

Licensing Parents: An Introduction

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Would-be teachers are generally required to study full-time for at least eight months before the state will allow them the responsibility of educating children for six hours a day once they become six years of age. Many would say we have set the bar too low. And yet we haven't even set the bar as high--in fact we haven't set a bar at all--for parents. Someone can be responsible not only for a child's education of but for virtually everything about the child, for twenty-four hours a day until that child is six years of age--that is, for the duration of the critical, formative years--and he or she doesn't even have to so much as read a pamphlet about child development. How many children have been punished because they could not do what their parents mistakenly thought they should be able to do at a certain age--remember X, carry Y, say Z? How many have been disadvantaged because they grew up on junk food--for their bodies as well as their minds? How many have been neglected because their parents didn't notice the seeds of some talent? And how often have parents "undermine[d] a girl's attempt to be strong and independent? Or repeatedly punishe[d] a boy for crying or for allegedly sissy interests?"¹ As Hugh LaFollette points out, "parenting is an activity potentially very harmful to children."² "We already license pilots, salesmen, scuba divers, plumbers, electricians, teachers, veterinarians, cab drivers, soil testers and television repairmen," notes Roger McIntire--"Are our TV sets and toilets more important to us than our children?"³

Perhaps we have not taken parenting seriously because women have traditionally been most responsible for it. It's in our history: when men do X, X is important; the quickest way to devalue a profession is to "admit" women (consider bank tellers, for instance).

Or perhaps, as Jack Westman claims, "parenting is depreciated because it is not regarded as having economic value in our capitalist society."⁴

Certainly the proposal to license parents goes against the prevailing attitude that children

are the private property of their parents (see McIntire's supermarket scenario). But as Jeffrey Blustein notes, "The public has a legitimate concern with the selection of child rearers and with the way in which children are reared, because a society's children are its future citizens and the future contributors to its material, cultural, and moral advancement."⁵

The proposal also challenges the prevailing attitude of pronatalism. Perhaps by licensing parents, by making parenting more of a conscious *choice* (take it *or* leave it), we will change the attitude that one is *expected* to parent, that being a parent is the default mode of adulthood and those not parenting are immature and selfish or simply odd (a woman *is* something without having to be a mother--a man *is* grown-up even if he doesn't support a wife and kids).

However, perhaps such challenges are warranted: "abuse and neglect in various forms will continue until we as a society value parenthood; until we regard parenting as a privilege, rather than as a by-product of sexual intercourse, a route to adult identity, or a route to social assistance."⁶ Westman agrees: "The way children are parented plays a vital role in the quality of all of our lives. We no longer can afford to avoid defining and confronting incompetent parenting."⁷

While this desire to license parents is motivated in part by an increasing number of "bad kids" who are a harm not only to themselves but often also to others, we must recognize and assess the implicit assumption that bad kids are due to bad parenting: while this is usually true at least to some extent, perhaps some of the blame should be put on the schools that have the kids, albeit *after* their critical formative years, for several hours each day and the society that promotes, constantly, through entertainment media, the consumption of goods detrimental to the child's well-being (for example, we make a plastic gun and call it a *toy*). Perhaps such activities should be subject to state regulation as well.

Parenting (as opposed to parentage--which refers to the biological element of reproduction rather than this element of "rearing" or "raising", and which will be discussed later) refers to nurturing a child's physical, cognitive, emotional, and social development--thus a competent parent would be one who understands and can nurture those aspects of development.

But what exactly does that translate into when we set the requirements for obtaining a license?

Katherine Covell and R. Brian Howe recommend the model proposed by Westman: first, prospective parents must have attained adulthood (age and completion of high school), thus "demonstrating the ability to be responsible for their own lives before being allowed to assume responsibility for a child's life"⁸; second, they must sign an agreement to care for and nurture the child and to refrain from abusing and neglecting the child; third, they must complete a parenting course (subsequent courses, appropriate to developmental stages--toddlerhood, preschool, school-aged child, early adolescence, later adolescent--would be required for licence renewal).⁹

A more detailed proposal might include the examination of prospective parents according to the following categories:

(1) Physical - Age might also be a consideration: we require a license for marriage, and like so many other licenses, there is an age requirement (one must be 18 or 16-17 with parents' consent)--and yet there is no such minimum age requirement for parenthood. However, Lynda Fenwick points out that perhaps people who want to be parents should be young enough to (barring something unexpected) live long enough to raise the child to adulthood.¹⁰ There is something beneficial in the energy and general health of younger people as well, but parents should be old enough to have gained some wisdom too.

(2) Cognitive - As mentioned, an understanding of child development should be required which might disqualify both mentally-challenged adults as well as members of various religions which "[create] serious barriers to the development of [the child's] capacities for autonomous decision-making"¹¹ either because they're irrationalist and/or sexist.

(3) Emotional - Qualities such as love, affection, ego maturity, stability, and patience should be required.

(4) Social - Certainly preventing people who have been abused from parenting would stop the vicious cycle we seem to have identified (abusive parents are apt to have been abused children--and yet Westman argues that "children who have experienced incompetent parenting can break the vicious cycle of continuing incompetent parenting through interventions that improve their

life circumstances and through their personal efforts"¹²). Evidence of previous abusive behaviour should certainly disqualify applicants, but what about other criminal records? Perhaps it should depend on what crime was committed--only those deemed relevant to competent parenting should disqualify applicants.

(5) Financial - Applicants should have an income adequate for the provision of food, shelter, clothing, etc. Perhaps the provision of some minimal enrichment should also be required, as long as our education system doesn't have extra-curricular athletics or arts programs.

Robert Hawkins describes several attributes of a good parent, derived no doubt from his teaching experience and work as a clinical child psychologist: a good parent "...is an astute observer of behavior and is sensitive to his child's spoken and silent messages... makes conscious and rational decisions about what to teach his child and ... has a large repertoire of sound behavior-modification techniques."¹³ Like Westman, and Covell and Howe, he suggests parent training courses, but includes a practicum component: "Educators must see their students engage in child-rearing behaviour with real children, and they must see them face child-rearing tasks that resemble the ones they will encounter as parents."¹⁴ He has further suggestions: "After reading basic material, [the student] might watch a movie or videotape of a behaviorally disturbed child interacting with his parents. He could observe the ways in which parents inadvertently maintain such undesired behaviour as tantrums, disobedience, excessive crying, dependency or social isolation."¹⁵

McIntire, another psychologist, provides an extensive list of topics to be covered in such a parent training course. Though not all will accept his behavioral bias of some of these, the list does provide an example of what could be included.

Assuming we do include an educational component in the licensing program, content is not the only issue. Do we require mere completion of the course or the achievement of some minimum grade? Perhaps attendance should be mandatory as a measure of commitment--for example, if someone can't find the time and/or energy and/or desire to show up for class one night a week for a year... And do we establish equivalency measures enabling some applicants to

waive the course requirement?

Another criterion for assessing parent license applicants might be current number of children: Edgar Chasteen suggests that "prolific parenthood" be considered a type of unfitness¹⁶--one could argue that, after a certain number of children, the ability to adequately care for each one of them adequately diminishes.

We might also screen for intent. Many people seem to find it morally unacceptable to clone or even coitally produce a child (merely) as a means to an end, such as to create a bone marrow donor (see, for example, Herbert Krimmel), but perhaps we should as well examine for moral acceptability the many other motives for reproduction: to strengthen an otherwise ailing relationship; to imitate peers or fulfil others' expectations (perhaps most often those of a partner or grandparent-wannabes); to carry on the family name or genes; to prove one is able to have a child; to produce an heir (for a business or property), a cheap labourer, a playmate, a caretaker for old age, etc.¹⁷

Deciding what's relevant is important; so too is deciding what's *not* relevant--there is certainly potential for unjustified discrimination. Skin colour and sexual orientation seem to be irrelevant (see Christine Overall regarding the latter in the context of access to so-called new reproductive technologies [NRTs]). Co-parent arrangements should also be irrelevant as individuals rather than couples would be licensed; this permits same-sex couples and mixed-sex triples (perhaps intergenerational) and other arrangements to occur.

Perhaps all we're after is proof of parental love: "a passionate, unconditional commitment to nurture one's child, providing it with the care, affection, and guidance it needs to develop its capacities to maturity."¹⁸ Unfortunately, many children have been abused in the name of "love".

Certainly this element of assessment (*can we assess? what do we assess?*) is bound to be problematic, but as LaFollette says, we don't have to license only the *best* parents, we have just to *not* license the worst. Claudia Mangel argues that we can indeed do just that: there are accurate and reliable measures of the potential for child abuse. And, as Westman comments, after his list of signs of incompetent parenting (insufficient clothing; disease due to inadequate

hygiene; inadequate physical growth due to insufficient nutrition; overdoses and accidents due to inadequate supervision; lack of affectionate holding, touching, and talking; instability of household composition), "these signs ... do not require subtle techniques or tests to detect."¹⁹

There are three contexts in which we already make decisions about who can and cannot parent: custody decisions, foster care, and adoption. Examination of these contexts might clarify the justifications for a parent licensing policy as well as the requirements for obtaining a license to parent.

Perusing the criteria for child custody evaluations, Richard Gardner proposes as best the following. First is the "ability of the parents to properly and effectively raise the child [including] knowledge of child-rearing techniques and the utilization of humane and reasonable disciplinary measures [including] the knowledge of how to provide the child with guidance, instruction, and care"²⁰--how might "properly" be defined? The second is "honesty, sensitivity to the feelings of others, social commitment, lifestyle, and other personality qualities which would be useful for the child to emulate and identify with"²¹--which lifestyles would be considered unacceptable for emulation and identification? The third is "availability ... for getting the child off to school, being available on their return, and being available to care for the child during illnesses and emergency situations"²²--this one might lead to long overdue changes in other social policies, most especially workplace matters (if everyone who wants to parent must be available in that way, employers will have to be a lot more flexible about hours). Among Gardner's other criteria are several uncontroversial items: consideration of the parents' commitment to their child's education, health, and friends (commitment to the second might rule out parents who would refuse blood transfusions, for example) and the parents' physical and psychological health.

