

## CHAPTER 6

# Do Motives Matter?

### *On the Political Relevance of Procreative Reasons*

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#### INTRODUCTION

Are there good and bad reasons for having children and, if so, how should they influence the moral appraisal of our procreative conduct? A growing body of literature focuses on the moral relevance of procreative reasons, or the extent to which *why* we have children might matter for assessing the permissibility of our procreative acts.<sup>1</sup> At the center of this discussion is the “reasons-relevance thesis,”<sup>2</sup> which holds that “. . . parents’ reasons often play a critical role in determining the acceptability of their procreative conduct.”<sup>3</sup> On this view, what matters for assessing procreative permissibility is not necessarily the consequences of the procreative act, but rather the motives<sup>4</sup> with which it is undertaken. The reasons-relevance thesis thus challenges much contemporary thinking about procreative ethics where the *effects* of a procreative act—on the resultant child, as well as third parties—are considered central to its moral evaluation.<sup>5</sup>

The idea that our motives play a part in determining the moral character of our actions is an influential one<sup>6</sup> and, when applied to procreation, seems to reflect a widely held intuition. We tend to cast aspersions on people who undertake procreation haphazardly, and one explanation is that an act as momentous as bringing a person into existence should be undertaken for the right kinds of reasons. It seems to make a moral difference whether a child is created to be the object of a loving relationship, to

serve as an old-age pension plan, or to be a trophy to his father's virility. Not surprisingly, then, much of the current literature has thus focused on assessing *what* constitutes good and bad reasons for procreating,<sup>7</sup> and on *what grounds* those reasons should factor into the appraisal of our procreative conduct.<sup>8</sup>

Our focus in this chapter is different. While the current literature assesses the *moral* relevance of procreative reasons, we ask instead a distinctively *political* question: from the state's perspective, for the purposes of determining family law and public policy, to what extent, and on what grounds, does it matter *why* people have children? This political question raises a unique set of issues that has not yet been adequately understood and addressed. Of primary interest to us is the issue of reasonable disagreement about ethics, and the ways in which it complicates an extension of the reasons-relevance thesis into the political domain. In pluralistic societies, people disagree sincerely and vehemently about *why* we should have children. Some believe that we should have children "for their own sakes," and that our childbearing practices should be motivated by selfless devotion; others have religious reasons for having children, such as an injunction from god to "go forth and multiply"; others have more transparently selfish motives for having children, such as achieving a certain social status or saving a dying relationship; and the list goes on and on. Given such pervasive and reasonable disagreement about *why* we should have children, on what grounds could the state take a stand on permissible versus impermissible procreative motives?

One possibility, of course, is on perfectionist<sup>9</sup> grounds: perhaps some people are simply mistaken about why we should have children, and the state has a duty to promote the right reasons through law and public policy. However, if we accept that ethical disagreement is *reasonable*, then those laws and policies will simply express a lack of respect to citizens who disagree with their underlying reasons. They may also place those citizens at a marked disadvantage in pursuing their childbearing projects, not because their projects are unjust, but because they are motivated by what the state deems to be the "wrong" kinds of reasons. Such effects would seem to violate an attractive principle of equal citizenship, according to which each citizen's right to pursue their own justice-respecting projects matters, and matters equally.

On an alternative view of political morality—the one we endorse in this chapter—law and public policy should be justified to citizens independent of the comprehensive ethical doctrines that divide them.<sup>10</sup> The state should not be in the business of promoting controversial ethical ideals, but should instead be concerned solely with promoting justice: with

facilitating a “. . . just distribution of freedom, resources and other advantages between citizens, [and] ensuring that each is given a fair chance to formulate and pursue his or her own conception of the good life.”<sup>11</sup> We argue that this view of political morality—political liberalism—leads us to the following conclusion about the political relevance of procreative reasons: if procreative reasons matter politically, it is only because, and insofar as, those reasons impact on the justice-based entitlements of other people, including resultant children and third parties. In the absence of these impacts, procreative reasons are not politically relevant, and the state should abstain from taking any ethical stand on *why* people should have children.

This finding generates two important conclusions for *political* procreative justice: first, the state *must* tolerate otherwise morally suspect procreative motives, so long as when acted upon, these do not impinge on the justice-based entitlements of other people. This requirement will exclude some morally suspect motives, but not for contested ethical reasons; rather, they will be excluded for reasons concerning justice, reasons which can be justified to citizens independent of the ethical doctrines that divide them. Second, the state *cannot* tolerate procreative acts that compromise the justice-based entitlements of other people, *even if* they are motivated by good intentions. In sum, good motives do not vindicate unjust acts and, to this extent, our argument coheres with the large segment of procreative ethics that focuses on outcomes as centrally relevant to the determination of procreative permissibility.

Our chapter develops these arguments to construct a distinctly political view of procreative motivation. We do not offer a comprehensive account of politically permissible and impermissible procreative reasons but instead offer an account of the *grounds* on which such reasons may be relevant, and thus a *means* by which the permissible/impermissible distinction can be drawn. We proceed in three steps. The first part evaluates the reasons-relevance thesis by distinguishing three grounds on which procreative reasons might be relevant: by their predictiveness of procreative outcomes; by their justificatory role in procreative decision-making; and, finally, by the attitudes and judgments they express to the moral community. The second part explains the idea of reasonable disagreement about procreative motives; it contrasts epistemic versus moral conceptions of reasonableness, and also direct versus indirect applications of public reason to procreation. The final part outlines the central political implication of our view, the Principle of (presumptive) Procreative Motivational Irrelevance (PPMI), which admits of two possible interpretations. On the Weak Version, the liberal state must abstain from pronouncing

upon the presumed adequacy or inadequacy of people's procreative motives, provided that, when acted upon, such motives do not predictably and reliably adversely impact on the justice-based entitlements of other people. On the Strong Version, the proviso is expanded—not only rights violations but also the subversion of fundamental liberal *values* triggers political regulation and, possibly, restraint. Under either version, PPMI means that the state may *not* take into account the expressiveness or justificatory role of procreative reasons when determining law and public policy, but this still leaves more (Strong Version) or less (Weak Version) space for the state to consider certain aspects of their predictiveness.

