

PROCREATION ETHICS SERIES

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Artificial Insemination Edward Schneider

[1] When couples find themselves childless because of male infertility, they have several choices. They can remain childless and learn to cope with their disappointment, or they can adopt someone else's child. A third alternative is artificial insemination.

[2] Artificial insemination is a relatively simple medical procedure by which semen obtained by masturbation is deposited by means of a syringe in or near the cervix of the woman's uterus. Artificial insemination is of two basic types: *homologous insemination*, when the semen is obtained from the husband (AIH); and *heterologous insemination*, when the semen is obtained from a donor (AID). AIH is used occasionally when for physical or psychological reasons insemination through intercourse is problematic, or in the case of oligospermia (deficient sperm count) when sperm from several ejaculates are pooled for use in a single insemination. Since AIH presents few legal, social, or ethical problems, this paper will focus primarily on AID.

[3] Artificial insemination by donor (AID) is "medically indicated" in cases of complete or virtually complete male infertility, or in cases where the husband fears transmitting genetic disease. AID is also utilized to provide natural children to women who are not married or have no male partners.

[4] In the last several decades the demand for artificial insemination has been increasing dramatically. While the nature of legal and social problems surrounding the procedure has meant that careful records have not been kept and therefore frequency cannot be determined precisely, it has been estimated by responsible researchers that from 6,000 to 20,000 AID children are born in the U.S. each year.¹

Psychological and Social Considerations

[5] AID offers certain potential psychological benefits over the alternative of adoption. Both husband and wife can be involved in the pregnancy from conception onward, sharing the experience of delivery and the early days of the baby's life. There is a greater chance that the child's physical appearance will at least match that of the mother, and if there are several children they are more likely to resemble one another. There need be no subconscious fear of the sudden appearance of the natural mother, as there may be in adoption. And, of course, the desire on the part of the mother to carry a child is satisfied as it cannot be in adoption.²

[6] However, AID also poses psychological dangers to the wife, the husband, and the child. In the more usual situation of procreation by husband and wife, the child can be understood to be the joint issue of both parents. Both husband and wife fulfill for the other the opportunity to become father and mother. Their love for one another can be strengthened and deepened as a consequence of this mutually shared experience.

[7] In the case of AID, however, the situation can be very different. The wife may have a feeling of having been "cheated" by the discovery of the husband's infertility. The desire to procreate despite this discovery may become, in part, an act of revenge or hostility toward the sterile husband.³ If AID is successful, the wife may sense that the new life she bears within her has no relation to the love she has for her husband.⁴ She may, in fact, secretly yearn to meet the man who "helped" her when the husband could not.⁵

[8] The husband, likewise, faces certain psychological dangers. He may feel himself to be a stranger to the new life developing in his wife's womb. His masculinity may be threatened, not only by his infertility, but by the sense of inadequacy in comparison to the donor who made possible his wife's pregnancy. "AID thus threatens to evoke very deep-seated feelings of helpless dependence in relationship to women and also feelings of inadequacy in relation to other men."⁶ The husband may psychologically withdraw from the home, investing his energy in his work or other forms of self-achievement by which he may hope to regain his sense of masculinity.⁷

[9] These psychological dangers for husband and wife also threaten the psychological development of the child. The child may become subtly aware of a family secret involving his or her father. If the psychological dangers for husband and wife materialize, the child may find him- or herself alienated from the father, creating another set of psychological difficulties for the child.

[10] Closely aligned to this psychological danger is the matter of dealing with the child's genealogy; Like adoption in an earlier age, AID is usually maintained as a secret among the parties involved. The doctor, the husband and wife, and the donor conspire together to deceive the child and society regarding the child's genetic identity;

[11] Several arguments can be offered in favor of disclosing his or her true genealogy to the child. In the first place, the risk of accidental disclosure or suspicion may cause parents to decide that forthrightly telling the child at an appropriate age would contribute to a healthier relationship. This is similar to an argument for disclosure of adoption. It recognizes the fundamental importance of truth for basic human relationships.

[12] An argument can also be made on the basis of the child's right to know his or her genealogical heritage. Experience with adopted children in recent years has shown

the significance of this knowledge of genealogical heritage for dealing with the problem of identity as the child matures.

[13] A final argument in favor of disclosure, and the kind of record-keeping that would make disclosure meaningful, is that knowledge of one's genealogical heritage may be crucial if the child suffers any genetic illness or needs a reliable family medical history. Moreover, genetic counseling at some point in the child's life - an increasingly useful tool in preventive medicine - can be critically skewed if the child does not know his or her paternal genealogy or, what is more likely, if the assumed paternal genealogy is not the true one.