Diane Trombetta, also perusing the criteria for custody decisions, challenges her findings: "Is there any evidence to show that parents who have more knowledge of child development, as measured by a paper-and-pencil test, are better parents? How valid and reliable are third-party reports submitted by friends, relatives, and school teachers?"²³ She concludes that "parenting skills which are too vulnerable to individual or cultural bias, or which are too subtle to be

measured easily, should probably not be evaluated at all."²⁴ And yet we think teaching skills can be so measured.

Trombetta goes on to say that "it may be that effective parenting is not attributable to a particular person but, rather, to a whole context which allows, fosters, and rewards good parenting."²⁵ While this is certainly true of teaching, which occurs in the context of a school, I think it might be less so of parenting--but just *less* so, not *not* so: after all, parenting does occur in the context of society. This would support the suggestion made previously, that perhaps other changes, in that context of society, should occur along with licensing parents.

In any case, Trombetta gives a warning about custody evaluations that may be well-heeded for parent license evaluations as well: we must be aware of and take into account the many possible explanations for failing our licensing tests (especially if they include third-party observations as well as first-person pencil-and-paper tests) which may *not* indicate that the applicant is unsuitable: examination-related stress, bias, and, perhaps most of all, "unconscious resistance to the evaluation process itself."²⁶

According to Robert Mnookin, "Foster homes are usually licensed by the state, with regulations regarding aspects such as the size of the home, number of children..."²⁷--why shouldn't something similar be the case for non-foster homes? Decisions about foster care are often made according to the "best interest of the child"--isn't a similar focus warranted for non-foster care? Like Trombetta, however, Mnookin is critical of the standards in use: they are vague and open-ended, highly subjective, and "permit intervention not only when the child has been demonstrably harmed or is physically endangered but also when parental habits or attitudes are adverse to the inculcation of proper moral values"²⁸--one can imagine children being taken away if their parents are atheists. However, these problems shouldn't lead us to abandon the policies; rather, they should lead us to improve them.

McIntire pointedly asks what would occur "if adoption agencies offered their children on a first-come-first-served basis, with no screening process for applicants ... Imagine some drunk stumbling up and saying 'I'll take that cute little blond-haired girl over there.'"²⁹ And yet that's

exactly what we currently allow with regard to non-adoptive parenting. Why do we cling to the irrational belief that biological parents are *necessarily* competent parents--in the face of overwhelming evidence to the contrary? We have, without justification, a double standard.

Glenn McGee observes that "parents who want to adopt must undergo a variety of pre-screens, including in most states a home visit and background check,"³⁰ and he proposes something similar for people who want to clone children: "The goal is to find some similar pre-screen procedure to ensure that parents who participate in new, highly complex, familymaking technologies like egg & sperm donation, cloning, and nuclear transplantation meet a minimum test for providing flourishing opportunities to their children."³¹ Unfortunately, he seems to think such screens are justified for adoption and NRTs but not for coital reproduction because the former are "unorthodox".³²

Unfortunately, some of the screens used by adoption agencies are of questionable relevance: sexual orientation, race, marital status. Fortunately, they also consider as relevant "capacity to love and nurture"³³ and the reasons for wanting children.³⁴

Nevertheless, in fact perhaps we should set the bar *higher*, not lower, for those who want to raise their own offspring--in order to counteract the potential abuse that might arise when children are seen as ego-extensions and/or private property. Elizabeth Bartholet notes that "The argument for parental screening [for adopting parents] rests largely on the assumption that children are subject to special risks when there is no biologic link between parent and child ... [but] the fact that adoptive parents have *consciously chosen* parenthood would seem more than enough to compensate for any difficulties that might be inherent in adoptive parenting."³⁵ She asks, "Why would anyone think that those who consciously plan to adopt someone else's child pose more of a risk than those who fall unwittingly into pregnancy?"³⁶ She emphasizes that "Adoption ... involves the exercise of conscious choice in matters related to parenting...[; b]y contrast, it is doubtful that as many as half of all biologic parents initially conceive out of a conscious desire to parent"³⁷ and points out that "controlled studies comparing wanted with unwanted children have shown a stark contrast; the unwanted do very badly."³⁸

It is this element of intention, of conscious choice, of deliberate willing, that would be one of the main benefits of a parent licensing policy. "It is depressing, not comforting, to realize that most people are accidents,"³⁹ says Fletcher. Marjorie Schultz elaborates, arguing for intent as a determinant of legal parenthood (she restricts her proposal, however, to instances involving NRTs, however):

Parenting relationships are among the most significant in life, both to the individuals involved and to the society whose future depends upon its children. While conception may occur quickly and without much deliberation, parenthood competently performed is an unusually important, substantial and long-term activity. Parenting involves such large amounts of time, energy and money that deep commitment to the task seems highly desirable....⁴⁰

[D]eliberative, articulated and acted-upon intentions regarding child rearing have great importance as indices of desirable parenting behavior. There is a correlation between choosing something and being motivated to do it consistently and well. Where the birth of children is not intended ... biological connection will not guarantee love or adequate care.⁴¹

Licensing, by requiring intentional action prior to birth (application, at least, and perhaps also demonstration of certain competencies and capacities), could guarantee that intent (at least at the outset--as Schultz points out, intentions can change) and insofar as intended children are more apt to be recipients of love and adequate care, it could increase the odds that children are indeed loved and cared for.⁴²

In a similar vein, the point of Margaret Battin's thought experiment wherein everyone uses "automatic reversible contraception" is that such a circumstance would "reverse the default mode, so to speak, in human reproduction, so that having a child would require a deliberate choice"⁴³; requiring people to obtain a license before they reproduce/parent would achieve the same effect. Referring to the effects of mandatory contraception, Battin's prediction is as applicable, I think, to mandatory licensing: "Our ways of thinking about pregnancy and

childbearing would undergo radical change--from something one accepts or rejects when it happens to something one chooses to begin."⁴⁴

The assumption is that wanted children are better off in all sorts of ways than unwanted children. And though there is research to support this,⁴⁵ there is a chance that the more wanted a child is, the more it will be expected to fulfil the parents' egoistic wants; the more planned or controlled the child is, the less autonomy it will be allowed to develop. Leon Kass suggests that "Thanks to our belief that all children should be *wanted* children..., sooner or later only those children who fulfil our wants will be fully acceptable."⁴⁶ However, "wanted" and "planned" need not mean "controlled".

Another benefit of licensing parents is that which Gregory Kavka identifies as a benefit of genetic engineering but could apply to parenting as well as parentage: "we might come to view parents as being more responsible for how their children turn out than we now view them."⁴⁷ No longer could parents say they can't be blamed, they didn't know...their license proves they did. Kavka goes on to describe "an awesome, possibly overwhelming, sense of responsibility"⁴⁸ akin to some existential dread; perhaps that response to parenthood is overdue. And indeed he goes on to suggest that "It is possible ... that a sense of awesome responsibility for our species' biological destiny might force us to become unusually careful and thoughtful as we develop responsive social policies"⁴⁹--one of which might be parent licensing.

On the other hand, "Setting standards for parents ... would protect people from assuming parenting burdens that restrict their own personal development and that cause stresses and failures in their own lives"⁵⁰--competency need not mean self-sacrifice.

Yet another benefit, insofar as the licensing program would include an educational component of licensing, is described by Philip Kitcher: "People would make the right decisions because they would understand the consequences of their decisions, both for their offspring and for society."⁵¹ Though we'd like to believe there is a connection between education and ethics, perhaps this would work only some of the time with some of the people (others do wrong despite knowledge of consequences--for a number of reasons, including for no reason at all).

And certainly there is the benefit of societal good, developed extensively by Westman who connects incompetent parenting with criminality, welfare dependency, public health, and national productivity.⁵²

Other benefits of legal enforcement include the emphatic underscoring of the immorality of various kinds of parenting and the deterrent factor that accompanies penalty for violation. However, perhaps the most obvious benefit is this: currently we assume that people are fit to parent unless or until proven otherwise, at which point we remove the kids from their home-- would it not be better to take a proactive rather than a reactive approach and make sure the people are fit to be parents *before* they become so?

We are products, however, not only of nurture but also of nature. Biological parentage is, therefore, another aspect we might want to license in some way; just as parenting need not imply parentage (consider adoption), licensing one need not imply licensing the other. Biological parentage includes both the genetic material (that is, the DNA--whether from sperm, ovum, or other cells) and the uterine environment. Motives for licensing parentage may, like those for licensing parenting, arise from a concern for quality of life (for the individual, society, or the species⁵³), which may include a concern for the prevention of harm.

Because of our increasing genetic knowledge, not only could we license *whether* people can have kids, we could license *what kinds* of kids they can have. That is, we could make genetic screening mandatory (along with other medical screening, such as for AIDS and drug addiction); if the results indicate certain qualities (or lack thereof), a license would not be provided (conception should not occur or the conceptus should not develop) or the provision of a license would be conditional upon certain genetic engineering (corrective or compensatory).

As for prohibiting conception when there's a risk of genetic disease, aborting when there's evidence of genetic disease, or genetic engineering to eliminate the genetic disease, Lawrence Ulrich argues in favor of "Reproductive controls along much the same line as our current

legislation regarding marriages of close kinship and venereal disease screening are the only approach ... satisfactory in dealing with genetic disease of the high-risk early-appearance type within the context of species obligation."⁵⁴ He justifies "suspending" reproductive rights by appealing to both legal precedent and "species obligation", the latter deriving from his belief that "the survival of the human species is a good and that it is a good of such importance and value that it can be accredited as a right."⁵⁵

While not advocating legislative controls, Laura Purdy also concludes that it's wrong to have children who are likely to have certain genetic diseases. Appealing to the individual rather than the species, she draws attention to the consequences of bringing disabled children into the world and argues that "people are better off without disease or special limitation, and that this interest is sufficiently compelling in some cases to justify the judgment that reproducing would be wrong."⁵⁶

Some argue that a policy restricting reproduction to the genetically "healthy" is harmful to the differently-abled (physically or mentally). The nature of that harm, however, is unclear: such a policy does not imply that their lives are of less value, but that given the choice between having the disease or not, it is better not⁵⁷--because of the resultant suffering⁵⁸ and reduced opportunities.⁵⁹ Conceding the concern of disability activists that "narrow and rigid standards, and [the] utter lack of human empathy with those who fail to 'measure up' justifies wariness,"⁶⁰ Purdy responds to such activists by asking "If health and well-being aren't valuable, what moral case is there for eradicating the social obstacles"⁶¹ they seek to eradicate? Nevertheless, we are wise to heed Kitcher's attention to recognizing "where medicine ends and social prejudice takes over"⁶² with regard to genetic engineering. However, even though we may not know (now or ever) *exactly* where that line is, surely we know on which side of the line certain things are: not only are there clear cases of severe physical suffering due to genetic disease, there are clear cases of severe psychological suffering as well.

