

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



Timothy F Murphy

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.

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 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.

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,

2003). Biomedicine can legitimately focus on human wellbeing rather than health and disease narrowly defined.

What about the actual processes involved? Do they pose any ethical concerns? Prenatal tests for sexual orientation should not expose embryos or fetuses to unreasonable risks, and any test that did would be morally problematic in terms of a future child's health. It's not clear, however, that taking genetic samples from embryos or fetuses must necessarily involve an unacceptable level of risk, as various kinds of embryo biopsy and fetal evaluation have shown. Tests would also be morally problematic if they offered false assurances about the sexual orientation of future children, and people made their choices on the basis of unreliable information. At the very least, tests should also be capable of delivering what they in fact promise: namely the accurate identification of the likely sexual orientation of a child that develops from an embryo or fetuses. Prenatal interventions to influence sexual orientation of children – interventions such as hormone treatments or genetic treatment – would also have to pass thresholds of both safety and efficacy in order to be morally defensible, and so long as they did, any moral objection to them on those grounds would simply wither away.

Beyond questions of safety and efficacy, some commentators see certain interventions as problematic in themselves. For example, if there is only a test for 'gay genes' and no corresponding genetic intervention to influence sexual orientation, parents might discard embryos having the genes they don't like or terminate pregnancies for the same reason. People who oppose the clinical creation and discarding of embryos under any circumstances would have to decline any sexual orientation controls that involved these techniques, if they wanted to be morally consistent, that is. People categorically opposed to abortion would probably be better off not having fetuses tested for sexual orientation, or they might find themselves unable to act on information they find distressing, if they want to be morally consistent in their views about abortion.

More laissez-faire views would, of course, allow parents the right to use embryo selection and abortion in order to avoid having children of unwanted sexual orientation. Yet some commentators think this goes too far; these commentators do not necessarily object to embryo discarding or abortion in principle but do not like the gritty prospect of selecting against otherwise healthy embryos and fetuses simply to avoid homosexual children. A policy or legal barrier against these uses of embryo selection and abortion in these instances would be problematic, however, because of its idiosyncratic application. Society and the law do not elsewhere supervise the decisions by which parents come to choose the embryos they use for implantation, or terminate the pregnancies they are unwilling to continue. Before any kind of social barrier could be raised against these practices, one really would have to show that there is something especially objectionable about selecting against embryos and fetuses likely to become homosexual people. For that kind of argument, most people usually turn away from an evaluation of the techniques involved to a consideration of their social effects.

The effects of sexual orientation tests and interventions

Some commentators have argued that prenatal tests and interventions for sexual orientation pose dangers to homosexual men and women as a class. Philosopher Edward Stein identifies three aspects of this danger: the use of methods to select sexual orientation, their mere availability, and even simply claiming that such methods exist. He says these three aspects of sexual orientation controls 'will perpetuate and perhaps amplify the negative conditions faced by lesbians, gay men, and bisexuals' (Stein, 1999, p. 327). He says further that 'A person who makes use of such a procedure to ensure that a child is heterosexual perpetuates the negative conditions of lesbians, gay men, and bisexuals in this society. This implies that making use of orientation-selection procedures is morally problematic; all else being equal, given the impact of such procedures, a person ought not to make use of them' (Stein, 1999, p. 320).

Stein sets the moral threshold this way: people have a moral obligation to avoid behaviour that perpetuates or amplifies 'negative conditions' for homosexual and bisexual people, but when it comes to prenatal interventions this threshold is at once too stringent and too nebulous. It is too stringent because there are lots of times when all else is not equal. In other words, parents might choose heterosexual children for reasons that do not involve hostile views of homosexuality *per se*. So long as these matters are speculative, there is no reason to think that the tests could only be used against homosexual children. Why would that choice make things worse for homosexual and bisexual people? Stein's threshold is too nebulous because the term 'negative conditions' is simply too vague to be a meaningful criterion for evaluating such things as the social effects of beliefs about sexual orientation treatments. Just exactly how would the claim that sexual orientation controls exist – simply that they exist, whether they do or don't – make things worse for homosexual and bisexual people as a class? Do claims like this actually make things worse? Not for any reason Stein puts into evidence. These are empirical issues and not matters for armchair philosophy to decide, not even computer-assisted armchair philosophy.