[14] There are, of course, a number of arguments against disclosing either the fact of AID or the identity of the donor. Some of these arguments pertain to the desire of maintaining healthy family relationships which the stigma of AID might disrupt. Disclosure might have a particularly devastating impact upon the acting father's sense of fatherhood.

[15] Other arguments against disclosure are more concerned about protecting the anonymity of the donor. The case for donor anonymity is sometimes argued to protect the donor from legal involvement in legitimacy and inheritance rights, and to encourage donors to participate.

[16] It should be noted that a middle way exists, whereby records containing pertinent genetic information could be kept and made available to the child at an appropriate time and under appropriate circumstances, while not disclosing the identity of the donor. Such a procedure, of course, would meet only some of the objections of those who argue the need for disclosure of the child's genealogical heritage.

[17] Another social consideration closely related to the concern for genealogical or genetic heritage has to do with the possibility of unwitting incest between half-siblings. The concern is that AID children of the same donor may fall in love and marry. Considering the fact that semen from the same donor is often used with women who live in the same geographic community and who may represent a rather homogeneous ethnic or social group, the possibility of incest, though small, is not farfetched.

[18] Another issue of social significance in considering the practice of AID concerns the small but apparently growing numbers of unmarried women who are seeking artificial insemination as a way of becoming mothers. One study indicated that at least 9.5 percent of the doctors responding had used AID for single women.⁸ The acceptance of "bachelor mothers" appears to be a growing trend in our society. The issue becomes even more complex, of course, when AID is used by lesbian couples, and the resulting child grows up to discover that both his or her "parents" are female. Such developments clearly deal a serious blow to the child and to our accepted understanding of the family as the basic unit of our society.

[19] Eugenic considerations - the attempt to influence the genetic quality of the human species by carefully selecting donors - pose other questions beyond the scope of this paper.

Ethical Considerations

[20] None of the foregoing considerations are without ethical significance. However, it is my contention that the chief ethical issue, upon which hinges one's ultimate decision for or against AID, has to do with the very nature of marriage and parenthood. This is the issue that finally underlies our ethical assessment of many of the other considerations discussed above. What is the nature of the marriage bond, and what significance does this have for our assessment of AID? What is the proper relationship between this marriage bond and the procreation of children? These are the crucial ethical questions in determining our decisions about AID.

[21] Contemporary ethicists have taken widely different views of these questions. Joseph Fletcher, the father of "situation ethics," takes a view that does not require of the marital bond a physical monopoly. He stresses the "personal" character of the marriage covenant, and goes on to assert that since no personal relationship is entered into with the donor, AID is acceptable when mutually agreed upon by husband and wife. In such a case there is no broken faith, no infidelity, between them.

[22] Fletcher summarizes his views as follows:

We have asserted two things, fundamentally: (1) 'that the fidelity of marriage is a *personal* bond between husband and wife, not primarily a legal contract, and (2) that parenthood is a *moral* relationship with children, not a material or merely physical relationship. The claim that AID is immoral rests upon the view that marriage is an absolute generative, as well as sexual, monopoly; and that parenthood is an essentially, if not solely, physiological partnership. Neither of these ideas is compatible with a morality that welcomes emancipation from natural necessity, or with the Christian ethic which raises morality to the level of love (a personal bond), above the determinism of nature and the rigidities of law as distinguished from love?⁹

In characteristic fashion, Fletcher finds love and law incompatible and insists that rules are less than Christian. And he asserts that "to transcend natural restrictions, to seek ends by means devised through choice rather than by physical determinism, is a human and spiritual victory. With many of us it is a matter of reasoned conviction that our march toward freedom and control is an irreversible trend."¹⁰

[23] Thus Fletcher puts an emphasis on the "personal" character of the marriage bond rather than on any notion of a physical bond. He is unfettered by notions of the rightness or wrongness of given physical acts apart from the meaning love assigns to them. And he exalts the victory of the spiritual over the physical in the opportunities for choice offered through the technology of AID. He therefore celebrates this option when it is mutually agreed upon by husband and wife.

[24] An altogether different view is set forth by Paul Ramsey. Ramsey examines the nature of the marriage bond and argues that the marriage bond and procreation are inseparable. He contends that Am divides the sexual unity between husband and wife, and therefore violates the covenant of marriage.