Commenting on the "societal good" that comes from genetic abortion, Kass observes that "the societal standard is all too often reduced to its lowest common denominator: money."⁶³ This

seems supported by the results of a survey conducted by Fenwick: "The public resentment of reproductive choices by parents with known genetic risks at the time of conception is closely tied to the belief that the financial burden of caring for the children who inherit the disability will ultimately be shifted to the public. ... Furthermore, they do not want to pay higher insurance premiums or taxes to cover the expenses of caring for the children born with genetic disabilities about which their parents had been forewarned."⁶⁴

John Robertson counters that attitude by arguing that "as long as persons who choose to ignore genetic information in reproducing are able and willing to rear affected offspring, the costs of their reproduction are unlikely to be sufficient to support a charge of reproductive irresponsibility,"⁶⁵ adding that "even if they did impose medical or other costs on taxpayers, those costs are ordinarily not sufficient to justify restricting a person's interest in procreation."⁶⁶ Indeed, Kass asks "Who is a greater drain on society's precious resources, the average inmate of a home for the retarded or the average graduate of Harvard College?"⁶⁷ and replies that we don't and perhaps can't know. Clearly, as he points out, we need to define whose/which society we are talking about when we say "societal good"--"Some use the term 'society' to mean their own particular political community, others to mean the whole human race...Do we mean our 'society' as it is today? Or do we mean our 'society' as it ought to be?"⁶⁸ Still, there are other standards that can justify genetic abortion, most obviously the prevention of suffering (as he also points out⁶⁹). Robertson further suggests that a policy of mandatory screening and prohibition of abortion would be "unlikely to decrease appreciably the incidence of handicapped births beyond voluntary measures and will incur a heavy cost in personal liberty."⁷⁰

As for violating the right of differently-abled people to reproduce (that is, prohibiting reproduction rather than aborting or genetically engineering when genetic disease is likely), surely one must wonder why genetic heritage is so important that a person will intentionally bring into the world a differently-abled person just to achieve that heritage--why wouldn't a disabled person choose to adopt or use surrogate genetic material instead? (Or at the very least, try again until the genetic disability doesn't show up in the fertilized ovum?)

In addition to negative engineering (removing traits), we could also regulate in some way positive engineering (adding or changing traits). Should we approve (license) all additions and changes? As Thomas Beauchamp points out, "there are problems in regard to the wisdom of the choice of traits ... and in regard to the alleged advantageousness of the traits ... and even if one were to select traits which virtually everyone admires... it would not follow that society would be improved if these traits were widely enhanced."⁷¹ For example, suppose everyone wanted to increase their child's intelligence. If everyone became a genius, there wouldn't be any advantage in it. (At least there would be no relative advantage--wouldn't there be an intrinsic value in such ability?) And, it might not be to society's overall advantage if everyone were a genius. (Unless we raised them with the humility to happily be the proverbial "ditch-digger" for X number of hours per week.) Furthermore, having the potential for genius is only part of the story--we'd need to be sure we have the nurturance (the competent parenting) in place to develop and actualize that genius. And it is true that a decrease in diversity results in a decrease of the quality of the overall population (monocultures die), but that is merely an argument for *coordinating* our choices--licensing them would achieve that (in theory).

Kavka, elaborating on this possibility of "collective imbalance [which] occurs when a desirable distribution of characteristics in the general population is eliminated by the cumulative effects of individual decisions about the traits of offspring"⁷²; licensing could prevent that if the regulatory body kept records of parenting decisions and intervened when necessary to maintain a balance. The nature of this "balance" would have to be clearly identified, of course, and this could get very complicated if we attended not only to biological diversity but also to social fairness and equality. The proliferation of male babies in China is a good example of this collective balance problem (in China, parents are licensed for only one child and more choose a male child, by aborting their female fetuses and killing their female infants, than a female child), and one that especially illuminates the need for enlightened social values, as Kitcher notes: "Individual choices are not made in a social vacuum, and unless changes in social attitudes keep pace with the proliferation of genetic tests, we can anticipate that many future prospective

parents, acting to avoid misery for potential children, will have to bow to social attitudes they reject and resent."⁷³ State regulation might help to avoid that situation; that is, however, to assume that the state regulations conform to enlightened social attitudes. Or perhaps imbuing state regulations with social values is dangerous; perhaps that negative element of past eugenics can be avoided by staying with medical/biological interests, not social value interests.

As Kavka notes, "as developments in biomedical technology offer greater and greater benefits to individual recipients, the result will be more and more inequality, unless society makes institutional reforms"⁷⁴--a licensing policy may be that institutional reform.⁷⁵ "But," he continues, "our worries about such a new aristocracy are not so much about inequality, per se, as they are about the nature of a society that would place so much emphasis on the genes of its members."⁷⁶

We should, however, consider not only the consequences to society, but also to the individual child. As Anderson points out, "a child who knew how anxious her parents were that she have the 'right' genetic makeup might fear that her parents' love was contingent upon her expression of these characteristics."⁷⁷ Perhaps, then, it would be better to license only negative engineering. And perhaps this, along with the imbalance and diversity problems discussed above, provides the justification Purdy seeks when she makes the following comments: "Many people think that it is possible to distinguish between morally acceptable negative genetic engineering that eradicates defects and morally dubious positive genetic engineering that enhances desirable traits. I believe that it is by no means obvious how to justify that distinction, but also that it has less moral weight than is often supposed."⁷⁸

A second element that affects our nature, a second component of biological parentage, is the uterine environment. As with the genetic component, we may decide to include it in the scope of a parent licensing policy. The uterine environment can be affected by drug use, diet, exercise, exposure to various substances, and fetal therapies.

Use during pregnancy of illegal drugs (such as crack cocaine and heroin) as well as legal drugs (such as alcohol and nicotine, as well as those prescribed to treat cancer and epilepsy, for

example) can cause, in the newborn, excruciating pain, vomiting, inability to sleep, reluctance to feed, diarrhoea leading to shock and death, severe anemia, growth retardation, mental retardation, central nervous system abnormalities, and malformations of the kidneys, intestines, head and spinal cord.⁷⁹ Refusal of fetal therapy techniques (such as surgery, blood infusions, and vitamin regimens) can result in respiratory distress, and various genetic disorders and defects such as spina bifida and hydrocephalus.⁸⁰ Exposure to tobacco, carbon monoxide, lead, alcohol, and infectious diseases can cause prenatal injury.⁸¹

One is generally considered free to ingest whatever substances one wants as long as no harm to others is caused, but as Lynn Paltrow points out, "the biological event of conception transforms the woman from drug user into a drug trafficker or child abuser"⁸²; drug-using men are also at fault to the extent the drugs affect the quality of their sperm.⁸³ (Furthermore, as Michelle Harrison points out, "men are not *required* to impregnate drug-addicted women"⁸⁴--surely they are partly responsible then for such prenatal abuse.)

Even non-drug prenatal behavior such as inadequate diet and exercise can have detrimental effects on the embryo and fetus. So these elements too, to be consistent, and to address the full scope of potential harm to others, should be addressed when we decide upon conditions for license.

Of course, the standard objection is that such regulation violates a woman's right to physical integrity/privacy and self-determination/autonomy. (Rights will be discussed in more detail later.) But rights are not absolute, and one can argue that the woman forfeits some of that privacy and autonomy when she becomes pregnant--when she decides to create another human being. Even if we grant that she owns the result of her body's resources and labor, there are limits to property rights. Furthermore, her rights are not suppressed; they're just restricted; and only temporarily; and only when she consents to become pregnant--if she doesn't want her physical privacy to be so restricted, she can choose to abort or adopt (if she wanted to parent). A licensing program could ensure these alternative courses of action--drug addicts might not be allowed to gestate.

George Schedler argues that *society has a duty* to ensure that infants are born free of avoidable defects because of (i) the rights of the fetus as a future infant (he derives the infant's right to preventive action from the infant's currently recognized by law of tort right to compensation for prenatal injuries; also, if the state has a right to stop a third party from injuring the fetus, then, Schedler argues, surely the state has a right to stop the parents from doing so); (ii) the rights of future persons (to be free from suffering); and (iii) the economic and human costs of drug abuse during pregnancy (he appeals to both utilitarian and fairness arguments). Hence, Schedler concludes, society has the right to force pregnant drug addicts to abort. Perhaps it is a small step to argue then that society has a right to prohibit conception by drug addicts in the first place--achievable through licensing parents.

Molly McNulty claims that laws criminalizing women's acts or omissions during pregnancy (including "the failure to receive timely prenatal care, not complying with doctor's orders, and using drugs during pregnancy"⁸⁵) would be unfair (especially to members of low-income and minority groups who do not have economic access to such services), ineffective (it does not lessen infant illness because pregnant drug-using women would simply avoid medical appointments), and unconstitutional. However, we could make prenatal care easily available, free of charge, to everyone (or at least to those licensed to parent); licensing could prevent drug-users from becoming pregnant in the first place; and the constitution could be changed.

