THE RIGHT TO PROCREATION: MERITS AND LIMITS

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I. THE RIGHT TO PROCREATE

I want to show that government limits on reproduction are morally acceptable. While any policy may be imposed in an unjust way, and thus rendered illegitimate by the method of its implementation, there is nothing in government restrictions on the number of children we have that in itself violates rights. This has been obscured, first, by confusing the supposed right to have as many children as you want with other rights, and, second, by associating government intervention in numbers with other, unjust government policies which historically have accompanied it. Properly understood, though, government limits on the numbers of children we may have is seen to be as just as any other government policy. I want to make it clear that I am not necessarily recommending the imposition of restrictions. Forcing some to do something they don’t want to do is necessarily painful, and if the same goals can be met in other ways, without excessive costs, so much the better. If, however, methods to enlist voluntary compliance when population control is required are not effective, we need to assess the moral priority of mandatory restrictions, and that is the goal here.

Let us grant, at least for purposes of argument, that there is a fundamental right to procreate. Does it follow from this that there is a right to have as many children as you want? Many thinkers have taken it to follow from the right to procreate that state interference in how many children a person has is at least prima facie wrong. Michael Bayles, for example, says "A human right to procreate involves an obligation on others not to limit a person's liberty to decide when and how many children he will have." Policy makers, too, have accepted this entailment: thus, we hear from the United Nations: "The United Nations Universal Declaration of Human Rights describes the family as the natural and fundamental unit of society. It follows that any choice and decision with regard to the size of the family must irrevocably rest with the family itself, and cannot be made by anyone else." But why? Saying we have a right to x doesn’t necessarily mean that we have the right to x as much as we want. We may have a right to eat, but not a right to make pigs of ourselves—we have a right to meet our basic needs for survival. Those who argue for the right to work (also included in the United Nations list of rights) don’t argue that this right entails a right to the best job, or the job you want, but to the basic goods of employment. The right to marry is cited by some as a fundamental right, and as a ground of the right to procreate, but it is
a limited right—you can be restricted to marrying only one person at a time. Thus, even a fundamental right to something need not mean that right has absolute extension.

It is strange, then, that people have seen the right to have children as one that allows no limits—either we have a right to as many children as we want, or we have no right to have children at all. Why would this be? There are two sorts of arguments produced to justify the claim that there is a right to procreation itself. First, proponents point to a particular kind of value which procreation produces, and say that this value is so important that we must surely have a right to produce it. Second, there are arguments that there is a right to reproduce, not just because procreation produces valuable stuff, but because the right to procreate is entailed by other rights which we admit to be basic. The question is whether either of these arguments for the right to have children, the axiological or the deontological, entails the right to bear an unlimited number of children. If the government infringes on a basic right if it does not let us have children at all, does it also act unjustly if it limits the number of children we have?

II. VALUES

The United Nations Universal Declaration of Human Rights states that each person has a right to a family, and that the family unit is entitled to protection by society and the state.¹ Let us agree that families are good things, both for personal benefit and for the health of society. Whatever one’s definition of family, however, it seems clear that one can have a family with only a limited number of children. The values of family living—security, loving relationships, mutual support—are clearly personally important to most people, and important as well for the stability and well-being of society, but having fewer children does not mean that a family has less value as a family. Indeed, some of the practical operations of family—providing for kids’ material welfare, for their health and education—are often easier when there are fewer children, in a way beneficial both to the family and the society around it.

Other values of procreation, too, while significant, don’t seem to depend on numbers. John Robertson, widely cited on these issues, says, “Procreative liberty should enjoy presumptive primacy when conflicts about its exercise arise because control over whether one reproduces or not is central to personal identity, to dignity, and to the meaning of one’s life.”² It involves “an animal or species urge closely linked to the sex drive,” and “[t]he connecting us with nature and future generations reproduction gives us solace in the face of death.” It also has “primary importance as an expression of a couple’s love or unity.”³

