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Negotiating Reproduction

Religion, Gender and Sexuality in Political Conflicts

In this article I will discuss the role of ethics and religion in the context of the current political debate on assisted reproduction in Finland. There is reason to ask why the issues of family structures, gender roles and sexuality cause conflict situations in politics and society. How should we understand the nature of political conflicts concerning family, gender and sexuality? For a proper understanding of these conflicts, we need a nuanced analysis of the role of ethics and religion in political debates in a secular European culture. In this article I will focus on two examples drawn from Finnish discussions of assisted reproduction. The first example comes from recent parliamentary discussion of assisted reproduction, and the second example from how the Evangelical Lutheran Church in Finland has reflected on the same issue.

Assisted reproduction is a good example of how norms in society sometimes change within a short period. When assisted reproductive technologies were introduced a few decades ago, reactions were often negative. Many people considered the treatments for infertility to be unnatural and a manipulation of nature, as they separate procreation from sexuality and normal social relationships (Evans 1996: 3). Today they are routine treatments to which few people would react negatively. But there have also been other changes in the discourses on assisted reproduction. Infertility no longer seems to be considered only as a crisis for individuals or couples. It is also of concern to the whole of society. It has become an important legislative issue, which causes debates in society. The debates show that reproduction is not only of interest to society for medical reasons. I shall attempt to argue that there are tendencies which show a shift from a strictly medical or biological perspective towards an emphasis on the social, ideological and ethical aspects of assisted reproduction.

Medical aspects of assisted reproduction are of course relevant to the legislative process because of advances in medical technology. But lately most of the conflicts arising from the preparation of legislation on assisted

reproduction in Finland have been caused by differing views of the family. I understand this current debate mainly as a discussion on family structures and as a search for where the boundaries of the family lie. The main questions in the political debate on assisted reproduction in Finland are: Who should have the possibility of starting a family? Should all women, including single women and lesbian couples, have access to fertility care? And how should we understand the father's role in the context of assisted reproduction? In the Finnish political debate on assisted reproduction, these seem to be the crucial questions which cause conflicts in parliament and debates in society. A leading Finnish journal on women's studies commented on the current legislative proposal in an article entitled 'Instituting a Queer Law?' (Jämsä *et al.* 2005). The article makes the point that the Finnish government seems to have on its agenda the objective of securing the right of assisted reproduction not only for heterosexual couples, but also to both lesbians and single women. This is an interesting change of perspective in the preparation of a law on assisted reproduction in Finland.

Assisted Reproduction in the Nordic Countries

The Nordic legal systems exhibit a uniformity that arises from a common tradition and harmonization of legislation. However, laws and policies within the domain of assisted reproduction vary significantly across the Nordic countries. Finnish legislation on assisted reproduction has been in the process of preparation for the last twenty years. Contrary to the other Nordic countries, there is no separate law on assisted reproduction in Finland. This means that Finland has been the most permissive of the Nordic countries regarding assisted reproduction. Lesbian couples have access to assisted reproduction at private clinics, and there have also been some cases of surrogate motherhood, which is prohibited in other Nordic countries. However, the legislation on assisted reproduction is being re-evaluated in some other Nordic countries. For example, the Swedish parliament accepted a legislative proposal (Prop. 2004/05:137) on June 3rd 2005, giving lesbian couples access to assisted reproductive treatments. The law came into force on July 1st 2005.

The legislation in Denmark has gone in another direction. Denmark was before 1997 a country where many Nordic lesbian couples and single women went to obtain fertility care. But in 1997 Danish legislation on assisted reproduction was changed. Since 1997 Danish law forbids physi-

cians giving assisted reproductive treatments to women not living in a relationship with a man, but the legislation still leaves the possibility open for private clinics to provide treatments to all women. In 1989 Denmark was the first country in the world to pass a law legalizing registered partnerships between homosexual couples. In the context of Denmark's liberal tradition, the change in the law on assisted reproduction in 1997 came as a surprise to many (Mustola 2001: 317).