Bonnie Steinbock also argues against legislating behavior during pregnancy: "Coercing the mother to protect the not-yet-born child poses serious threats to women's privacy and bodily autonomy...[and] in most cases it is unlikely to do much to protect the health and lives of children"⁸⁶; for example, "If a woman is willing to risk criminal prosecution for [illegal] drug use, why should she be deterred by additional penalties for harming her unborn child?"⁸⁷ So again, legislating *prior* to pregnancy might be the sought-for solution. However, if the license requirements stipulate that certain behavior during pregnancy be avoided, then we *are* legislating behavior during pregnancy.

Indeed, given that there is a developmental continuum from embryo to fetus to infant to

child, it is logically sound to extend policies about child abuse post-birth to pre-birth: "To begin legal protection and comprehensive obligations toward human beings only at birth, is to assume that the most vulnerable period of all human life, the period during which the foundations of childhood and adulthood health are laid, is discontinuous with and of no influence on those later stages."⁸⁸

As in the case of parenting, regulatory decisions about parentage are already being made—in the contexts of NRTs and prenatal abuse. These are worth examining, again, in order to clarify parent licensing policies and practices.

Insofar as cloning is merely reproducing, shouldn't anyone and everyone be allowed to clone if anyone and everyone is allowed to have sexual intercourse? If not, what's the significant difference? A common answer is that cloning is unnatural. But certainly the biological material is natural—why does it matter so much which cells are involved or how they get into the uterus? Furthermore, it's unclear why "unnatural" should imply "subject to greater regulation".

And indeed, rather than recommend that cloning be regulated, the National Bioethics Advisory Commission (NBAC) has recommended that it be illegal. The reasons given are interesting because they seem to be as applicable to coital reproduction as to clonal reproduction: "harms [physical and psychological] to the children who may be born [and] degradation of the quality of parenting."⁸⁹ Surely, pre- and post-natal abuse of coitally-produced children can also result in the "severe developmental abnormalities"⁹⁰ mentioned by the NBAC, and while incompetent parenting may not affect the coitally-produced child's sense of unique individuality in the way cloned children are imagined to be affected, incompetent parenting surely affects the child's self-worth and "experience of freedom and ability to create a life for oneself."⁹¹

The Canadian Royal Commission on New Reproductive Technologies has reached similar conclusions, recommending both that certain aspects of new reproductive technologies be illegal and that the provision of other technologies be licensed by the federal government because of "the potential for harm to individuals and the need to protect the vulnerable interests of individuals and society."⁹² In particular, the following requirements are proposed as

conditions for license⁹³: "All potential donors should provide a signed, self-administered completed questionnaire providing information about their health and the health of their first-degree relatives...which should be reviewed by a clinical geneticist. Any indication of serious genetic anomalies or other high-risk factors should disqualify a potential donor from participating in the program" (item 88.a); tests for HIV and other infectious diseases must also be taken (see items 88.f, h, i, and j). It is most perplexing that these requirements apply only when the sperm is to be used by someone other than the man's "partner" (see item 87). Furthermore, "a license is required to perform insemination at any site other than the vagina even if the recipient is the social partner"⁹⁴--why, when the vagina is the site, is it "anything goes", but otherwise, we "proceed with care"?

The Commission also recommends that the woman seeking to become impregnated through various assistive NRTs sign a statement indicating that she has "received, read, and understood information materials outlining the risks, responsibilities, and implications of donor insemination..."⁹⁵ as well as the sperm screening and medical test results (see item 99.f.iii)--would that women were required to provide such informed consent for "unassisted" reproduction as well!

Counselling should also to be provided, the Commission recommends, addressing "information about alternatives ... such as ... living without children; avoidance of exposure to risk factors...; some exploration of questions related to values and goals that patients may wish to take into account when making their decisions...."⁹⁶ Again, why shouldn't we require this of coitally-producing parents as well?

In short, why should children born as a result of *in vitro* fertilization or assisted insemination be privileged to a higher standard of care in their creation than children born as a result of coitus? This double standard is of concern not only because of the implications for quality of care, but also because of the implications for rights: why is state permission required by someone seeking assistance for reproduction but not by someone who doesn't need, or want, such assistance? We have the right to reproduce but only if we can do it on our own? One could

argue that the person seeking assistance is seeking societal resources, and that's why permission is required--not only to *use* those resources, but to ensure they're not *misused*. But people reproducing without NRT assistance *also* use societal resources, most notably through the healthcare system for prenatal, natal, and postnatal care. Furthermore, in both cases, the resulting child certainly uses societal resources.

Regulations concerning "surrogacy" reveal a similar double standard, and provide further suggestions regarding parent license requirements. Susan Ince describes the various tests one needs to pass before being accepted for a gestational contract, not all of which are relevant to being a "contract risk": a thorough medical exam, genetic screening if indicated, intelligence testing, and psychological evaluation. She also describes the "extensive behavioral controls over the surrogate" which include not smoking or drinking, not using illegal drugs, keeping all scheduled medical, psychological, and counselling appointments⁹⁷; "any action that 'can be deemed to be dangerous to the well-being of the unborn child' constitutes a breach of contract."⁹⁸ Why do we not require this of *all* those who intend to gestate?

Granted, such controls have the potential to be excessive, and hopefully we can avoid crossing that line (certainly we should avoid the "plus any other deemed necessary by the officer" clause). But even if some controls are excessive, if a person isn't willing to make a nine-month commitment to admittedly sometimes unnecessary appointments, perhaps that person isn't fit for parenthood. Perhaps we should consider even the tests that are contract-focused: to the extent they are motivated by the desire to secure intent and to minimize the changing of one's mind, are they not just as important with non-surrogacy parenting arrangements? (And yet, as Westman often points out, the more simple the proposal, the more feasible it is.)

Similarly, Robertson suggests, with regard to surrogacy, that "regulation to minimize harm and assure knowing choices would be permissible"⁹⁹; he elaborates, "the state could ... set age and health qualifications for surrogates, and structure the transaction to assure voluntary, knowing choices. The state could also define and allocate responsibilities among the parties to protect the best interests of the offspring...."¹⁰⁰ Would these regulations not also be beneficial for

non-surrogacy parenting arrangements?

At the very least, as Lori Andrews has pointed out with regard to surrogacy contracts ("The surrogacy contracts contain lengthy riders detailing the myriad risks of pregnancy, so potential surrogates are much better informed on that topic than are most women who get pregnant in a more traditional fashion"¹⁰¹), licensing might increase the informedness of consent to become a parent.

Regulatory precedents regarding prenatal abuse are also worth examination. Criminal prosecution for prenatal abuse suggests a belief that children are entitled to be free of abuse from conception on, are entitled to be born healthy, of sound mind and body. However, such prosecution is by no means standard practice. The American Medical Association claims that evidence is showing that "criminal sanctions not only fail to deter pregnant women from substance abuse, they will in fact prevent them from seeking prenatal care or medical help for their dependency."¹⁰² Perhaps, therefore, preventing such people from becoming pregnant in the first place, which licensing might do, is preferable. However, the Board also notes that such sanctions may encourage women to seek abortions--which may also be desirable. Suzanne Scorsone (dissenting opinion, Royal Commission) has argued that judicial intervention in pregnancy is sometimes justifiable: "There can be no doubt that the inconvenience or loss of mobility or other effects experienced by a woman of mandatory but temporary care or treatment would be far less severe than the effects of an entire lifetime of mental and/or physical handicap on the child who is to be born."¹⁰³ Nevertheless, she does not advocate "some sort of science-fictional infrastructure to enforce the compliance of every woman who did not seek adequate prenatal care or who did not follow her doctor's advice."¹⁰⁴ And yet, there is already legislation in place, "some sort of infrastructure", to safeguard against prenatal harms that occur *at the workplace* (see, for example, Sanda Rodgers)--why *not* also elsewhere?

The decision to prohibit reproduction could be based not only concerns for quality (through the genetic material and/or the uterine environment) but also on concerns for quantity. The two are,

of course, related: excessive population density decreases the quality of individual lives (who are deprived of adequate resources) as well as the quality of the species (which is increasingly characterized by low quality individuals). Thus, a parent licensing policy could also attend to population levels.

First, however, there is the question of whether or not there actually is a "population problem". This question need not be answered, however, because whether or not there is a problem at the moment, if our population continues to increase, there will surely be a problem at some point in time given the finite nature of our planet.

The second question, then, is whether or not a legislative response is required. There are some who argue that our numbers will be controlled naturally--through "die-offs" from disease, famine, and so on. Others, as with the other aspects of licensing, suggest that social policies, including education, are preferable. Still others suggest that individual choice, if voluntary and informed, will achieve desired ends.

Chasteen argues that neither social policies nor individual choice has worked; he points to state regulation as the needed solution. Amartya Sen, Betsy Hartmann, and others, however, in examining countries such as Cuba, Sri Lanka, Korea, and Kerala, argue that it was not state regulation that effected reductions in reproduction, but changes in income and land distribution, employment opportunities, education, sex equality, accessibility to contraception, and so on.¹⁰⁵

A further question is whether the population controls are intended to be global or national. If one is proposing a national policy of limiting reproduction, then surely such a policy must be in tandem with other population control policies such as immigration/emigration controls and perhaps also euthanasia policies. For example, it may be objectionable for the state to limit people's right to reproduce when it continues to encourage or allow immigration; it may be objectionable to prohibit the creation of new healthy lives while keeping alive comatose people in non-reversible vegetative states.

And if one is proposing a global policy, Hartmann's comments give pause for thought: "it is the consumption explosion in the industrialized world rather than the population explosion in

the Third World which is putting the most pressure on natural resources ... The average U.S. citizen uses almost 300 times as much energy as the average citizen of Bangladesh."¹⁰⁶ So it would seem that we should regulate consumption in the First World before we regulate reproduction in the Third World.

