

Evaluating the welfare of the child in same-sex families

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ABSTRACT: Within the field of medically assisted reproduction, the welfare of the child is advanced as the major argument to decide the acceptability of certain applications. This argument, however, needs a complex framework in order to be understood and used properly. The effect of empirical evidence regarding the welfare of the child on people's judgments about the acceptability of same-sex families will differ for utilitarians and deontologists. Deontologists who are opposed to same-sex families will not change their mind when confronted with reassuring evidence. However, utilitarians also frequently use the evidence wrongly or draw the wrong conclusions. The reasonable welfare standard is put forward to avoid counterintuitive judgments and to block comparative reasoning that may follow from the use of heterosexual families as a control in follow-up research. Finally, a number of problems related to the use of parental sexual orientation as a criterion are discussed. The discrimination against same-sex families will not be overturned by empirical evidence about the welfare of the children. Children in same-sex families are generally doing well but their situation could be improved if their parents' relationship were to be socially and legally recognized.

Key words: access / discrimination / ethics / homosexual / lesbian

Introduction

The requests by lesbian women to have access to donor sperm and medically assisted reproduction has stirred strong emotions and caused heated debates in most societies. Many people already find it hard to accept that two men or two women live together, let alone that they also have children together. The whole discussion on same-sex marriage, both in the USA and in Europe, illustrates this conflict. The European parliament strongly advocates the extension of marriage-like status for same-sex couples and takes steps to avoid discrimination of citizens on the basis of sexual orientation. However, some member states (especially the new member states) are reluctant to adapt their legislation on this point and many want to protect the institution of marriage in its traditional form. Moreover, even in the 'old' member states, the recognition of a registered partnership or semi-marriage does not necessarily include the right to legal parenthood, adoption or medically assisted reproduction. Nevertheless, at the state level, moves are being made to recognize same-sex couples (Vermeulen, 2008).

The core of the discussion is the ethical acceptability of alternative family forms. From the 1970s, several factors (increasing divorce rates, sexual liberation, etc.) contributed to a breakdown of the quasi monopoly of the stable heterosexual nuclear family. Until then, society as a whole enforced this standard, both through legislation and mores; deviations were not tolerated. Lesbian parents transgress several boundaries simultaneously: 'the ideological, because of its apparent

flouting of the importance of fathers; the structural because of its advocacy of either one-parent or two-mother households; and the biogenetic, because of its avoidance of sexual intercourse' (Haimes, 2000). In the mean time, homosexual households are here to stay. In 2000 in the USA, there were ~600 000 same-gender households. American data shows that ~35% of lesbian couples and 22% of gay couples are raising children (Pawelski *et al.*, 2006). It is also clear that more and more homosexual, and especially lesbian couples decide to fulfil their desire for a child within their relationship by using medical techniques.

Within the ethical debate, the welfare of the child is a crucial argument. This article has three goals. First, it intends to explain why opponents do not change their ethical position towards same-sex parenting when confronted with reassuring outcomes of psychological studies regarding the welfare of the child. Secondly, it introduces the 'reasonable welfare standard' for the evaluation of applications of medically assisted reproduction. This standard has the advantage that it corresponds with the standard used when judging instances of natural reproduction and cases of prenatal and preimplantation genetic diagnosis. The standard also avoids the comparative reasoning that may follow from using heterosexual families as a gold standard. The third goal is to show that the current uses of the argument lead to unacceptable or inconsistent conclusions.

Four points are made in this article: a distinction should be made between necessary and recommendable conditions for parenting on the basis of the effect on the welfare of the child; the focus on

sexual orientation is highly selective because other parental conditions (poverty etc.) carry more risk for the welfare of the children; the burden of proof regarding harmful effects on the child is on those who want to exclude certain groups of candidate parents; and finally, conditions that affect children's wellbeing may be taken not only as selection or exclusion criteria but also as indications of how the situation can be improved.

