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12. Discussion: reproduction policy in the twenty-first century

Hannah Zagel and Rene Almeling

INTRODUCTION

How should the state be involved in human reproduction? Reproduction scholars have typically viewed state interference with a great deal of suspicion, given the mass of historical and contemporary data they have collected about the nefarious effects of coercive policies and abuse of reproductive bodies (e.g. Browner & Sargent, 2011; Ginsburg & Rapp, 1991; Roberts, 1997). Similarly, international sexual and reproductive health (SRH) advocacy and reporting highlights states' shortcomings in securing SRH rights (UN, 2021; WHO, 2020). By contrast, taking a welfare state approach opens up the possibility that state support of reproduction – if pursued in a way that is inclusive of all forms of reproduction and humans in all their variety – may actually bolster health and well-being. Yet, comparative welfare state scholarship, which provides ample evidence and guidance to policymakers in other domains, has largely ignored the domain of reproduction.

This book has provided a framework for bringing together under one umbrella the range of policies that address whether, when, and how people biologically reproduce, but which has not previously been constituted as a cohesive policy domain, and thus has been missing from theoretical and methodological discussions about the welfare state (but see O'Connor, 1993; O'Connor et al., 1999). Insights from policy scholarship, for example on multidimensionality (e.g. Daly, 2020), and competing goals behind different policy instruments (e.g. Kaufmann, 2002; Palier, 2005), have been integrated into this new framework, as have various insights from literature on the politics of reproduction (for reviews, see Almeling, 2015; Gammeltoft & Wahlberg, 2014). Together, the analytical framework and contributions in this book seek to spotlight the power of a comparative welfare state approach to reproduction policy, particularly in terms of a more granular understanding of how regulatory processes shape the relationship between states and reproduction.

So far, showcased in historical case studies, state–reproduction relationships have largely been discussed in light of overarching paradigmatic ideas about how a particular 'national body' should reproduce. More than other policy domains, such as family policy or social policy, the regulation of reproduction tends to be described as a by-product of ideological projects such as nationalism or pronatalism. Despite the undeniably central role of normative ideas, this focus has somewhat obscured the view on the types and characteristics of particular policy instruments created to address the range of goals associated with reproduction policy. How do ideas translate into or align with goals, what instruments are used to achieve them, and how coherent are these instruments and goals?

Not addressing these and similar questions produces shortcomings in at least two ways. First, how states should (or should not) regulate reproduction is at the heart of several current societal conflicts and negotiations. For example, in the context of declining birth rates, many governments' political agendas today include the search for possible ways to increase reproduction (i.e. fertility). At the same time, advocates call out injustices in how states differentially bestow reproductive rights to different social groups. This can involve the lack of financing for reproductive services such as contraception or abortion care, but also selective legal access to medically assisted reproduction for singles or same-sex couples. While the literature on reproductive justice has spotlighted the significance of intersecting inequalities in shaping reproductive processes at the individual, meso, and macro levels (e.g. Luna & Luker, 2013; Ross & Solinger, 2017), there is more work to be done in disentangling everyday experiences from the regulatory processes that condition them. How precisely do different policies restrict or support reproductive processes and produce unequal outcomes?

Second, the question of 'what policy instruments will affect people's reproductive outcomes?', is often asked with demographic doomstate scenarios in mind, such as how shrinking populations threaten welfare state survival (Gietel-Basten, 2019). It is commonly answered with reference to family policies that address conflicts between paid work and care, such as parental leave and childcare provision. While the pressures of capitalist labour markets on families may justify this focus, it does fall short of a range of regulatory measures by which the state intervenes in reproductive decision-making, such as access to sexuality education, affordable contraception and abortion care. Centering reproduction as a policy issue must focus on these regulations, among others. Considering reproduction policy alongside family and social policy will provide a more comprehensive understanding of how welfare state settings affect reproductive outcomes.

RE-CONCEIVING THE FIELD OF REPRODUCTION POLICY

Building on the rich comparative welfare state literature, the first chapter in this edited book introduces a comparative framework for analysing reproduction policy. The aim of that framework was to set the scene for the contributions to the book, and to establish reproduction policy as a subject of welfare state research. The framework differentiates ideas, goals, and instruments of reproduction policy, which enables the comparative examination of policy configurations, underpinning ideas and goals, and different layers of change and stability in the policy domain. The chapter also suggests that two principal paradigms have set the tone for reproduction policymaking (Ratcliffe, 1978; Shalev, 2000). Here, paradigms do not dictate ideas and goals, but define what is thinkable, shape boundaries around how ideas can be expressed, and which goals seem desirable.