### WHY DO MOTIVES MATTER?

Imagine the following scenario. Alan and Brenda have a young son, Charlie, who is dying of leukemia. The doctors say that Charlie will need a bone marrow transplant in order to survive, and may also require a kidney transplant in the further future. Because a compatible donor cannot be found, Alan and Brenda decide to create one by having an additional child, using in vitro fertilization and preimplantation genetic diagnosis to ensure a healthy match. If the procedure succeeds, Brenda will give birth to a compatible donor child, and Charlie's life will be saved. Should they go through with the procedure and thereby create a donor sibling?

This is tricky. While we may sympathize with Alan and Brenda's desire to save their existing child, many of us may also have moral reservations about creating a child for the express purpose of providing compatible organs or body tissue for an imperiled brother or sister. One explanation for these reservations is the thought that it matters *why* we have children: there are good and bad reasons for having children, and it is not clear that Alan and Brenda's reasons are good enough. But even if this is the case, we need an explanation for *why* that is so. We need a basis for distinguishing between good and bad procreative reasons before we can designate Alan and Brenda's reasons as bad ones (if they are bad ones). So why might it matter *why* we have children?

### Predictiveness

Perhaps our reasons for having children matter because they tell us something both important and reliable about the likely consequences of our procreative acts—in particular, because they tell us something about

likely welfare outcomes for resultant children.<sup>12</sup> For instance, on the basis of Alan and Brenda's reasons, we may be able to predict that the child they produce will be destined to undergo, without its consent, one or more invasive surgeries unnecessary for its own health, some of which may be painful and pose long-term health risks.<sup>13</sup> If we think that these outcomes are morally impermissible in light of some independent standard—say, one indicated by the rights of the child who results—we might on that basis designate Alan and Brenda's procreative reasons as bad ones.<sup>14</sup>

Several features of the *predictive* account are noteworthy. First, it does not attribute any intrinsic relevance to procreative reasons, but sees them only as derivatively relevant by revealing something about the likely consequences of the procreative act. In this sense, Alan and Brenda's reasons for having children *are* relevant for assessing the morality of their procreative conduct, but only because they supply information about its likely consequences, which are the real subject of moral evaluation. The predictive account thus coheres with much contemporary thinking about procreative ethics, which sees outcomes, rather than motives, as the dominant factor in determining procreative permissibility.

Second, the predictive account depends upon an independently derived moral standard by which we can evaluate different procreative outcomes. In particular, it assumes that we have a relatively settled and determinate view about what appropriate welfare outcomes for children are, and that we can measure possible procreative outcomes against that standard. For argument's sake, assume that such a standard is set by the United Nations Convention on the Rights of the Child (1989) (CRC), such that appropriate welfare outcomes are those that are consistent with a child's enjoyment of their CRC rights.<sup>15</sup> Morally good procreative reasons would then be all those reasons that, when acted upon, predictably yield outcomes that are consistent with a child's enjoyment of their CRC rights.

Finally, the predictive account attributes moral relevance to procreative reasons *only* to the extent that they are actually predictive of procreative outcomes, and is thus constrained by a number of epistemic considerations. While we may be able to glean a certain amount of information about the likely consequences of a procreative act on the basis of the reasons for which it is being undertaken, we must note that this information will not be complete, and that its reliability will vary significantly from case to case. For instance, on the basis of Alan and Brenda's reasons, we are able to predict with a reasonable degree of certainty a number of likely welfare outcomes for the resultant child, which we can then evaluate according to their consistency with the child's enjoyment of their CRC rights. But this will not be true in all cases: other procreative reasons may

reveal less information about the likely consequences of acting on them, and the reasons themselves may even change between the time of conception and birth. These kinds of epistemic considerations may cast a shadow over the predictive account, leading critics like Mianna Lotz to claim that “. . . we are not entitled to infer very much at all from procreative reasons to [procreative outcomes].”<sup>16</sup>

## Justification

Even if epistemic considerations sometimes limit the predictiveness of procreative reasons, we still know a few things about the likely consequences of *any* procreative act, regardless of the reasons for which it is undertaken. For instance, we know that by bringing a child into the world, we are inevitably exposing it to a host of unconsented to burdens (and benefits),<sup>17</sup> including the “. . . pain, suffering, difficulty, significant disappointment, distress, and significant loss that occur within a typical life.”<sup>18</sup> According to some commentators, whether or not we view these consequences as permissible turns crucially on *why* we have children in the first place. In other words, our procreative reasons may serve an important *justificatory* role.

