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Fertility treatment, valuable life projects and social norms: In defence of defending (reproductive) preferences

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Abstract

Fertility treatment enables involuntary childless people to have genetically related children, something that, for many, is a valuable life project. In this paper, I respond to two sets of objections that have been raised against expanding state-funded fertility treatment provision for existing treatments, such as in vitro fertilisation (IVF), and against funding new treatments, such as uterine transplantation (UTx). Following McTernan, I refer to the first set of objections as the 'one good among many' objection. It purports that it is unjustifiable for the state to prioritise the funding of the life project of becoming a parent through fertility treatment provision over the funding of other life projects that people might have. Following Lotz, I refer to the second set of objections as the 'norm-legitimation' objection. It maintains that the provision of costly forms of fertility treatment, such as UTx, would legitimise problematic social norms concerning genetic relatedness, reproduction and parenting, and that states should not engage in such a legitimation. In response to these objections, I defend the view that (reproductive) preferences ought to be taken more seriously when discussing fertility treatment provision and parental projects, and that not doing so can be costly, especially for women. The approach defended in this paper seeks to avoid disregarding and policing preferences and to reconcile their fulfilment with political projects aimed at improving the material and social conditions of sub-fertile people: people who, for social or biological reasons (or an intersection of the two), are unable to reproduce unassisted.

KEYWORDS

fertility treatment provision, genetic relatedness, infertility, IVF, reproductive decisions, uterine transplantation

1 | INTRODUCTION

Fertility treatments attract several critiques within discussions on state provision of existing forms of treatment, such as in vitro fertilisation (IVF), and new forms of treatment, such as the still experimental uterine transplantation (UTx).[1] Such treatments can be costly. In the United Kingdom, the national healthcare service pays between £3500 and £5000 to offer one cycle of IVF to sub-fertile couples.[2] In Sweden, where the first clinical UTx trial took place between 2013 and 2014, the total expenditure required for this procedure has been estimated to be around €55,000.[3] In addition to financial costs, such forms of treatment place a substantial physical and psychological toll on women (and, to a lesser extent, on their partners). IVF requires women to undergo hormonal stimulation, oocyte extraction and the subsequent transfer of embryos in their wombs, amongst other procedures.[4] UTx involves invasive surgeries both on the donor and on the receiver, with associated substantial risk and long recovery time.

And this is not all. As feminist theorists denote, fertility treatment and its provision may further entrench social and political norms that characterise women's role in society as that of mothers and care-takers and bolster the link between women's biological capacities and their social roles.[5] This, or so goes the critique, risks lending support to forms of gender-based oppression associated with such biological and social roles.[6] Additionally, some philosophers

lament the discrediting and stigmatisation that fertility treatment and its provision may engender towards adoptive families by strengthening the already rather pervasive view that having genetically related children is preferable to other ways to become parents, such as adoption.[7]

This paper aims to engage with and respond to two sets of commonly raised objections against the expansion of fertility treatment provision that, collectively, capture most of the concerns just outlined. Following McTernan, I refer to the first set of objections as the 'one good among many' objection.[8] It purports that it is unjustifiable for the state to prioritise the funding of the life project of becoming a parent through fertility treatment provision over the funding of other life projects that people might have, such as travelling or having access to green spaces. According to this objection, fertility treatment, such as IVF, is *one good among the many* that the state could provide to its citizens to enable the fulfilment of their diverse and valuable life projects. Following Lotz, I refer to the second set of objections as the 'norm-legitimation' objection.[9] According to this objection, the provision of costly new forms of fertility treatment, such as UTx, legitimises problematic social norms concerning genetic relatedness, reproduction and parenting, and states should not engage in such a legitimation by funding UTx.

In response to these objections, I defend the view that (reproductive) preferences ought to be taken more seriously when discussing fertility treatment provision and parental projects, and that not doing so can be costly, especially for women. My approach to addressing questions concerning fertility treatment provision seeks to avoid disregarding and policing preferences when possible and to reconcile their fulfilment with political projects aimed at improving the material and social conditions of sub-fertile people: people who, for social or biological reasons (or an intersection of the two), are unable to reproduce unassisted.[10]

In this paper, I first sketch the two objections just outlined. Whilst I mostly refer to the formulations of McTernan and Lotz, such objections have been raised by many who express scepticism towards the value of fertility treatment and its provision. I then respond to each objection in Sections 3 and 4, respectively. In closing, I suggest the adoption of an approach to look at questions concerning fertility treatment provision that places reproductive preferences at its centre. For the purpose of this paper, I take reproductive preferences to be what people would want their families to look like in ideal circumstances, that is, where

[1]UTx enables women with absolute uterine factor infertility (AUFI) to gestate and birth genetically related children.

[2]Bahadur, G., Homburg, R., Bosmans, J. E., Huirne, J. A. F., Hinstridge, P., Jayaprakasan, K., Racich, P., Alam, R., Karapanos, I., Illahibuccus, A., Al-Habib, A., & Jauniaux, E. (2020). Observational retrospective study of UK national success, risks and costs for 319,105 IVF/ICSI and 30,669 IUI treatment cycles. *BMJ Open*, *10*(3), e034566. https://doi.org/10.1136/bmjopen-2019-034566

[3]Davidson, T., Ekberg, J., Sandman, L., & Brännström, M. (2021). The costs of human uterus transplantation: A study based on the nine cases of the initial Swedish live donor trial. *Human Reproduction*, *36*(2), 358–366. https://doi.org/10.1093/humrep/deaa301

