Babies for the socially infertile: how conceivable is it?
Camelia Soo

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1. Introduction: IVF and how it’s changing the world
Infertility is considered by some to be the direst calamity that could befall any couple who have a life-long desire to be parents. The fact that some couples are stripped of the opportunity to experience the joys of parenthood can be psychologically distressing and marriage break-ups due to infertility are not unheard of. Infertility also arouses feelings of guilt and indignity that may lead to depression. Defined medically as the failure to conceive after 12 months of unprotected intercourse, infertility affects approximately 1 in 6 couples with both male and female accounting equally for the rates of infertility (1). Luckily, with the advent of assisted reproductive technology, infertile patients can now have genetically related offspring with the use of in vitro fertilisation (IVF). In vitro fertilisation is the use of non-coital strategies such as the artificial insemination of an egg to conceive and cause pregnancy and it is estimated that around 450 babies are born via IVF yearly in New Zealand (2, 3). Although IVF is hailed as a remarkable technology and assists many infertile couples in having babies, it is not without its controversy. The issues that arise have however shifted from initial concern about lack of fetal-maternal bonding in cases of surrogacy to physical and psychosocial worries of “test-tube babies” and finally to concerns about IVF being used by a group of people known as the socially infertile. The socially infertile category includes those who are homosexual (gays and lesbians) and those who are single. To explore the issue thoroughly, I will be focusing primarily on homosexuals as an example of the socially infertile. As one can imagine, there is a wide array of ethical and social concerns regarding the competency of homosexual couples as parents. Whilst ethical issues include surrogacy issues for gay couples, I will only be focusing on whether IVF should be permitted to homosexual couples who yearn for biological children.

In some countries and states in America, fertility clinics differ in their willingness to provide IVF for homosexuals with some denying IVF treatment to homosexuals both privately and publicly (4). In New Zealand, lesbian women are eligible for donor-insemination and gay men are allowed to donate sperm for IVF at private clinics (5). However, if publicly funded treatment is sought after, one of the lesbians would have to be diagnosed with biological infertility such as endometriosis or tubal disease (5). Therefore, for homosexuals who do not have the financial means to pay for private fertility treatment, any desire to have biological children would be unsatisfied. In this essay, I argue that the reasons against providing homosexuals with IVF treatment are not justifiable, that homosexual couples have the right to conceive biological children and that it is not morally permissible to discriminate against this group.
2. Arguments allowing IVF for homosexuals

2.1: Procreative liberty: But it’s their rights, right?

The World Health Organisation (WHO) defines reproductive rights as the “basic right of all couples to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so. It also includes their right to make decisions concerning reproduction free of discrimination, coercion and violence.” (6). It is clear that no individual should be denied the rights to have children of their own and more over, no individual should be discriminated against should they make the decision to. Reproductive freedom is better explored by John Robertson who introduced the concept of procreative liberty (7). Procreative liberty is essentially the individual right to have or avoid having children and importantly “one violates no moral duty in making a procreative choice and other persons have a duty not to interfere with that choice.” (7). Robertson states that just because homosexuals are attracted to the same sex does not mean they lack the desire to achieve fulfilment and meaning in life (2). As supported by the ASRM ethics committee, many homosexuals seek fertility treatment as they still want to be part of something so basic to every human’s existence, that is, they desire a family of their own for reasons of companionship, legacy, intimacy, love and nurture (4). Therefore, to deny homosexuals the chance to procreate would be denying them the right to experience something so fundamental in society and stripping them of a basic human need. If however IVF were allowed for homosexuals, then we would be addressing one of their human needs and helping them live life with dignity, respect and joy, which is in accordance to the basic ethical principle of achieving beneficence.