Christine Overall appears to endorse this view, that human procreation should not be seen as a presumptively permissible endeavor, but something that requires moral justification. But the high stakes involved in procreative decision-making mean that procreation cannot be justified with reference to our apparent right to do so, nor can it be justified on the basis of abstract deontological or consequentialist considerations.<sup>19</sup> Rather, procreation must be justified on the basis of reasons that concern the good of the child who is brought into being, namely, “. . . the creation of the mutually enriching, mutually enhancing love that is the parent-child relationship.”<sup>20</sup> Only reasons of this nature may offset the significant moral hazards associated with procreative decision-making.<sup>21</sup>

David Wasserman makes a similar point. He agrees that human life always contains an array of significant hardships, and that by creating a child, we thereby expose it to those hardships without its consent. Whether or not the child has a legitimate moral complaint against us, then, depends on our reasons for creating it, and whether or not those reasons embody a concern for its own good. On this view, parents “must be able to justify the decision to subject their children to those hardships, and they can do so only if part of their reason for having those children is to give them lives good and rich enough to offset or outweigh those

hardships.”<sup>22</sup> It follows, then, that parents’ reasons for having children “play a critical role in determining the acceptability of their [procreative] decision and the plausibility of any complaint from the child they create.”<sup>23</sup>

On the justificatory account of why procreative reasons matter, it is not clear whether or not Alan and Brenda’s reasons are morally sufficient. On the one hand, in principle, there may be nothing incompatible with creating a child for the purpose of organ or tissue donation, while simultaneously wanting that child for its own sake. John Robertson makes this point by noting that “In most instances [of conceiving children to obtain tissue] the child so conceived will be welcomed into the family and loved regardless of tissue status and success of the transplant.”<sup>24</sup> On the other hand, however, Alan and Brenda’s reasons may be seen in an important way as failing the justificatory threshold. Assuming that they did not originally intend on having additional children, their decision to have the child is inextricably tied to the medical needs of Charlie, rather than to a prior desire to create a new relationship. This fact may diminish the extent to which their procreative reasons can serve their purported justificatory role.

### **Expressiveness**

Finally, our reasons for having children might matter because of the attitudes or judgments they express to the moral community.<sup>25</sup> Disability advocates have often objected to reproductive technologies aimed at correcting, ameliorating, or preventing disabilities on so-called “expressivist” grounds. The idea is that the development and use of such technologies expresses negative judgments about the value of people living with disabilities, and that such judgments themselves constitute an injury and an injustice to those people.<sup>26</sup> A similar point can be made in relation to procreative reasons. Our reasons for having children inevitably express certain attitudes and judgments, to ourselves and to onlookers, about the sanctity of human life and the value of the parent-child relationship, among other things. One of the ways in which our reasons might matter, then, is in light of the “meaning or message”<sup>27</sup> that those reasons convey, and whether or not we consider them to be palatable from a moral point of view.

The expressiveness account may provide a possible objection to Alan and Brenda’s reasons for having an additional child. By some accounts, Alan and Brenda’s decision might express the allegedly negative judgment that it is permissible to use a child instrumentally as a means toward another child’s ends. Such a judgment may be condemned in one of two ways. First, it may be condemned on consequentialist grounds by

the possible implications of that judgment being generally accepted.<sup>28</sup> The worry here is that if we permit the judgment in Alan and Brenda's case, we may be led to permit it in other cases as well, which may put other children at risk of harm or injustice. However, it is important to note that the expressivist objection does not depend on these consequentialist considerations. Rather, the judgment may also be condemned on deontological grounds, by failing to respect the personhood or independent moral status of the child who is purportedly used. In this sense, even if Alan and Brenda's child will be born into conditions that are consistent with its enjoyment of its CRC rights, their procreative act may still be condemned on expressivist grounds by failing to respect the personhood or moral status of that child (or for some other expressive reason).

### PROCREATIVE MOTIVES AND REASONABLE DISAGREEMENT

Assume that one or more of these accounts is correct, such that it matters morally *why* we have children. Should states take this into account when determining family law and public policy? Most theorists have avoided this question, preferring to restrict their analysis of procreative motivation to the moral domain. Thus, while Overall argues that we can distinguish between morally good and bad procreative reasons, she also urges that this "... says nothing about what the state should or should not do to curtail procreation."<sup>29</sup> However, of the theorists who *have* considered the question, virtually all deny that procreative reasons are politically relevant. Two lines of argument are typically deployed in favor of this claim. The first is that considerations of procreative freedom prevent states from discriminating among citizens' procreative motives.<sup>30</sup> The idea is that if we recognize a general right to control the use of one's reproductive capacities, then we may also recognize a right to control one's reproductive capacities for *whatever* reason one sees fit, including those that are morally suboptimal. In this sense, procreative freedom might be understood as a "right to do wrong," or a right to act in ways that diverge from what morality requires or recommends.<sup>31</sup> Laws or public policies that prohibited or discouraged certain procreative acts on the basis of their motives alone might run afoul of this right, and be deemed undesirable or illegitimate on that basis.

However, in addition to considerations of procreative freedom, there may also be a number of epistemic problems that make it difficult or impossible for states to consider procreative motives when determining law



and public policy. One is that it is a very difficult question just how, and to what extent, proactive motives factor into the morality of proactive conduct, and by some accounts, this difficulty “. . . weighs against any attempt to condition the state’s provision of reproductive assistance on parental reasons or motives.”<sup>32</sup> A deeper epistemic worry, however, is that parents’ *own* proactive reasons are often unknown, inarticulate, multifaceted, or subject to change. This (undoubtedly prevalent) uncertainty may pose problems for lawmakers wishing to take into account proactive motivation when determining law and public policy. As Wasserman claims, “If parents themselves are often uncertain, confused, or self-deceived about their reasons for such critical decisions, how can the institutions that attempt to regulate their conduct hope to achieve a tolerable degree of certainty? These difficulties make it clear that the state lacks both the knowledge and the moral authority to regulate [procreative behavior] on the basis of parental motivation.”<sup>33</sup>