[4]With oocyte donation, women who act as donors will have to undergo these procedures to enable other women to have children. Here, I do not discuss gestational surrogacy and the associated labour that women who act as gestational surrogates perform to enable other people to have (genetically related) children. I believe it to raise several additional questions that make it a poor comparison with IVF and UTx. See Cavaliere, G. (2022). Persons and women, not womb-givers: Reflections on gestational surrogacy and uterus transplantation. *Bioethics*, *36*(9), 989–996. https://doi.org/10.1111/bioe.13078

[5]Lotz, M. (2021). Public funding of uterus transplantation: Deepening the socio-moral critique. *Bioethics*, *35*(7), 664–671. https://doi.org/10.1111/bioe.12914; Petropanagos, A. (2017). Pronatalism, geneticism, and ART. *International Journal of Feminist Approaches to Bioethics*, *10*(1), 119–147. https://doi.org/10.3138/ijfab.10.1.119; Raymond, J. G. (1995). *Women as wombs: Reproductive technologies and the battle over women's freedom*. Spinifex Press; Roberts, D. E. (1995). The genetic tie. *University of Chicago Law Review*, *62*(1), 209–273. https://doi.org/10.2307/1600134

[6]For a discussion of this claim, see: Cavaliere, G. (2020). Ectogenesis and gender-based oppression: Resisting the ideal of assimilation. *Bioethics*, *34*(7), 727–734. https://doi.org/10.1111/bioe.12789; MacKay, K. (2020). The 'tyranny of reproduction': Could ectogenesis further women's liberation? *Bioethics*, *34*(4), 346-353. https://doi.org/10.1111/bioe.12706

[7]Lotz, M. (2018). Uterus transplantation as radical reproduction: Taking the adoption alternative more seriously. *Bioethics*, *32*(8), 499–508. https://doi.org/10.1111/bioe.12490; Rulli, T. (2016). Preferring a genetically-related child. *Journal of Moral Philosophy*, *13*(6), 669–698. https://doi.org/10.1163/17455243-4681062

[8]McTernan, E. (2015). Should fertility treatment be state funded? *Journal of Applied Philosophy*, *32*(3), 227–240. https://doi.org/10.1111/japp.12091. See also: McTernan, E. (2018). Uterus transplants and the insufficient value of gestation. *Bioethics*, *32*(8), 481–488. https://doi.org/10.1111/bioe.12523. In this article, McTernan additionally argues that gestation does not have sufficient value to justify UTx provision. Another way to express this is what Meijers refers to as the 'no special status claim', that is, the claim that procreation does not warrant any special consideration at the bar of egalitarian (distributive) justice. The 'no special status claim' thus captures the idea that 'distributive considerations that apply to other plans in life—say, mountaineering or catamaran sailing—apply to procreation'. Meijers, T. (2020). The value in procreation: A pro-tanto case for a limited and conditional right to procreate. *The Journal of Value Inquiry*, *54*(4), 627–647. https://doi.org/10.1007/s10790-020-09734-5

[9]Lotz, op. cit. note 5.

[10]Like Brown et al., I consider 'sub-fertility' to be more appropriate in this context, as it 'seems better able to capture the non-binary nature of fertility (i.e., people may have reduced fertility for a range of reasons, and may conceive spontaneously or with intervention)' (Brown et al. 292). Brown, R. C. H., Rogers, W. A., Entwistle, V. A., & Bhattacharya, S. (2016). Reframing the debate around state responses to infertility: Considering the harms of subfertility and involuntary childlessness. *Public Health Ethics*, *9*(3), 290–300. https://doi.org/10.1093/phe/phw005

various forms of extrinsic constraints do not affect their opportunity to realise such preferences.

2 | THE OBJECTIONS EXPLAINED: ONE GOOD AMONG MANY, AND THE LEGITIMATION OF OPPRESSIVE NORMS

McTernan considers that having genetically related children is a project that could make one's life meaningful, but that so could other projects, such as having access to green spaces, building a successful career or forming intimate relationships. She also observes that, in jurisdictions that offer fertility treatment provision, citizens are likely to have heterogeneous conceptions of what makes a life valuable, including for instance having a rewarding job, raising a family, doing sports or travelling. McTernan thus purports that fertility treatment is 'one among many goods that states could provide to enable citizens to pursue their diverse valuable life projects or have access to activities that make their life go well or seem meaningful'.[11] Considering that resources are limited, 'fertility treatment has to compete for limited resources with the funding of other valuable life projects'[12] and, McTernan concludes, it is unjustifiable for a state 'to provide fertility treatment more generously than it funds other valuable life projects'.[13]

McTernan does not offer a positive defence of her argument. Rather, she considers and rejects three sets of reasons that could justify bestowing a special status to the public provision of fertility treatment vis-à-vis the public provision of other goods and associated life projects that they would enable.[14] Lotz's objection can thus be seen as complementing McTernan's by providing positive reasons in its support.[15] She argues that UTx provision legitimises and promotes problematic social norms such as pronatalism, essentialism and geneticism (or 'PEG' norms, as she names them),[16] and that it discredits the practice of adoption and the desirability of *this* parental project. According to Lotz, 'PEG' norms shape the emergence and consolidation of the preference to have genetically related children and lend support to the view that such a parental project is preferable to adoption. Considering that these norms are problematic and that they 'could cause some people to not adopt orphaned children who otherwise might have been willing or persuaded to do so',[17] states should not engage in their legitimation via UTx provision or other means. Whilst one could object, as Wilkinson and Williams do,[18] that states could simultaneously endeavour to challenge problematic norms *and* fund fertility treatment, Lotz contends that 'there is something both pragmatically and ideologically contrary and countervailing'[19] in pursuing these two sets of commitments together: providing funding to enable access to UTx (which would fulfil people's preference to have genetically related children) and enacting legal and social reforms to challenge problematic social norms and make adoption more easily accessed and accessible.

