

## Chapter 1

# Philosophy and the Family

Normally, the birth of a child is not a newsworthy event. However, as the world's first test tube baby, Louise Brown's birth on 25 July 1978 in Great Britain was front-page news. Three years later, America's first test tube baby, Elizabeth Carr, was born. 'It's hard to look back and remember how surprising and shocking that was – that human beings can actually be made outside the body', remarks Arthur Caplan, a bioethicist at the University of Pennsylvania.<sup>1</sup> There are over one million children alive today who were conceived via *in vitro* fertilization.

Although IVF is no longer as controversial as it used to be, other technologies continue to retain their controversial status. In the 1980s, the now famous Baby M case received national attention. William and Elizabeth Stern paid Mary Beth Whitehead \$10,000 to be artificially inseminated with Mr Stern's sperm, carry the fetus to term, and then transfer custody of the infant to the Sterns after delivery. However, Mary Beth Whitehead changed her mind, deciding that she wanted to retain custody of Baby M. A long legal battle ensued, with the courts ultimately granting custody to William Stern and regular visitation to Mary Beth Whitehead, who was recognized as the child's legal mother. Elizabeth Stern was denied a legal relationship to the child, on the grounds that no biological relationship existed between her and Baby M.

In the past 30 years, advancements in reproductive technology and the sometimes swift currents of social change have caused much reflection on the ethics of the family. While these advances have brought the joys and challenges of parenthood to many who otherwise might not be able to experience life as parents, they have also created numerous legal and moral dilemmas. These technological advances also raise more general questions about the nature of the parent-child relationship. How should we think about being a parent? What is the significance of biology for parenthood? Is there an inalienable right to found a family? Should we require prospective parents to be licensed before we allow them to procreate and raise children? We need to take a closer look at our understanding of parenthood.

### Framing the Issues

As we know, our lives are often influenced in deep ways by our parents. Much of how we see the world, others, and ourselves is shaped by our relationship with them, or the lack thereof. Our parents often have a significant impact on the content of our beliefs, the values we hold, and the goals we pursue. Becoming a parent can also

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1 From <http://www.cnn.com/2003/HEALTH/parenting/07/25/ivf.anniversary>.

have a strong impact on our beliefs, values, and goals. Given these facts, how we conceive of parenthood is an existentially central issue.

We need a deeper understanding of parenthood and the moral dimensions of the parent-child relationship in both the private and public spheres. Gaining such an understanding is worthwhile because the parent-child relationship is a central feature of so many of our lives, and is the context in and from which many of our choices, moral and otherwise, are made. A consideration of the ethics of parenthood leads into several interesting issues, such as the nature and justification of moral rights, the sources of moral obligations, the value of autonomy, and the moral obligations and tensions present in interpersonal relationships. It also leads into broader questions about what it is that constitutes a good life. A deeper understanding of the moral dimensions of the parent-child relationship therefore has much theoretical and practical value.

What is it that makes someone a parent? In this book, I explore several different conceptions of parenthood and the implications of these conceptions for the ethics of the family. A conception of parenthood is a way of understanding what it is that makes someone a parent, what it is that generates parental rights and parental obligations. In this book, I argue that the proper way to think about being a parent is to conceive of parents as stewards of their children. In the remainder of this brief introductory chapter I note some of my own assumptions about morality and the family, offer an intuitive definition of parenthood, and discuss the moral status of children. Lastly, I provide an overview of the remainder of the book.

### *Philosophy, the family, and common sense*

Philosophers have had a variety of things to say about the family. Plato notoriously advocates the collective raising of the children born to members of the guardian class, for the good of the state.<sup>2</sup> Other philosophers, such as Robert Filmer and Thomas Hobbes, have argued that parents have absolute rights over their children, even to the point of killing them.<sup>3</sup> Collectivism and absolutism both stand in sharp disagreement with our common sense views about the moral dimensions of the parent-child relationship. Other more contemporary philosophical views, while distinct from the collectivism of Plato and the absolutism of Filmer and Hobbes, also contrast sharply with our common sense beliefs about the parent-child relationship. For instance, children's liberationists argue for the claim that children should possess the same rights as adults, and that to deny children these rights is to perpetrate an injustice upon them.<sup>4</sup> Others have advocated a radical restructuring of the traditional family. For example, Ann Ferguson recommends communal living, including a community

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2 See Plato, *Republic* (Indianapolis, IN: Hackett, 1992).