The chapters in this book make the relationships between specific ideas, goals, and policy instruments explicit by using comparison between countries and across policy fields. While many of the chapters clearly show the close links between ideas, goals, and instruments in reproduction policy (see chapters by Gietel-Basten, Szalma and Sipos, and Kaminska), the lack of an explicit policy goal that goes beyond just an ideological project (i.e. protection of unborn life) is particularly obvious in Penovic's chapter on the US anti-abortion movement. Looking beyond abortion, Khan's chapter suggests that ideas matter to different degrees for policymaking across different fields of reproduction policy.

Three chapters also cast light on the complexities in goal-setting and implementation of coherent sets of instruments in the idea-driven policy domain of reproduction (chapters by Kluge, Mahunoud, and Tamakoshi). Kluge's chapter shows that, in sexuality education, the connections between specific ideas, policy goals, and their translation into instruments appear to be driven more by processes than by strict determinism. Further, in her chapter contrasting abortion and medically assisted reproduction (MAR) policy, Tamakoshi points to the interdependencies between different fields of reproduction policy (MAR and abortion), and how potentially conflicting goals are worked around in designing policy instruments within particular countries (Italy and Japan). Mahmoud's study of kinship law in the context of surrogacy is an example of how instruments and ideas are in conversation with each other, not least through the individuals impacted by the policies, such as the surrogates she interviewed. Ivanova et al. build a case in their chapter around how to more successfully integrate the instrument of comprehensive sex education (CSE) in contexts normatively opposed to ideas underpinning CSE.

The chapters also speak to the broader paradigms in which reproduction policy is made today. Clearly, even within the rights-based paradigm, there is stark variation in the policy instruments by which countries and regions grant reproductive rights and how far those rights extend. The ongoing negotiations over ideas driving reproduction policies also reveal how the now-dominant rights-based paradigm can accommodate a range of normative motives, some of which may be conflicting or contradicting, such as in the case of pitting 'foetus rights' against those of a pregnant person (see also Morgan & Roberts, 2012). Conlon's chapter sheds light on this variance in showcasing the different degrees to which states diverge from a human rights approach to abortion care promoted by the WHO by over-regulating abortion with various policy instruments.

Bringing together the insights from the chapters against the background of the analytical framework leads to new questions that can inform future research on reproduction policy in the welfare state. An outward-looking question is about the wider institutional landscape in which reproduction policies are embedded; how do goals and instruments in reproduction policy align with goals and instruments in other policy domains such as family policy or health care policy? Such questions lead to a broader welfare regime thinking, and one route of future research will be to explore possible institutional complementarities between reproduction policy and other domains. However, some work still needs to be done to better understand the inner workings of this policy domain. For example, one question is how the two principal paradigms evolve and what their impact is on policymaking. What are their potential trajectories, and what other paradigms shaping reproduction policy may emerge? Another question is about the stakeholders involved both on the ideational side and on the policy formation side. Which actors matter within 'the state' and beyond it (e.g. social movements, church, professional associations), and how does their influence vary across reproduction policy fields?

HOW SHOULD THE STATE BE INVOLVED IN REPRODUCTION?

Detailing the precise relationships between ideas, goals, and instruments in the domain of reproduction policy – both within and between states – is crucial analytical work. It also invites the question we posed at the beginning of this chapter: how *should* the state be involved in reproduction? As empirically grounded social scientists, we are taking a step outside of our comfort zone in addressing a normative question such as this. However, we think it is important not only to document the pathologies of various reproduction policies but to engage in more creative and speculative thinking about what reproduction policy might be. Mobilising the approaches and results of social scientific

research in this book and beyond, we use this final section to explore what might constitute an ideal approach when it comes to how states might most fully support *all* people in *all* aspects of their reproductivity.

Imagine for a moment there are no constraints on the kinds or levels of resources that a state could provide when it comes to reproduction. And recall from the Introduction that reproduction is defined broadly as the processes around starting, carrying, or ending pregnancy and procreation, as well as efforts to avoid them altogether (see also Almeling, 2015). If there were no limits on money or technology or access to high-quality health care, then the ideal state reproduction policy would be to enable and fully support whatever reproductive decisions any particular individual would make for themselves. Compulsory comprehensive sex education that is non-discriminatory, inclusive of diverse genders and sexualities and reproductive desires, and provided by trained pedagogical staff would serve as a basis for knowledge and interactions around reproduction (and beyond). Those who wanted to become pregnant would be fully supported in terms of access to health care and any technologies necessary to achieve pregnancy, regardless of sex assigned at birth, gender identity, sexuality, marital status, and/or ability to pay. Those who did not want to become pregnant would have ready access to the contraceptive method of their choice. And those who are pregnant and do not want to be would have easy access to a range of abortion methods provided with care and without stigma. In short, not only would there be no restrictions on individual reproductive decision-making, but the state would provide resources to empower each and every individual to enact their reproductive desires, whatever they may be.