We do not necessarily disagree that considerations surrounding proactive freedom or epistemic uncertainty might limit the political relevance of proactive reasons, though the extent to which they do may be overstated. While it is certainly plausible that proactive freedom protects the ability of citizens to formulate and act on a wide range of proactive motives, it is less plausible that it protects their ability to act on *any* proactive motive they see fit, particularly if it risks harm or injustice to the resultant child or third parties.<sup>34</sup> Similarly, while there may often be difficult epistemic hurdles to identifying and evaluating citizens’ proactive reasons, this is not always the case. As the example of Alan and Brenda makes clear, there *are* cases in which parents’ proactive motives are both accessible and articulate, and these kinds of cases surely matter both morally and politically.

However, another largely overlooked set of considerations that bears upon the political relevance of proactive reasons concerns the inherently *contested* nature of good and bad proactive reasons. A democracy provides its citizens with a wide range of civil and political liberties, which both reflect and shape a public culture marked by a heightened degree of moral, religious, and ethical pluralism. In such a setting, it is not surprising that people usually disagree about the nature of human well-being and flourishing: under the permissive conditions of the liberal democratic state, people will often endorse competing “conceptions of the good life.” While contestation, disagreement, and pluralism all figure prominently in contemporary theories of justice—especially in political liberalism—they have had less influence on thinking about the ethics of procreation and parenthood. Notice, however, that proactive reasons are themselves

typically embedded in conceptions of the good life, so that we cannot contrast good versus bad reasons for having (or not having) children without invoking some background theory about what is ultimately valuable in life, one that explains the significance of, say, cultural continuity among genetically related people, child-parent intimacy, and so on. In this sense, just as democratic societies are characterized by a reasonable plurality of opposing and irreconcilable conceptions of the good life, so too are they characterized by a reasonable plurality of procreative motivations.

To get a sense of how deeply such disagreement runs, consider the following non-exhaustive list of some of the divergent and even conflicting reasons that parents may give for having children: (1) to fulfill a biologically driven urge; (2) to experience the wonders of gestation and child-birth; (3) to pass on one's genes and establish genetic connections with future generations; (4) to initiate a parent-child relationship and the unique brand of intimacy it makes possible; (5) to ensure the survival and/or proliferation of a religious, cultural, or national group; (6) to adhere to religious doctrine, such as an injunction from God to "go forth and multiply"; (7) to satisfy others' desires, such as a child's desire for a sibling or a parent's desire for a grandchild; or (8) to conform to the expectations of a pronatalist culture.

Each of these reasons stems from distinct conceptions of the good life, and reflects drastically different ideas about the purpose and value of procreation. This is not problematic in a strictly moral domain, where our goal is to simply evaluate or rank them according to the metric provided by a particular ethical theory (say, the promotion of aggregate utility or respect for others' personhood). However, it poses a significant problem in a political context marked by deep disagreement about ethics itself. States may have a legitimate interest in taking into account procreative motivation when determining family law and public policy, particularly in areas such as the regulation and provision of assisted reproductive technologies (ARTs). But in the absence of ethical consensus about the value of procreation, on what basis could the state take a stand on good versus bad procreative motives? And how could they do so without arbitrarily privileging the procreative projects of one segment of the community over the differently motivated projects of another?

Ethical disagreement is *the* political problem for liberal theorists who want to reconcile equal freedom with subjection to state power. If that power is to be legitimated, so the argument goes, everyone must consent to it, but how is this possible in light of the very disagreement that motivates this contractual ideal of political legitimacy in the first place? There are two solutions that will *not* work, given this framing of the problem,

and stating why helps reinforce our preferred alternative: on the one hand, perfectionism, because it requires what we do not have—an uncontested criterion of ethical truth; on the other hand, a *modus vivendi* of actually held procreative views, because, to be frank, some of them are morally unacceptable, even crazy. Some people may want children because, say, the Aryan race must one day overpower blacks, Jews, homosexuals, and other “vermin,” and having more kids is their primary contribution to advancing the Aryan cause. This brief survey of different procreative reasons does not imply that we need a political morality that is maximally sensitive to actually held (including crazy) procreative motives. Given liberalism’s commitment to equal freedom against the backdrop of ethical disagreement, we have to find a way to *constrain* that pluralism and generate mutually acceptable conclusions about procreative rights and responsibilities in a way that does *not* presuppose the truth or rightness of the competing accounts on offer. Surely we need the state to discriminate between acceptable and unacceptable procreative reasons—no sane view of political morality will endorse, say, having children in order to produce slave labor—but how can it do this without taking ethical sides?

The solution is to be found in the now-familiar doctrine of liberal neutrality. In this chapter, we (largely) presuppose rather than argue for the soundness of that doctrine. Our goal, instead, is to motivate the basic idea and sketch our preferred interpretation of it. This paves the way for our discussion in the third section, which highlights the consequences of that interpretation for the political relevance of various procreative reasons.