From Medical Discourse towards New Perspectives

The question of who should have access to assisted reproductive technologies is at this point the most debated issue in discussions of assisted reproduction in Finland. In 2002 the government presented a legislative proposal (HE 76/2002) in which the right to assisted reproduction was also given to single women and to women living in registered partnerships. This meant a change of perspectives. In the earlier legislative proposals on assisted reproduction in Finland (1988, 1990 and 1997), single women and lesbian couples were denied the possibility of receiving treatments. The main reason for this was said to be that women should receive fertility care only on medical grounds. Medical and biological rhetoric was often used to define what is natural. The concept of artificial reproduction, which was used in the law proposals from 1988 and 1990, underlined the view that the heterosexual intercourse is a natural kind of procreation, while other kinds of procreation are unnatural (Mustola 1998: 71–2). The argument that a child has the right to a father has often been used in the debates. The welfare of the child was often defined as having two parents of different sexes. A fatherless child was expected to have different status in life from other children (Turunen 1998; Mustola 1998; Mustola 2000: 79–80).

The fatherless child was still a burning question in the parliamentary debates on the legislative proposal of 2002 (HE 76/2002). In the case of a child born to a single mother or a lesbian couple, the government wanted to give the child the right to know the identity of the sperm donor and the possibility to register the donor as its father. This might mean that the child would have right to inherit from its father and that the latter would be liable for the maintenance of the child. The right to a father was considered to be a basic right of the child. The child is guaranteed the possibility of a father, but the actual family situation with two mothers and a father is far from a traditional nuclear family. In the debates, the *idea* of a father seems to be the important thing rather than practical needs.

The legislative proposal was however withdrawn by the government in 2003, because of differing views in parliament. The reason for the withdrawal was that the legislative proposal no longer included single women and lesbian couples after discussions in the standing committee on laws (LaVM 29/2002). The committee explained its standpoint by saying that a child should always have the right to parents, a mother and a father. Another point was that the other Nordic countries had not given lesbian or single women access to assisted reproduction in 2002. In February 2006, the Finnish government presented a new legislative proposal on assisted reproduction (HE 3/2006). It again included the right to fertility care for single women and lesbian couples. The new legislative proposal has received much publicity in the Finnish media, for example through debates in newspapers. Even President Tarja Halonen expressed her opinion on the legislative proposal in the public debate when, in an interview, she claimed that lesbian women should have the right to assisted reproduction (*Hufvudstadsbladet* 2.10.05). It is obviously no longer only a debate about treatments for infertility. It is a debate about the family, gender roles and sexuality, which are some of the issues which tend to give rise to the keenest debates in society.

Family Values in Concord and Conflict

In June 2005 a Member of Parliament asked why the Finnish government was in such a rush to present a new legislative proposal on assisted reproduction in the following autumn. He asked if family values or what he called 'biological truth' was relevant to the government's policy. The Minister of Justice, Johannes Koskinen, gave an interesting answer, in which he analysed the nature of the current conflict and explained the reasons behind the government's agenda.

> The fact that the content of the requirements on the relationship has shown itself to be a problematic question, indicates that there have been changes in the family values in our society. There no longer seems to be any such family model, which generally can be seen as the only right one. (KK 551/2005, my translation.)

Koskinen here indicates that the pluralism of society, and the differing attitudes towards different family models create difficulties when it comes to passing laws on issues concerning family structures. He refers to family

values as something that used to be stable, but which are nowadays changing. Legislation on the family is slowly moving away from the situation in which it is possible to have only one right model of the family. But if there is no possibility of agreement in a pluralistic society, how would it be possible to create new legislation on issues concerning the family? Koskinen still thinks it is possible to continue developing legislation to take account of changing attitudes in society. He continues:

> If you think about the effects of the law on assisted reproduction on values in society, you have to realize that changing the requirements for a [heterosexual] relationship does not mean that the present situation changes in any way (KK 551/2005, my translation).

Koskinen here points out that if the legislative proposal includes heterosexual couples, lesbian couples and single women, it would only reflect the present situation in society. In the absence of separate legislation on assisted reproduction, lesbian couples and single women have already had access to assisted reproductive technologies. Lesbian families are, as well as single parent families, already part of Finnish society (Kuosmanen 2000). Another reason for Koskinen saying this is probably that in 2001 the Finnish Parliament approved a legislative proposal legalizing registered partnerships between homosexual couples. Registered partnership is a new social institution in Finland, and other legislation is at this point catching up with the new situation in which homosexual couples are legally recognized.