Certainly proposals to license parents have not been without criticism. And perhaps the strongest objection to licensing parents is that it violates one or more of our rights--our right to reproduce/parent, our right to privacy, our right to physical integrity, our right to autonomy, etc. Determining our rights in this case would first require a lengthy discussion of the nature and justification of rights in general. I am concerned more in this anthology with moral rights than with legal rights, political rights, social rights, or economic rights, but still, one could distinguish between natural and acquired rights, positive and negative rights, inalienable rights and alienable rights (which are not necessarily the same as forfeitable rights), claim rights and liberty rights (freedoms), claims and entitlements, rights and privileges, interest and choice conceptions of rights, rights and duties or obligations....¹⁰⁷ Such discussions are complex and well beyond the scope of this overview.¹⁰⁸

As for justifications for rights, Lawrence Becker (see also Wayne Sumner) groups them into four categories: (i) utilitarian--rights are useful in that they enable us to maximize well-being; (ii) contractarian--rights are part of the consensual agreement we make when we live in a society (see Hobbes, Burke, Bentham, John Rawls, and many others); (iii) rationalist--our rationality or ability to have a conception of good makes us moral agents, and we need rights in order to engage in moral action (see Alan Gewirth for this view); the various versions of human or natural rights fit here, one of which proposes that we have a right to have our needs fulfilled insofar as that is within the realm of possible human activity (see H.J.McCloskey for opposition to this view), others of which refer to capabilities, interests, or desires instead of needs (see, however, Diana Meyers who argues that "individuals qualify for rights as individuals, not as members of species"¹⁰⁹); and (iv) intuitionist--no justification is required as we know intuitively

that we have rights.

On what grounds can we claim a right to reproduce and/or parent? Merely *having* a capability does not entail the *right to exercise* that capability--just because we can, it doesn't mean we should. Some argue that the right to reproduce is a natural right (see S.L.Floyd and D.Pomerantz and others); some refer to its importance to personal well-being and identity (see Dan Brock, Robertson, and others); some point to the need or desire to have a child (see Purdy and others).

And any of these grounds may be qualified by the capacity to appreciate the right (see Robertson, Robert Lee, and others), for example, or by the capacity to exercise that right (see Eike-Henner Kluge, Steinbock, and others). These arguments have been used to restrict the reproductive rights of those with diminished mental capacities:

It is safe to say that severely retarded people cannot raise children, not even with help. If the

right to procreate entails the ability to rear--and I argue that it does--then severely retarded people do not have a right to reproduce.... [I]ndividuals who lack the capacity to be rearing parents do not have an interest in reproducing. Therefore, measures that preserve their ability to procreate in the future do not serve their interests or protect their rights.¹¹⁰

With respect to the objection that prohibiting the mentally challenged from parenting violates their rights, Alyce Vrolyk argues that "an ethics that focuses on rights ... is a poorer guide than a consequentialist view that makes the goodness of the expected results the basic moral criterion."¹¹¹ Such arguments about capacity to appreciate and exercise the right to parent could similarly be used in parent licensing policies. Certainly the definition of "exercise that right" would have to be carefully made--to what extent would it refer to economic capacity?

Onora O'Neill suggests another qualification: "I shall argue that the right to beget or bear is not unrestricted, but contingent upon begetters and bearers having or making some feasible plan for their child to be adequately reared by themselves or by willing others."¹¹² This too could be incorporated into the conditions under which licences are issued. After all, as Ruth Chadwick

comments (not made in reference to licensing, however), "[I]t is essential to remember what is actually at issue. We are not simply talking about enabling adults to participate in an activity, like ice-skating, or to acquire certain possessions, like a new car. Speaking in terms of enabling people *to reproduce* or *to have children* sometimes disguises the reality of what is going on. We are talking about the circumstances in which new people should be born. In this context perhaps a concern for their welfare should take priority."¹¹³

Notwithstanding the previous discussion, it seems to me that whatever the nature or justification, we will quickly get to "the bottom line"--not all rights are absolute. (Indeed, as Hugo Bedau points out,¹¹⁴ the more absolute rights we have, the more conflicts we'll have.) So even if we did have a right to reproduce and/or a right to parent, that needn't imply that such a right always be respected. So the important question becomes not *whether* we have rights, but rather *when* our rights can be overridden. There are two instances: the first is that of competing rights--the rights of another individual or the rights of society¹¹⁵; the second is that of harm (or even risk of harm) to others (which, actually, could be conceptualized as the competing right to be free from harm).

The main contender for competing individual rights in this case would be the right to be born and raised with a healthy body and mind (insofar as these are separate): "If we really care about children, we should question why there is so much talk of the adult's right to procreate, right to control his or her body, and right to parent, but so little talk of the child's right to anything."¹¹⁶ In fact, wrongful life suits in which the parents of a child sue either the person who "caused" the life (if it was unplanned) or the person who detrimentally affected the quality of the child's life (if it was damaged as an embryo/fetus), as well as wrongful life suits brought by a genetically defective infant against its mother both seem to indicate that we do think children have a right to be born healthy or at least free of avoidable defects (see, for example, Schedler). Further evidence of this belief is the view that it's not always morally right to give birth: some countries are developing policies and procedures supporting newborn euthanasia (in cases of severe and permanent deformity, perhaps also attendant with pain). Licensing biological parents

could go some way to protect that right, at least insofar as it is the parents themselves who cause the damage.

The *United Nations Declaration of the Rights of the Child* is far more specific about children's rights and lists the rights to "social security...adequate nutrition, housing, recreation, and medical services" (Principle 4), the love and understanding needed for the full and harmonious development of his personality and an atmosphere of affection and of moral and material security (Principle 6), as well as the more obvious protection against "all forms of neglect, cruelty, and exploitation" (Principle 9). American law is just as detailed, as Westman notes, drawing attention to children's rights to food, shelter, clothing, medical care, and freedom from abuse.¹¹⁷

The relevant competing rights of society may include the right to a certain quality of life--which can be attained only when a certain proportion of its individual members have a certain quality of life, or when the population density does not exceed a certain level. Stephen Isaacs frames the issues of rights and population policies in terms of "balancing the common good, including that of future generations, against that of individuals,"¹¹⁸ adding, referring to Sen, that "[r]elated questions include how to balance international human rights against nation sovereignty and local custom or religion ... [since] reproductive rights can ... clash with national sovereignty or local custom and religion."¹¹⁹ Certainly tribalistic people who want "more of us than them" would object to any restriction on reproduction; and religionist people who subscribe to the "Be fruitful and multiply" dictum, the sanctity of life principle, or some sort of divine law with which licensing would interfere would also object.

With respect to second basis for overriding a right to reproduce/parent, that of harm to others, one could consider both the potential injuries *incurred upon* the child as well as the potential injuries *caused by* the child (many argue that criminal behavior is at least in part due to poor parentage and/or poor parenting).

It is this limitation by harm that provides a rebuttal to those who would argue that a policy of licensing parents violates individual rights to privacy: the right to privacy ends where

harm to others begins.

It also provides a rebuttal to the claim that such a policy fails to recognize people's autonomy. For example, McNulty says that "State policing of pregnancy rests on the implicit assumption that women are less than fully moral beings who have no independent judgment."¹²⁰ Quite the contrary--a licensing policy may violate autonomy, but it does not fail to recognize such autonomy: it is precisely *because* women, and men, are autonomous and make independent decisions that we should legislate against those decisions that put others at nonconsensual risk of harm. It is precisely *because* women are autonomous that social policies (including health care programs) will always be inadequate: despite them, some women will choose (that is, exercise their autonomy) to produce and raise (that is, parent) a human being that will suffer and possibly put the rest of us at risk.

True, a license restricts rights *before* harm is done (that is, *in order to prevent* harm), rather than restricting rights *because* harm has been done. So to some extent the proposal might be subject to the "presumption of guilt rather than innocence." However, restricting one's rights need not be perceived as some sort of punishment for some as yet undemonstrated wrongdoing. Furthermore, the same rationale is used for issuing other sorts of licenses, such as drivers' licenses. One might suggest, however, that driving is significantly different from parenting. Indeed it is--but in ways that make it *more* not *less* justifiable to pre-license parenting. Driving is a momentary activity, usually occurring once or twice a day for less than an hour; parenting is continuous, twenty-four hours a day, over fifteen to twenty years. Driving has the potential mostly to incur physical harm, with derivative psychological injury; parenting has the potential to incur physical and psychological harm, separately or together, and the psychological harms are many (not just the result of physical harm). Driving harms adults more often than children (if only because the driver must be an adult and so equal harm to both age groups would require that *every* adult driver has at least one child passenger--unlikely); parenting harms children, who are more vulnerable both to the physical and psychological injury. Driving incurs harm only on those who have consented to the risk; parenting incurs harm on those who are not only unable to

consent, but likely not to consent if the risk (of abusive parents, for example) were fully understood.

Another concern with licensing parents deals not with the violation of rights but with the repercussion for other rights. Specifically, if we restrict the right to reproduce, must we also restrict the right *not* to reproduce (that is, restrict the right to contraception and abortion)? How can we demand the reproductive freedom to abort but not also the reproductive freedom to conceive? One response is that the point of licensing parents is not that the state control parenting, but that the state be able to prohibit parenting when it's wrong. And reproduction without a license (that is, without the relevant competencies that minimize the risk of harm) is wrong, just as driving without a license (that is, without the relevant competencies that minimize the risk of harm) is wrong; prohibiting incompetent people from driving does not entail forcing competent people to drive.

But, one might argue, both the right to contraception and the right to abortion are anchored in the right to physical integrity, the right to control what happens to one's body. So if that right is overridden with regard to parenting licenses, why shouldn't it also be overridden with regard seeking to contraception and abortion? One can argue that the difference is the harm principle: the right to bodily integrity can be overridden when it conflicts with the right to be free of harm--as it would, presumably, in the case of reproduction that is unlicensed. If an argument can be made that abortion and contraception similarly cause harm (all harms considered--including that to the woman should she be denied contraception and abortion), then the right to bodily integrity may be overridden in that case as well.