In responding to these objections, I defend the view that (reproductive) preferences should be afforded greater moral weight in discussions on the value of fertility treatment provision and that there are associated moral and social costs in disregarding such preferences, costs that are especially burdensome for women. The remainder of this paper responds to McTernan's and Lotz's objections and defends this view.

2.1 | A note on perfectionism and liberal neutrality

The two sets of objections that I respond to in this paper do not explicitly raise perfectionist concerns associated with the public provision of fertility treatment. However, the 'one good among many' objection seems to be premised on the idea that the state ought to remain neutral with respect to its citizens' conceptions of the good and not fund more generously the life project to have genetically related children over other valuable life projects that citizens might want to pursue. The principle of neutrality has been articulated in heterogenous ways within liberal theories of justice and it is considered to be a defining feature of political liberalism.[20] Kymlicka captures some of these heterogenous articulations and defines it as the view that 'the state should

[11]McTernan, op. cit. note 8, p. 228.

[12]Ibid.

[13]Ibid.; In a somewhat similar fashion, De Wispelaere and Weinstock consider the preference to have genetically related children a 'private expensive taste' in a Dworkinian sense. To them, the costs of satisfying it through fertility treatment should be borne by those who have such a preference. De Wispelaere, J., & Weinstock, D. (2014). State regulation and assisted reproduction. Balancing the interests of parents and children. In F. Baylis & C. McLeod (Eds.), *Family-making: Contemporary ethical challenges* (pp. 131–150). Oxford University Press.

[14]The reasons are that infertility is a disease; that parenting is a unique activity; and that children are social goods.

[15]Lotz articulates such reasons in a series of articles concerned with what she terms as 'the socio-moral critique' of UTx provision. She insulates IVF from her critique, as 'a proposal for the removal of an existing and widely accessed fertility provision is not equivalent to a proposal of either non-introduction or restricted provision of a new one' (Lotz, op. cit. note 7, p. 500). I do not find this claim convincing, even if I do not have the space to expand on this here. It is, however, fair to assume that her arguments can apply mutatis mutandis to state-funding costly and burdensome forms of fertility treatment, including, I venture, what making IVF more widely accessible would require. Lotz, M. (2018). Uterus transplantation as radical reproduction: Taking the adoption alternative more seriously. *Bioethics*. *32*(8), 499–508. https://doi.org/10.1111/bioe.12490

[16]Lotz, op. cit. note 5.

[17]Ibid: 668. Following Lotz, the needs of children in out-of-home care trump the desires and preferences of people who wish to have a genetically related child and generate a moral duty to adopt. On this, see also: Rulli, T. (2016). Preferring a genetically-related child. *Journal of Moral Philosophy*, *13*(6), 669–698. https://doi.org/10.1163/17455243-4681062

[18]Wilkinson, S., & Williams, N. J. (2016a). Public funding, social change and uterus transplants: A response to commentaries. *Journal of Medical Ethics*, *42*(9), 572–573. https://doi.org/10.1136/medethics-2016-103491; Wilkinson, S., & Williams, N. J. (2016b). Should uterus transplants be publicly funded? *Journal of Medical Ethics*, *42*(9), 559–565. https://doi.org/10.1136/medethics-2015-102999

[19]Lotz, op. cit. note 5, p. 668.

[20]Quong, J. (2020). *Liberalism without perfection*. Oxford University Press. Sher, G. (1997). *Beyond neutrality: Perfectionism and politics*. Cambridge University Press. https://doi.org/10.1017/CBO9780511609169; Rawls, J. (1993). *Political liberalism* (Expanded edition). Columbia University Press; Raz, J. (1986). *The morality of freedom*. Clarendon Press; Ackerman, B. A. (1981). *Social justice in the liberal state* (Revised ed.). Yale University Press; Dworkin, R. (1978). Liberalism. In S. Hampshire (Ed.), *Public and private morality* (pp. 113–143). Cambridge University Press; Rawls, J. (1971). *A theory of justice*. Harvard University Press. For a critique, see: Raz (1986) and Sher (1997).

not reward or penalize particular conceptions of the good life but, rather, should provide a neutral framework within which different and potentially conflicting conceptions of the good can be pursued'.[21] In the context of the public provision of fertility treatment, Panitch has argued that procreation (assisted and non) fails to qualify as a basic need (in a Rawlsian sense) and is hence sensitive to justificatory neutrality.[22] Meijers describes this as the 'neutrality objection' to attributing special value to procreation. According to this objection, 'questions about the value of a particular activity or plan are part of a view of contestable conceptions of the good life [...]. Hence, the value in these activities cannot be appealed to when engaged in liberal justification'.[23] In response to this objection, as Meijers notes, one could either accept a form of perfectionism and commit to the view that having children is a constitutive element of the good (life) or retain liberal neutrality and accommodate within it the view that 'the value in procreation can be appealed to by liberals without impermissible appeals to controversial conceptions of the good life'.[24] This is the strategy that Maijers adopts, and I believe that he does so successfully.

Addressing the neutrality objection and related perfectionist concerns is beyond the scope of this paper, which aims to respond to the 'one good among many' and the 'norm-legitimation' objections. Here, I start from the assumption that, to some, having genetically related children might be a constitutive element of the good life without committing to the view that it indeed is. While (assisted) procreation and the public provision of fertility treatment are sensitive to justificatory neutrality, they can be defended without an appeal to perfectionist views on the value of procreation and parenting. Some pursue what I think is a promising strategy in this respect. For instance, Burley convincingly shows that some aspects of Dworkin's theory of distributive justice (equality of resources) supply reasons to support redistributive compensation for the costs that people may incur in accessing fertility treatment.[25] Drawing on Dworkin's hypothetical insurance market, others argue that rational agents in hypothetically ideal conditions would decide to include fertility treatment among the services that an insurance market of health coverage would provide.[26] This strategy has the advantage of not violating liberal neutrality to justify the public provision of fertility treatment and, in my view, of accommodating intuitions concerning infertility and procreation.