Theories to judge the acceptability of new family forms

The normative ethical theories can be divided into two large schools: deontological and utilitarian theories (Gaus, 2001). According to deontological theories, an act (decision, etc.) is right when it is in accordance with a moral rule or principle. When a person abides by the rules and follows his duties and respects the rights of people, he behaves morally. Deontologists may ground the rights and duties in rationality but they may also ground them in laws of nature (an act is wrong because it is unnatural) or on God's saying (Samani *et al.*, 2007). Within deontological reasoning, consequences may play a subordinate part but they are never decisive for the rightness of the act or decision. Although most people probably associate deontologists with the more conservative groups in the society, there is no theoretical association. Proponents of parental rights for homosexual couples may refer to the principle of respect for autonomy and the right to reproduce (Robertson, 1994). Opponents may appeal to the right of a child to have a father and a mother, the right to be raised by one's genetic parents, etc. As the examples above illustrate, the biggest challenge for deontologists is to determine what the rights and duties of the person are.

The second group of ethical theories can be brought together under the header of consequentialism. Utilitarianism, which focuses on the effects of the act on the well-being of all persons involved, is the most popular consequentialist theory. For utilitarians, an act is good (and right) when it maximizes well-being compared with all possible alternative acts. The moral status of the act depends solely on the consequences of the act. By focusing on consequences, the moral question to a very large extent becomes empirically verifiable. Psychological, sociological and other human science studies can give us an answer as to whether or not a certain act, decision or situation is harmful. For people who focus on rational argument and objectivity, this feature of utilitarian theories is a very strong point.

The 'welfare of the child' is a typical consequentialist argument. It refers to the possible impact of certain measures on the happiness and flourishing of a future person. As such, it includes both medical (handicaps, disorders, etc.) and non-medical (psychological, social, economic, etc.) elements (ESHRE Task force on Ethics and Law, 2007). Deontologists may take the consequences for the welfare of the child into account but the acceptability of an action is not determined by these consequences but by the rules that are part of their worldview or religion.

Utilitarian arguments on the welfare of the child

In discussions about the acceptability of techniques for medically assisted reproduction, utilitarian arguments seem to dominate. This

also applies to the debate on homosexual parenthood. The main argument against same-sex parenting is that this setting goes against the best interests of the future child. This argument is subdivided in three more specific parts: (i) the risk for children to be homosexual themselves, (ii) the stigmatization of children with homosexual parents and (iii) the need for a mother and a father.

The first type of harm is that children raised in homosexual families are more likely to be or become homosexual themselves. This point presupposes that being homosexual is a mental illness, a pathology or, at least, a type of harm. Homosexuality is certainly a disadvantage but this disadvantage is almost completely due to hostile reactions from a homophobic society. The reasoning goes as follows: Premise 1: society treats homosexuals badly and they suffer, Premise 2: it is against the best interests of child to be homosexual and, Conclusion: we should not create a child in a setting where it has a high(er) risk of becoming homosexual. It is ironic that especially in highly homophobic countries, such as some Islamic countries where a homosexual may be sentenced to death, discrimination is used to reinforce discrimination. Samani *et al.* (2007) argue that bringing up a child in a homosexual family in a homophobic society is completely against the welfare of the child. The problem clearly lies with the first premise. Ethicists and human rights activists require people to show that a certain characteristic causes harm independent from societal reactions. If not, societal prejudice or public condemnation and rejection in itself would be a sufficient reason to discriminate certain groups.

The second argument is of a similar nature: children of homosexuals will be ostracized, harassed and ridiculed by their peers for having homosexual parents. Although this is confirmed in some studies, the magnitude of the stigmatization is not such that it results in hampered emotional functioning or more behavioural problems (Anderssen *et al.*, 2002; Vanfraussen *et al.*, 2002). Again, however, the cause of the disadvantage is not the homosexuality of the parents itself but the reactions from the social environment. Moreover, harassment and embarrassment is a consequence of many other parental features like obesity or unemployment.