In any case, one might wonder about this emphasis on rights rather than on the flip side, responsibilities.¹²¹ As Scorsone states "All of us have ... the right to make our own choices, but rights necessarily entail responsibilities; where our choices may or do harm others, our choices are, in fact, limited, and we are held accountable"¹²² Laura Shanner elaborates: "In reproducing I am not making decisions only for myself, but necessarily for another who not only cannot consent or refuse, but who would not even exist if not for my choices."¹²³ She goes on to

say that "procreation therefore seems better described as an awesome responsibility rather than as a right."¹²⁴

And perhaps it is not even just a *right*, but a *privilege*. Bartholet asks "Why, for example, should biology be considered as determinative of parental rights as it now is? Why should it be so hard to remove children from abusive parents? Why should the privacy of the biologic family be so sacrosanct? ... [T]he notion that parenting is a privilege and not a right seems appropriate."¹²⁵ Chasteen agrees, claiming that "parenthood [is] a privilege extended by society, rather than a right inherent in the individual."¹²⁶ On this basis, he goes on to say, "society has both the right and the duty to limit population when either its physical existence or its quality of life is threatened."¹²⁷

As a conclusion to this section, whatever the basis for the right to reproduce, there is something very odd or at least very special about a right that involves *creating a person* and, in the case of the right to rear, something equally odd or special about *using a person* in order to fulfil that right.

Perhaps an equally strong objection to licensing parents is that it involves legislation--state regulation. To license parents is not just to say that some parenting is immoral; rather, it is to go one step further and say that some parenting should be illegal--presumably, but not necessarily, *because* it is immoral. There are many who would advise not taking that extra step: "Why would we want to resist legal enforcement of every moral conclusion? First, legal action has many costs, costs not necessarily worth paying in particular cases. Second, legal enforcement tends to take the matter out of the realm of debate and treat it as settled.... Third, legal enforcement would undermine individual freedom and decision-making capacity. In some cases, the ends envisioned are important enough to warrant putting up with these disadvantages."¹²⁸

One of the objections to licensing is that coercion in *any* case seldom works. At best, a grudging resentful compliance will result--certainly unhealthy and probably temporary. However, licensing parents doesn't coerce people to get licensed; it only says that if you want to parent, you must get licensed. This involves no more coercion than licensing drivers and

physicians. Furthermore, insofar as the main part of the licensing program is its educational component, it's more like certification than license.

"It is certainly true...that a caring and nurturing relationship cannot be legislated,"¹²⁹ Scorsone says. However, she goes on to say that "Society does, however, quite routinely legislate the minimum fulfilment of the formal responsibilities and obligations of various social roles, including those, such as the parent-child or the marital role, which are best generated and supported by the informal and strong bonds of affect, caring, and commitment."¹³⁰

Nevertheless, it is worth considering alternatives to coercion. Education is often suggested as preferable to legislative coercion (see Kitcher, Robertson, and others). One has to wonder whether such advocates aren't guilty of patronizing: I would guess, for example, that most parents *already know* that a bag of potato chips isn't a good breakfast, that cocaine isn't good for a fetus, that a bag of potato chips isn't a good breakfast, and that beating a child is not good parenting. Furthermore, people are perhaps generally self-interested: as Chasteen points out, it is unrealistic to expect individual parents to act in the best interest of society"¹³¹--they often must be legislated to do so.

Another alternative would be the provision of economic incentives. I don't think giving radios would work (see Isaacs, regarding the 1960s Indian government's incentive for sterilization¹³²), but we might consider the policies in China: couples who agree to have only one child receive health and welfare subsidies, priority access to housing, and an additional old-age subsidy, while the child receives priority access to nurseries, schools, clinics, and employment; those couples who have more than one child must pay an "excess child" levy, "which can amount to a 5-10 percent deduction from their total income for ten to sixteen years, in addition to all birth, medical, and educational expenses for the extra child, and they are not eligible for additional housing space or promotion."¹³³ Similar incentives might be offered to licensed parents. However, many children would then have to deal with the stigma of being "unlicensed" (reminiscent of being "illegitimate")--it would be difficult to make clear that it's the parents who are unlicensed, not the kids. Furthermore, many claim that such incentives amount to coercion.

Michael Bayles would disagree: "attempting to influence a person's decision by providing an incentive to choose one alternative rather than another does not limit a person's liberty to decide, or at least does not do so in a way which is *per se* morally objectionable."¹³⁴ Thus, with respect to limiting reproduction, he favours socioeconomic policies, and suggests providing incentives to have fewer children, removing current incentives for having children, and imposing penalties for having children, "if [such policies] will at least prevent a decrease in the quality of life."¹³⁵ However, he argues that stronger measures are also justified: "Policies limiting the liberty to procreate are justified to avoid the inability to provide a minimum standard of living."¹³⁶ His argument is as follows: "A limited population size or growth rate is a public good. But it is in the interest of an individual couple taken in isolation to have more children than will lead to a limited population size or growth rate. Thus, a public decision on family size is needed. Yet it is not in an individual couple's interest to comply with that decision unless they have assurance others will do so. Thus, a public policy on family size must assure general compliance."¹³⁷

Hartmann's analysis supports Bayles' premise that individual couples will have more, not fewer, children: motivating factors include survival, security, infant/child mortality, and the subordination of women ("male dominance in the family, patriarchal social mores, the systematic exclusion of women from the development process, and the absence of decent birth control services..."¹³⁸). She also points out that "population control is substituted for social justice, and much needed reforms--such as land redistribution, employment creation, the provision of mass education and health care, and the emancipation of women--are conveniently ignored."¹³⁹ Certainly, these solutions should be attempted before the heavy hand of licensing.

Fenwick suggests a three-part legal test when considering government regulation of reproductive issues: Is a fundamental right involved? Is there a compelling need in the society at large which requires regulation of the rights of the individual to meet the overwhelming need of society? Is the regulation as narrow and limited as possible so that society's need is satisfied with a s little infringement on the rights of the individual as there can be?¹⁴⁰ I have already discussed

the first and second questions; the third must be kept in mind as the nature of the licensing policies and practices is discussed.

Further to the preceding comments about education as an alternative to coercion, there is concern about the success of the educational component of a parent licensing program. Martha Friendly, of the Child Care Resource and Research unit of the Canadian Policy Research Network, suggests that "People inclined to take parenting courses are inclined to be good parents...I've never seen anything to show that parenting courses actually do anything for the others."¹⁴¹ Lawrence Frisch echoes this sentiment in his criticism of LaFollette when he claims there is no evidence that education reduces child abuse and licensing would not screen out those who abuse children wilfully rather than out of ignorance. Chasteen expresses similar doubt: "Those of us who teach are continually disheartened at the difficulties encountered in trying to teach what people do not want to learn."¹⁴² These concerns underscore the importance of a practicum component. Certainly, the prospective parent could "put on a good act" while under observation--no one suggests that such a program would be fool-proof. But, it may at least succeed, to echo LaFollette again, in screening out the very bad candidates.

Frisch also points out that licensing would not reduce abuse due to uncontrollable behavior; he therefore concludes by recommending family surveillance rather than licensing. LaFollette responds, however, maintaining that we do have reasonably reliable indicators of both wilful abuse and uncontrollable behavior; Mangel supports his claim.

Another objection to parent licensing is the potential for unjustified discrimination. Certainly this will occur; we will have to be vigilant. But the potential for abuse is an insufficient reason to refuse to adopt a policy: "To take the possibility of error as an argument for never acting upon expert advice under any circumstances whatever is an extreme which would paralyze all social action ... [and] abdicate all active and governmental or custodial forms of human social responsibility."¹⁴³ Again, one can refer to the many comparable licensing policies which are also open to abuse. As LaFollette points out, the harm done by *not* licensing at all is greater than the harm done by mistakenly denying licenses to some. It's not as if the current

system is abuse-free.

Another important objection to the proposal of licensing parents is the assumption that the government would be the licensing body. It may be, yes, a public rather than a private body, but there's no reason why it couldn't be a politically independent body. Criminal courts, child welfare agencies, schools--these are all governmental bodies, but they are generally speaking not controlled by the political party of the day. Nevertheless, before embarking on a parent licensing program, we would be wise to read the histories of eugenics and heed the argument made by Elaine Tyler May and others that "efforts to control fertility ... are powerfully shaped by the political and social ideologies that surround parenthood."¹⁴⁴

But even so, the decision-makers would be people--people deciding which other people can and cannot parent. However, the licensing body could be multidisciplinary (ethics, social science, medicine, law, etc.), representing a broad range of experiences and perspectives; this would help protect against ideological single-mindedness. Certainly the body should also be multicultural, multiracial, multigendered, multigenerational, and so on. Consultation beyond the body is certainly possible, probably even advisable from time to time. Establishing the licensing criteria should involve wide public involvement. (However, we should remember that the requirements for licensing need not be draconian--people imagine all sorts of unreasonable and intrusive "should not"s but the requirements for a licence could be quite simple: the policy need not, as LaFollette suggests, seek perfect parents who will produce and raise perfect children.

Other objections concern enforcement. Some people may be horrified to think that somehow sexual intercourse would be monitored. But we don't have to do that--we merely have to monitor sexual reproduction.

And what about violators--the people without licenses who nevertheless have children? First, how would we know? Unless we had something like a mandatory contraception vaccination with a state-controlled antidote, we'd have to depend on the cooperation/collusion of educational and medical personnel; if the parents delivered at home without any prior prenatal care from the medical system and if they home-schooled their children, I suppose we'd never

know. Second, what do we do? Force an abortion? Force an adoption?

Though often licenses do cost something, and though one might justify that in the case of parenting licenses, if only to cover administrative costs, it might be advisable to avoid a fee in order to completely avoid the interpretation that people are buying babies or the right to reproduce/parent in any way (see Elizabeth Anderson and Heidi Malm).

Certainly other changes must occur before parent licensing can be justified. For example, if we refuse to license people because of their genetic heritage, we'd better have free and easily accessible screening and, if necessary, engineering or abortion available. And if we refuse to license people because they are drug addicts, we'd better have enough addiction programs in place. And if adequate prenatal care and postnatal care is required for licence, it had also better be available. If we refuse to license people because they are too poor to raise a child, we'd better have economic assistance in place to ensure that they can, if they want, have enough money for that purpose. And if we refuse to license people because they don't have the required knowledge, we'd better provide parent training courses that enable people to acquire that knowledge.

Certainly contraception and abortion must be freely available to avoid the problem of unlicensed people experiencing unintended pregnancies. Hopefully, a license will seldom have to be denied, and certainly in some instances, we should permit re-application (if for instance, the reason for failure is one that can in fact be remedied).