Let us accept these claims, both moral and psychological. Let us accept, too, for purposes of argument, that these show that there is a right to procreate. How many children do we need to have? Psychologically, most people feel that their animal urge to procreate can be satisfied without producing as many children as biologically possible. Similarly for the expression of love—while being the father or mother of your beloved’s child can be an expression of love, as can rearing a child together, most couples feel that this expression needs only limited iteration. Having some children is enough. It seems possible, then, that having just one or two might be sufficient. The same holds for the desire for immortality through posterity. We all like to leave something behind, and some people want to leave somebody behind. Surely any reasonable desire in this regard, though, could be satisfied by having just a few children. Some may be left unsatisfied by such a limit, but we tend to regard people who want lots and lots of kids to carry on their names or their genes as deviant in their need for self-aggrandizement—like the boxer George Foreman, who has named five of his children “George Foreman, Jr.”
As to the necessity of procreation for meaning and personal identity, again, the number of children one has shouldn't make a difference. Say that a woman has hinged her identity to the idea of herself as a mother, with the internal activities and role in society that entails. She ought to be able to see herself as a perfectly good mother without having to be the mother of many (or, indeed, the biological mother of any.) The idea that the mother of numerous offspring is a better mother is surely outdated, reminding us of a mentality where the mother of many children was valued, like a Better Boy tomato plant, mainly as a good producer. It is the activity of mothering, rather than an inventory count, which gives mothering meaning.

The same holds true for the more complex moral claims about children as necessary for dignity. I don't suppose anyone really thinks that having children is in itself necessary for dignity. What one might fear is that being denied the chance to have children by someone deprecates your dignity. Historically, such denials have been predicated on either of two claims: that you are infertile, and thus 'we don't want more like you around, or, that whatever your merits, you, unlike the rest of us, lack the rationality to be in charge of your own reproduction. (Both rationales have been stated for sterilizations based on race, criminality, or retardation.) Such discrimination does deny dignity. In the case of a social policy enjoining all people from reproducing beyond a certain number of children, however, for the benefit of society, there is no depreciation of the value of one person in comparison to another, and the dignity of the individual need be no more impugned than by our general submission to law.

This is not to deny that we feel the pressure of convention as to what family size should be, and that we can feel inadequate when we fail to meet these conventions, whether cultural or familial. In some places, and within some families, there is an expectation that a good family is a large family, and the transition from one convention to another is always painful for those on the cusp. We cannot, however, let conventional expectations guide our understanding where no needs are met by that convention, and where actual harm is done.

III. Rights

What if the basis of the right to procreation is not just a function of what kids give us, but the right to non-interference, to live as we wish? Limiting the number of children we may produce is certainly interference. Imposing one's children on an overpopulated world is also a kind of interference, however, in the lives of others in that world. Whose desire should trump? Generally, while differing ethical theories propose differing foundations for rights, most argue that our right to do a thing reflects the interest we have in being able to do that thing. To the extent rights reflect interests, they are not unrelated to the values discussed above. They resist, however, being weighed additively: two person's right to x are not necessarily more important than one person's right to x, and similarly, your right to x may not outweighed by the simple fact that others' right to x can only be respected if yours is disrespect. However, compromises are still made: you right to x may be overridden if others have a right to y, which is more fundamental than the right to x. The more basic a right is, the less easy to override it in a one-on-one conflict with another right. Thus, it is a function of how important the interests it protects are.

So, in what does our greater interest lie, in the ability to procreate as often as we want, or in the goods that such procreation might prevent access to? Generally, of course, the right to liberty itself is seen as essential to our living as autonomous beings, and thus constitutive of our very identity as moral agents, but we all recognize that absolute liberty is incompatible with others having the same liberty.
The question then arises as to what specific liberties we have a fundamental right to, our interest in having as many children as we want this significant?

How does one decide which are fundamental rights? When we speak broadly of liberty as constitutive of our being as moral agents that means we should have some right to liberty, but where does one go next? Freedom of speech is often thought to be a part of autonomy, but this does not hold for all speech—it is thought we have a fundamental right to political speech, but not to obscene phone calls. When it comes to childbearing, surely the ability to have as many as one wants is not necessary to agency or autonomy—if it were, those who can't have children because of physical problems would count as less than full moral agents. What is at issue is presumably not the right to have children, per se, but the right to make decisions for oneself, and how far this extends.