3 | STATE PROVISION OF VALUABLE LIFE PROJECTS AND THE PREFERENCE TO HAVE GENETICALLY RELATED CHILDREN

McTernan's objection provides grounds to be sceptical about assuming the lexical priority of the project to parent and about allocating resources to fertility treatment provision—considering that such resources are limited, and people may have heterogeneous views concerning what life project is worth pursuing. Beyond offering this, however, her critique of fertility treatment provision does not reveal much as to what projects, if any, ought to take priority over the project to parent and, especially, how to assess this.[27] McTernan's only qualification of 'valuable life projects' is that these projects are those that 'can make for a valuable or meaningful life'.[28] This account is, however, minimal and cannot be used as a criterion to discriminate between projects worth providing funding for.

My suggestion to canvass this is to look at the preferences (or desires) that underpin valuable life projects and their relationship with people's well-being.[29] Preference satisfaction theories of well-being broadly stipulate that '[t]he extent to which a person's life goes well is the degree to which his ideally considered preferences are satisfied'.[30] Now, a first challenge for these theories is to establish what counts as 'ideally considered' preferences, which are sometimes referred to as 'rational preferences', 'informed desires' or, in Brandt's formulation, preferences that are 'inextinguishable'.[31] Other things being equal, we have good reasons to regard ideally considered and inextinguishable preferences to be more important for people's well-being than irrational preferences. It is complex and dependent on several conceptual and normative considerations as to whether the

[21]Kymlicka, W. (1989). Liberal individualism and liberal neutrality. *Ethics*, *99*(4), 883–905.
[22]Panitch, V. (2015). Assisted reproduction and distributive justice. *Bioethics*, *29*(2), 108–117. https://doi.org/10.1111/bioe.12067
[23]Meijers, op. cit. note 8, p. 630. Meijers' aim differs from my own. He seeks to develop a *pro tanto* case for a (limited) right to procreate in the context of political liberalism.
[24]Ibid.
[25]Burley, J. C. (1998). The price of eggs: Who should bear the costs of fertility treatments? In J. Harris & S. Holm (Eds.), *The future of human reproduction* (pp. 127–149). Clarendon Press; Dworkin, R. (1981). What is equality? Part 2: Equality of resources. *Philosophy & Public Affairs*, *10*(4), 283–345.
[26]See, for instance, Cavaliere, G. (2023). Involuntary childlessness, suffering and equality of resources: An argument for expanding state-funded fertility treatment provision. *Journal of Medicine and Philosophy*, Forthcoming; Panitch, op. cit. note 22.
[27]Moreover, it seems to me almost a truism that resources are limited. The interesting question in this respect concerns *how* to allocate limited resources. McTernan's approach, other than not providing criteria to assess this, is both too broad and too narrow, depending on one's view concerning whether or not fertility treatment ought to be considered a responsibility of national healthcare services. To explain, it seems to me that if one considers that fertility treatment provision falls within the remit of national healthcare services, the allocation of resources to this form of treatment would have to be contrasted with the allocation of resources to other forms of treatment, such as, for instance, the treatment of kidney stones or diabetes. McTernan's approach would thus be too broad. Alternatively, if one considers that fertility treatment provision falls outside the scope and the responsibility of healthcare services, as McTernan seems to imply by contrasting fertility treatment provision with providing access to green spaces, her approach would be too narrow. It is unclear as to why the investment of resources to valuable life projects should not be contrasted with the investment of resources to, for instance, the defence or the education sector, youth employment or welfare measures and what the value and desirability of doing so would be. I do not have the space to further elaborate on this here.
[28]McTernan, op. cit. note 8, p. 228.
[29]Segers et al. adopt a different strategy and explore whether the 'irreplaceable value' that parenting might have with respect to leading a flourishing life generates duties of assistance towards sub-fertile people on the part of the state. Their conclusion is that even if we accept such a view of the project to parent, it does not follow that states have duties to fulfil the project of parenting *a genetically related child*. There are only *pro tanto* reasons to do so, which have to do with the value of personal autonomy. See: Segers, S., Pennings, G., & Mertes, H. (2022). Assessing the normative significance of desire satisfaction. *Metaphilosophy*, *53*(4), 475–485. https://doi.org/10.1111/meta.12574. For a discussion of the normative significance of desire satisfaction, see also: Segers, S., Pennings, G., & Mertes, H. (2019). Getting what you desire: The normative significance of genetic relatedness in parent–child relationships. *Medicine, Health Care and Philosophy*, *22*(3), 487–495. https://doi.org/10.1007/s11019-019-09889-4
[30]Arneson, R. J. (1989). Equality and equal opportunity for welfare. *Philosophical Studies: An international journal for philosophy in the analytic tradition*, *56*(1), 77-93.
[31]Griffin, J. (1986). *Well-being: Its meaning, measurement and moral importance*. Oxford University Press; Brandt, R. B. (1979). *A theory of the good and the right*. Clarendon Press.

preference to have genetically related children counts as ideally considered and inextinguishable. It might very well be that some people, upon reflection and deliberation, might cease to consider such a preference as central to their life. But, for those whose preference to have a genetically related child will survive a process of scrutiny,[32] the impact on their well-being of its frustration might be substantial.

