with her sexual partner. Not at all. Her decision that she does not want to become a mother now or with this partner is sufficient. No discussion is necessary. Depending on the relationship between them, it might even be wise for her not to tell her partner about the decision. In my view, a discussion between the two is morally required only if she is planning to have the child.

I'm not sure, but I might be willing to grant a "conscientious objector" exemption to a woman who is morally opposed to abortions. But in my view, that would amount to imposing her views about the ethics of abortion on a partner who may well not share them. A pregnant pro-life woman who is making the choice to have the baby without the explicit, informed consent of the baby's father should feel that she is choosing between two evils, and they are both moral evils. Arguably, she is choosing the lesser of the two evils (though I do not believe that is true). But she is not choosing a good and right course of action over a bad and wrong one. She is wronging her partner in a major way.

However, all that said, I certainly would not make it illegal for a woman to have a child without the consent of her partner. I do not advocate *forcing* women to have abortions. (How would that even work? The mind balks and the stomach turns.) The developing fetus is inside of the woman. For this reason, she will always hold the trump card. It's just not a *moral* card.⁸ If she decides to have the child without the consent of the prospective father, her decision is, I submit, morally wrong. That thought should, I contend, be on the pregnant woman's "moral radar." But she should remain legally free to have the child. Many things that are morally wrong ought not to be illegal; many things that are morally obligatory ought not to be coerced.⁹

Elizabeth Brake, Steven Hales, and Laurie Shrage, among others, have recently argued that men who do not want to become fathers should have no legal responsibility to provide material support for their unwanted biological children.¹⁰ The "Choice for Men" position is that legal means should be developed to provide a window of opportunity (perhaps a month, perhaps the first trimester) during which a man could officially declare that he will not provide financial support for this child. That legal declaration should

free him from all child-welfare and child-support requirements. By this declaration, he would also give up all parental rights—for example, to contact or visit the child. Then, if the woman decides to go through with the pregnancy and have the child, she would be free to do so, but with full knowledge that she would be the sole source of financial support for that child.

That is not my position.

The Choice for Men movement is about legal responsibility; my concern is with moral responsibility. And Choice for Men is primarily about the legal requirement to pay child support. This would give women a large financial incentive not to have children outside of marriage. But Choice for Men would leave the children of those who do make that decision in a much more vulnerable position. It would also remove a major incentive for men to use any form of birth control. And some men would probably sign such a declaration as an "insurance policy," just in case their relationship with the mother turned sour. I cannot support that position.

Personal Moralities and Social Consequences

Generally, we are more concerned about the public moralities expressed in legal codes and institutional policies. Moral choices, taken individually, tend to have only small-scale consequences. One woman's decision to go through with her pregnancy may well have life-altering consequences for her partner, but her decision will not foreseeably affect all that many people. However, personal moralities that are embraced by millions of individuals have social implications. They become social practices, and the entire culture is shaped by these myriad individual choices.

Those who hold a pro-life view of abortion may find my position about abortion decisions troubling and morally offensive. I advocate an abortion when the man does not want a

child, even if his partner would prefer to go through with the pregnancy. In theory, widespread acceptance of my view could dramatically increase the number of abortions. But whether many more abortions would in fact result is an empirical question. If our culture evolved to involve men in abortion decisions, it could lead to more responsible use of birth control and *fewer* abortions, as men increasingly felt the weight of abortion decisions. My view is conservative: It supports the traditional role of fathers. It even could be considered "pro-life" if you think that creating a life includes the responsibility to give that life a genuine opportunity to flourish.

Pro-life or not, my concern is with a different social problem. One social consequence of our predominant view about the ethics of abortion decisions is that we have taught two generations of males that whether they become a father is no concern of theirs, perhaps even none of their business. (Again, in the received view, preservation of a woman's privacy implies that her partner can legitimately be prevented from knowing that she has decided to have their baby.) Having been taught since childhood—and taught by our leading ethicists—that biological fatherhood is not an important matter morally, men quite understandably sometimes accept very little responsibility for their children.¹¹ They abandon their biological children in a variety of ways, ranging from trying to avoid child-support payments, through emotional unavailability and refusal to exercise visitation rights, down to a complete lack of interest. There is a feedback loop here: by viewing decisions about unwanted pregnancies as exclusively the woman's decision, we teach men that being a father is much less demanding or consuming than being a mother.

Ironically, in its eagerness to empower women, the consensus position on abortion decisions has reinvented patriarchy. The logic of the position is that raising children not only is but

also *ought to be* women's work.¹² By marginalizing men in decisions about becoming a parent, we set the stage for men to take a marginal role in taking care of, raising, and nurturing children. Having children is a woman's thing. That's not what I think we should be teaching men about parenting. If men and women are to be full partners in nurturing and raising children, they should be full and equal partners in the decision about whether to have a child together at all.

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Notes

1. This view is so prevalent that citations here strike me as unfair finger-pointing. (Why single out these authors?) But it does seem appropriate to note an exception to this widespread view. Laura Purdy once wrote that the view I hold is "the fairest procedure." L. M. Purdy, "Abortion and the Husband's Rights: A Reply to Wesley Teo," *Ethics* 86, no. 3 (1976): 250.