These are, of course, many theories of rights. One may feel that rights are determined by what rational self-interested agents would agree to behind the veil of ignorance; or that these are powers we would not have given up for the sake of being governed; or that for someone to have a right is to have something which, for reasons of utility, society ought to defend him in the possession of. None of these offers any particular support for the argument that we should be able to have as many children as we want, no matter what the costs to others' welfare. Indeed, it might plausibly be argued that in the original position we would prefer more goods to greater numbers of offspring, or that since so many children mean there won't be as much and as good left for others it's not something we have a right to, or that if unrestricted numbers of offspring will create shortages and suffering its disablement outweighs its utility. These generally Rawlsian, Lockean, and Millian views are not the only theories of the basis of rights, however, and these are not the only interpretations which might be offered even of these particular theories. Given this, rather than attempt a lengthy review of all rights theories here, I want to look at one of the most powerful arguments that we have an interest in procreative freedom that is so fundamental as to outweigh others' interest in controlling that, the argument for the right to abortion. Such a discussion will not be definitive, but what I want, in the space allowed, is to argue that the most lengthy exploration of bodily and procreative rights we have had shows no right to have as many children as we want, and that this provides at least prima facie reason to doubt that such a right exists.

To see abortion as being at odds with restrictions on procreation may seem surprising initially, for there is a sense in which they both do the same thing—they both prevent people coming into being. The right to abortion is said to rest on the right to reproductive freedom, however, and advocates generally do not say if this reproductive freedom is simply the right not to have a child, or whether it includes the positive right to have children without constraints. Thus, the right to abortion, resting on reproductive freedom, might be thought to entail a right to unlimited procreation, as derived from reproductive freedom. Does the right to abortion imply the right to have as many kids as you want? Conversely, would the state's right to limit reproduction entail a state's right to limit abortion?

Sometimes the right to abortion is described as resting on a right to control what happens to one's body, but that appears to be too broad. We require permissions for the use of drugs, vaccinations for school, and force others to put their bodies in the line of fire when the country is threatened. The right to abortion must then rest on narrower bases than simply bodily control. What are these, and do they imply the right to have as many children as one wants? The two most cited justifications for the moral right to abortion are the right to privacy and the right to gender equality. Let
us assume these claims are valid. Properly understood, though, neither of these rights justifies a claim to freedom to have as many children as one wants.

Privacy: An intuitive asymmetry might be that forcing a woman to have a child she doesn’t want is more intrusive than preventing her from having one she does want. In the first case, the presence of a child necessarily brings about a change in the woman’s body, and is a presence she is always aware of, for better or worse. Having produced a child makes a great change in one’s life, even if the mother does not keep the child, and obviously makes a huge one if she does. Not having a child, on the other hand, maintains the status quo; the woman’s life goes on as it has. Thus, preventing someone from having more than the permitted number of children seems less intrusive than preventing abortion, in that it has a smaller effect on those involved.

However, I don’t think this intuition holds much weight. It may often be true that having an unwanted child is more intrusive than not having a desired third or fourth child, but we can’t assume this. Maybe the person who wants the abortion already has four kids and the fifth one wouldn’t make all that much difference to her life style: she just would prefer not to have more. And we may imagine people for whom having a large number of offspring is extremely important, so that a restriction in numbers of children constitutes a real hardship. Burdensomeness alone is not a reliable gauge of when one has a right to privacy and when one does not. More significant, though, is how “private” the act in question really is. We argue for liberty in the realm of the private because the private is no one else’s business: how we have sex, for example, or whom we have it with, affects no one but the sexual partners, and should be protected. Personal choices are less private when they affect other people, and claims to rights then become weaker. The most seminal privacy argument for abortion turns on the fact that the fetus is not a person (and, of course, this is the basic perception upon which the legal right to abortion rests). Since the fetus is not a person, a person cannot interfere with its right to life, and opponents are thus mistaken in believing the fetus’s right to life is transgressed. If a person’s actions don’t impose on others, she has a right to engage in them as she wishes, and so abortion is permissible. Unlimited procreation is different, however. It can interfere with the lives of others, and with what we consider to be the rights of others, in that it can prevent adequate education, health, environmental quality, and so forth. Surely the right to privacy does not mean that we have a fundamental right to interfere with others’ basic rights, merely to augment our sense of fulfillment. While it would admittedly be oppressive for the government to interfere in our lives is limiting the number of children we may have, it is surely more oppressive to deny others the basic necessities of life by allowing overpopulation. Having an unlimited number of children seems to interfere with others in more fundamental ways than denying potential parents the right to have an unlimited number of children interferes in their lives. It is thus not within the legitimate scope of privacy.