Some would however argue that although it is important to recognise the procreative liberty of individuals and the beneficence it may achieve, just because there is a right does not mean the law or the fertility clinic is under any obligation to provide means for individuals to exercise that right. For example, just because someone has the right to procreate does not mean the reproductive specialist is willing to carry out IVF should he or she have moral and religious beliefs that go- against the unconventional family with two same- sex parents. We can compare this situation with abortion. As the WHO definition of reproductive rights, patients have the right to decide whether or not to proceed with a pregnancy and should they decide on termination, no one has the moral duty to interfere with that choice. Doctors are, however, not under a legal obligation to offer abortions based on the same reasons why reproductive specialists may deny IVF treatment to homosexuals. I feel that in order to explore this point further, we must ask whether realise the grounds for denying homosexuals the chance to procreate are justifiable. Reproductive specialists may be acting on grounds of prejudice and discrimination against a minority of people and as will be discussed under the ‘Professional autonomy’ section, all forms of discrimination should be eradicated especially in the health sector. This therefore does not form a sound basis to deny IVF treatment to homosexuals.
2.2: Professional autonomy and non-discrimination

According to New Zealand’s Human Rights Act 1993, there is to be no discrimination based on sexual orientation (8, 9). Homosexuals have struggled to obtain the same rights as everyone and it wasn’t so long ago that homosexuality was considered a mental health disorder. As health professionals with rights and privileges bestowed upon us, we are bound by our professional autonomy to treat everyone with fairness and with equal respect (4). This implies that homosexual couples should not be denied IVF treatment due to their sexual orientation. As explained earlier, some may argue that is it within the health professional’s moral and religious rights to deny treatment. However, in some states in America such as California, the refusal to provide treatment on the basis of religious freedom actually violates the laws which prohibit discrimination based on sexual orientation (4). So in essence, eradication of discrimination ranks higher than one’s religious freedom based on the professional autonomy argument. Furthermore, one could argue that if the reproductive specialist denied treatment based on moral and religious grounds but referred the homosexual couple to another specialist willing to perform IVF, then surely the first specialist would still be indirectly responsible for the homosexual pregnancy and would thus be defying his or her principles (10).

3. Arguments denying IVF to homosexuals

3.1 The supernatural: How can it be natural?

As mentioned earlier, homosexuality used to be considered a mental health disorder and many found it hard to comprehend and accept same-sex relationships. Naturally, when it was put forth that IVF could be used for homosexual couples to have biological children, there was a lot of protest maintaining that it was ‘unnatural’ to have two mothers or two fathers in a household as it went against the traditional family values and the structure of a nuclear family. On a political website on gay rights, Molly Bennett commented on how parenting should ideally include a father and a mother and that it is the child’s basic right (11). Bennett further explained that humans “evolved over years to reproduce and that is natural. Trying to procure life by any other means while obviously possible makes it unnatural.”(11). One could argue that if one supported the ‘unnatural’ argument strongly then IVF should not exist altogether as fertility treatment is unnatural too and maybe biological infertility is nature’s way of preventing an individual from being a parent and thus we should not tamper with nature. In the same article, author Ian Dunt put up a valid argument. Dunt maintained that humans have evolved to make use of their tools and knowledge to overcome the obstacles of the world. He said that it is not unnatural to build a bridge to cross a river to reach our destination and “the use of tools to overcome the limitations set on us by our

9 Article 26 of the International Covenant on Civil and Political Rights state that: All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

10 I am indebted to Dr. Phillipa Malpas who raised this point.
environment constitutes one of the earliest known behaviours of mankind.” (11). In other words, humans have evolved with time as it is natural to do so, and what is even more natural is our way of developing new technology to ease the load on our lives. There is thus nothing more natural than homosexuals using IVF to overcome the barrier of their social infertility.