3 See John Locke, *Two Treatises of Government* (New York: Cambridge University Press, 1988); and Thomas Hobbes, *Leviathan* (Indianapolis, IN: Hackett, 1994).

4 See John Holt, 'Why Not a Bill of Rights for Children?', in Beatrice Gross and Ronald Gross (eds), *The Children's Rights Movement* (Garden City, NY: Anchor Press, 1977), pp. 319–325; and Richard Farson, 'Birthrights', in Gross and Gross, pp. 325–328.

responsibility for childrearing, as a method for de-emphasizing biological parenthood.<sup>5</sup> Shulamith Firestone calls for the liberation of women ‘from the tyranny of their reproductive biology.’<sup>6</sup> She also proposes abolishing the biological family, and in its place setting up households where approximately ten consenting adults apply for a license to set up house and live together for the period of time required for the children of that household to grow up in a stable and structured environment. The highly influential philosopher John Rawls does not advocate abolishing the family, though he notes that the ideal of equal opportunity does lead toward this conclusion, given the ways that the institution of the family contributes to inequality.<sup>7</sup>

Christina Hoff Sommers responds to these sorts of claims about the family by arguing that philosophers must have respect for our moral traditions as they relate to the family, the social environment, and common sense. She is much less willing to depart from these, and argues that ‘[a] moral philosophy that does not give proper weight to the customs and opinions of the community is presumptuous in its attitude and pernicious in its consequences. In an important sense it is not a moral philosophy at all. For it is humanly irrelevant.’<sup>8</sup>

I agree with Sommers insofar as I believe that we ought to start with our common sense moral intuitions when engaging in moral reflection, and that these intuitions as well as our moral traditions should initially carry significant weight. However, what is at issue in the debates surrounding the family and the competing conceptions of parenthood is whether or not the deliverances of custom and the moral opinions of the community are just and true. In this book I do not assume the superiority of the traditional two-parent family. Nor do I argue in favor of radically revising or abolishing the institution of the family. I assume, consistent with common sense, that a child is generally better off if she has a close interpersonal relationship with at least one adult who is occupying a parental role in her life, offering her focused care, attention, love, and guidance. This does not necessarily rule out all collective forms of childrearing, nor does it entail that biology determines who has parental rights and obligations with respect to a particular child. Neither does this assumption rule out the possibility that the traditional two-parent family is generally the preferable form that the family should take. These questions remain open. Yet the foregoing assumption does mean that it is preferable for children to have at least one parental figure who is consistently and intimately involved in their lives, and that a large number of such parental figures is counterproductive. What do we have in mind, though, when we speak of a parental figure?

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5 See Ann Ferguson, ‘Androgyny as an Ideal for Human Development’, in Mary Vetterling-Braggin, Frederick Elliston, and Jane English (eds), *Feminism and Philosophy* (Totowa, NJ: Rowman and Littlefield, 1977), pp. 45–69. See also Carol Gould, *Beyond Domination* (Totowa, NJ: Rowman and Allanheld, 1983).

6 Shulamith Firestone, *The Dialectic of Sex* (New York: William Morrow and Company, 1970), p. 233.

7 John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1999).

8 Christina Hoff Sommers, ‘Philosophers Against the Family’, in George Graham and Hugh LaFollette (eds), *Person to Person* (Philadelphia: Temple University Press, 1989), p. 103.

*Parenthood: a working definition*

What is a parent? At first glance, this seems like a fairly easy and straightforward question. Historically, one's parents were nearly always one's genetic progenitors. However, the development of numerous reproductive technologies has stretched our understanding of parenthood and challenged what we have traditionally understood a parent to be, thereby complicating the question of what it is that makes someone a parent.

Several people may have a claim to be the parents of a particular child. Other factors now compete with biology in the context of our understanding of parenthood. For example, an infertile couple may bring a particular child into being via sperm and egg donation and a contract with a gestational surrogate who agrees to carry the fetus to term and then transfer custody over to the contracting couple. All of these individuals – the gamete donors, the gestational surrogate, and the contracting couple – may have grounds for claiming parental rights to and over the child.