State neutrality between competing ethical ideals is a defining feature of what political theorists now call *political*, as opposed to comprehensive liberalism. Whereas comprehensive, that is to say perfectionist, liberalism articulates political principles on the basis of a distinctively liberal conception of the good life—one rooted in, say, personal autonomy—political liberalism does so instead on the basis of a deliberately restricted set of *political* goods and values—for example, freedom, equality, a fair distribution of resources and opportunities, mutual security, and the rule of law. The first component of liberal neutrality, then, is a restriction on the kinds of goods and values that might be appealed to in the justification of law and public policy. The idea, which is at least as old as Locke’s *Letter Concerning Toleration*, is breathtakingly simple. If subjection to political authority is to be consistent with equal freedom, somehow, that authority must be based upon everyone’s consent. However, given ethical disagreement, political principles that presuppose the validity of contested ethical beliefs will fail the contractual ideal of legitimacy because people holding

different beliefs will reject them. The solution is to justify state action upon the basis of the interests and ideals that we *share* as democratic citizens, rather than upon the comprehensive doctrines that divide us. Locke calls these “civil interests”; Rawls calls them “primary goods.”

The second component of liberal neutrality follows from the first. As we just saw, in a setting of pervasive disagreement, a consensual basis for the justification of law and public policy requires an anti-perfectionist state, one that does *not* take ethical sides, as it were. But the public conception of justice that emerges from this contractual framework is only a necessary, not sufficient, condition of political legitimacy. A shared commitment to justificatory neutrality will not rule out further disputes concerning the meaning, scope, and practical implications of neutral justice. For example, while distributive fairness is an eminently political value (amenable to neutral justification), surely there will still be disagreement about what counts as fair, and so we also need to know what kind of evidence or argumentation may be legitimately offered in support of, or against, alternative conceptions of this, and all other, political values. Unless anti-perfectionist principles, that is, are supplemented with a “companion agreement”<sup>35</sup> on the kinds of reasons, information, knowledge, and evidence that are appropriate to settling political questions, the equal freedom of democratic citizens will be violated at a second, interpretive level. Absent this companion agreement, the ground rules of political life that largely determine everyone’s opportunities and life chances will be based upon idiosyncratic values and defended by appeal to mutually inaccessible thought processes. A theory of liberal neutrality is distinguishable from its rivals, then, in terms of the substantive principles it endorses and the particular constraints that embody its account of public reason. We reason *publicly* by appealing to political values and also by limiting our arguments for and against alternative interpretations of our shared interests to those that could be accepted by free and equal members of a democratic society.

So the relevant justificatory constituency is made up of all *reasonable* citizens, not citizens per se, and this means that political legitimacy requires the state to remain neutral between all *reasonable* conceptions of the good life. In sum, we satisfy the contractual ideal of a society that can secure everyone’s consent, despite deep pluralism, by adopting a normative consensus that abstracts from contested ethical values—that is the point of the neutrality constraint.

Given these premises, we think that public reason must apply to procreative motives, such that the state is forbidden from acting upon their supposed ethical truth or falsity. Later, we explain what this application

yields in connection with the expressive, justificatory, and predictive versions of the “reasons-relevance” thesis. For now, two things are worth clarifying. First, we endorse an *indirect* rather than a direct application of public reason to procreative motives. Direct application would have procreators specifically motivated by *political* values. There are several reasons for thinking that this is unattractive.<sup>36</sup> Indirect application, by contrast, means that prospective procreators do *not* have to base their reproductive choices upon quintessentially political values; they may procreate for any reason they wish subject to the proviso that, when acted upon, those reasons do not undermine the basic rights and freedoms of democratic citizens. For us, procreators must comply with, not be motivated by, politically liberal values.

Second, we interpret “reasonableness” in moral rather than epistemic terms. A commitment to liberal neutrality and its attendant (indirect) application of public reason to procreation implies that the state cannot discriminate between all *reasonable* procreative motives. The state may (and, in fact, must) discriminate between reasonable and unreasonable procreative motives. What could it mean, then, to say that a procreative motive is unreasonable and therefore beyond the ambit of liberal toleration? Within the context of an *epistemic* theory of public reason, an unreasonable procreative motive would be one that failed to satisfy relevant criteria of justified belief because, say, it ignored countervailing evidence, it was adopted under duress, it was based upon seriously mistaken beliefs about reproductive science, and so on. We think that epistemic theories of justified belief are too restrictive as bases for toleration in a democratic society. There is no reason to think that people who believe things for the wrong (or no) reasons will be antecedently more likely to violate other people’s rights.<sup>37</sup> Additionally, liberal neutrality justified on the basis of an epistemic conception of public reason runs the risk of self-defeat. Supposedly, the state must remain neutral between competing conceptions of the good life because people can reasonably disagree about them. But people also disagree about the neutrality requirement itself, so what’s so special about political liberalism such that its principles, alone, are vindicated by the right epistemic view?

For us, reasonable pluralism means that there is a multiplicity of conceptions of the familial (and therefore the procreative) good that are compatible with liberal principles of justice, because those principles do *not* depend upon those conceptions for their derivation. Being politically unreasonable, then, means endorsing familial/procreative conceptions outside of this relatively permissive range, and in a way that has illiberal or intolerant implications. Saying that a procreative motive is politically

reasonable, and therefore publicly justified, amounts to claiming that symmetrically situated and ideally rational agents constrained in a variety of ways would agree to a principle authorizing its performance. Unreasonable persons are those who reject such principles, or are willing to act on other ones that cannot be justified in this way. Clearly, epistemology also plays a role within the context of this contractual argumentative framework, but not foundationally, and only to model what are quintessential *political* ideas about democratic equality and reciprocity.

## PRINCIPLE OF (PRESUMPTIVE) MOTIVATIONAL IRRELEVANCE

What happens to the reasons-relevance thesis when it is extended beyond the moral and into the political domain, such that it must be indirectly constrained by liberal neutrality?