[25] Ramsey argues that the very nature of sexual intercourse combines a unitive (or unifying) and a procreative function:

An act of sexual intercourse is at the same time an act of love and a procreative act. This does not mean that sexual intercourse always in fact nourishes love between the parties or always engenders a child. It simply means that it tends, of its own nature, toward the strengthening of love (the unitive or the communitive good), and toward the engendering of children (the procreative good).¹¹

Since God has placed the unitive good and the procreative good together in sexual intercourse, they ought never to be put entirely asunder:

An ethic (whether proposed by nominal Christians or not) that in principle sunders these two goods - regarding procreation as an aspect of biological nature to be subjected merely to the requirements of technical control while saying that the unitive purpose is the free, human, personal end of the matter - pays disrespect to the nature of human parenthood.¹²

It should be clearly stated that Ramsey does not argue against contraception. People can practice responsible birth control without separating the sphere or realm of their personal love from the sphere or realm of their procreation. The person with whom the bond of love is nourished and the person with whom procreation is exercised remains the same. Though contraception is practiced with regard to particular acts of sexual intercourse, the totality of such sexual acts by a married couple holds together the unitive good and the procreative good. "Where planned parenthood is not planned unparenthood, the husband and wife clearly do not tear their own one - flesh unity completely away from all positive response and obedience to the mystery of procreation-a power by which at a later time their own union originates the one flesh of a child."¹³

[26] Even in a marriage where a responsible decision has been made to have no children, the unitive and procreative functions of sexual intercourse are honored. The marriage partners still accept by the nature of their commitment that if either of the partners has a child, it will be "within their marriage-covenant, from their own one-flesh unity and not apart from it,"¹⁴ Ramsey concludes that practicing birth control, even lifelong birth control, does not divide the unitive and procreative functions of sexual intercourse for a married couple, because "they do not procreate from beyond their marriage, or exercise love's one-flesh unity elsewhere."¹⁵

[27] Ramsey rejects AID because the personal and the physical cannot be separated without dividing what God has put together in the very nature of sexual intercourse.

The very nature of human parenthood is assaulted by putting the bodily transmission of life completely asunder from bodily love-making, as in Am. Am is therefore contrary to God's intention that children should be the fruit of the loving gift of husband and wife to one another.

[28] Helmut Thielicke argues against AID on similar grounds. He states that "the problem is presented by the fact that here a third person enters into the exclusive psychophysical relationship of marriage, even though it is only his sperm that 'represents' him."¹⁶ The introduction of donor semen therefore violates the *mysterium* of marital fellowship, the psychophysical unity of husband and wife. "This violation also manifests itself when the fulfillment of motherhood which is not accompanied by the fulfillment of fatherhood breaks down the personal solidarity of the married couple."¹⁷ Even if the husband consents to the procedure, psychic and physical realities are called into play which have a life of their own, even apart from his initial motivation. AID is therefore rejected.

[29] Roman Catholic theologians, in the main, have also rejected AID. The official position of the Roman Catholic Church was stated by Pope Pius XII in 1949. After condemning artificial insemination outside of marriage, he went on to reject AID within marriage as well:

Artificial insemination in marriage with the use of an active element from a third person is equally immoral and as such is to be rejected summarily. Only the marriage partners have mutual rights over their bodies for the procreation of a new life, and these are exclusive, nontransferable, and inalienable rights. So it must be, out of consideration for the child.

By virtue of this same bond, nature imposes on whoever gives life to a small creature the task of its preservation and education. Between the marriage partners, however, and a child which is the fruit of the active element of a third person - even though the husband consents - there is no bond of origin, no moral or juridical bond of conjugal procreation.¹⁸

AID is thus understood as contrary to the divine plan for marriage and parenthood. It is an essentially disordered act.

Reflections/Conclusions

[30] On the basis of the foregoing discussion, what reflections can be offered . and what conclusions drawn with respect to the practice of AID? In my I opinion, AID is not an ethically acceptable alternative to childlessness in the I case of male infertility. Several fundamental considerations lead to this conclusion.

[31] Though not absolutely determinative from an ethical viewpoint, the psychological dangers described above weigh heavily against a decision to employ AID. The radical asymmetry of the parents' relationship to the AID child opens the door to a host of psychological difficulties. It should be acknowledged that in theory,

of course, these psychological difficulties are not insurmountable. But they appear sufficiently grave to compel extreme caution.