A second challenge for these theories is to establish the relationship between ideally considered preferences and well-being in terms of the degree to which the former can impact the latter.[33] People have all sorts of rational and irrational preferences that can be satisfied or frustrated. Take my preference to go skiing in winter. Whilst such a preference may very well be ideally considered, its frustration would not impact my overall well-being in the same way and to the same degree as, for instance, the frustration of the preference to be an academic. This mundane example points to the idea that the satisfaction vis-à-vis frustration of certain preferences has different degrees of impact on people's well-being. The preference of being an academic, as opposed to the preference to go skiing in winter are instances of this—even granting that preferences might change over time. Looking at this challenge in the context of reproductive preferences, then, raises two questions: to what degree the frustration of reproductive preferences brought about by sub-fertility affects people's well-being and how such an impact compares to the frustration of other preferences that people might have. In response to the 'one good among many' objection, I suggest that we look at two characteristics of the preference to have genetically related children: the degree and nature of the suffering involved and the malleability of the preference in question. I argue that, together, they supply *pro tanto* reasons to fulfil people's reproductive preferences and the associated project to parent.

3.1 | Preferences and suffering

Qualitative studies show that the experience of sub-fertility correlates with severe psychological distress and suffering.[34] This is sometimes articulated in terms of the emergence of a negative identity, characterised by absence and failure;[35] of the adverse effects on social relations that sub-fertility brings about;[36] of the arising of feelings such as extreme sadness, frustration, anxiety, stress and a sense of worthlessness;[37] and, mostly for women, with the emergence of feelings of self-blame.[38] Such psychological distress and suffering seems to be greater for women and to affect them in different ways than men, mediated by broader social norms.[39] This gives prima facie grounds to believe that the frustration of the preference to have genetically related children has negative effects on people (especially women) as it causes suffering that is qualitatively severe and chronologically enduring, due to the long-lasting effects on people's sense of self, identity and well-being. Such effects generate *pro tanto* reasons to consider allocating resources to enable people to fulfil the life project of parenting genetically related children. *Mutatis mutandis*, if the frustration of the preferences that underpin other valuable life projects causes suffering of a similar degree and nature, we will have *pro tanto* reasons to enable people to fulfil these projects too.

A counter-objection that one could raise at this point (and indeed some do raise it) is that the data on the psychological distress and suffering associated with the frustration of the preference to have genetically related children are skewed. Since such data collected amongst fertility patient populations, it is difficult to 'untangle the effects of infertility from the effects of infertility treatment on psychological outcomes',[40] as Greil et al. note. A blunt way to put this is that it might be fertility treatment and not sub-fertility that is responsible for causing psychological distress and suffering. If this is true, or so the counter-objection goes, there might be good reasons to refrain from providing fertility treatment provision.

In response to Greil et al.'s observation, however, it must be noted that another reason why data on the psychological effects of sub-fertility are skewed is that they rarely capture the experiences of those who might want to access fertility treatment, but due to various kinds of barriers, cannot and are not. For instance, those who for statutory and other kinds of restrictions concerning earnings, age, sexual orientation or relationship status are unable to access treatment will not feature in these studies, but this does not mean that they are not negatively affected by sub-fertility.[41] The impact on well-being might thus be *both* smaller and greater than these studies

[32]Or, what Brandt refers to as a process of 'cognitive psychotherapy', Brandt, op. cit. note 31.

[33]I examine in Section 4 the challenge raised by what are sometimes referred to as 'adaptive preferences' or preferences whose emergence is shaped by oppressive social norms. On 'adaptive preferences', see for instance: Nussbaum, M. C. (1995). *Women, culture, and development: A study of human capabilities*. Clarendon Press.

[34]Hendriks, S., Peeraer, K., Bos, H., Repping, S., & Dancet, E. A. F. (2017). The importance of genetic parenthood for infertile men and women. *Human Reproduction*, *32*(10), 2076–2087. https://doi.org/10.1093/humrep/dex256

[35]Vasta, F. N., & Girelli, R. (2021). An epistemological perspective of integrated multi-disciplinary treatment when dealing with infertile women with a parenthood goal: The importance of matterpsychic perspective. *Frontiers in Psychology*, *12*, 1-11. https://www.frontiersin.org/article/10.3389/fpsyg.2021.634028; Bell, A. V. (2019). "I'm not really 100% a woman if I can't have a kid": Infertility and the intersection of gender, identity, and the body. *Gender & Society*, *33*(4), 629–651. https://doi.org/10.1177/0891243219849526; Johansson, M., & Berg, M. (2005). Women's experiences of childlessness 2 years after the end of in vitro fertilization treatment. *Scandinavian Journal of Caring Sciences*, *19*(1), 58–63. https://doi.org/10.1111/j.1471-6712.2005.00319.x

[36]Parry, D. C., & Shinew, K. J. (2004). The constraining impact of infertility on women's leisure lifestyles. *Leisure Sciences*, *26*(3), 295–308. https://doi.org/10.1080/01490400490461972

[37]Kjaer, T. K., Jensen, A., Dalton, S. O., Johansen, C., Schmiedel, S., & Kjaer, S. K. (2011). Suicide in Danish women evaluated for fertility problems. *Human Reproduction*, *26*(9), 2401–2407. https://doi.org/10.1093/humrep/der188; McQuillan, J., Greil, A. L., White, L., & Jacob, M.C. (2003). Frustrated fertility: Infertility and psychological distress among women. *Journal of Marriage and Family*, *65*(4), 1007–1018. https://doi.org/10.1111/j.1741-3737.2003.01007.x

[38]McLeod, C., & Ponesse, J. (2008). Infertility and moral luck: The politics of women blaming themselves for infertility. *IJFAB: International Journal of Feminist Approaches to Bioethics*, *1*(1), 126–144.