To begin answering this question, let's return to an amended version of the Alan and Brenda case. Recall, the couple wants to create a compatible donor child for their sick son Charlie and, as before, they must use in-vitro fertilization and preimplantation genetic diagnosis to ensure a healthy match. However, this time, because of both the risks associated with the complicated medical procedures in question and the socialized costs (they are Canadians), Alan and Brenda must submit an application to their public health board to be approved for the procedure. It turns out that several board members are uncomfortable with the idea of creating a child (partly) in order to save another. Given the view of political morality endorsed here, on what basis might the board deny Alan and Brenda's application?

They *cannot* appeal to the expressiveness of the procreative act, because people reasonably disagree about what the act actually expresses, and about whether or not that expression is, all things considered, morally palatable. Even if board members *are* tempted by the thought that there is a genuine collective interest in procreation being undertaken "with a serious intent that reflects and expresses a concern and regard for the moral community itself,"<sup>38</sup> that interest will *not* yield determinate and publicly justified reproductive conclusions because, as we have seen, in a context of ethical disagreement, people are divided over precisely which procreative reasons either support or subvert the moral community in question. The same set of procreative motivations that transgress the ideals of one segment of the community will usually cohere with those of another.

Children are inevitably born in a wide range of cultural, familial, technological, economic, and political settings. In some ways, then, we start

out life in a radically dissimilar fashion. In other ways, however, despite these obvious contrasts, human existence is also a great leveler: *all of us* will, at one point or another—sometimes throughout life—experience pain, hardship, and disappointment. So endemic and serious are these difficulties that they lead some critics to conclude that procreation is *never* morally permissible. But even if we confidently reject that finding as overdrawn, we might still think that the permissibility of subjecting prospective people to the burdens of existence at least partly depends upon *why* we have children.

Procreative motives cannot play this alleged justificatory role, however, because, as we saw earlier, they are embedded within conceptions of the good with which reasonable people disagree. Since the liberal state must remain neutral between such conceptions, it cannot privilege any particular procreative reasons to generate a threshold that establishes if and when such reasons are good *enough* to ground procreative rights. Some parents want children in order to share a particularly close and loving relationship with biological relatives; others want them so that there will be another generation to carry on their religious, cultural, or national identities; still others want them in order to leave a genetic legacy and forge connections with future generations. Suppose each couple is in Alan and Brenda's position—they are applying to a local health board for ART. On the assumption that public resources are scarce so that some selection criterion is required, it should *not* be based upon an official ranking of the supposed justificatory adequacy (or deficiency) of people's procreative motives.

Law and public policy, then, may only appeal to the predictiveness of procreative reasons. Possible procreative outcomes can be evaluated by reference to children's, or third-parties', justice-based entitlements, and this standard (we suppose) does not have to depend upon contested ethical assumptions. Therefore, procreative reasons *may* matter politically, but only in cases where they are identifiable, articulate, and reliably predictive. On our view of the matter, the indirect application of public reason to procreative motives generates the following version of that claim:

The Principle of (presumptive) Procreative Motivational Irrelevance (PPMI):  
*The state must abstain from pronouncing upon the presumed adequacy or inadequacy of people's procreative motives PROVIDED that, when acted upon, such motives do not predictably and reliably subvert liberal justice.*

In general, this means two things: first, that otherwise ethically suspect procreative motives are politically tolerable provided that, when acted upon, they do not undermine the publicly justified rights and

responsibilities of democratic citizens; and second, ethically pure or unimpeachable procreative motives do nothing to vindicate breaches of those rights and responsibilities.

The PPMI's Proviso might be interpreted more or less stringently, with very different implications for reproductive law and policy. Under the Weak Version, the Proviso is overridden only in cases of rights violations. Here, Alan and Brenda's savior-sibling project is relevant. Presumably, the prospective "savior" has—or *will have*—rights to, among other things, bodily integrity and freedom from assault. To the extent that the couple wants another child *in order to benefit their existing one*, and that benefit can only be extracted from the benefactor non-consensually, their procreative motive will predictably result in violating that benefactor's rights (depending, perhaps, on the nature of the procedure). Prima facie, the state might have grounds for limiting, insofar as it can, the conception of savior siblings. A less draconian measure would be to forbid the medical procedures in question and make that ban publicly and antecedently known. In doing so, it would supply prospective parents with a legal baseline, as it were, that allows them to reform and, if necessary, altogether abandon their procreative projects.

Under the Strong Version, the Proviso is overridden not only in cases such as the one just mentioned where predictable rights violations trigger state involvement, but *also* in cases where the prediction is about the subversion of fundamental liberal *values*. A key example here would be sex-selective abortion. Politically, one might think that it should not matter *why* people choose to have children, as long as the basic interests and, therefore, rights of those children who *do* come into existence are secured. Of course, this is precisely what the Weak Version of PPMI says. When that version is deployed in a context that both denies fetuses legal personhood (so that they cannot be rights-bearers) and also, as liberal democracies try to, affords great normative weight to women's equality and personal autonomy, it leads to a very permissive set of abortion rights. Such is the status quo in contemporary Canada, for example. But it seems reasonable to think (as we do) that women's equality and autonomy are *also* subverted by whatever background attitudes and practices—cultural, religious, economic—make sex-selective abortion putatively rational or desirable for some people in the first place. Because gender equality is a fundamental liberal value, then, there is a prima facie reason for the state to ban sex-selective abortions. Of course, that reason could be defeated if reproductive autonomy always trumped *all* other liberal values, gender equality included, but we should be skeptical about this kind of lexical priority. Is choice really the most important value? Always? Liberalism is