Talking about evolution, I feel that as a society, we’re evolving towards a more tolerant society with greater acceptance of things that in the past may have seemed ‘unnatural’. One aspect of this is the concept of family. Many of us may be acquainted with the notion of the nuclear family with the mother and father with children running around in their white-picket fenced backyard. Whilst many of us may hail from that kind of family, the family dynamics is changing rapidly and the definition of family now constitutes more than what some may refer to as the ‘conventional family’. Divorced families, families with single parents and families with no parents but with grandparents raising children is hardly unconventional. Therefore, the question is, do you consider these conventional families? If so, how can we classify homosexual families (children with homosexual parents) as unnatural or how is it even morally correct to exclude that minority? The most important thing we have to consider is that the definition of family has changed. I am unfazed about the constituents of the family but more so if there is love, support, communication, security, sense of belonging and culture in the family. I think those values are sufficient to define a family.

3.2 Doing more harm than good: welfare of child at stake

Welfare is described by Peterson to be the material and psychosocial well-being of a person and often encompasses stability, love, warmth, caring and compassionate relationships (12). It has been thought that the influences of both the father and mother on the child is essential for the psychosocial development and that psychosocial stimuli could impact on the child’s self-esteem, aspirations, moral beliefs and emotional state (12). Some state that fathers are important in a child’s life as they are not only providers but disciplinarians, models, companion and teachers (13). Mothers on the other hand, are nurturing, understanding and supportive. It is thus argued that homosexuals should not have biological children as the welfare of the child will be at stake as the child will be growing up either without paternal or maternal attributes. However, we have to realise that homosexuals often have extended family and the child in question may indeed have female and male influences, such as uncles, aunties, grandparents and close friends. Furthermore, there are many single-parent households and I have many friends who grew up in divorced households without any contact with one parent and all are well psychosocially and emotionally. If anything, these people are often the more resilient of individuals.

It has also been stated that more harm will be done if children are born to homosexual parents as it is likely that the child will be stigmatised and bullied at school and this will have severe consequences on the child’s self-esteem. Stigmatisation has always been around but this can be eradicated if society were to become more accepting of
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homosexuals. As explained earlier, the trend of society is moving towards more acceptance and tolerance and I’m hopeful that in the future, stigmatisation of children based on their parents’ sexual orientation will be completely eradicated.

Some maintain that homosexual relationships are volatile and this could also be harmful to the child (11). To refute this point, I think it’s valid to say there is no guarantee that a child would be any better off in a heterosexual relationship given the high divorced rates that essentially come from heterosexual marriages as gay marriage is still illegal in New Zealand. It is thus an unfair attack on homosexuals just to prevent them from undergoing IVF because of concern for the child’s welfare.

Some not in favour of IVF for homosexuals have put forth the argument that gay couples are more likely to mistreat their children such as exposing them to sexual abuse and offspring of homosexual couples are more likely to be homosexual themselves (4). Research has however shown that children of homosexual relationships (14) develop normal gender identity and normal sex-type behaviour (4, 13). Furthermore, research has also elucidated that competency of gay parenting was not challenged as development (personality, self-concept and conduct) of children of homosexual couples showed little differences to that of children of heterosexual couples (4). There is thus no sound evidence to deny homosexual couples IVF based on welfare concerns. I think those who oppose the use of IVF for homosexuals based on the welfare argument have overlooked the ‘non-identity problem’. Characterised by Derek Parfit, the ‘non-identity problem’ basically states the child in question cannot be harmed because they would not even exist if the ‘no IVF for homosexual’ law was adopted (2). The arguments based on welfare of a potential child sounds feasible but they are based on protecting the rights of an unborn child and a child who is probably non-existent thus those are weak claims and merely discriminatory attacks on homosexuals.

3.3 Gays are not really infertile! How is it justifiable?

In vitro fertilisation was created to assist biologically infertile patients regain some dignity and meaning to life with the use of technology to overcome the infertility and induce pregnancy. Since homosexuals are only socially or psychologically infertile and they have functioning reproductive systems, some maintain that it is not justifiable to allow IVF for homosexuals as the technology was not developed with them in mind. It has been argued that if we were to allow the psychologically infertile utilise IVF to have biological children, then what would this mean to others in society who have other psychological things going on? For example, will we allow someone who is psychologically lazy take part in the Paralympics or pass a third year medical examination without any study? There is also a scarcity of resources which will be dealt with in a later section. It is thus argued that it is ‘just wrong’ to use IVF for homosexuals as they are not infertile by nature, but by choice.