[39]Throsby, K., & Gill, R. (2004). "It's different for men": Masculinity and IVF. *Men and Masculinities*, *6*(4), 330–348. https://doi.org/10.1177/1097184X03260958

[40]Greil, A. L., Slauson-Blevins, K., & McQuillan, J. (2010). The experience of infertility: A review of recent literature. *Sociology of Health & Illness*, *32*(1), 140–162. https://doi.org/10.1111/j.1467-9566.2009.01213.x

[41]Cavaliere, op. cit. note 26.

suggest. This is something that is often overlooked in the philosophical literature on the value of fertility treatment provision, which tends to emphasise the negative effects of such a treatment on people's well-being whilst downplaying the potentially equal or greater negative effects on well-being of having one's preferences thwarted due to various kinds of barriers.

Moreover, whilst fertility treatment and its provision might partially or even substantially contribute to hastening the psychological distress and suffering associated with the experience of sub-fertility, it seems unlikely that suspending its provision will significantly undermine broader social arrangements and norms related to parenting, genetic relatedness and gestation. The rethinking required to end the psychological distress and suffering that the frustration of reproductive preferences can bring about seems to me more radical than what defunding fertility treatment provision can achieve. Additionally, it seems an exceedingly paternalistic intervention, for it sacrifices people's (and especially women's) expressed preference of having genetically related children in the name of their putative interest in not experiencing the psychological distress and suffering that may be associated with undergoing fertility treatment.[42] This is something that from a programmatic point of view should not be accepted lightly, as I will argue below in response to the 'norm-legitimation' objection.

A second counter-objection to the idea that the suffering involved with the frustration of the preference to have genetically related children supplies *pro tanto* reasons to enable its fulfilment is that people might have all sort of preferences that, if frustrated, may severely impact well-being, but that we have good reasons not to satisfy these preferences due to the undesirable outcomes that doing so produces. Another way to express this counter-objection is the following: liberal neutrality is only warranted towards the pursuit of life-plans (and the satisfaction of preferences) that do not bring about states of affairs that are disadvantageous for certain groups or that rely on morally impermissible conceptions of the good.[43] Consider for instance racist preferences.[44] Their frustration might have adverse effects on the well-being of those who have such preferences, even substantial effects. Nonetheless, it seems to me uncontroversial to maintain that we have good reasons not to satisfy racist preferences, for certain groups (i.e., those targeted by racist preferences) would be negatively affected as a result. If the preference to have genetically related children is like a racist preference, then, no matter how much suffering its frustration causes, we would still have good reasons not to satisfy it. This is a variation of the 'norm-legitimation' objection. To argue against fertility treatment provision, critics draw attention to the undesirable social effects of fertility treatment: the legitimation of problematic norms; the discrediting of adoption; and the stigmatisation of those who remain childless or who pursue parental projects that do not entail genetic relatedness. I respond to this objection in Section 4. My argument is that we ought to have very good reasons to disregard reproductive preferences and to do social reform 'on the backs of' sub-fertile people. For now, I wish to consider a second characteristic of the preference to have genetically related children that, like the suffering associated with its frustration, provides *pro tanto* reasons to satisfy it: its malleability.[45]

3.2 | Preferences and malleability

Other things being equal, it seems reasonable for states to favour the investment of resources to satisfy unmalleable preferences, that is, preferences whose changing would entail substantial costs for both the people who have them and the state over more malleable preferences. Recall my example of skiing every winter vis-à-vis having an academic career. In discussing it, I explained that the frustration of the latter preference would have a much more substantial impact on my well-being than the frustration of the former. Now, in terms of malleability: both preferences can change. I might, over time, develop the view that I do not like skiing after all: it is expensive and it might contribute to the progressive destruction of natural environments. I might also wake up one day and decide that I no longer want to be an academic, and I would rather be what my five-year old self wanted to be[46] or something else entirely. The idea here is that preferences can change over time. This also applies to the preference to have genetically related children: people might, over time, consider that not having children or adopting children can both be valuable life projects. All this is compatible with the view advanced here: the less malleable the preference and the more the associated costs of trying to change it, the more caution and justification are needed with respect to disregarding it.

To a degree, it is an empirical question as to whether and to what degree reproductive preferences are malleable and as to how substantial the associated costs of trying to change them would be. Feminist theorists have been instrumental in challenging essentialist claims concerning (genetic) parenthood. They have rejected the idea that having genetically related children is women's biological destiny and have pointed to social and political norms to explain the emergence and consolidation of reproductive preferences. A purely evolutionary and biological account of the degree of malleability of the preference to have (genetically related) children would thus be flawed. Despite this, the force that these norms exert on people can

[42] I am indebted to Lorenzo del Savio for this and other suggestions throughout.

[43] As I argue below in reference to the preference to be in a heterosexual relationship, and unlike some of the critics of fertility treatment and its provision, I do not consider the preference to have genetically related children as intrinsically morally suspect. *Mutatis mutandis*, the life-plan of parenting a genetically related child would similarly fall within the realm of moral permissibility. If this preference (or life-plan) was grounded in impermissible conceptions of the good, then there would be good reasons to disregard and police it. Neutrality towards this particular preference seems to me to be warranted, given broader considerations pertaining to the authority of the liberal state and the neutrality that it ought to exercise towards heterogeneous conceptions of the good. As Dworkin notes, this is supposed to ensure equal concern and respect towards citizens (and their conceptions of the good). More generally, liberal neutrality is thought to ensure respect for people's autonomous pursuit of their preferred life-plans. Dworkin, op. cit. note 20.