The final and most difficult point is the statement that a child needs a mother and a father. According to the opponents of same-sex parenting, children need dual-gender parents to learn appropriate gender-role behaviour and to develop normally (Biblarz and Stacey, 2010). However, the question is whether the absence of a father causes significant harm to the child. The conclusion of the debate in the UK, where the 'need of the child for a father' was originally part of the 'welfare of the child' clause in the Code of Practice of the Human Fertilisation and Embryology Authority (HFEA), was that the presence of a father is not essential. But what about the child's 'need for a mother'? Most people seems to accept the need for a mother as self-evident (as can be deduced from the fact that the question is not even raised in discussions) but if it is, then the discussion on parenting by gay couples is closed before it even started. Is there any reason to assume that a child needs a mother more than it needs a father? Is there an asymmetry between male and female same-sex couples? While lesbians are struggling with the moral views and prejudices in society, gay men undoubtedly have a manifold harder time convincing people of the acceptability of their wish to parent. They challenge the same traditional assumptions about gender, sexuality, reproduction and family as lesbian women but in addition, they are confronted

with stronger feelings of rejection and even hatred from certain groups in the community. Moreover, fathers are viewed as secondary caregivers and as essentially unfit to raise a child (Berkowitz and Marsiglio, 2007).

Welfare of the child as a secular argument

The use of the 'welfare of the child' argument needs to be understood in the general context of the acceptability of certain arguments in the ethical debates in liberal democracies. The general (mainly Rawlsian) idea is that in political debates only impartial reasons and arguments can be used, i.e. arguments that are shared and can be understood by all, regardless of the person's worldview. This idea is referred to as 'secular'. The term 'secular' is used 'to identify what is open to all, independent of a particular moral or religious tradition, but not in explicit opposition to religion' (Engelhardt, 1991). Secular morality is contrasted with the ethics of particular communities that rely on special traditions or revelations. In a liberal democracy, characterized by a pluralism of moral opinions, all decisions should be justified by generally accessible reasons. If one group enforces a rule that is based on a worldview that is not shared by others, they violate the freedom of others to live according to their worldview. People can argue that homosexual marriage should be forbidden because it goes against God's rules on marriage but this argument cannot be the basis of a societal policy because the argument refers to a particular worldview that is not shared by non-believers or believers of another faith. If a society wants to prohibit homosexual partnerships and expressions of love between same-sex persons, it has to look for other arguments.

In the context of medically assisted reproduction, many objections are based on religious beliefs since many religions have specific rules on reproduction, sexuality and family building. These particular views (both religious and secular) can be included in the political debate by 'translating' the arguments into a secular form, meaning a form that is understandable for every citizen, regardless of his or her beliefs and values (Myskja, 2009). In fact, this might be exactly why the 'welfare of the child' argument came to the forefront in the debate: it is an argument that is accepted by all (or at least by most groups in society) and thus provides a common ground for discussion and decision-making.

However, this strategy of excluding arguments based on particular worldviews or religions also has some disadvantages. First, it is particularly difficult to defend an argument when one is not allowed to refer to the foundations of the argument. Secondly, not all arguments may be translatable or they may lose most of their meaning. Thirdly, the ethical debate may turn into a kind of shadow boxing: we hit the other's shadow (the welfare argument) while her or his body (the deontological argument, the particular worldview) remains unscratched. We should not be surprised that the other is not knocked out. The main difficulty caused by this position is the separation of the personal moral beliefs, convictions and values and the arguments presented in the public domain. Many people 'would not be able to undertake such an artificial division within their own minds' (Habermas, 2006).