14Children of homosexual relationships refer to children born to a homosexual parent in a heterosexual relationship and subsequently lived with the homosexual parent following the divorce or separation.
I feel that to deny someone fertility treatments based on the lack of physical ailment is not appropriate as there are many medical conditions currently that do not affect someone physically but psychosocially. Some of these include depression, schizophrenia and bipolar disorder. That having been said, I am in no way indicating that homosexuality is a mental health disorder and homosexuals should be treated psychiatrically in any way, but if homosexuals yearn for biological children and cannot produce any due to psychological and social constraints, then health professionals have the responsibility to ensure IVF is not denied and that homosexuals are treated like any other infertile heterosexual patient.

It was maintained that homosexuals are infertile by their lifestyle choice and it seems unjustifiable to allow IVF in those circumstances. However, it can be argued that a proportion of women are also infertile based on lifestyle choices such as delaying child-bearing age till their late 30s, early 40s. Does this mean we should deny these older infertile women IVF as well since they are infertile based on their lifestyle choice of prioritising their career over child-bearing? Is this not similar to homosexuals who are infertile based on their lifestyle choice of having a partner of the same-sex? If we were to extrapolate this argument to say we should not treat a subset of people based on their lifestyle choices, then does this mean we refuse treatment of lung cancer patients who are smokers and inevitably became sick due to their lifestyle choices of smoking cigarettes? Many people would be appalled if we were to deny treatment to a terminal lung cancer patient. So the question is, should we treat homosexuals any different (such as denying them IVF) based on their lifestyle choice? A response would be that we are more tolerant of smokers than homosexuals so ideally lung cancer patients should be offered treatment. However, I stand by my belief that we’re evolving towards a more accepting society and discrimination against them would gradually evaporate. It is thus not justified to deny them IVF because they are socially infertile and do not fit the physical criteria of infertility.

3.4 Scarcity of resources

Allocation of scarce resources in medical treatment is always a contentious problem and one very strong argument resisting IVF to homosexuals is that there are limited resources. In our health system, there is often not enough funding to fund everyone and treatment like organ transplants are offered based on several recipient criteria. This is one reason why publicly funded treatment in New Zealand is only available for lesbians who exhibit some form of biological infertility. The New Zealand’s 2006 census data showed that there was approximate 0.7% of the population living in same-sex relationships and that the youth population attracted to the same sex is around 7.8% (14). With those estimates, it may be argued that the proportions of our homosexual population who may request IVF are insignificant to cause an impact on the utilisation of health resources and resistance to provide IVF based on scarcity of resources cannot be justified. To further illustrate this point, we can use organ transplant as an example. The eligibility criteria for potential organ recipients are based on severity of disease and
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compliance to medical health advice (such as achieving optimal weight). It is thought that these criteria could predict better health outcomes and thus improve success rates (12). Since there is neither reason nor research that proves lesbian pregnancies are less successful or that lesbian mothers and gay fathers are incompetent in an upbringing of the child, there are no justified grounds to base the scarcity of resources argument on.

4. Conclusion:
The use of IVF for the socially infertile is a contentious problem and although different countries adopt different laws and regulation, I think it will be impossible to have everyone reach a consensus on whether IVF use will ever be fully justified for homosexuals. As stated throughout the essay, I hold a firm belief that IVF should be allowed for homosexuals as we have to not only acknowledge their procreative rights but also the fact that it is morally incorrect to question their parenting rights and competency. Arguments resisting IVF for homosexuals are largely based on traditional and biased beliefs and are not sufficient to deny fertility treatment. I think that although babies for the socially infertile may seem unnatural to some, it is conceivable to me.
References:

2. Robertson JA. Gay and lesbian access to assisted reproductive technology. Case western reserve law review. 2005;55:(2).