[32] More serious from an ethical standpoint is the moral assessment of the role played by the donor. Though not explicitly dealt with in the ethical considerations discussed above, that discussion does bear implicitly on the donor's responsibility for his actions. The donor clearly exercises his procreative powers apart from any marital bond or commitment. He remains anonymously hidden from both the mother and the child, refusing his responsibility as father. His function remains that of a sperm salesman, failing to take full responsibility for his biological offspring. Even though it may be argued that he does what he does as an act of love to provide a child for a childless couple, nevertheless love can never oblige one to perform an action which by its nature violates the fundamental unity of the personal and biological dimensions of sexual intercourse within the covenant of marriage.

[33] It is the nature of the marital covenant and the meaning of parenthood that provide the critical norm for judging the fundamental ethical stance toward AID. I argue that marriage is a deeply personal commitment in which husband and wife mutually confer exclusive fidelity to one another, including the mutual commitment of procreative powers. By the introduction of donor semen, AID separates procreation from marriage and thereby violates the marriage covenant.

[34] Those who offer contrary arguments in favor of AID explicitly or implicitly separate the personal from the physical, the unitive from the procreative function of the sex act. They thus fall prey to the destructive dualism which has plagued Western culture, whereby the personal or spiritual is understood as the specifically human, and the physical or bodily is frequently depreciated. The personal is too readily understood as a disembodied spiritual reality.

[35] I would argue that we cannot separate the meaning of "personal" and "human" from physical, bodily processes. Ramsey is right when he contends, "We need rather the biblical comprehension that man is as much the body of his soul as he is the soul of his body."¹⁹

[36] The "one-flesh unity" of marriage holds together in a unity the love-making and life-giving dimensions of sexual intercourse. Only when this unity is maintained can children be understood in the full sense as the visible fruit and extension of conjugal love.

[37] AID cannot be ethically accepted merely because, like other good technologies, it "works" - that is, because it gives a child to a childless couple. From the standpoint of ethics, we need to be concerned not only about right ends, but also about correct means. And in this case, the means violate the fundamental meaning of sexual intercourse within the covenant of marriage. Even when the husband consents, "AID signifies less than an unreserved commitment to share another's life 'for better or worse, in sickness and in health.'"

[38] None of these ethical objections should be construed, of course, in such a way as to cast a moral shadow on the child who has been so conceived. Nor does AID fall into the category of some unforgivable sin. But on the basis of the above considerations, a couple who find themselves childless because of male infertility are better advised either to come to terms with their childlessness or to seek children through adoption.

End Notes

1. Martin Curie-Cohen, Leslie Luttrell, and Sander Shapiro, "Current Practice of Artificial Insemination by Donor in the United States;" *The New England Journal of Medicine* (Vol. 300, No. 11), March 15, 1979, 588; and Lucinda Ann Smith, "Artificial Insemination: Disclosure Issues;" *Columbia Human Rights Law Review* (Vol. 12, No. 63), Spring/Summer, 1979, 89-90. See also S.J. Berman and Robert W Kistner (editors), *Progress in Infertility* (Boston: Little, Brown and Company, 1968), 718.
2. Berman and Kistner (editors), *Progress in Infertility*. 719.
3. Karl Ostrom, "Psychological Considerations in Evaluating AID," *Soundings* (Vol. 54, No.3), Fall, 1971, 293.
4. Bernard Haring, *Ethics of Manipulation* (New York: The Seabury Press, 1975), 197.
5. Editor's Introduction, "Artificial Insemination: A Simple Medical Technique, a Complex Human Problem," *Soundings* (Vol. 54, No.3), Fall, 1971, 288. See also Robert L Francoeur, *Utopian Motherhood: New Trends in Human Reproduction* (South Brunswick and New York: A.S. Barnes and Co., 1970), 37.
6. Ostrom, "Psychological Considerations in Evaluating AID;" 296. 7. Ibid.
7. Ibid.
8. Curie-Cohen, et al, "Current Practice of Artificial Insemination by Donor in the United States;" 585.
9. Joseph Fletcher, *Morals and Medicine* (Princeton, NJ: Princeton University Press, 1954), 139
10. Ibid., 117
11. Paul Ramsey, *Fabricated Man: The Ethics of Genetic Control* (New Haven and London: Yale University Press, 1970), 32.
12. Ibid., 33.
13. Ibid., 34.
14. Ibid., 41.
15. Ibid., 44.
16. Helmut Thielicke, *The Ethics of Sex*. trans. John W Doberstein (New York: Harper & Row, 1964), 259.
17. Ibid., 262.
18. Pope Pius XII, "To Catholic Doctors," *The Catholic Mind* (Vol. 48, No. 1048), April, 1950, 252.
19. Ramsey, *Fabricated Man*, 133.