Let me try to make this more explicit. When a person states that he or she is against homosexual parenting because the child is likely to develop psychosocial problems, it is expected that they would change their mind if this is demonstrated to be false. When people stick to their opinion against strong evidence, we are inclined to accuse them of bad faith. However, due to the gap created by the translation, there is no reason why they would change their mind. The original belief system is only slightly affected by the refutation and other, stronger beliefs, that cannot be advanced as arguments in the moral domain because they are inherently linked to the particular worldview, remain in place. The welfare of the children in different family types is not the decisive argument; it is advanced by both opponents and proponents to defend the position they already adopted on deontological grounds. After being informed of the empirical findings on homosexual families, the opponents may have to look for other arguments than the welfare of the child for the public discussion but they do not have to change their personal opinion about homosexual parents.

This explains why some people (deontologists) are largely immune to empirical evidence on the welfare of the child. However, utilitarians who accept the empirical evidence also frequently use the information wrongly or draw the wrong conclusions. This will be illustrated in the sections that follow.

Evaluation standards

A major advantage of the welfare of the child as a criterion is that it can be measured. As for numerous other psychological characteristics, we can develop tests that measure well-being, or quality of life. Nevertheless, it is an extremely difficult task in most circumstances. It becomes even more difficult when we try to predict the quality of life of future or potential persons and this is precisely what is required in the context of medically assisted reproduction. However, even if we assume for a moment that we are able to estimate future well-being, then we still need a standard to decide whether the level is acceptable and sufficient. Analysis of the literature on the acceptability of medical interventions in reproduction reveals that two evaluation rules are used to assess the quality of life: the minimum threshold and the maximum welfare (Pennings, 1999).

The minimal threshold in its strictest form has also been indicated as the 'worse than death' standard: reproduction, and *a fortiori* medically assisted reproduction, is morally wrong when the future child will have a quality of life so low that it would have been better not to have been born (Robertson, 2004). This threshold implies that even when the child will suffer from a severe disease and will have a short life span, it is acceptable to bring it into the world. This standard expresses a minimalist view on parental and medical responsibility for the welfare of the future child (de Wert, 2003). Very few social conditions (with the exception of extreme poverty resulting in the absence of the most basic goods) will create circumstances that are so bad that people should refrain from reproduction. It is clear that being born in a lesbian or homosexual household will certainly not infringe on this standard.

The maximum welfare standard goes to the other extreme: reproduction is only acceptable when the child is born in optimal circumstances. People using this standard demand ideal circumstances. No medical assistance should be provided when there are indications

that the conditions in which the child will be raised are not optimal. These indications are usually found either in the characteristics of the parents or in the social, economical and psychological circumstances in which the child will be brought up. People who adopt this standard frequently associate the ideal circumstances with the traditional nuclear family. Reproduction in a setting that does not conform to the heterosexual married parents with their genetic children is assumed to have negative consequences for the children (Golombok, 1998).

Both standards lead to highly counterintuitive judgments as they force us on the one hand to condemn procreative decisions that look fully acceptable and oblige us on the other hand to accept decisions that seem completely unacceptable. Although there are morally relevant differences between natural reproduction and medically assisted reproduction, these differences do not regard the standard of evaluation. Most people seem to believe that when people are able to reproduce naturally, they are allowed to take higher risks than when doctors are involved. However, this is not correct. Imagine a couple with a high risk of transmitting a serious genetic disease to their child. If this couple is infertile, they would (probably) not be accepted for assisted reproduction without agreeing to measures (such as preimplantation genetic diagnosis) that bring down the risk to an acceptable level (Pennings *et al.*, 2003). The difference between a fertile couple and an infertile couple is the practical ability of the doctor to prevent the birth of a child with this risk by refusing to collaborate. The moral evaluation of the parents' decision, however, should be the same whether they are fertile or not. Even if society does not intervene to stop the fertile couple from taking this risk, society should condemn them for doing so and judge their decision as morally wrong. In other words, the same standard should be used to evaluate applications of medically assisted reproduction and instances of natural reproduction. As we argued above, both the maximum welfare and the minimal threshold standard fail on this count. The solution is an intermediate standard which I called the 'reasonable welfare standard' (Pennings, 1999). This may sound rather vague but it is no more vague than the other standards. All standards have a grey zone of borderline cases. Moreover, we are already familiar with this standard since we use it to decide about cases of prenatal and preimplantation genetic diagnosis (de Wert, 2003). The general idea is that reproduction is acceptable when there is no high risk of serious harm, or put in a more positive way, when there is a reasonable chance that the future person will have the abilities and possibilities to realize those dimensions and goals that make human lives valuable.