Gender Equality: Some feel that the defense of abortion is better grounded in the right to gender equality. For a woman to be forced to have a baby against her will is to treat her unequally, for no man is ever forced to have a baby. This right again, is not infringed upon by controls on procreation. While requiring women to have kids reflects and produces gender inequality, since only women have them, constraining people generally from having children is not more oppressive of one gender than another. The only circumstances under which this might lead to a diminution of women’s status would be where women are given value only as the exclusive bearers of children, in which case
the right which needs to be observed is not the putative right to procreate unlimitedly but the right to be regarded as equal in value to men, regardless of procreative power. Indeed, fewer women ought to mean greater equality for women, freed from the traditional burden of multiple pregnancies, lactation, and ongoing childcare. Neither of these arguments for the right to abortion, then, entails the right to unlimited procreation.

IV. OTHER INJUSTICES IN MANDATORY PROCREATION LIMITS

If there is no evident ground for a right to bear an unlimited number of children, why do situations where there are imposed restrictions on the number of children we have—China, for example—commonly strike us as so unjust? The answer is that the practice of imposed restrictions has been accompanied by other practices, some of which may appear unjust without being so, and others which are indeed unjust, but which we see as inevitable consequences of population restrictions. These are problems which need to be addressed, but seem, upon consideration, that there is nothing about restricting the number of children people may have which necessitates injustices.

Sex Selection. Critics point out that in China the one-child policy has led to abortions of female embryos. We live in a sexist world, where boys are favored and girls are often seen as a burden. Where numbers of children are limited, won’t people favor male children over females? And if we can foresee this, can we sanction limits on childbearing?

This reaction, while understandable, seems to rest on a mistake. Sexism is bad. It does not follow from that, however, that sex selection itself is an injustice. If abortion is a right, why wouldn’t we have a right to choose which embryo to abort? Sex selection need not reflect sexist motives, or create a more sexist society. Say that a poor family fears that it cannot provide an adequate dowry for a prospective daughter, and feels furthermore that it needs the support of a son’s income to survive. If such a family chooses to abort a female fetus, it seems to me this can be a reasonable response to the patriarchal society into which this family has been born. We commonly sanction abortion in the U.S. because a pregnant woman does not feel ready to have another child, without questioning her motivations; can we doubt that a woman who feels circumstances do not permit her having a female child should have the same right? In some countries, it is simply realistic to admit that having a girl rather than a boy can impose a heavy burden. Surely, then, parents who select against girls are not, simply in acting on such a motivation, doing wrong. What we should deplore are the circumstances which suggest this choice, not the choice itself.

Inclusion: Again, when we react to the case of China, the form of government, rather than just the policy it imposes, arouses our national opposition. China is not a democracy, and non-democratic governments are unjust.

Even if the actions interfered with are ones that people have no fundamental right to, those without legitimate authority naturally appear oppressive when they interfere, even if that interference does good and intends good. I don’t have the right to make my neighbor’s child watch less TV, even though it would be better for him if he did, because only his guardians have that authority. Thus, even if the policy of the Chinese government is benevolent and beneficial and interferes with no fundamental right, the government itself is illegitimate, and we perceive this illegitimacy in its action to control population.

