Gay science: assisted reproductive technologies and the sexual orientation of children

Tim Murphy first studied Philosophy as an undergraduate at LeMoyne College, New York, going on to take graduate degrees in the subject at Boston College. Currently he is Professor of Philosophy in the Biomedical Sciences and is a member of the Graduate Faculty, in the Department of Medical Education at the University of Illinois College of Medicine, Chicago, Illinois, USA. From 1998 to 2001 he was Principal Investigator on the NIH project 'Research Ethics in Clinical, Biomedical and Public Health Sciences'. He is the author of several books and many peer-reviewed articles.

Timothy F Murphy

Department of Medical Education m/c 591, University of Illinois College of Medicine at Chicago, 808 South Wood Street, Chicago IL 60612–7309, USA
Correspondence: e-mail: tmurphy@uic.edu

Abstract

There are no technologies at the present time that would allow parents to select the sexual orientation of their children. But what if there were? Some commentators believe that parents should be able to use those techniques so long as they are effective and safe. Others believe that these techniques are unethical because of the dangers they pose to homosexual men and women in general. Both sides point to motives and consequences when trying to analyse the ethics of this question. These arguments are reviewed, and it is concluded that opponents of these technologies have not shown good reason why the law or policy should override parental choice in this matter. In general, therefore, if technologies become available to choose the sexual orientation of children, parents should be allowed to use them, provided they are safe and disrupt no interest of the child. This use will, at the very least, protect homosexual children from parents who do not want them, but it will also allow parents who want homosexual children to make that choice as well.

Keywords: *assisted reproductive technologies, children, homosexuality, parents, law*

Introduction

Parents use a variety of folk practices to influence the traits of their children, even before they are born. Some would-be parents engage in intercourse in various positions or at certain times of day or come to sexual climax in a particular order in the belief that doing so will give them a child of a preferred sex. While many parents have strong interests in the sexual orientation of their children, it is not clear that that they have developed folk practices to influence that outcome prior to birth. Because of advances in biological study, however, prenatal tests and interventions for sexual orientation are one of the topics-in-chief when it comes to the scientific study of homosexuality (Murphy, 1997).

In 1979, philosopher Lawrence Crocker (Crocker, 1979) wrote the first sustained ethical analysis of using a prenatal intervention to control the sexual orientation of children. Then, as now, the discussion was entirely speculative, as there are no known interventions of this kind. Crocker called the attempt to control sexual orientation 'meddling', but he nevertheless outlined a strong defence of parents' rights to use a 'magic pill' that could be taken during pregnancy to ensure heterosexual children. Crocker used the following assumptions to come to that conclusion: that heterosexuality in children is better than homosexuality for children, their families, and society at large; that homosexual men and women are significantly unhappier than heterosexual men and women; and that no amount of social transformation will materially alter these facts. Crocker does call these assumptions far-fetched, but he offers no other view of homosexuality when concluding that parents would be within their rights to use a magic pill, so long as the pill was completely effective and safe. In fact, Crocker's argument extends much further than he appreciated. If homosexuality were as objectionable as he said, one would really have to conclude that parents would be morally deficient if they had access to this pill and *did not* use it (Murphy, 1997, pp. 110–111). Not using such a magic pill would violate a parent's prima facie duty to avoid exposing their children to serious and avoidable harm. If homosexuality were only half as bad as Crocker says, his views really might be the last word on the topic, but the matter is more complex than his highly contentious assumptions allow.

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Crocker's 1979 article occurred in the context of the work of Bell and Weinberg, one of the most important studies of sexual behaviour in the United States (Bell and Weinberg, 1978). In the psychedelic 1970s, talk of magic pills was very much in the air. Among other things, for example, Bell and Weinberg asked their homosexual subjects whether they would have preferred a magic pill at birth to guarantee their heterosexuality. Most homosexual men and women rejected this medicated rewriting of their lives, 72–89%, depending on sex and race (Bell and Weinberg, 1978, pp. 124, 339). An even larger majority said they would reject a pill that would change their sexual orientation now, in adulthood, 86–95%, again depending on sex and race. It should be mentioned, though, that some of these same subjects said they would be upset or somewhat upset if a child of theirs were to become homosexual, 25–33%, depending on sex and race. Most subjects in this study did not want their own sexual orientation changed, but a significant number would not want to see their own children become homosexual. Bell and Weinberg did not ask the subjects *why* they felt that way. This unanswered question shadows discussions about controlling the sexual orientation of children to this day.