[44] I owe this analogy to Matteo Mameli and Jonathan Gingerich, who independently suggested it to me.

[45] With respect to the satisfaction of preferences, Scanlon considers the criterion of 'urgency'. Scanlon, T. M. (1975). Preference and urgency. *The Journal of Philosophy*, *72*(19), 655–669.

[46] A thief specialised in redistributing wealth, as it happens. I was very fond of Robin Hood.

arguably be seen as resonating with biologically and evolutionary endowed instincts and drives. *Ex hypothesis*, the preference to have genetically related children may be the product of socio-political and cultural norms that align with, rather than go against, sex drive and nurturance instinct. This leaves open the question of its malleability, but it shows that interventions to change such preferences would have to be quite substantial, especially due to the pervasiveness of these norms. Mine is, in other words, a sceptical position with respect to the malleability of preferences in a socio-cultural environment that prizes having (genetically related) children. Moreover, the costs associated with changing such a preference are likely to be substantial due to the pervasiveness of the parental project to parent genetically related children; illiberal, as they would entail disregarding people's preferences; and unequally distributed, for they would have to be borne by people experiencing various forms of sub-fertility. That is, if the changing of the preference to have genetically related children is achieved through defunding fertility treatment provision or refraining from offering it altogether—as critics such as Lotz suggests—the costs will necessarily be borne by sub-fertile people. This seems to me both unjust and difficult to defend.

As in the case of the suffering that the frustration of the preference to have genetically related children could cause, the malleability clause only supplies *pro tanto* reasons to consider allocating resources to enable people to fulfil the life project of parenting a genetically related child. Now, what the sceptic could respond to this is that it does not matter how costly it is for those who have the preference to have genetically related children, so long as it is the right thing to do. And, relatedly, that there are costs associated with promoting rather than challenging putatively problematic norms concerning parenthood. This is at the heart of the 'norm legitimation' objection, which concerns the desirability of interventions that promote rather than challenge putatively problematic norms, and the broader social effects of promoting them. The following section addresses these concerns and responds to this objection.

4 | THE PREFERENCE TO HAVE GENETICALLY RELATED CHILDREN, PROBLEMATIC SOCIAL NORMS AND COMPATIBILITY

At the core of Lotz's objection there is the idea that the preference to have genetically related children (and to gestate, as she is concerned with UTx) is likely to be shaped by problematic norms, and that state provision of a costly and burdensome fertility treatment would legitimise these norms. In a separate article, Lotz additionally contends that there is a 'strong moral obligation […] to address the morally weighty existing unmet needs of children who lack secure families'.[47] Whilst I find contentious the suggested means to achieve this, that is, not providing funding to new (burdensome and expensive) forms of fertility treatment, I too believe that it would be desirable for adoption to become more a more normalised parental project. Nonetheless, my view with respect to the 'norm legitimation' objection is that we ought to have very good reasons to disregard a preference that, for many (especially for many women), is so tightly interwoven with their sense of self and well-being, and to fulfil the moral obligation generated by the needs of children in out-of-home care by refraining from offering fertility treatment provision.

First, women are thought to be those who bear the brunt of the effects engendered by 'PEG' norms. Not providing funding to fertility treatment to protect women from the force that these norms exert on them places what an external agent might conceive to be in their (putative) interest above their expressed preferences. It might very well be that it is in women's interest not to be on the receiving ends of (oppressive) norms, but questioning women's preferences on the basis of what one might think is 'really' in their interest shifts us to a hard form of paternalism that we have good reasons to reject.[48] Even if one assumes that 'PEG' norms mediate and shape the emergence of the preference to have genetically related children, and even if fulfilling it might further entrench such norms, the alternative cannot be to explain it away as the product of false consciousness. Programmatically, this does not seem to be the most desirable way to promote people's and especially women's liberation from oppressive norms. Moreover, considering how fragile, specifically for women, certain freedoms and rights are in the context of reproduction (assisted and not), we ought to be extremely cautious to give in to the idea that women might not be the best arbiters of their (own) interests and preferences. The consequences of this erosion of trust might be extremely unpalatable especially for women and especially in the context of reproduction, gestation and childbirth.

Second, whilst it might be true that 'PEG' norms shape the emergence and consolidation of the preference to have genetically related children—contra Lotz and other critics of the value of fertility treatment—I do not see anything intrinsically problematic with such a preference. It may engender some undesirable social consequences due to its pervasiveness, such as the entrenchment of norms on parenting that risks discrediting of other forms of family formations. In this sense, and as I have argued above, the preference to have genetically related children differs from racist preferences. Consider instead having heterosexual preferences in romantic relationships. Such preferences are not intrinsically problematic, but their pervasiveness, and the heteronormative norms that they lend support to, might be partially responsible for the discrediting of queer relationships. *This*, however, would hardly justify state-driven interventions aimed at reshaping or changing heterosexual preferences, even if the social effects of doing so might be desirable, especially for certain groups. Given that heterosexual preferences can be considered a component of a morally permissible conception of the good that a person may hold, state-driven interventions mandating changes in

[47]Lotz, op. cit. note 7, p. 500.