Moreover, in this realm of life, complications seem to be incessantly multiplying. For example, it is now possible for a child to have *four* biological parents. In 2001, scientists announced that they had created a child with two genetic mothers.<sup>9</sup> Doctors removed an egg from a woman who had a cytoplasmic defect in her eggs that caused her to be infertile. They also removed an egg from a second woman, extracted its healthy cytoplasm, and inserted it into the egg of the infertile woman. They then inserted the sperm of the infertile woman's mate into her egg. In the process, some of the second woman's mitochondria were accidentally transferred into the infertile woman's egg. Given that the mitochondria have their own DNA distinct from that of the infertile woman, the baby that came into existence possesses genetic material from both women, and so has two genetic mothers.

A brief thought experiment will show how this situation could become even more complicated. We can imagine that not only has the above baby come into existence, but also that the couple decides to seek the services of a gestational surrogate to carry the fetus to term. In this sort of case, the child would have four biological parents. And given the possibility in the future that numerous gestational surrogates could contribute to the gestational development of a single child, the number of those individuals who could rightfully be called a child's biological parent could continue to grow. Such cases and future possibilities pose difficult questions for the biological conception of parenthood.

Given the above, how should we think of parenthood? We generally think of parenthood as both a relation and an activity. A parent is someone who stands in a certain kind of relationship to another person. To be a parent is to be active, to engage in certain activities in relationship to another. Parents care for their children, love their children, discipline their children, and offer instructions and guidance to their children. We intuitively believe that parents have certain obligations and rights with respect to their children that others do not have. An intuitive and provisional definition of 'parenthood' might go as follows: an active relationship in which a

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<sup>9</sup> See William B. Irvine, *The Politics of Parenting* (St. Paul, MN: Paragon House, 2003), pp. 203–204.

person possesses certain special rights and obligations with respect to at least one child. I do not want to beg any questions here, and so I do not assume a particular view regarding whether or not there are distinctively *parental* rights and obligations. In this book, I intend to consider whether or not belief in the existence of such rights and obligations can be supported, and how they ought to be understood.

As it stands, the above definition does not appear to be very fruitful. It tells us nothing about whether one must be biologically related to a child in order to be its parent, or whether other avenues are available for obtaining parental rights and obligations. It does not tell us what the extent or justification of the purported rights of parents are, nor does it tell us what makes someone a good parent. In this book, I attempt to answer these questions. One important issue that arises when looking for answers to such questions is whether or not children possess a level of moral status sufficient for the possession of basic human rights, such as the right to life and the right to bodily security.

### *The moral status of children*

In the pages that follow, I am chiefly concerned with the rights and obligations of the parents of minors, especially infants and younger children, rather than parents whose children are adolescents or adults. Therefore, a brief discussion of the moral status of infants and young children is in order. What follows in this section is primarily intended for those who are unwilling to grant my assumption that newborn human beings possess a level of moral status sufficient for the right to life and the right to bodily security, and for those interested in philosophical accounts of moral status that support this assumption.

An entity has *moral status* if what happens to it matters, from the moral point of view. It has been argued that human beings come to possess moral status at numerous points in their development. Some believe that this occurs at conception, while others argue that it does not occur until the point at which the human being in question has a self-concept and is a continuing subject of experiences. For example, Michael Tooley argues that an entity ‘possesses a serious right to life only if it possesses the concept of a self as a continuing subject of experiences and other mental states, and believes that it is itself such a continuing entity.’<sup>10</sup> Tooley claims that, practically speaking, the line for the moral permissibility of infanticide could be drawn at one week after birth. This line could be adjusted to fit with empirical discoveries that determine the point at which human beings satisfy the above condition for having a right to life, when such discoveries become available.

Contrary to Tooley’s view, I both believe and assume throughout the following pages that human infants do possess moral status: they are objects of concern from the moral point of view such that they possess a right to life and a right to bodily security. However, my purpose at present is not to defend a particular account of the moral status of fetuses or infants. Rather, I merely offer two different types of accounts of moral status that include infant human beings in the group of entities that

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10 Michael Tooley, ‘Abortion and Infanticide’, *Philosophy and Public Affairs* 2 (1972): 44.

possess moral status. If either of these accounts is plausible, then a plausible basis for my assumption that newborns do have a right to life exists.

