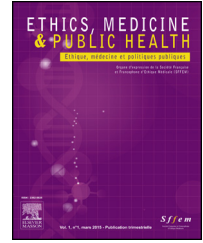




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METHODOLOGY

Queering bioethics: A queer bioethical inventory of surrogacy



La queer bioethics : un inventaire de queer bioethics de la maternité de substitution

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Summary Queer bioethics is a latterly explicated field of bioethics developed by Lance Wahlert and Autumn Fiester, focusing on gender nonconformity and sexual diversity. Queer bioethical inquiries often involve people identifying as lesbian, gay, trans, queer or intersex (=LGBTQI) to name some of the established identity categories of such nonconformity and diversity. Topics of queer bioethical interest can include, for example, issues discussed in mainstream bioethics as gender reassignment or sex affirmation of trans- and intersex people respectively, or reproductive justice for same-sex couples accessing assisted reproduction technology. Further, however, queer bioethics interrogates the basis on which certain socio-medicalized views on gender and sexuality are justified in medical ethics, wishing to critically renegotiate these justifications to allow more human flourishing. This is also a call for dismantling the cis- and heteronormative bioethical foundations of public health. This article offers an introduction to queer bioethics accompanied by the queer bioethics inventory (QBI) formulated by Wahlert and Fiester for bioethical methodology, by focusing on the case of surrogacy in Finland. The case is selected neither because it is the most queer bioethically appalling nor because it is a rare one. On the contrary: the case has nothing explicitly to do with LGBTQI people, and allowing surrogacy as treatment is not globally uncommon. To subject a seemingly non-queer, common bioethical practice, for a queer bioethical analysis reveals the need for queer bioethics.

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MOTS CLÉS

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Queer bioethics ;
Maternité de
substitution

Résumé La *queer bioethics* est un domaine de bioéthique expliquée récemment développé par Lance Wahlert et Autumn Fiester, centré sur la non-conformité entre sexes et la diversité sexuelle. Les enquêtes bioéthiques transgenre impliquent souvent des personnes qui s'identifient comme lesbiennes, gays, trans, transgenre ou intersexué (= LGBTQI) pour nommer certaines des catégories d'identité établies de cette non-conformité et diversité. Les sujets d'intérêt *queer bioethics* peuvent comprendre, par exemple, les questions abordées dans la bioéthique générale comme la réaffectation des sexes ou l'affirmation du sexe des personnes trans- et intersexuées respectivement, ou l'égalité de reproduction pour les couples de même sexe accédant à la technologie de reproduction. Par ailleurs, la *queer bioethics* interroge la base sur laquelle certains points de vue sociomédicaux sur le genre et la sexualité sont justifiés dans l'éthique médicale, désireux de renégocier de manière critique ces justifications pour permettre un plus grand épanouissement humain. Il s'agit également de démanteler les fondements bioéthiques cis-et hétéronormatif de la santé publique. Cet article offre une introduction à la *queer bioethics* accompagnée de l'inventaire de la *queer bioethics* (QBI) formulé par Wahlert et Fiester pour la méthodologie bioéthique, en se concentrant sur le cas de la maternité de substitution en Finlande. Le cas est choisi ni parce qu'il est le plus transgenre bioéthiquement épouvantable ni parce qu'il est rare. Au contraire : le cas n'a rien explicitement à voir avec les gens LGBTQI, et permettre la maternité de substitution comme traitement est assez courant. Soumettre une pratique bioéthique commune apparemment non-transgenre pour une analyse *queer bioethics* révèle la nécessité de la *queer bioethics*.

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Introduction

This article offers my treatment on introducing, applying and further developing the concept of queer bioethics, by drawing from the case of surrogacy in Finland. A Northern European country with globally high-ranking, reproductive healthcare and relatively balanced economic equality – both important factors in bioethical analyses of surrogacy work – Finland banned surrogacy in 2007 after allowing it for decades as an infertility treatment for married couples to whom having a child was physically impossible due to malfunctions or the absence of a uterus. In 2011, the Finnish National Advisory Board on Social Welfare and Health Care Ethics ETENE [1] formulated a statement recommending the reinstatement of surrogacy as a legal treatment. Following an established bioethical trend, the board deemed it as the most unproblematic form of surrogacy, most notably compared to what it called commercial surrogacy. Despite recommending surrogacy to be a legal treatment in certain isolated cases, however, their bioethical contemplation viewed surrogacy in general as “problematic to human dignity” [1, p. 2] and recognized issues of equality and non-discrimination in receiving this infertility treatment. Based on this statement and on wider bioethical research, I formulate what I call the conditions for ethical surrogacy and interrogate them via feminist and queer bioethical analyses, focusing on the latter.

I begin this article by discussing the current formulation of queer bioethics, in addition to briefly exploring what I consider its moral theory potential that should be developed further. Next I will discuss the case of surrogacy by

giving the example from Finland and analyze its bioethical ramifications by using the queer bioethics inventory [2]. I will also offer non-exhaustive, feminist bioethical remarks.

The case of surrogacy in Finland was selected for the inventory neither because it is the most queer bioethically appalling nor because it is a rare one. On the contrary: the case has nothing explicitly to do with LGBTQI people, and allowing surrogacy as treatment is not globally uncommon. To subject a seemingly non-queer, common bioethical practice for a queer bioethical analysis reveals the need for queer bioethics: By offering a queer bioethical analysis of a general bioethical issue rather than a specifically LGBTQI – one this article aims to highlight how so-called mainstream bioethics fails to acknowledge infringements of bioethical justice when it comes to gender nonconformity and sexual diversity. It also aims to highlight how the metaethical hetero- and cisnormative component can negatively affect professional bioethical analysis.

Heteronormativity refers to the systematic assumption of heterosexuality, from which seemingly follows the unproblematic legitimacy of organizing bioethical practices accordingly. Cisnormativity refers to the assumption that there are two distinct (if not indeed categorical/essential), gender binaries of male and female, from which seemingly follows the unproblematic legitimacy of organizing bioethical practices accordingly [2–4]. Hetero- and cisnormativity are also often accompanied by the assumption that gender can be divided into social (gender) and biological (sex), whereas a queer approach to sex promoted in this article

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