Comparative analysis

Most studies on children in lesbian families have used heterosexual families as control groups. The whole point of control groups is to determine the influence of the variable that one wants to measure. The control group for homosexual families is heterosexual families. There are very few studies in which characteristics and processes of a heterosexual family are studied with homosexual families as control. The problem is that, because of the homophobic atmosphere and heterosexist rule, the control group (i.e. heterosexual family) is perceived as the gold standard. As a consequence, when a group does not reach the same level as the control group, it is automatically

classified as substandard or inferior. The comparative analysis goes as follows: family type A results in children with a mean quality of life of X. Family type B leads to children with a lower mean quality of life. Conclusion: people living in type B should not have children, and *a fortiori*, should not have access to medically assisted reproduction. This reasoning is based on several underlying premises that are hard to defend. First, it assumes the rightness of the maximum welfare standard and we have shown above that this standard cannot be maintained because it obliges us to condemn most (if not all) reproductive decisions made by fertile people. Secondly, a lower quality of life of the children does not automatically mean an unacceptable quality of life. It would be more appropriate to apply a threshold system: children should not be created in family types that present a high risk of serious harm for the child. Thirdly, the significant differences in self-esteem and psychological well-being that were actually found between children in lesbian families and heterosexual families were in favour of lesbian parents (Stacey and Biblarz, 2001). If the same line of reasoning is used as above, the conclusion from this finding would be that heterosexual couples should not have access to assisted reproductive technology (ART). I have never met anyone willing to accept this conclusion. But if one rejects it, one needs to explain why that conclusion can be drawn when children in lesbian or gay families would be doing worse. Finally, even if the alternative family settings would hold fewer risks than heterosexual families, that does not render these risks acceptable. Suppose that we find that 10% of the children in heterosexual families are abused. Would it then be OK if only 8% of homosexual couples maltreated their children? We need to measure factors such as the psychosocial development or cognitive development without reference to heterosexual families. Our concern should not be whether one type of family or one kind of parent is better than the others. We should determine which parents and families have a high risk of serious negative outcomes for their children and what we can do about this.

Necessary or recommendable condition

The use of the reasonable welfare standard has implications for the status attributed to a parental characteristic or situational condition. Two questions should be answered: (i) is the characteristic, condition, etc. necessary? and (ii) is the characteristic, condition, etc. recommendable? A characteristic is necessary if the absence thereof would hold a high risk that the child will not have a reasonably happy life. A characteristic is recommendable if its presence in general has a positive effect on the child's well-being. This means that it increases the well-being of the person above the reasonable welfare threshold. The evidence from several types of fatherless families (widows, divorced couples, single women) strongly suggests that the presence of a man is not necessary for the children to have a reasonably happy life but it also indicates that the presence of a second parent increases the options and chances of the children. An unnecessary characteristic cannot be used to exclude patients from infertility treatment but it may be a matter of concern for which compensating measures could or should be proposed. We might very well decide that the presence of an opposite-gender parent is recommendable and that same-sex couples should look for ways to integrate a

person of the opposite sex in the upbringing of their child. Evidently, before such recommendations are issued, it needs to be shown that the child cannot find role models in men from the broader social environment like grandfathers, teachers, etc.