Returning to the real world, where even the prospect of basic reproductive autonomy is out of reach for so many, not to mention this more pie-in-the-sky vision of full reproductive welfare, there are a number of complexities that immediately present themselves. First, and most obviously, only some people can become pregnant. So if one's body cannot become pregnant, which can include people assigned male at birth (at least as of the time of this writing!) as well as people assigned female at birth who experience infertility, then they may need to rely on the bodies or bodily processes of others (e.g. eggs, sperm, gestation) in order to fulfil their reproductive goals. And we rely on a trove of historical, social, and clinical evidence in contending that, in all cases, reproductive decisions should be made by the individual whose body is (or could become) pregnant.

A second complexity is the limits inherent to narrating a vision of full reproductive welfare solely in terms of individual desires and decision-making. As reproductive justice scholars and advocates have powerfully argued (e.g. Luna & Luker, 2013; Ross & Solinger, 2017), individualist approaches to reproductive rights that are rooted in a framework of 'choice' elide the significant and intersecting structural inequalities that constrain (and enable) any one individual's decisions. For illustrative purposes, we have written the preceding paragraphs from the perspective of any one individual engaged in any one reproductive process, but those individuals are always situated within particular communities at particular times and in particular places. And, of course, the range of reproductive processes considered in this book – from sex education to medically assisted reproduction – are inspired in part by the reproductive justice movement's injunction to examine not only efforts to avoid pregnancy but also efforts to become pregnant and to parent the children one has.

Returning to one of the central arguments of this book, the third complexity arises from the fact that, unfortunately, resources are never limitless. Indeed, the emergence and evolution of comparative welfare state research is rooted in the essential question of how best to collect and allocate resources. In the remainder of this section, we compare and contrast different institutional logics for providing welfare, asking: how would different kinds of welfare systems get involved in reproduction, if the goal was reproductive autonomy?

To address this question theoretically, we can postulate ideal-typical approaches to the provision of reproductive welfare by looking across different welfare state systems that have been described to follow distinct logics in setting policy goals and applying policy instruments. Comparing the ideal-typical systems will help to situate any real set of instruments, and reveals possibilities of and limits to different approaches to producing reproductive autonomy. For simplicity, we draw on the distinction famously outlined by Esping-Andersen (1990) and elaborated by many others, including welfare state scholars who focus on gender (e.g. Lewis, 1992; Orloff, 1993), that is the so-called conservative-corporatist, social-democratic and liberal models.¹ The comparative principles introduced in the Introduction to this book (based on Palier, 2010) serve as comparative categories across the systems, that is the rules and criteria governing eligibility and entitlement (who is entitled to access?), the types of benefits and services (what is being delivered?), the financial mechanisms (who pays and how?), and the organisation and management of the policy (who decides and who manages?). What could be the different institutional pathways to welfare state support of reproductive autonomy across these different systems?

The so-called liberal welfare system – typical examples of which are Australia, Canada, the UK, and the US – builds on the idea that the market is the main organising principle by which welfare should be achieved, and that the state should only intervene if the market fails (e.g. O'Connor et al., 1999). Key features of this system are its relatively strong legal safeguards for people to participate freely in markets, such as anti-discrimination laws, and that entitlement to state support is commonly reserved for those temporarily unable to participate in markets. In the realm of reproduction, where

markets are generally viewed with concern (Almeling, 2011), an ideal-typical perspective of a market-based system to reproductive autonomy would build on the premise that legal safeguards are functional and effective, and that the welfare state provides a last resort. Starting from there, a liberal model aiming to guarantee reproductive autonomy would provide for the flourishing of an education market accessible to all, in which providers offer comprehensive sex education without misinformation. A liberal welfare system would also legalise any procedure conducive to reproductive health of individuals regardless of sex assigned at birth or sexual orientation, provide legal safeguards against discrimination in access to reproductive services such as contraception, abortion, medically assisted reproduction, and pregnancy care. Provision would be organised through markets. In cases where people are unable to pay the market price and prove eligibility against a means-test, the state would provide a temporary and lower-bound solution to the limitation on reproductive autonomy, typically in the form of flat-rate monetary transfers financed through taxes and administered by the state.