committed to personal freedom, but that freedom is often constrained both for the sake of other people's freedom, and also for the sake of other values. So while the Weak Version of PPMI might not diverge fundamentally in its practical implications from those yielded by arguments based upon, say, reproductive freedom or epistemic uncertainty about procreative motivation, the Strong Version *does*—it implies that *some* procreative motives, such as wanting *only* a boy, are politically intolerable, because they violate the indirect application of public reason to reproductive behavior. If restricting access to abortion for some reasons is unacceptably authoritarian and therefore illiberal, or if it wrongly adds the insult of sacrificing the reproductive autonomy of some women to the injury of already oppressive and unjust background conditions, then, in the least, the state should find subtler ways of bolstering fundamental liberal commitments. Perhaps, in appealing to the Strong Version of PPMI, the state might consider *denying* reproductive assistance when, given people's procreative motives, it will be predictably misused.

A lingering worry with our argument might be that, under either version, the PPMI is actually a form of liberal expressivism in disguise. As we presented it, the PPMI is an implication of the indirect application of public reason to the wide range of familial conceptions of the good likely to persist under democratic institutions. The idea is for the state *not* to judge the intrinsic ethical merits of those conceptions, except to the extent that procreative motives embedded within them are likely to violate independently defensible political values. However, if those political values tacitly *do* rest on contested ethical ideals—say, a form of Kantian personal autonomy, or Millian individuality—then the PPMI's avowed neutrality is a sham.

There is no way adequately to respond to this worry here. In fact, this is *the* objection to political liberalism as a whole, so it's unsurprising that it might recur in connection with the application of that view to procreative motivation. However, the distinction between moral and epistemic conceptions of reasonableness hinted at earlier tells us something important about what shape a plausible response will take. In this chapter, we have assumed a particular idea of democratic equality, one that links the protection of certain vital interests to recognizing people as having equal standing as citizens in a self-governing polity. A full defense of that idea would explain how democratic equality alone is sufficient to generate the procedural constraints—including public reason—that yield the PPMI and why, absent their predictiveness, state regulation of procreative motives is impermissible. One can then reject the PPMI, either by claiming that inequality is a better premise for reasoning about political justice, or by showing that the particular form

of public reason we adopt does not properly model democratic citizenship. For us, it is perfectionists who shoulder a more daunting argumentative burden; they must explain why, in the absence of rights violations or the undermining of fundamental liberal values, some people's ethical beliefs should be forcibly imposed upon others who reject them, and in a legislative area as important as procreation.

## CONCLUSION

This chapter has principally tried to establish *how*, not *what*, to think about procreative motivation from a political point of view. In a democracy, reasonable people will disagree about why procreation matters and therefore also about good versus bad reasons for having children. Taking equal freedom seriously in such a context leads to an account of political legitimacy according to which state action must be *publicly* justified. According to the reasons-relevance thesis, procreative motives often play a critical role in the overall moral permissibility of human reproduction. However, when we adopt a political perspective and thus indirectly apply public reason to procreative motives, we are led to the Principle of (presumptive) Procreative Motivational Irrelevance (PPMI), which rules out both expressive and justificatory versions of the reasons-relevance thesis. As a consequence, only predictiveness can ground law and public policy that takes into account procreative motives. If our reasons for having children matter politically, this is only because of how they predict either the support or subversion of liberal justice.

## NOTES

1. See Susanne Gibson, "Reasons for Having Children: Ends, Means, and Family Values," *Journal of Applied Philosophy* 12, no. 3 (1995): 231–240; Mianna Lotz, "Procreative Reasons-Relevance: On the Moral Significance of *Why We Have Children*," *Bioethics* 23, no. 5 (2009): 291–299, and "Rethinking Procreation: Why it Matters *Why We Have Children*," *Journal of Applied Philosophy* 28, no. 2 (2011): 105–121; Claudia Mills, "Are There Morally Problematic Reasons for Having Children?" *Philosophy and Public Policy Quarterly* 25, no. 4 (2005): 2–9; Christine Overall, *Why Have Children?* (Cambridge, MA: MIT Press, 2012); and David Wasserman, "Having One Child to Save Another: A Tale of Two Families," *Philosophy and Public Policy Quarterly* 23, no. 1/2 (2003): 21–27, and "The Non-identity Problem, Disability, and the Role Morality of Prospective Parents," *Ethics* 116, no. 1 (2005): 132–152.
2. This term is Mianna Lotz's. See Lotz, "Procreative Reasons."