Two ways of answering Tooley's challenge to the moral status of infants focus on particular properties that infants possess. One way of arguing for the moral status of infants focuses on the intrinsic properties possessed by infants (and developed fetuses) as that which grounds their moral status. The interest view claims that having interests is both necessary and sufficient for the possession of moral status.<sup>11</sup> A being is an object of moral concern if and only if it has interests, and the possession of conscious awareness is both necessary and sufficient for the possession of interests. This is because a being that has moral status must be able to be happy or miserable, comfortable or distressed, even if only in terms of pain and pleasure. In short, if it matters to a being what happens to it, then that being has moral status. According to the interest view, there is a conceptual connection between conscious awareness and the possession of interests, because conscious awareness is required for a being to have desires, preferences, and goals. Nonsentient, nonconscious beings do not care what happens to them, because they are unable to do so. Applying the interest view to the case of human beings, the conclusion is that preconscious fetuses do not possess moral status. Conscious fetuses, however, do possess moral status, given that somewhere late in the second trimester the fetus becomes conscious and so has interests, which are both necessary and sufficient for having moral status.

Another account of moral status offered by Mary Anne Warren is a multi-criterial account that relies on intrinsic and relational properties in order to determine when a human being has moral status.<sup>12</sup> The most salient criteria regarding human fetuses, infants, and children are the Agent's Rights Principle and the Human Rights Principle. The former states that moral agents (those who can be held morally responsible for their actions) have full and equal basic moral rights, including the rights to life and liberty. The latter principle claims that within the limits of their own capacities and of the Agent's Rights Principle, human beings who are capable of sentience but not of moral agency have the same moral rights as moral agents. These principles entail that the interests of young children and the mentally disabled have the same moral weight as those of other human beings. According to Warren, the view that only moral agents possess full moral status is inadequate. Warren argues that this becomes evident when we examine how it is that human beings become moral agents.

Warren observes that we become moral agents via processes that occur during a long period of dependence on other human beings who are themselves moral agents. During this period, we learn language and develop mental and behavioral capacities that make moral agency possible. In view of this, Warren argues that:

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11 See Bonnie Steinbock, *Life Before Birth* (New York: Oxford University Press, 1992). See also David Boonin, *A Defense of Abortion* (New York: Cambridge University Press, 2003) for an intrinsic property argument for the claim that a fetus has the right to life once there is organized electrical activity in its cerebral cortex, because once this activity occurs, the fetus begins to have conscious desires and so possesses a future-like-ours which grounds its right to life. This occurs at some point during weeks 25–32 of pregnancy.

12 Mary Anne Warren, *Moral Status* (New York: Oxford University Press, 1997).

it is both impractical and emotionally abhorrent to deny full moral status to sentient human beings who have not yet achieved (or who have irreparably lost) the capacity for moral agency. If we want there to be human beings in the world in the future, and if we want them to have any chance to lead good lives, then we must at least value the lives and well-being of infants and young children. Fortunately, instinct, reason, and culture jointly ensure that most of us regard infants and young children as human beings to whom we can have obligations as binding as those we have to human beings who are moral agents.<sup>13</sup>

However, on this view of the moral status of human beings, it is not strictly the case that infanticide is never morally permissible. Given her endorsement of David Hume's view that morality is based on natural sentiment, and given the occurrence of infanticide across numerous cultures, for Warren the claim that our emotional-social nature requires full moral status for infants is problematic. Warren notes that where it is practiced, infanticide normally happens soon after birth, when no holding, washing, dressing, nursing, or introducing to neighbors, relatives, and friends has occurred. It is here that a relational property of newborns is relevant to their moral status, namely, the entrance of the newborn infant into the social community. Once the newborn enters into a social relationship with its mother, other family members, or the broader social community, it possesses moral status and infanticide then becomes morally impermissible, except in desperate circumstances. So for Warren, infanticide is consistent with the Human Rights Principle. If contraception and abortion are difficult to obtain, and if it is impossible to rear all of the infants that are born (or all who are seriously abnormal), then it is more just and kind to tolerate early infanticide rather than to punish or persecute parents who choose it as a lesser evil.