2. The pro-life position holds, of course, that many fewer abortions are morally legitimate and sometimes also that most abortions should not be legally available at all. But pro-life advocates agree with the pro-choice view that *where an abortion is a morally legitimate option*, the choice should be the pregnant woman's.

3. Maggie Little calls this a "forced gestation," and she has persuasively argued that that is a burden even if an unforced gestation under the same conditions would not be. See M. O. Little, "Abortion, Intimacy and the Duty to Gestate," *Ethical Theory and Moral Practice* 2, no. 3, *Ethics: Meta, Normative and Applied* (1999): 295-312. Little's point can be extended: forced paternity may be a burden even if a freely

chosen fatherhood under the same conditions would not be.

4. Again, I assume that medically safe abortions are available and that there are no medical counter-indications.

5. Romantic relationships are, of course, rife with opportunities to wrong one's partner, most of which I cannot discuss here. However, two deserve mention: 1) Women, too, can be subtly or not so subtly coerced into going through with the pregnancy and having the baby. Forcing someone to become a mother without free consent is even worse (in our society) than making someone a father without consent. 2) Relationships are never static, often not even stable. If the relationship between the partners becomes rocky or threatens to disintegrate, or if the circumstances surrounding the relationship change in important ways, then the man who had formerly given his consent to having the child may change his mind. Changing his mind about becoming a parent might be the right thing to do. But it is also often a wrong to his partner. His partner bears the burden of additional pregnancy and may well have become more attached to the fetus. His earlier consent has created legitimate expectations in her. And even if a later abortion is safe, it is not *as* safe.

6. Neither sperm donation nor adoption completely frees the biological father of moral responsibilities. (See D. C. Hubin, "Daddy Dilemmas: Untangling Puzzles of Paternity," *Cornell Journal of Law and Public Policy* 13, no. 1 [2003]: 29-80; J. L. Nelson, "Parental Obligations and the Ethics of Surrogacy," *Public Affairs Quarterly* 5, no. 1 [1991]: 49-61.) We should also remember that having a baby adopted may not be an option for the father for reasons that are similar to (though initially usually not as strong as) the reasons that it is often not an option for the mother.

7. There is now some evidence that most single mothers cannot successfully take over the responsibilities for fathers. A variety of studies conducted over the past thirty years have found that children from two-parent families do much better than those without involved fathers. Two relatively recent articles reviewing this literature are J. Waldfogel, T. Craigie, and J. Brooks-Gunn, "Fragile Families and Child Wellbeing," *Future Child* 20, no. 2 (2010), 87-112, and S. McLanahan and C. Percheski, "Family Structure and the Reproduction of Inequalities," *Annual Review of Sociology* 34 (2008), 257-76.

8. It would be worth considering what would make her trump card a moral trump. One candidate is this: if abortions were illegal and very dangerous to the life and health of the woman. Another might be if there were no other sources of sperm available to her. I'm not sure that those conditions

would do it, but they would be serious candidates.

9. If, at the end of all discussion between them, the woman wants to go through with the pregnancy and have a child but her partner does not, then obviously one of them will end up "forcing" the other to do something she or he would prefer not to do—to have an abortion or to become a father. I submit that the latter is a much more serious and lasting imposition, but the question of what can legitimately be done to try to discourage a woman from making someone a father against his will would be the subject of another complex and very serious discussion.

10. E. Brake, "Fatherhood and Child Support: Do Men Have the Right to Choose?," *Journal of Applied Philosophy* 22, no. 1, (2005): 55-73; S. D. Hales, "Abortion and Fathers' Rights," in *Reproduction, Technology, and Rights: Biomedical Ethics Reviews*, ed. J. Humber and R. F. Almeder (Totowa, NJ: Humana, 1996), 5-26; L. Shrage, "Is Forced Fatherhood Fair?," *New York Times*, June 12, 2013; http://opinionator.blogs.nytimes.com/2013/06/12/is-forced-fatherhood-fair/?_r=0. There also seems to be a nascent Choice for Men (also called C4M) movement that can be found on the web.

11. Legally, of course, genetic paternity is still a very big deal in our society—it is a necessary and very nearly sufficient condition for court-ordered child-support payments. And the courts also usually do what they can to keep the biological father involved in the life of his children. But if (mere) biological paternity is not important morally, then the moral foundation for making it so important legally is at least partially undermined.

12. The logic of the consensus view may go even deeper: On the very plausible assumptions that we have limited moral "caring capacity" and that our world is replete with moral responsibilities, it is arguable that the men who are psychologically unable to distance themselves from their biological offspring—like my friend who says, "I had no choice"—are morally off base. Unfortunate aspects of their character or psychology result in their believing that they have moral responsibilities that they do not in fact have. And mistaken beliefs about unreal responsibilities are persistent threats to carrying out one's genuine moral responsibilities. Men like that ought to do what they can to alter their character and personal psychology in ways that will lead them to take biological paternity much less seriously.