An inclusive structure would involve those affected by the policy in the formulation of the policy, and, importantly, in the sanctions attached to the policy. We know that in China sanctions have included some that the Chinese people would presumably not allow, if they had any say in the formulation of the law. The best way to avoid cruel or excessive
sanctions, and the way to arrive at effective but fair sanctions, is to include the affected populace in the determination of those sanctions. Similarly, determinations of the exact parameters of the policy need to be arrived at locally: for example, what number of children should couples be limited to? How should we handle allocation of children over several marriages and divorces? Should people who don’t have children be allowed to donate their unused right to another? Appropriate answers to these may vary within the context of a specific country, and that is best determined by those within that situation. Democracy is probably necessary to make this effective and fair. It may not be sufficient, sometimes de jure democracy becomes de facto oligarchy, but it is a step in the right direction, and this perception guides at least some of our feelings that the policy enacted in China is not just. The problem, though, lies not with the policy but with the form of government implementing it.

Need: There has to be a good reason to stop people from doing even those things they don’t have a fundamental right to. If there is something people want to do, and there’s no good reason for them not to do it, we normally feel we should let them do it. Restrictions on procreation, thus, should only be implemented when unlimited procreation has sufficient costs, and when mandatory restrictions are the only way to effectively bring about the required changes. Some argue that the diminishment in population growth in China following the implementation of the one-child policy is due to factors other than that state imposed restriction, and that generally development and education have been more effective measures to reducing population. If this is always so, then introducing painful government policies would be both unjust and foolish. Even if this is true in China, however, we cannot assume it will always be the case, so while acknowledging that state imposed policies have inevitable costs, we cannot assume that they will never be necessary.

Discussion of what constitutes overpopulation is similarly open ended. Some may feel that the only relevant costs are whether the planet is reaching a point where many will starve if we don’t cut back on growth. For others, including myself, there are relevant costs short of human starvation: poverty, crime, lack of health care, hunger, global warming, overfishing, sprawl, ground-level ozone pollution, traffic jams, endangered species, the spread of infectious disease, overcrowding in schools, the unavailability of clean drinking water, destruction of wetlands, holes in the ozone layer, and shortages of oil, just to name a few, are effects of overpopulation, and the more overpopulated we become the more severe these problems will grow. As we control other behavior for the sake of other social benefits, so do these costs provide prima facie justification for population controls. These costs are often borne by the government, when it provides schools, crime prevention, clean water, etc., and is indirectly borne by taxpayers. When the state does not provide such services, the costs land directly and even more painfully on others in society, who then lack the water, schools, etc., which overpopulation puts in short supply. Where there is no fundamental right to be respected, such costs justify interference in the activities which produce them.11

Inequality of Implementation: There is a rational fear that such program will be administered unequally: that they will be used to discriminate against specific populations distinguishable by race, ethnicity, religion, or class. At its most extreme, the fear is that mandatory restrictions on birth might be used to control or eradicate a particular population—a minority out of favor with those in power, for example. Although this would be a horrific eventuality, I don’t find this a strong argument against the policy. Any policy, no matter how controversial, can be used to
evil ends if someone has already determined to pursue an unjust path. It is a good idea to require vaccinations for children, but this policy could be abused: a pernicious government might refuse to give vaccinations to a whole class of people so as to endanger their health, or worse, give them positively dangerous injections under cover of health care. This doesn’t mean that requiring vaccinations is to itself an unjust or even undesirable practice. It is impossible to eradicate all policies capable of such misuse, and would probably be pointless, since those desiring something as bad as genocide can equally use direct methods to further their goals. Restrictions on procreation could possibly be used for genocide, but it will not cause genocide. At best we may hope that reduction in population pressures will eliminate some of the causes of genocidal violence; at worst, it will make us no worse off.

Short of genocide, however, there is no doubt that state-sponsored programs have selected for race, class, or other traits seen as undesirable. Where this has been intentional, it is a result of such poor reasoning, however, that it hardly requires refutation. First, there is the premise that some people have less worth than others, and second, that if this were true the state could reliably judge which those are, and third, that if we could determine that some people had less value than others, this would somehow justify preventing these specific children from having children. All of these premises are false, and the conclusion does not follow. However, nothing in the nature of mandatory restrictions on the number of children we have requires this. The idea is to reduce the population in size, not to improve its quality, if such a thing were possible. The only judgment required is less quantitative, and this is relatively objective.