Precautionary principle and the burden of proof

The opponents advance a kind of precautionary principle when discussing alternative families. The principle goes approximately as follows: before we move from the standard situation (heterosexual couples) to alternative families, we have to be sure that the welfare of the child in the new families is not threatened. One should not create children in family structures as long as it has not been conclusively shown that these families are equivalent to heterosexual families. The use of this principle is remarkable for three reasons: first, it shifts the burden of proof to the persons in the alternative family structures. They have to demonstrate their suitability as parents before they get access. This request may turn out to be a 'catch-22': alternative families have to demonstrate that their family type is consistent with the best interests of the child before they can start treatment. However, the only way they could show this is by having children and they are not allowed to have them without proof. Secondly, asking people in alternative family types to demonstrate their suitability goes against the spirit of international law. The human rights declaration states that people should not be discriminated against on the basis of certain characteristics, including sexual orientation. People who wish to deviate from the principle of equality should bear the burden of proof. They should establish that non-heterosexual persons act against the best interests of the child and not the other way around (Tobin and McNair, 2009). It is noteworthy that society does not tolerate discriminatory behaviour when it concerns race or sex but that discrimination on sexual orientation, and especially when the discrimination is based on religious beliefs, is reluctantly accepted.

Factors influencing the child's well-being

Why focus on sexual orientation? The explanation most likely must be sought in the deviation from the 'normal' situation of the heterosexual nuclear family and the general negative attitude towards homosexual persons. Nevertheless, we keep repeating these studies even when, up till now, there are no indications that this characteristic has any influence on parental capacity. At the same time, other features have a demonstrable effect on the child's welfare. A strong desire for parenthood and warm and supportive relationships are frequently put forward as true determining factors for the child's well-being (Tobin and McNair, 2009). Why not screen couples on these factors? The main problem would obviously be that they are difficult to operationalize and measure. Still, two other quantifiable and measurable factors are worth scrutiny: parental income and abuse of the parent as a child.

The best studied factor is parental income. Children raised in poor families do considerably worse than children in well-off families. Low parental resources have been found to have a detrimental effect on

the children's educational achievements, socio-emotional development and are linked to an increase in behavioural problems (McLoyd, 1998). The studies show that financial problems during childhood may have long-term implications on physical and mental health which extend into adulthood (Veitof et al., 2008). What follows from this? If it is the duty of society to guarantee that children are born in optimal circumstances, we should select infertility patients on the basis of financial resources. We could for instance stipulate that couples with a yearly income below a certain threshold are not eligible for assisted reproduction. One reason for not imposing this measure is that it is highly politically incorrect to even suggest that poor people should not have children or should be denied access to ART. But what exactly is wrong with this reasoning? One could argue that the distinction in access between poor and rich is not discriminatory because it is based on a relevant difference, namely the differential effect on the welfare of the future child. When we return to homosexual couples, the conclusion would be that excluding homosexual couples is discrimination, i.e. unjustified distinction between persons, because no effect on parental capacity and no higher risk for negative outcomes for children have been shown. We should, if we take this reasoning seriously, exclude persons who possess characteristics that have objectively been shown to have a detrimental effect on the child's welfare.

Another example of such characteristic is being the victim of child abuse. It has been demonstrated that people who have been abused as a child have a much higher risk themselves of abusing their own children (Möhler et al., 2009). Up to 50% of the parents with experience of childhood maltreatment abuse their children (Leifer et al., 2004). Given the fact that between 15 and 25% of young women report a history of sexual abuse, this should be considered a common and serious risk for future children. As a consequence, screening of infertility patients and/or future parents for this characteristic seems worthwhile in view of the protection of the offspring. In fact, it could be argued that this is an 'aspect of the patient's past or current circumstances which is likely to lead to an inability to care for the child to be born throughout its childhood' [clause G.3.3.2 (a) of the Code of Practice; Human Fertilisation and Embryology Authority, 2008]. As far as I know, no centre in the world automatically denies access to victims of childhood abuse. However, many countries and fertility centres maintain a blanket rejection of homosexual couples. Even if we assume, against the available evidence, that children raised in homosexual families suffer some disadvantages, one cannot reasonably argue that the risks, both in terms of probability and seriousness, are as high as the risks associated with poverty and parental childhood abuse.