Like Shanner, "...I worry about the political context of controlling such decisions; the reluctance to judge others or unfairly limit their options is thus generally a good thing. We must exercise this reluctance to judge very carefully, however, and avoid turning such reluctance into an all or nothing acceptance of, and even promotion of, irresponsible procreation. ... Despite my hesitation to identify people who might be qualified to make such judgements, and the specific grounds upon which such judgements might be made, I reject the claims that such judgements ought never to be made...."¹⁴⁵ It might not be unreasonable to conclude that only the unfit will

object to parenting licensing; those who are competent to parent will understand and accept the program.

Like Battin discussing her proposal of automatic reversible contraception, I'm never sure how the proposal of licensing parents will be received: "as a recommendation, a prediction, a utopian fantasy, a totalitarian plot, a hypothetical conjecture, or a realistic solution."¹⁴⁶ Certainly, no licensing arrangement is going to be problem-free. The question is whether more good than harm will come of it.

Notes:

1. Laura Purdy, "Boundaries of Authority: Should Children be able to Divorce their Parents?" in *Having and Raising Children: Unconventional Families, Hard Choices, and the Social Good*. eds. Uma Narayan and Julia J. Bartkowiak (University Park, PA: Pennsylvania State University Press, 1999), p.157.

2. Hugh LaFollette, "Licensing Parents," *Philosophy & Public Affairs* 19, no.2 (1980) rpt. in *Morality and Moral Controversies*, 5th edn. ed. John Arthur (NJ: Prentice Hall, 1999), p.522.

3. Roger McIntire, "Parenthood Training or Mandatory Birth Control: Take Your Choice," *Psychology Today* (October 1973): 133.

4. Jack C. Westman, *Licensing Parents: Can We Prevent Child Abuse and Neglect?* (New York: Plenum Press, 1994), p.3.

5. Jeffrey Blustein, "Child Rearing and Family Interests" in *Having Children: Philosophical and Legal Reflections on Parenthood*. eds. Onora O'Neill and William Ruddick. (NY: Oxford University Press, 1979), p.119.

6. Katherine Covell and R. Brian Howe, "A Policy of Parent Licensing," *Policy Options* (September 1998): 34.

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7. Westman, *Licensing Parents*, p.25.

8. Covell and Howe, "A Policy of Parent Licensing," p.34.

9. In a survey of 1645 parents of children under six years of age, Invest in Kids discovered that "only 34% know that childhood experiences before the age of three will greatly influence a child's academic achievement; only half know that emotional closeness strongly affects a baby's intellect, and only 18% correctly said that an infant as young as six months cannot consciously manipulate its parents" (Celeste McGovern, "Little Do We Know: Parents are Clueless about Raising Children, A Toronto Group Declares," *British Columbia Report* 10, no.12 [April 1999]: 54).

10. Lynda Beck Fenwick, *Private Choices, Public Consequences* (NY: Penguin Putnam Inc., 1998).

11. Philip Montague, "The Myth of Parental Rights," *Social Theory and Practice* 26, no.1 (Spring 2000): 48.

12. Westman, *Licensing Parents*, p.34.

13. Robert P. Hawkins, "It's Time We Taught the Young How to Be Good Parents (And Don't You Wish We'd Started a Long Time Ago?)," *Psychology Today* (November 1972): 30.

14. *Ibid.*, p.36.

15. *Ibid.*, p.37.

16. Edgar R. Chasteen, *The Case for Compulsory Birth Control* (Englewood Cliffs, NJ: Prentice Hall, 1971), p.209.

17. See Carl Wood and Ann Westmore, *Test-Tube Conception* (London: George Allen & Unwin, 1984), p.3-4; see also Fenwick, *Private Choices*, p.25.

18. Elizabeth S. Anderson, "Is Women's Labor a Commodity?" *Philosophy & Public Affairs* 19, no.1 (Winter 1990) rpt. in *Social & personal Ethics*, 2nd edn. ed. William H. Shaw (Belmont, CA: Wadsworth Publishing Company, 1996), p.306.

19. Westman, *Licensing Parents*, p.31-32.

20. Richard A. Gardner, "Guidelines for Assessing Parental Preference in Child-Custody Disputes," *Journal of Divorce & Remarriage* 30, no.1/2 (1999): 3.

21. Ibid.

22. Ibid.

23. Diane A. Trombetta, "Custody Evaluations: A Realistic View," *Family and Conciliation Courts Review* 29, no.1 (January 1991): 49.

24. Ibid.

25. Ibid., p.50.

26. Ibid., p.51.

27. Robert Mnookin, "Foster Care--In Whose Best Interest?" *Harvard Educational Review* 43,

no.4 (November 1973) rpt. in *Having Children: Philosophical and Legal Reflections on Parenthood*. eds. Onora O'Neill and William Ruddick (NY: Oxford University Press, 1979), p.185.

28. *Ibid.*, p.182.

29. McIntire, "Parenthood Training or Mandatory Birth Control,": p.133,143.

30. Glenn McGee, "Cloning, the Family and Adoption," *Science and Engineering Ethics* 5, no.1 (1999): 53.

31. *Ibid.*, p.54.

32. *Ibid.* The same traditionalism seems evident in Robertson's comment that "the question of a person's right to take on the rearing role becomes problematic if the procreator is unmarried or if someone beyond the family unit collaborates in the production of a child" (John A. Robertson, "Procreative Liberty and the Control of Conception, Pregnancy, and Childbirth," *Virginia Law Review* 69, no.3 [April 1983], p.459).

33. Elizabeth Bartholet, *Family Bonds* (Boston: Houghton Mifflin, 1993), p.65.

34. *Ibid.*, p.66.

35. *Ibid.*, p.81.

36. *Ibid.*, p.69.

37. Ibid., p.184.

38. Ibid.

39. Joseph Fletcher, *The Ethics of Genetic Control: Ending Reproductive Roulette* (Buffalo, NY: Prometheus Books, 1988), p.36.

40. Marjorie Maguire Schultz, "Reproductive Technology and Intent-based Parenthood: An Opportunity for Gender Neutrality," *Wisconsin Law Review* (1990): 322-3.

41. Ibid., p.343. Schultz also notes that "existing status-based parental responsibility has hardly been a model of success, particularly as regards divorced or unwed fathers' obligations to children. A narrow experiment with chosen rather than imposed responsibility could hardly come off worse than the dismal realities of abdication and non-compliance that now confront us" ("Reproductive Technology," p.398).

42. Bartholet notes that Laraine M. Glidden's work reveals that the choice to adopt a child with developmental disabilities is associated with greater parental well-being than being the birth parent of such a child. (See Laraine M. Glidden, "Adopted Children with Developmental Disabilities: Post-Placement Family Functioning," *Children and Youth Services Review* 13 [1991]: 363-77; Glidden, "The Wanted Ones: Families Adopting Children with Mental Retardation," *Journal of Children in Contemporary Society* 21 [1990]; 177-205.)

43. Margaret P. Battin, "Sex & Consequences: World Population Growth vs. Reproductive Rights," *Philosophic Exchange* 27 (1997): 17.

44. Ibid., p.30.

45. "...[C]ontrolled studies comparing wanted with unwanted children have shown a stark contrast; the unwanted do very badly" (Bartholet, *Family Bonds*, p.184).

46. Leon Kass, "The Wisdom of Repugnance" in *Flesh of My Flesh: The Ethics of Human Cloning*. ed. Gregory E. Pence (Lanham, MD: Rowman & Littlefield, 1998), p.16.

47. Gregory S. Kavka, "Upside Risks: Social Consequences of Beneficial Biotechnology" in *Are Genes Us? The Social Consequences of the New Genetics*. ed. Carl F. Cranor (New Brunswick, NJ: Rutgers University Press, 1994), p.172-173.

48. Ibid, p.173.

49. Ibid.

50. Westman, *Licensing Parents*, p.222.

51. Philip Kitcher, *The Lives to Come* (NY: Simon & Schuster), 1996), p.202.

52. See Westman, *Licensing Parents*, Chapter 4.

53. Though it's not really an "or": while the whole (society, the species) might be greater than the sum of the parts (individuals), certainly the sum of the parts determines the minimum of the whole; also, the greater the quality of the species as a whole, the greater the quality of the individuals living in the society created by that species.

54. Lawrence P. Ulrich, "Reproductive Rights and Genetic Disease" in *Biomedical Ethics and the Law*. eds. James M. Humber and Robert F. Almeda (NY: Plenum Press, 1976), p.358.

55. *Ibid.*, p.359.

56. Laura M. Purdy, "Loving Future People" in *Reproduction, Ethics, and the Law: Feminist Perspectives*. ed. Joan C. Callahan (Bloomington, IN: Indiana University Press, 1995), p.307.

57. Robertson argues, however, that it is better "to be created in a lesser form than not at all" (John A. Robertson, *Children of Choice* [Princeton, NJ: Princeton University Press, 1996], p.170); others, however, say that the more accurate decision is between a child in that "lesser form" and one, possibly conceived the next month, not in such a form. As Andre, Fleck, and Tomlinson point out, "many genetic choices ... amount to choices about which child will be conceived rather than harm to one who is" (Judith Andre, Leonard M. Fleck, and Tom Tomlinson, "On Being Genetically 'Irresponsible'," *Kennedy Institute of Ethics Journal* 10, no.2 [2000]: 137-8). But this doesn't change the claim that there is a moral decision involved; it merely changes the nature of the decision--and actually, not even the nature (genetic attribute choices are still involved), but the focus of the decision (Child X with A or Child Y without A, rather than Child X with A or Not-Child X, or Child X with A or Child X without A).

58. Fenwick notes that "30 percent of all pediatric admissions are related to genetic conditions" (*Private Choices*, p.100, citing *California Cryobank News* 1, no.2 [Spring 1992]: 1).

59. David Resnik supports genetic engineering on the grounds of social justice, arguing that "diseases place morally arbitrary restrictions on opportunity ranges and confer unfair disadvantages" (David B. Resnik, "Genetic Engineering and Social Justice: A Rawlsian Approach," *Social Theory and Practice* 23, no.3 [Fall 197]: 435).