Realistically, though, we must face the fact that even across the board prohibitions can be administered in a discriminatory manner. Indeed, equality is better served by mandatory restrictions than by the alternative most frequently promoted: positive incentives to encourage people to limit the number of children they have. Negative incentives (generally) involve making a practice illegal and then punishing those who transgress. Positive incentives try to make the desired behavior more attractive to the prospective agent by rewarding him for adherence; by tax breaks, for example, or by straightforward cash rewards. Traditionally, positive incentives are argued to allow greater freedom, and thus to be preferable to negative sanctions. However, positive incentives often trade on differences that exacerbate inequality. Those who have money won’t need the cash incentive, and thus won’t be motivated to have fewer children. For those who are poor, there is no sense in which freedom to have children is made available by the possibility of paying more money, because they haven’t got that money. While perhaps not discriminatory in intent, the system ends up by being discriminatory in practice. Negative incentives, on the other hand, can be egalitarian: if we say it is illegal for anyone to have more than two children, that is meant to apply to all classes, races, educational strata, and so forth. We will all be in the same boat.

This does not eliminate all danger of discrimination, it is true. While in theory the laws apply equally to all, we know from experience that some will be prosecuted where others are not, and sentences can vary with the prejudices, sometimes unconscious, of those doing the judging. This is a difficult issue, to say the least. What should we do when we foresee that a program which is on the whole beneficial to society and the individual may lay a disproportionate burden on one segment of society, and not only that, a segment which is already unfairly overburdened? Can we willingly adopt a program which we
foresee may be subject to the irrational sway of prejudice?

Unfortunately, I think the answer is that sometimes we may. Take punishment as a state-sanctioned, state-administered program. There is, I take it, no doubt that punishment is administered unfairly. In the United States, it is widely accepted that African-Americans are more likely to be found guilty, and subjected to stiffer penalties, than whites. What can we conclude from this? We can easily conclude that there should be reform of the judicial system in every phase: greater oversight in police procedures, better legal representation, more grounds for appeal, less discretion in sentencing. Still, I don’t think we can conclude that we should stop law enforcement until such time as we have achieved racial equality. Failure to pursue and punish law-breakers would harm the population as a whole, but more to the point, it would harm the very population that suffers discrimination at its hands. At present, even the population which is discriminated against is better off with the existence of law-enforcement than it would be without it, and I think this would be true of procreation restrictions. This is not to say that failures of justice are excusable on the grounds that in the long run we are better off with the system than without it: every effort must be made to eradicate inequalities which make the justice system a mockery of itself. The point is rather that sometimes a flawed system may be better than none; thus, foreseeing that a system is open to misuse need not prevent us from adopting it. It will matter how wretchedly that system is used and whether the unfairness it produces is inherent in the system, or, as I think is true here, a function of external flaws in the society in which the system is being used.14

V. Conclusion

If this is the conclusion drawn by the cold light of reason, why is it that we tend to feel so passionately that state interference in family size is wrong? It is, I think, because our heartfelt feeling arises out of the contingencies of history, but contingencies which have now changed, without our yet fully recognizing this. First, in the old days, there wasn’t a way to avoid having children other than abstinence, and abstinence is not realistically an option. People don’t voluntarily choose it, and imposing it would require physically keeping people apart, at the cost of love and any sort of personal intimate life. We react now to state interference as if it required the loss of sexual intimacy, love, and family life, but in the age of birth control this is no longer true. Wholesale disruption to the biological and psychological mandate of human nature isn’t required.