Supportive measures

The argument mentioned above regarding poverty and childhood abuse demonstrates another point regarding the empirical evidence about the welfare of the child. The studies show the effects of family type, sexual orientation, mental capacities, age, etc. on the children who grow up in such families. Even if we work with a strict threshold, no direct conclusion can be drawn from these data for the moral acceptability of reproduction. It can be argued that the empirical data point at the dangers and thus enable us (to try) to do something about them. Take poverty as an example. Society in

most countries takes a multitude of measures to attenuate the negative effects of poverty. These measures can be directed at the family budget (tax cuts, child support, free schooling...) or directly at the child (close supervision by social workers, extra support, etc.). Most affluent societies have all kinds of specialized personnel (like teachers, psychologists, social workers, etc.) to help parents raise their children.

Instead of concluding from the shortcomings of certain settings that these people should refrain from building a family, society can use this knowledge in order to introduce measures to compensate for the shortcomings. One such measure for homosexual parents could be their right to marry. Homosexual parents and their children face difficult challenges as a result of the exclusion from civil marriage. By recognizing parental rights and obligations of the non-biological parent in same-sex couples, the situation of the children may improve in terms of financial, social and psychological stability. Marriage promotes legal and financial stability, stable psychosocial relationships and a sense of acceptance (Pawelski *et al.*, 2006). Institutional, cultural and moral rules all work against homosexual parents. This context adds enormous stress to the already high normal stress of parenting (Armesto, 2002). Society first makes rearing children very difficult for homosexual parents and then condemns them for not being able to perform as well as the heterosexuals. Same-sex parents have the same obligations as heterosexual couples but they do not receive the same instruments (i.e. rights and support) to fulfil these obligations. In fact, the influence of their sexual orientation on their parental capacity can only be measured when they dispose of the same means to do the job.

Conclusion

All parties declare that the welfare of the children created and raised in different family structures is of paramount importance. This criterion is, however, notoriously difficult to measure. Moreover, even if welfare could be measured objectively, one still needs to evaluate the result. The 'reasonable welfare standard' is defended as the most appropriate threshold to decide whether creating and raising children in certain family types are morally acceptable. This implies a rejection of the comparative analysis which takes heterosexual families as the gold standard. However, doubts can be raised about the real importance of the welfare of the child within the belief structure of many people. Most people do not change their minds about the acceptability of family building by same-sex parents when empirical evidence points in a direction that contradicts their beliefs. The basic position against homosexual parenting is not determined by the expected outcome on the welfare of the children but by moral repugnance and a belief in the inherent wrongness of homosexuality. It is very important that these moral emotions are not accepted as arguments in public policy decisions or in legislative initiatives. Finally, a good policy tries to combine as many morally relevant rules as possible. In the context of same-sex parenting, both the right of homosexual persons to build a family and the child's right to a good life can be respected by providing conditions of full equality and respect. The well-being of the children would improve considerably were same-sex relationships legally recognized and socially respected, and were same-sex parents treated as adequate parents. And the welfare of the child was our primary goal, was it not?

Author's roles

The author conceived, designed and wrote the article and gave the final approval of the version to be published.

Funding

The author is supported by a full-time professorial stipend at Ghent University.