60. Purdy, "Loving Future People," p.306.

61. Ibid., p.305.

62. Kitcher, *The Lives to Come*, p.214.

63. Leon R. Kass, "Implications of Prenatal Diagnosis for the Human Right to Life" in *Ethical Issues in Human Genetics*. eds. Bruce Hilton et al (NY: Plenum Press, 1973) rpt. in *Biomedical Ethics and the Law*. eds. James M. Humber and Robert F. Almeda (NY: Plenum Press, 1976), p.321.

64. Fenwick, *Private Choices*, p.100-101.

65. Robertson, *Children of Choice*, p.152.

66. Ibid., p.260, note 4.

67. Kass, "Implications of Prenatal Diagnosis," p.322.

68. Ibid., p.323.

69. Ibid., p.324.

70. Robertson, *Children of Choice*, p.152.

71. Thomas L. Beauchamp, "On Justifications for Coercive Genetic Control" in *Biomedical Ethics and the Law*. eds. James M. Humber and Robert F. Almeda. (NY: Plenum Press, 1976), p.370, 371.

72. Kavka, "Upside Risks," p.156.

73. Kitcher, *The Lives to Come*, p.199.

74. Kavka, "Upside Risks," p.169.

75. Bertrand Russell notes that we were not born equal, and eugenics merely seeks to make us equal--at the level of the best (p.208). But this might be so only if you've got the money to become equal. If we make genetic screening and engineering mandatory, then to avoid perpetuating economic class distinctions and adding new genetic classes, state funding for screening and engineering should be available.

76. Kavka, "Upside Risks," p.171.

77. Anderson, "Is Women's Labor a Commodity?" p.308.

78. Laura M. Purdy, *Reproducing Persons: Issues in Feminist Bioethics* (Ithaca, NY: Cornell University Press, 1996), p.221.

79. See Madam Justice Proudfoot, "Judgement Respecting Female Infant 'D.J.'" in *Contemporary Moral Issues*. ed. Wesley Cragg (Toronto: McGraw-Hill Ryerson, 1992), p.58; see also Deborah Mathieu, *Preventing Prenatal Harm: Should the State Intervene?* (Dordrecht: Kluwer, 1991), p.5.

80. Mathieu, *Preventing Prenatal Harm*, p.7.

81. See Kathleen Nolan, "Protecting Fetuses from Prenatal Hazards: Whose Crimes? What Punishment?" *Criminal Justice Ethics* 9, no.1 (1990), p.14-15; see also Mathieu, *Preventing Prenatal Harm*, p.5-9.

82. Lynn M. Paltrow, "When Becoming Pregnant is a Crime," *Criminal Justice Ethics* 9, no.1 (Winter/Spring 1990): 41.

83. See, for example, Bertin's "High Proof Paternity" in *Health* 20 (June 1988).

84. Michelle Harrison, "Drug Addiction in Pregnancy: The Interface of Science, Emotion, and Social Policy," *Journal of Substance Abuse Treatment* 8 (1991): 267.

85. Molly McNulty, "Pregnancy Police: The Health Policy and Legal Implications of Punishing Pregnant Women for Harm to their Fetuses," *New York University Review of Law & Social Change* 16 (1988): 278.

86. Bonnie Steinbock, "The Relevance of Illegality," *Hastings Center Report* 22, no.1 (January-February 1992): 19.

87. *Ibid.*, p.21.

88. Edward W. Keyserlingk, *The Unborn Child's Right to Prenatal Care*. (Montreal, PQ: Quebec Research Centre of Private and Comparative Law, 1984), p.80.

89. National Bioethics Advisory Commission, "Cloning Human Beings" in *Flesh of My Flesh: The Ethics of Cloning Humans*. ed. Gregory E. Pence (Lanham, MD: Rowman & Littlefield, 1998), p.46.

90. Ibid., p.48.

91. Ibid., p.51.

92. Royal Commission on New Reproductive Technologies, *Proceed with Care* (Ottawa, ON: Minister of Government Services Canada, 1993), p.xxxvii.

93. Ibid., p.476.

94. Ibid., p.484.

95. Ibid., p.481.

96. Ibid., p.571.

97. Susan Ince, "Inside the Surrogate Industry" in *Test-tube women*. eds. Rita Arditti, Renate Duelli Klein, and Shelley Minden. (London, UK: Pandora Press, 1984), p.105.

98. Ibid., p.106.

99. Robertson, *Children of Choice*, p.513.

100. Ibid.

101. Lori B. Andrews, *New Conceptions: A Consumer's Guide to the Newest Infertility Treatments* (New York: Ballantyne Books, 1985), p.172.

102. American Medical Association Board of Trustees, "Legal Interventions during Pregnancy," *Journal of the American Medical Association* 264, no.20 (November 28, 1990): 2667.

103. Royal Commission, p.1130.

104. Ibid.

105. Betsy Hartmann, *Reproductive Rights and Wrongs: The Global Politics of Population Control and Contraceptive Choice* (New York: Harper & Row, Publishers, 1987), p.283.

106. Ibid., p.21.

107. With regard to legal rights in the U.S., McNulty notes, for the record, that the constitutional "right to privacy includes the right to bodily integrity, the right of parental authority against the state, and the right to make childbearing decisions" ("Pregnancy Police," p.314), so implementing a policy of licensing parents may require some constitutional change.

108. Interested readers are directed to Ronald Dworkin, *Taking Rights Seriously*; Joel Feinberg, *The Nature and Value of Rights*; David Lyons, *Rights*; L. W. Sumner, *The Moral Foundation of Rights*, Judith Jarvis Thomson, *The Realm of Rights and Rights, Restitution, and Risk*; and Morton Winston, *The Philosophy of Human Rights*. For short introductions, I recommend the opening piece in Winston's book and Lawrence C. Becker's "Individual Rights" (in Tom Regan

and Donald VanDeVeer's *And Justice for All: New Introductory Essays in Ethics and Public Policy*).

109. Diana T. Meyers, "Possession of Inalienable Rights" in *The Philosophy of Human Rights*. ed. Morton E. Winston (Belmont, CA: Wadsworth Publishing Co., 1989), p.217.

110. Bonnie Steinbock, "Reproductive Rights and Responsibilities," *Hastings Center Report* 24, no.3 (May-June 1994): 15.

111. Alyce Vrolyk, "A Test Case for Rights: The Cognitively Handicapped Parent," *International Journal of Applied Philosophy* 3 (1987): 29.

112. Onora O'Neill, "Begetting, Bearing, and Rearing" in *Having Children: Philosophical and Legal Reflections on Parenthood*. eds. Onora O'Neill and William Ruddick (NY: Oxford University Press, 1979), p.25.

113. Ruth F. Chadwick, "Having Children: An Introduction" in *Ethics, Reproduction and Genetic Control*. ed. Ruth F. Chadwick (London: Croom Helm, 1987), p.31.

114. Hugh Adam Bedau, "International Human Rights" in *And Justice for All: New Introductory Essays in Ethics and Public Policy*. eds. Tom Regan and Donald VanDeVeer (NJ: Rowman & Allanheld, 1982), p.300.

115. See Ronald Dworkin for opposition to this second view: he argues that individual rights trump political concerns of collective well-being.

116. Bartholet, *Family Bonds*, p.229.

117. Westman, *Licensing Parents*, p.155.

118. Stephen L. Isaacs, "Incentives, Population Policy, and Reproductive Rights: Ethical Issues," *Studies in Family Planning* 26, no.6 (November/December 1995): 364.

119. Ibid.

120. McNulty, "Pregnancy Police," p.317.

121. Is this emphasis on the *right* to reproduce rather than on the *responsibility* of reproducing a result of our male-dominated attitudes, the male model emphasizing individuals and rights, the female model emphasizing communities and responsibilities? This precious right to have evidence of one's virility (narrowly and mistakenly measured by offspring) (and why is virility important anyway?), the need to have progeny, especially *male* progeny, to carry on one's (man's) name, one's ego, really.... It is the right *not* to reproduce, that is what has historically been sought by *women*.

122. Royal Commission, p.1131.

123. Laura Shanner, "The Right to Procreate: When Rights Claims Have Gone Wrong," *McGill Law Journal* 40, no.4 (August 1995): 860.

124. Ibid.

125. Bartholet, *Family Bonds*, p.46.

126. Chasteen, *The Case for Compulsory Birth Control*, p.204.
127. Ibid.
128. Purdy, *Reproducing Persons*, p.41.
129. Royal Commission, p.1129.
130. Ibid.
131. Chasteen, *The Case for Compulsory Birth Control*, p.87.
132. Isaacs, "Incentives," p.363.
133. Hartmann, *Reproductive Rights and Wrongs*, p.149.
134. Michael D. Bayles, "Limits to a Right to Procreate" in *Having Children: Philosophical and Legal Reflections on Parenthood*. eds. Onora O'Neill and William Ruddick (NY: Oxford University Press, 1979), p.14.
135. Ibid., p.22.
136. Ibid.
137. Ibid., p.17.
138. Hartmann, *Reproductive Rights and Wrongs*, p.11.

139. Ibid., p.31.

140. Fenwick, *Private Choices*, p.22-23.

141. Quoted by Carla Yu in "Permission to Parent: Child-Rights Theorists Think that Family Licences would Halt Child Abuse," *Alberta Report* 26, no.11 (March 8, 1999): 33.

142. Chasteen, *The Case for Compulsory Birth Control*, p.91.

143. Royal Commission, p.1135-6.

144. Quoted by Anne M. Boylan, "Neither Fruitful Nor Multiplying," review of *Barren in the Promised Land: Childless Americans and the Pursuit of Happiness*, by Elaine Tyler May. *Reviews in American History* 24, no.2 (1996): 317.

145. Shanner, "The Right to Procreate," p.865.

146. Battin, "Sex & Consequences," p.27.

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Cynthia B. Cohen. Bloomington, IN: Indiana University Press, 1996. 213-230.

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