[48]Cavaliere, G., & Cesarano, F. Gender socialization and the public provision of fertility treatment. *Journal of Ethics & Social Philosophy*, (2024).

these preferences and in the way a person may want to live their (romantic) life would violate the principle of liberal neutrality. As I have discussed in Section 2.1, such a principle, in its heterogenous formulations, expresses a constraint on legitimate and permissible interventions on the part of the (liberal) state. According to this principle, and within the realm of moral permissibility,[49] the state ought to remain neutral towards heterogeneous conceptions of the good, and the preferences and life-plans that citizens may want to pursue. If the preference to have genetically related children is indeed more akin to the preference to be in a heterosexual relationship rather than the preference to not engage in conversation with a person of a different skin colour (i.e., a racist preference), neutrality towards it and towards the life-plan of parenting a genetically related child would be similarly justified. I cannot elaborate further on this here, but, at least with respect to the preference to have genetically related children, liberal neutrality seems to justify limited state intervention. Thus, whilst in principle I agree with the idea that it would be desirable for adoption to become more accessible and accessed, social reform ought not to be enacted in this way and its costs should not fall on sub-fertile people. As the manifesto of the Combahee River Collective states:

> In the practice of our politics, we do not believe that the end always justifies the means. Many reactionary and destructive acts have been done in the name of achieving 'correct' political goals. As feminists we do not want to mess over people in the name of politics.[50]

Contra Lotz and others who raise similar objections to fertility treatment provision, I do not want to 'mess over' with the lives of people who experience sub-fertility. In the spirit of not messing over, it would thus be desirable to adopt a compatibilist approach, one where people's and especially women's (reproductive) preferences are taken seriously and given substantial importance; where the norms that often shape the emergence of such preferences are engaged with and resisted; and where alternative means to fulfilling parental projects, such as adoption, co-parenting and other more utopian possibilities, are reformed in a way that make them real, viable and accessible options.[51] Even if it might be more difficult to achieve, I consider a better society one where oppressive norms are engaged with and resisted to, where preferences are given substantial moral weight and where the costs of social reform do not fall on a single group.

4.1 | Compatibility of countervailing commitments and adoption reform

Lotz rejects such a compatibilist approach.[52] As I have mentioned above, to her, there is something 'pragmatically and ideologically contrary and countervailing' in satisfying people's preference to have genetically related children via fertility treatment provision whilst, at the same time, attempting to challenge and undermine the very same norms that contribute to the emergence of such a preference.[53] But the 'solution' to oppressive norms and their entrenchment should not castigate preferences and place the costs of social reforms on a small group of people, who are already disadvantaged due to their fertility status. Additionally, and in line with the perspective on the preference to have genetically related children advanced in this paper, it seems to me that fertility treatment provision should also be seen as a way to satisfy people's and particularly women's preferences and promote the exercise of their autonomy within the realm of reproduction, and not just as an impediment to challenge 'PEG' norms and promote adoption.

With respect to the needs of the children in out-of-home care and to the championing of adoption and adoption reform, I have some additional worries concerning Lotz's claims and those of other scholars who advance similar views. First, it is not entirely clear what such a reform would entail. It is an empirical question, and a very complex one to address, as to whether more people will turn to adoption if state provision for fertility treatment decreases. This question is difficult for it requires an analysis of counterfactuals and of how (reproductive) preferences would change were we to alter some of the characteristics of the current socio-cultural and political circumstances. Second, and looking at the *practice* of adoption, it seems to me that whilst it is true that there are many children in out-of-home care, it is also true that there are many people who wish to adopt and are either not able to do so due to factors pertaining to age, socio-economic status and other 'social' circumstances, or that are on very long waiting lists. Making adoption more accessible thus means engaging with these barriers and considering whether they should be dismantled and, especially, whether it is desirable to do so, for both prospective parents *and* for the children in out-of-home care. Third, even the practice of adoption is not free from the influence of preferences with respect to parental projects. For instance, what to make of the preference to have a new-born or a very young child? Or of the preference for ethnic matching? Should they also be disregarded in favour of more egalitarian adoptive practices? These are questions that I cannot address here.[54] Nonetheless, I believe that they warrant further consideration and,

[49]Rawls, J. (1988). The priority of right and ideas of the good. *Philosophy & Public Affairs*, *17*(4), 251–276.

[50]The Combahee River Collective. (1983). A Black feminist statement. In B. Smith (Ed.), *Home girls: A Black feminist anthology* (pp. 272–292). Kitchen Table: Women of Color Press.

[51]Specifically, the approach defended by Wilkinson and Williams: Wilkinson & Williams (2016b), op. cit. note 18.

[52]Ibid.

[53]And that contribute to discredit the practice of adoption.

[54]De Wispelaere and Weinstock discuss this in terms of the limits of the practice of adoption as an alternative to fertility treatment. They consider the example of families that might be unwilling or ill-suited to provide a home to children with special needs or older children; the complications and contentious nature of international adoption; and the constraints associated with screening processes and practices in place. Many of the hurdles associated with the practice of adoption are in place with the specific aim of ensuring children's well-being. It seems to me that calling for adoption reform needs to consider whether and how such a reform would impact on this stringent and important standard. De Wispelaere & Weinstock, op. cit. note 13.

especially, further justification in terms of overriding preferences. Those who consider adoption to be an alternative for sub-fertile people need, in my view, to engage with these questions and state how far they are prepared to go.

5 | CONCLUSION

In this paper, I have sought to engage with and respond to two sets of commonly raised objections against expanding fertility treatment provision. In responding to the 'one good among many' objection, I have argued that in order to make decisions concerning the allocation of resources to enable citizens to fulfil their valuable life projects, we should look at the preferences that underpin them, and we should afford them a more substantial moral weight due to their relationship with people's well-being. I have then turned to the 'norm-legitimation' objection and canvassed whether states should be in the business of satisfying preferences whose emergence may be shaped by problematic norms. In responding to this objection, I have suggested an approach that privileges compatibility between putatively countervailing commitments and that does not disregard people's preferences in the name of achieving politically desirable ends.

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