Again, my purpose here is not to defend a particular account of the moral status of fetuses, infants, or young children, though I do think intrinsic property arguments are preferable to those that also make use of relational properties. Rather, I have briefly discussed two distinct accounts of moral status that support the belief that infant human beings do have moral status. In what follows, I will assume that newborns possess a level of moral status sufficient for the right to life and the right to bodily security. This is a widely held and plausible view that can be argued for in numerous ways, and so exploring the rights and obligations of parents on this assumption is a worthwhile endeavor. For those who believe that human beings do not come to possess moral status until they have satisfied Tooley's condition for having a serious moral right to life, the arguments that follow can be adjusted so that they apply only to children who satisfy that condition.

## **Overview**

In the pages that follow, I argue that parents should see themselves as stewards of their children. A steward is someone who has been entrusted with something of great value that does not, strictly speaking, belong to the steward. A steward must care well for that which has been entrusted to her, because of the value that it possesses.

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13 Warren, pp. 164–165.

Stewardship can occur in small ways, such as when my neighbor entrusts the care of his lawn to me while he is away.<sup>14</sup> It can also occur in much larger ways, as when an art collector entrusts a priceless and important piece of artwork to a museum. In the chapters that follow, one of my main tasks is to explain and apply a stewardship conception of parenthood.

In Chapters 2 and 3, I consider several different ways to think about what it is that makes someone a parent, and end up endorsing a pluralistic view of parenthood. That is, I endorse the claim that there are numerous ways to acquire parental rights and obligations. Numerous considerations come into play when thinking about what it is that makes someone a parent. Many conceptions of parenthood – including proprietary conceptions, biological conceptions, and best interests of the child conceptions – fail entirely. In Chapter 3, I argue that the custodial relationship, consent, and causal conceptions of parenthood are all successful, to some degree. After commenting on the significance of this pluralistic conception of parenthood and noting how these conceptions fit into a more general stewardship view, I briefly discuss the relationship between parental obligations and parental rights.

In Chapter 4, I first reject absolutist and quasi-absolutist views of parental rights, which hold that parents have absolute or quasi-absolute rights with respect to their children. I also consider several challenges to the claim that parents have moral rights *qua* parents, and then state and defend an argument in favor of the existence of such rights. The argument rests in part on the claim that certain fundamental interests of both parents and children can be satisfied via the parent-child relationship, and concludes that these interests generate parental rights. I then locate this justification for the moral rights of parents within a stewardship view of parenthood. Finally, I examine several issues related to public policy and the moral dimensions of the family, including parental licensing, child abuse, the religious upbringing of children, the education of children, and medical decision-making on behalf of children, and consider what implications the stewardship view has for these issues.

Chapter 5 contains an examination of the legal and moral obligations of parents. The legal obligations of parents should include the provision of a certain level of care as well as the avoidance of abuse and neglect. In the legal context, I also consider whether or not the current practice of punishing parents for the crimes of their children is philosophically defensible, and argue that in certain cases it is not by virtue of the fact that it involves punishment of the innocent. Next, I consider the obligations parents have as stewards of their children. After a discussion of the negative obligations of parents, I consider the positive moral obligations of parents to their children, and examine these obligations in the following contexts: helping children become autonomous pursuers of a good life, moral development, intimacy and honesty, work, the religious upbringing of children, education, medical decision-making, and materialism.

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14 See William B. Irvine, *Doing Right by Children* (St. Paul, MN: Paragon House, 2001). Irvine also offers a stewardship view of parenthood, though he focuses on parental obligations. His account is narrower than my own, and he draws very different implications when applying the view to what parents ought to do, *qua* parents.

Finally, much of what I conclude in the pages that follow is consistent with many, though not all, of our common sense moral beliefs about the parent-child relationship. My purpose, however, is not merely to restate the deliverances of common sense in philosophical terms. Rather, my aim is to provide philosophical arguments in support of many of our common sense moral beliefs about the parent-child relationship because I believe that many of these beliefs are, in fact, true.