References

- Anderssen N, Amlie C, Ytteroy EA. Outcomes for children with lesbian or gay parents. A review of studies from 1978 to 2000. *Scand J Psy* 2002; **43**:335–351.
- Armesto JC. Developmental and contextual factors that influence gay fathers' parental competence: a review of the literature. *Psy Men Mascul* 2002; **3**:67–78.
- Berkowitz D, Marsiglio W. Gay men: negotiating procreative, father, and family identities. *J Marriage Fam* 2007; **69**:366–381.
- Biblarz TJ, Stacey J. How does the gender of parents matter? *J Marriage Fam* 2010; **72**:3–22.
- de Wert G. Ethics of assisted reproduction. In: Fauser BCJM, Bouchard Ph, Hsueh AJW (eds). *Reproductive Medicine: Molecular, Cellular and Genetic Fundamentals*. New York, London: Parthenon Publishing, 2003:645–665.
- Engelhardt HT Jr. *Bioethics and Secular Humanism: The Search for a Common Morality*. London: SMC Press/Philadelphia: Trinit Press International, 1991.
- ESHRE Task Force on Ethics and Law. The welfare of the child in medically assisted reproduction. *Hum Reprod* 2007; **22**:2585–2588.
- Gaus GF. What is deontology? Part one: orthodox views. *J Value Inquiry* 2001; **35**:27–42.
- Golombok S. New families, old values: considerations regarding the welfare of the child. *Hum Reprod* 1998; **13**:2342–2347.
- Habermas J. Religion in the public sphere. *Eur J Phil* 2006; **35**:1–25.
- Haimes E. 'Everybody's got a dad...'. Issues for lesbian families in the management of donor insemination. *Social Health Illness* 2000; **22**:477–499.
- Human Fertilisation and Embryology Authority. *Code of Practice*, 7th edn. London: HFEA, 2008.
- Leifer M, Kilbane T, Jacobsen T, Grossman G. A three-generational study of transmission of risk for sexual abuse. *J Clin Child Adolescent Psy* 2004; **33**:662–672.
- McLoyd VC. Socioeconomic disadvantage and child development. *Am Psy* 1998; **53**:185–204.
- Möhler E, Matheis V, Poustka L, Marysko M, Finke P, Kaufmann C, Reck C, Cierpka M, Resch F. Mothers with a history of abuse tend to show more impulsiveness. *Child Abuse Neglect* 2009; **33**:123–126.
- Myskja BK. Rationality and religion in the public debate on embryo stem cell research and prenatal diagnostics. *Med Health Care Phil* 2009; **12**:213–224.
- Pawelski JG, Perrin EC, Foy JM, Allen CE, Crawford JE, Del Monte M, Kaufman M, Klein JD, Smith K, Springer S *et al.* The effects of marriage, civil union, and domestic partnership laws on the health and well-being of children. *Pediatrics* 2006; **118**:349–364.
- Pennings G. Measuring the welfare of the child: in search of the appropriate evaluation principle. *Hum Reprod* 1999; **14**:1146–1150.
- Pennings G, Liebaers I, Bonduelle M. Decisional authority and moral responsibility of patients and clinicians in the context of preimplantation genetic diagnosis. *RBM Online* 2003; **7**:509–513.

- Robertson JA. *Children of Choice*, Princeton. New Jersey: Princeton University Press, 1994.
- Robertson JA. Procreative liberty and harm to offspring in assisted reproduction. *Am J Law Med* 2004;**30**:7–40.
- Samani RO, Dizaj AVT, Moalem MRR, Merghati ST, Alizadeh L. Access to fertility treatments for homosexual and unmarried persons, through Iranian law and Islamic perspective. *Iran J Fertil Steril* 2007;**1**:127–130.
- Stacey J, Biblarz TJ. (How) does the sexual orientation of parents matter? *Am Sociol Rev* 2001;**66**:159–183.
- Tobin J, McNair R. Public international law and the regulation of private spaces: does the Convention on the Rights of the Child impose an obligation on states to allow gay and lesbian couples to adopt? *Int J Law Policy Fam* 2009;**23**:110–131.
- Vanfraussen K, Ponjaert-Kristoffersen I, Brewaeys A. What does it mean for youngsters to grow up in a lesbian family created by means of donor insemination? *J Reprod Infant Psy* 2002;**20**:237–252.
- Vermeulen VA. Developments in European law and European Union policy on same-sex couples: an overview of judicial, legislative and policy developments in the recognition of same-sex couples in Europe. *Codex* 2008;**2008**:1–27.
- Weitoft GR, Hjerm A, Batljan I, Vinnerljung B. Health and social outcomes among children in low-income families and families receiving social assistance—A Swedish national cohort study. *Soc Sci Med* 2008;**66**:14–30.