The Bell and Weinberg study is dated, of course, by decades of social change regarding the status of homosexual men and women, not the least of which has been the declassification of homosexuality as pathological by medical organizations (Bayer, 1987). Even the venerable United States Supreme Court has reversed course and caught up with the 1957 Wolfenden Report (see The Wolfenden Report, 1963) and the 1804 Napoleonic Code before that. In 1986, the court said in Bowers v. Hardwick that it was perfectly constitutional for states to criminalize sodomy, saying they had moral and legal history on their side. In 2003, the Court repudiated this and said that states could not criminalize private and consensual sex between adults of the same sex, so long as no money was changing hands (Greenhouse, 2003). Clearly a lot had changed in those intervening 17 years. The increased social acceptance of homosexuality would probably lead even fewer homosexual men and women to say today that they would be upset if their child shared their sexual orientation. No researchers have asked this question for a while, so we can't be sure, but the pendulum might even have swung the other way, to the point that some parents – homosexual and heterosexual alike – might actively wish to have homosexual children, an option that Bell and Weinberg did not even think to ask about, such were the times.

Motives for avoiding having homosexual children

To be sure, not all parents are sanguine about the prospect of having homosexual children, and there seem to be two main rationales why parents would want only heterosexual children. The first rationale is rooted in a belief that that heterosexuality is in the child's better interest, either as something inherently valuable or as instrumentally valuable. Whether they think of homosexuality as antithetical to human nature itself, or whether they think of it merely as a handicap in an overwhelmingly heterosexual world, some parents genuinely believe that heterosexuality is ultimately more valuable than homosexuality to children. But is this always true? There are, of course, unhappy homosexual men and women, but it is hardly true across the board that homosexuality must be an obstacle to meaningful human life. Some of the unhappiness ascribed to homosexuality can be traced to differential social treatment, in schools, for example, that pretend that homosexual adolescents and their particular needs and interests do not exist (Illingworth and Murphy, 2004). Yet most homosexual people around the globe find their way to ample measures of hope, love, and happiness. In any case, parents are not always perfectly situated to know what traits will best serve the interests of their children in the long run, whether in matters of intelligence, sex, or sexual orientation. Consequently, the view that parents act beneficently toward their children only if they try to ensure their heterosexuality is far from persuasive.

The second rationale for preferring to have heterosexual children is rooted in the desire to have children who conform to parents' expectations. Some men and women might want to avoid gay and lesbian children to avoid the perception that they have been poor parents whose behaviour is causally implicated in the emergence of their children's homosexuality, that they have been smothering mothers or emotionally distant fathers. Some parents object to homosexuality on religious or moral grounds and simply do not want their children involved in that – as they see it – objectionable behaviour. Other parents might hold no particular moral or religious objection to homosexuality but simply find it alien to their own experience; they doubt they can offer homosexual children the kind of special care and attention they might need. There is an epistemological problem here, of course, because parents cannot know in advance how they will see their children in the future or how their views will change because of their children. Many parents do love, nurture, and take delight in their homosexual children, their prior scruples and demurrals notwithstanding. It is not obvious therefore that sexual orientation must be an impediment to mutually rewarding parent–child relationships: parents can love, nurture, and teach their children, and children can return those favours in the ways they are able, regardless of sexual orientation. Even if parents and children do not ultimately share the same sexual perspectives, the relevant philosophical question here is why and to what extent a child must conform to parental expectation in order to be wanted, loved, and nurtured. Why should a child's welfare ultimately rest on the way in which he or she measures up to parents' idealized conceptions of the children they believe they deserve?

The process of avoiding having homosexual children

Commentators writing about prenatal tests and interventions for sexual orientation do not typically focus on the ethics of the interventions themselves, though in some ways these can be morally problematic. One possible moral objection to tests and interventions is that they overreach the purposes of medicine and health care: helping parents have a child of a particular sexual orientation involves no treatment of a disease or disorder. But this objection confines the purposes of health care too closely. Bioethicist Edgar Dahl has rightly pointed out that the uses of biomedicine extend well beyond the diagnosis and treatment of disease properly speaking, so that unless we are willing to ruthlessly prune many other services from health care, this objection carries virtually no weight at all (Dahl,