In a related line of argument, philosopher Linda Barclay has said that 'engineering someone to have non-gay genes sends a clear message to that person regarding his parent's attitudes to the worth of homosexuality' (Barclay, 2003). She believes that the force of this message works against a child's autonomous judgement about the value and meaning of homosexuality. In other words, the parents usurp the child's powers of judgement through genetic engineering. In fact, however, Barclay assumes an all-too-easy reductionism between parental intent and childhood outlook: children sometimes fall very far from their parental trees in regard to beliefs and behaviour, their parents' moral messages notwithstanding. Even if genetic engineering keeps children from homoerotic desires, it does not follow that they will never engage in homosexual behaviour or that they will devalue gay people as a class. For example, many parents now take certain genetic steps to avoid disabilities in their children, without their choices also impeding social progress in the accommodation of disabled people. Barclay also overlooks the way in which the same technologies that would allow parents to select against

homosexual children might enable parents to choose homosexual children, a choice that would also undercut the view that genetic technologies work only to the detriment of homosexual people.

Commentators like Stein and Barclay have not shown that the social effects of prenatal sexual orientation techniques are of a magnitude that justifies an overriding of parental choice in regard to the kind of children they want to have. It is not always objectionable to want heterosexual children, and it does not follow as a matter of either logic or politics that parents' choices in this regard are incompatible with an increasingly robust social accommodation and protection of homosexual men and women (Dahl, 2003).

The rights and responsibilities of parents

Despite much effort to find them, researchers have not found definitive biological markers for sexual orientation or fully identified the biological pathways of sexual development (LeVay, 1991; Hall and Kimura, 1994; Lippa, 2003; McFadden and Pasanen, 1998; Rahman *et al.*, 2003). In part, that outcome is predictable because human sexuality is fluid in ways that do not permit cleaving people into biologically distinct sexual orientations. Partly for this reason, questions about prenatal control over sexual orientation remain speculative. Even if there are genetic components to sexual orientation that dispose some people one way or the other, it is unlikely that there will be any simple one-on-one correspondence between genes and sexual orientation, let alone actual behaviour. Too much happens between conception and orgasm to think that human sexuality follows any unalterable genetic trajectory. Some commentators dislike speculation about these matters, saying that it feeds the very trouble homosexual men and women face. But these questions – even if speculative – have an intellectual integrity of their own because they help plumb questions about the extent to which children are properly the objects of parental formation.

It is true that some parents will have objectionable and indefensible motives for wanting to avoid having homosexual children. It is also true that the process of controlling sexual orientation in children could involve objectionable methods, such as selective terminations, risks of experimentation, or worrisome and risky genetic manipulations. Moreover, the use of sexual orientation techniques might alter the social circumstances of gay men and lesbians in some ways, reducing the number of men and women who identify that way, for example. The philosophical question at hand remains whether these problematic motives, processes, or social effects rise to a threshold that justifies state intrusion by law, or policy against the use of prenatal tests or interventions for sexual orientation.

Parents wish to confer advantages on their children, and they will do so through the means available to them and in light of their own views about what counts as an advantage. Parents make mistakes, of course, about what is best for their children, but society should generally refrain from intervening against parental choices in this matter. There are better ways to protect homosexual people and their prior adolescent selves than to monitor and interfere with parents' choices about what kind of children they will have. Improving the social and legal

standing of gay men and lesbians will ultimately do more to protect them than putting certain tests and limitations off limits to their parents will. For one thing, parents' resistance to gay and lesbian children would dissolve to the extent that they had fewer worries about their social fate, if they knew that their children could live in safety and respect. There is special reason to be concerned that social or legal bans on sexual orientation tests and interventions would endanger the wellbeing of homosexual children born into families who do not want them. What exactly will be the fate of homosexual children born in families that would have selected against them except for a social policy or law forbidding them to do so? So far, most critics of sexual orientation interventions have not looked this question squarely in the eye, but I believe that the potential for damage to those most directly affected – the children – should be the key consideration when deciding about social or legal prohibitions in this area.