3. Wasserman, "Having One Child," 152.
4. While we acknowledge important distinctions in other contexts, for the purposes of our discussion the terms "reasons," "motives" and "intentions" are used interchangeably.
5. See, for example, David Benatar, *Better Never to Have Been* (Oxford: Oxford University Press, 2006); Allen Buchanan, Dan W. Brock, Norman Daniels, and Dan Wikler, *From Chance to Choice: Genetics and Justice* (Cambridge: Cambridge University Press, 2000); John A. Robertson, *Children of Choice* (Princeton, NJ: Princeton University Press, 1994), and Seana Valentine Shiffrin, "Wrongful Life, Procreative Responsibility, and the Significance of Harm," *Legal Theory* 5, no. 2 (1999): 117–148.
6. This is, of course, a central theme in Kant's moral philosophy. See Immanuel Kant, *Groundwork on the Metaphysics of Morals*, trans. James W. Ellington (Indianapolis, IN: Hackett, 1983). It also presents itself in the literature surrounding the "Doctrine of Double Effect." See, for example, Scanlon, T. M. *Moral Dimensions: Permissibility, Meaning, Blame* (Cambridge, MA: Belknap Press, 2008); and Judith Jarvis Thomson, "Self Defense," *Philosophy and Public Affairs* 20, no. 4 (1991): 283–310.
7. See Lotz, "Procreative Reasons"; Mills, "Are There Morally Problematic Reasons"; Overall, *Why Have Children?* especially chapters 4, 5, and 10; and Wasserman, "Having One Child."
8. Lotz provides a brief but helpful typology of potential grounds in *Procreative Reasons*, 294–299.
9. Perfectionism is a view of political morality that grants the state the authority to enforce controversial views of the good life. For defenses of the perfectionist state, see: Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon Press, 1986); George Sher, *Beyond Neutrality: Perfectionism and Politics* (Cambridge: Cambridge University Press, 1997); Stephen Wall, *Liberalism, Perfectionism and Restraint* (Cambridge: Cambridge University Press, 1998).
10. See John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993); Charles Larmore, *The Morals of Modernity* (Cambridge: Cambridge University Press, 1996); Steven Lecce, *Against Perfectionism: Defending Liberal Neutrality* (Toronto: University of Toronto Press, 2008); Jonathan Quong, *Liberalism without Perfection* (Oxford: Oxford University Press, 2011).
11. Quong, *Liberalism*, 1.
12. See Lotz, *Procreative Reasons*, 294–296.
13. Overall provides a useful overview of some of these risks in her discussion of savior siblings; see Overall, *Why Have Children?*, 81–93.
14. Throughout this discussion, we ignore any potential problems that might arise on account of the nonidentity problem. We agree with Claudia Mills that our objection, or lack of objection, to certain procreative motives should not turn on "philosophical puzzles about the ontological status of not-yet-conceived persons," but should rather turn on a consideration of the justice-based entitlements of other people. This sentiment is brought to the fore by changing a few facts of the case. Suppose that rather than creating a compatible donor child, Alan and Brenda decide to adopt one from a developing country. Here the predictive objection can still be made in response to their reasons for adoption, suggesting that the ontological status of the prospective child is not really what we care about. For a useful discussion of this point, see Mills, "Are There Morally Problematic Reasons," 4.

15. David Archard argues for such a standard in "Wrongful Life," *Philosophy* 79, no. 3 (2004): 403–420.
16. Lotz, *Procreative Reasons*, 295. Lotz's point was about the relationship between procreative reasons and parental capacity specifically, though her point generalizes to other kinds of welfare outcomes as well.
17. We assume, against philosophers like David Heyd, that existence can be a benefit and/or a harm to the person who is brought into being. For a defense of this view, see Nils Holtung, "On the Value of Coming into Existence," *Journal of Ethics* 5, no. 4 (2001): 361–384. For a critical perspective, see David Heyd, *Genethics* (Berkeley: University of California Press, 1992).
18. Seana V. Shiffrin, "Wrongful Life, Procreative Responsibility, and the Significance of Harm," *Legal Theory* 5, no. 1 (1999): 137.
19. See Overall, *Why Have Children?*, chapters 2, 4, and 5, respectively.
20. *Ibid.*, 217.
21. Susanne Gibson espouses a similar view. According to her, ". . . reasons for having children may be judged morally desirable or undesirable according to the extent to which they enhance or detract from the possibility of forming a particular kind of relationship with that child." See Gibson, *Reasons*, 238.
22. Wasserman, "Having One Child," 135–136.
23. *Ibid.*, 136.
24. Robertson, *Children of Choice*, 217.
25. Lotz, "Procreative Reasons," 297–299; see also Lotz, "Rethinking Procreation."
26. See Allen Buchanan, "Choosing Children Who Will Be Disabled: Intervention and the Morality of Inclusion," *Social Philosophy and Policy* 13, no. 2 (1996): 28.
27. Lotz, "Procreative Reasons," 297.
28. Buchanan, "Choosing Children," 28.
29. Overall, *Why Have Children?*, 118.
30. John Robertson, for example, believes that ". . . procreative liberty should include the right to have children for any motive . . ." See Robertson (1994), 217.
31. See Jeremy Waldron, "A Right to Do Wrong," *Ethics* 92 no. 1 (1981): 21–39.
32. Wasserman, "Having One Child," 21.
33. *Ibid.*, 27. Wasserman's point is about the regulation of assisted reproductive technology specifically, but in the context of our discussion, his point generalizes to other kinds of procreative behavior as well.
34. Archard (2004) argues that the right to procreate is "internally constrained" by the interests of the resultant child. For similar views, see Hugh LaFollette, "Licensing Parents," *Philosophy and Public Affairs* 9, no. 2 (1980): 182–197; Onora O'Neill, "Begetting, Bearing, and Rearing," in *Having Children: Philosophical and Legal Reflections on Parenthood*, ed. Onora O'Neill and William Ruddick (New York: Oxford University Press, 1979); and Bonnie Steinbock and Ron McClamrock, "When is Birth Unfair to the Child?" *Hastings Centre Report* 24, no. 6 (1994): 15–21.
35. John Rawls, *Justice as Fairness: A Restatement* (Cambridge, MA: Harvard University Press, 2001), 89.
36. For an exploration of those reasons, see Steven Lecce, "How Political is the Personal? Justice in Upbringing," *Theory and Research in Education* 6, no. 1 (2008): 21–45.
37. See Lecce, *Against Perfectionism*, Chapter 8.
38. Lotz, "Procreative Reasons," 112.