It is obvious that in preparing this legislative proposal, the Ministry of Justice has chosen to focus on the social aspects of assisted reproduction, rather than the biological and medical aspects. Views about the family and gender roles are the issues that are considered to be the most problematic, but also the most important. One reason is, of course, that other aspects have already been dealt with during the past twenty years. But more importantly, I think this focus on the social and ethical aspects is something that can be recognized more widely in our society today.

Children's Rights

The discourse on children's rights is central to Finnish parliamentary debates on assisted reproduction. Children, of course, have a central position in the legislative proposal, since they will have to deal with many of the

practical consequences of the law. But children are at the same time part of the political rhetoric and of the discourses on what is sacred. Parents' rights are often presented as being opposed to those of children. They seem to be two conflicting approaches to assisted reproductive technologies. The child-oriented approach is usually rather conservative, as it is often used to view access to assisted reproduction as being confined to the traditionally defined family. According to this approach, reproduction should be controlled and restricted. The parent-oriented approach is generally more liberal. Holders of this approach often defend people's right to unrestricted procreative choices, for example, they disregard sexual orientation or family situation (Neri 1996: 145–6). On the other hand, discourses on children's rights may also unite conflicting perspectives. Discourses on children's rights seem to be a way of finding common ground, even though these rights may be understood in many different ways in political debates.

During the twentieth century, when the Nordic welfare states were set up, children's rights gained a place in politics alongside parents' rights. The perspective of children's rights was given a central position when the UN's Convention on the Right of the Child was agreed. Children have during the twentieth century become more autonomous citizens with recognized rights. Legislation has defined and redefined the meaning of childhood. The welfare state used to provide a guarantee of a good childhood through school, social security and the family. However, today there seems to be a change of direction. The state takes, in many respects, less responsibility for the details of children's lives, and local influence and parental responsibility is much more emphasized. These changing relations between parents, institutions, the state and the market have led to a discussion on children's rights. The welfare of the child has become a starting point both for social politics and for the different welfare institutions. The expression 'the welfare of the child' has been frequently used in Nordic political welfare debates – especially the political debates on family structures. But this does not necessarily mean that everyone would agree on what a child needs and what constitutes a good childhood (Sandin and Halldén 2003: 17–18).

'The welfare of the child' is in welfare politics mostly used to denote a perspective rather than a concept with a certain meaning. The meaning of 'the welfare of the child' has to be interpreted and used in a context. But at the same time, children's rights are seen as absolute rights, which should not be compromised. A legal perspective is not the only motive behind discourses on children's rights. The perspective of children's right is often

mobilized to create a common ground and to make different perspectives converge (Sandin and Halldén 2003: 7–9, 17–18).

Reactions from the Church

The Finnish Lutheran Church has been heard several times during the twenty years of preparations of the legislative proposal on assisted reproduction. But during these twenty years, the opinion of the Church has changed. In 1985, artificial insemination was considered by the bishops of the Finnish Church to be unnatural and a threat to the family, because sperm from another man was introduced into the family. In 1985, adoption was considered by the bishops to be a preferable alternative to insemination (Piispainkokous 1985; Hytönen 2003: 85–91). But twenty years later, Archbishop Jukka Paarma talks about insemination as something that may strengthen the family.

At the opening session of the Church Synod on May 9th 2005, Archbishop Jukka Paarma gave a speech concerning fertility care. His main point was that children's rights are the most important perspective in legislation on fertility care.

> The statements made by the Church have varied to some extent, because the situation in society, as well as knowledge of these issues, has changed. The Church nowadays looks positively even upon artificial insemination, where sex cells from someone other than the family father are used. The focus has changed from biological to social fatherhood. (Paarma 2005, my translation.)