Second, we have always, and quite rationally, feared intentional intrusion by the government more than accidental intrusion by our fellow citizens. Historically, we have, for example, been more bothered by the state’s efforts to control the use of our property than by the irritation sometimes created by our neighbors when they use their property to their own ends. This is changing, however: as our neighbors live closer to us and their thickly packed together, it is difficult to avoid the effects of the nearby pawn shop or the hog farm up the creek. We have begun to look at the state for protection, to regulate the use of property in a way compatible with the needs of social living. Fear of state intrusion is healthy, but as we have learned in the use of property, commerce, etc., the interference of the state can be preferable to the unchecked impacts of the private citizens around us. So, too, in the realm of family size: as the population grows larger, we will see that the dangers of unchecked population growth, however
innocent the intent of those who contribute to it, are greater than the costs of state repletion. The negligence of the populace can become more dangerous than the intrusion of the government.

Lastly, we come to the insights of David Hume. In his Enquiry Concerning the Principles of Morals, Hume argues that the rules of justice are artificial: that the specific allocation of rights depends on the needs and constraints with a given society. ‘Water and air, though the most necessary of all objects, are not challenged as the property of individuals, nor can any man commit injustice by the most lavish use and enjoyment of these blessings,’ he wrote in 1751. 11 To disagree and point out that we very much do both claim and challenge such things as riparian rights, rights to air space, and the general use and pollution of both air and water is to confirm Hume’s past—that our recognition of rights and the limits of rights depends very much on conditions of scarcity or repletion. Where control of a good is not needed, or where control is impossible, we do not bother to reflect on just usage. This has been the case with procreation. There has been no need for control, and if there had been a need, there would have been no practical way to implement it. We need not adopt Hume’s belief that justice is artificial to see that he is correct at least about the recognition of rights—until conflict arises, we assume we may do whatever we want, and, as with many habitual actions, come to feel entitled to our practice. In the case of population, it may well be that the need for constraint has not yet arisen, and even that it will never arise. This does not mean, though, that our practice of unremarked procreation is something we have a right to, any more than I have a right to pollute the air just because in Hume’s day this was not an issue. It is only when the incremental effects of our actions have serious repercussions for the society in which we live that we must reconsider the freedoms we have taken for granted.

When we engage in this reconsideration, I think that we see that the goods produced by procreation can be produced by a limited number of children. The reproductive rights properly invoked in the abortion debate do not justify a right to have an unlimited number of children, and the means taken to restrict this end need not be unjust. What remains is that we don’t like people telling us what to do, and that some of us do like to have lots of children. These are understandable desires, but they are not rights.

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NOTES

1. There are a number of practical questions I do not address here: most notably, under what circumstances such a policy might be necessary. Questions of actual or projected population numbers, the interaction between population and development, whether such policies would need to be instituted globally or locally, are better left to demographers. I address solely the hypothetical operation as to whether, if such policies were necessary to control population, they would transgress a fundamental right, and I argue that they would not.


4. Ibid., Article 23.

5. Ibid., Article 16.


8. There are other arguments for abortion, and not all may yield the conclusion for which I argue. The acceptance of non-personhood is at the basis of Roe v. Wade, however, which, while a legal decision, seems to rest to some degree on moral reasoning, and it is also supported by strictly moral arguments. See, for example, Mary Anne Warren, "On the Moral and Legal Status of Abortion," The Monist, vol. 57, no. 1 (January 1973), pp. 43–51.


11. A stumbling block for theorists has been the perception that the conflict in needs exists only between existing persons and future, not yet existing persons. It's debated whether those who don't yet exist can have rights to anything, even the basic wherewithal of existence, and if they do, how these rights would stack up against the rights of existing persons. There are, hopefully, more of them, but we exist and they don't. I think this dilemma lacks practical significance, however, in this context. Given the mathematics of population growth, we know that a population size can go from viable to excessive within a lifetime. Thus, the interests to be weighed against one another may be my desire to drive a Hummer and my existing grandchild's desire to have heating oil in winter. Future persons need not be brought in to discover interests harmed by future overpopulation.


13. See Daniel Callahan, "Ethics and Population Limitation," in Ethics and Population, ed. Michael Bayles, esp. pp. 34–35, for a proponent of the view that positive incentives allow more freedom and thus should always be tried before negative incentives.

14. The dangers of discriminatory implementation were brought home to me forcefully at the discussion of this paper at the conference "Women in the 21st Century," University of Havana, November 2003.