While the discussion about prenatal interventions tends to dwell on its use by parents to ensure the heterosexuality of their children, some parents will choose the other way. Is there any reason why parents shouldn't be able to make this choice? Philosopher Julian Savulescu recommends that would-be parents observe the 'principle of procreative beneficence' when choosing among possible children. Savulescu believes would-be parents should select the children they expect to have the best lives possible, to the extent they can make that determination relative to available tests and knowledge (Savulescu, 2001). There is nothing in this principle, however, that categorically forbids parents from choosing to have homosexual children. Some parents – armed with strong moral conviction – will certainly imagine that among the best children they can have there is room for a homosexual son or daughter. What is ultimately important is – as Savulescu points out – that parents make choices that do not obstruct their children's capacities to form and act on their own conception of a good life, in which wisdom and pleasure are generously mixed. (I believe Savulescu overstates the meaning of his principle of procreative beneficence. The standard of wellbeing he describes as appropriate for children certainly does not require the Panglossian requirement that parents choose only the best of all possible children, only that parents choose traits that do not – all things considered – obstruct a child's capacity for a good life.) When it comes to these capacities, the lives of homosexual children are, in principle, as good as the lives of any other children.

In the end, we would do well to heed the counsel of philosopher Mary Warnock who has said that 'it seems to me to be a fundamental moral principle that we ought to love and cherish our children as beings separate from ourselves and with their own distinct characteristics' (Warnock, 1991). This counsel is relevant, certainly, as parents contemplate the use of prenatal technologies, but it is also relevant to children who already exist. The social science literature is silent on any folk practices parents use to influence the sexual orientation of children before they are born, but parents do strongly try to influence the sexuality of their actual children as they grow up. Mostly they do this by trying to conform children's behaviour to accepted gender norms, sometimes at great emotional expense to children who defy their parents' expectations. The harsh and bullying ways of parents who badger their children toward gender conformity deserve at least as much ethical

attention as the hypothetical question of whether parents are entitled to use prenatal technologies in their quest for the perfect child, and that remains true, no matter how far science goes in describing the origins of homosexuality or in offering parents control over the traits of their children.

References

- Barclay L 2003 Genetic engineering and autonomous agency. *Journal of Applied Philosophy* 20, 223–236.
- Bayer R 1987 *Homosexuality and American Psychiatry*, 2nd edn. Princeton University Press, Princeton, New Jersey.
- Bell AP, Weinberg MS 1978 *Homosexualities: a Study of Diversity Among Men and Women*. Simon and Schuster, New York.
- Crocker C 1979, Meddling with the sexual orientation of children. In O'Neill O (ed.) *Having Children: Philosophical and Legal Reflections on Parenthood*. Oxford University Press, New York.
- Dahl E 2003 Ethical issues in new uses of preimplantation genetic diagnosis. *Human Reproduction* 18, 1368–1369.
- Greenhouse L 2003 Justices, 6–3, legalize gay sexual conduct in sweeping reversal of court's '86 ruling. *New York Times*, 7 June 2003, A1.
- Hall JAY, Kimura D 1994 Dermatoglyphic asymmetry and sexual orientation in men. *Behavioral Neuroscience* 108, 1203–1206.
- Illingworth P, Murphy TF 2003 In our best interest: meeting the educational needs of lesbian and gay students. *Journal of Social Philosophy* 35, 198–210.
- LeVay S 1991 A difference in hypothalamic structure between heterosexual and homosexual men. *Science* 253, 1034–1037.
- Lippa RA 2003 Are 2D/4D finger length ratios related to sexual orientation? Yes for men, no for women. *Journal of Personality and Social Psychology* 85, 179–188.
- McFadden D, Pasanen EG 1998 Comparison of the auditory systems of heterosexuals and homosexuals: click-evoked otoacoustic emissions. *Proceedings of the National Academy of Sciences* 95, 2709–2713.
- Murphy TF 1997 *Gay Science: the Ethics of Sexual Orientation Research*. Columbia University Press, New York.
- Rahman Q, Kumari V, Wilson GD 2003 Sexual orientation-related differences in prepulse inhibition of the human startle response. *Behavioral Neuroscience* 117, 1096–1102.
- Suvulescu J 2001 Procreative beneficence: why we should select the best children. *Bioethics* 15, 413–426.
- Stein E 1999 *The Mismeasure of Desire: the Science, Theory, and Ethics of Sexual Orientation*. Oxford University Press, New York.
- The Wolfenden Report 1963 *Report of the Committee on Homosexual Offences and Prostitution*. Stein and Day, New York, USA [UK government report, originally published 1957].
- Warnock M 1991 *The Uses of Philosophy*. Basil Blackwell, Oxford UK.

Received 11 October 2004; refereed and accepted 4 November 2004.