Archbishop Paarma notes that the opinion of the Church has changed during the last twenty years in the direction of an emphasis on social parenthood, but he still thinks that the main perspectives are the same as they were twenty years ago. Children's rights and human dignity are the focus, and a child has the right to both a mother and a father. Having children is neither a subjective right, nor a human right. The ideal of the Church is a lifelong marriage between a man and a woman, and the Archbishop does not support the idea of giving fertility care to single women and lesbian couples. He claims that fertility care should be given only to heterosexual couples, who undertake to be parents to the child, which may possibly be born. The idea of surrogate motherhood is something that would imply so many problems, that he cannot accept it (Paarma 2005).

However, the Archbishop's speech was not the Churhc's last word on this issue. On August 17th 2005, the Church Council presented a statement on fertility care to the Ministry of Justice and the Ministry of Social Affairs and Health (Kirkkohallitus 2005). The Church claims that in the case of assisted reproduction only sex cells from spouses should be used, and if this is not the case, the couple should not receive fertility care at all. In this statement the Church Council placed a great deal of emphasis on biological parenthood. It claimed to share the view of the Catholic and Orthodox Churches, both of which believe that the use of donated sex cells will weaken the significance of marriage and is therefore not permissible. The change of direction in the discussions in the church came as a surprise, because it did not follow the line of the preparatory work for the statement. The new conservative standpoint was formulated during a plenary session of the Church Council and was voted for unanimously. The statement created strong reactions both in the media, in the Church and from other institutions and organizations. The statement has, for example, been described as a fundamentalist opinion, without any consideration of medical and theological standpoints (Kylätasku 2005).

The Lutheran theological tradition allows the Finnish Lutheran Church to formulate an independent view on ethical questions such as this. The emphasis on showing ecumenical unity with the Catholic and Orthodox Churches can be understood as a form of religious legitimation of conservative family values. The argument based on ecumenical unity is sometimes used in religious debates as an authoritative way of finding consensus, as it often is seen as superior to other critical arguments. The argument based on ecumenical unity has, for example, been frequently used in Lutheran debates on women priests. Another authoritative perspective used in the statement is children's rights discourse. The statement presents a child's right to a mother and a father as an obvious fact. Heterosexual marriage is said to provide the most secure family setting, especially from the child's perspective.

Even though there have been differing views in the Finnish Church on different aspects of assisted reproduction, the discussion has still changed during the past twenty years towards an emphasis on social aspects of assisted reproduction. The biological naturalist view of the family represented in the statement of the Church Council in August 2005 has created strong reactions. This may be an example of how perspectives are changing from the medical and biological towards an emphasis on the social and ethical when legislating on the family.

The Role of Religion

The role of religion today is not necessarily only a matter of religious legitimation of conservative values (Berger 1967). Many of these values are reevaluated both in the Church and in politics. But even though values are changing, there is still a need for some kind of common ground. The political debate on assisted reproduction in Finland seems to be in the middle of such a search for common ground. Children's rights discourse assumes the role of an absolute, which should not be compromised with. On the other hand, the expression 'the welfare of the child' is understood in different ways in political debates. In a kind of religious way the child seems to be uniting different political perspectives. Even though politicians mean different things, and have different goals, they share the same language when talking of the child. The child is a uniting symbol.

Religion does not seem to be visible on the surface of the parliamentary debates on assisted reproduction. Religious language, – for example, reference to the Bible – is not frequently used. Rather, the role of religion in this debate is to be found behind the debate itself, through religiously influenced worldviews and, in some cases, as a religious legitimation of conservative family values. It remains to be seen what kind of influence the Church Council's statement will have on the parliamentary debates. But the role of religion does not necessarily have to be a matter of division and disruption. I have also argued that the role of religion may be found in the search for common ground and the use of uniting symbols. Some of the aspects of religion and ethics found in the Finnish political conflict over assisted reproduction seem to be characteristic of the Nordic societies in late modernity. Ethical conflicts are recognized in politics, but they are not necessarily solved only through religious legitimation of one model. There is no longer only one right family model. Legislation has to remain flexible in order to apply to individual life situations. In the family politics of late modernity, the pluralism of society is a starting point, but finding concord still has to be the aim of legislation.

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