By contrast, the main objective of the so-called social-democratic welfare system is to ensure equality among social groups with an explicit focus on gender equality. This model is typically said to prevail in the Northern European countries of Denmark, Finland, Iceland, Norway, and Sweden. State involvement is common, taxes are high and social protection is universal in this system. Another feature of the social-democratic model is that a large share of its public spending on welfare goes to the provision of services, although cash payments are also common. The ideal-typical scenario in which reproductive autonomy is the overarching policy goal does not seem far-fetched in a social-democratic system, which has often served as an ideal-case welfare regime in other policy domains. The well-resourced education system in the social-democratic model would provide compulsory inclusive and comprehensive sex education. In this system, people would be served by state-run and fully tax-financed health care infrastructures in which they would receive non-discriminatory access to the reproductive services, technologies and procedures in support of their reproductive autonomy. Individuals would be able to rely on the costs for any procedure to be covered by statutory health care systems, thereby balancing inequalities that typically restrict autonomy between socioeconomic groups.

The so-called conservative-corporatist welfare system, found in Continental European countries such as Austria, Belgium, France, Germany and the Netherlands, is oriented towards preserving status rather than relying on the market or creating equality (Palier, 2010). It commonly applies contribution-based mechanisms and involves social partners in managing insurance funds and welfare provision. Features of this system are the differential treatment of people based on their status (e.g. employment sector,

occupation), which extends to adhering to more traditional gender roles; contributions-based social protection; and a high share of welfare state activity being organised as cash transfers as opposed to a social-democratic service focus. In an ideal-typical conservative–corporatist welfare system whose goal is to install reproductive autonomy, the social partners would negotiate agreements that enshrine availability and accessibility of a range of reproductive procedures and services to the respective groups covered by the agreement. One example is the catalogue of services and procedures covered by the health care system, negotiated by representatives of health care insurances, health care providers and patients and overseen by the health ministry. Services would mostly be delivered through the third sector, which receives state funds. Cost coverage for reproductive services, technologies and procedures would be organised through contributions-based insurances.

Contrasting the three ideal-typical institutional scenarios highlights possibilities, but also potential challenges to how different welfare systems may support reproductive autonomy. Although these possibilities and challenges reflect to some extent those posed to the production of welfare more generally, some are specific to reproductive welfare. First, the liberal system has the desirable feature of providing legal safeguards against discrimination, which is a well-documented, real-world barrier to reproductive autonomy. However, there are strong downsides to the market-based approach, especially in the realm of reproduction, given that it involves the creation of the next generation and can involve the commodification of human bodies and body parts. In contrast, the conservative-corporatist system seems to offer the structural conditions for integrating different actors in the negotiations over the terms of reproductive welfare, hence allowing a less top-down approach of state involvement and dispersion of power. At the same time, this type of welfare system inherently serves to uphold differences in access between social groups, with those differences such as membership in a particular industry sector following economic logics rather than being related to particular reproductive needs. Thus, the likelihood of supporting reproductive autonomy seems to be clearest in the social-democratic system, whose institutions are geared most to equipping people with the necessary options and resources for realising their reproductive decisions. However, a possible challenge in this system is its heavy reliance on taxes to finance the universal provision of services, especially if these services are both expensive and morally charged such as medically assisted reproduction.

Our exercise of comparing ideal-typical institutional approaches to pursuing reproductive autonomy does not come without limitations. First, taking Esping-Andersen's three worlds of welfare as the starting point can be criticised for its limited view on the actual range of welfare state systems. An extensive body of literature names at least two additional welfare systems, and narrowing the view on three can distort the conclusions that may be drawn from the comparison (Emmenegger et al., 2015). Our excuse above has been to refer to the space limitations of this chapter, but we must add that the goal was never to give a comprehensive account of all possibly existing types here. For theorising of what may be called 'reproductive welfare regimes', a broader range of institutions and actors must be considered, as well as the stratifying outcomes they produce. Finally, the prior on which we built this exercise is a bold one, i.e. that states would even pursue the goal of reproductive autonomy. Indeed, reproductive autonomy is not a policy goal earnestly stated and actively pursued by many (any?) governments at all. Even those governments that are generally committed to supporting reproductive *health* are often far from formulating reproductive autonomy as the desired goal and from designing reproduction policy instruments accordingly.

Our reflections in this discussion underscore how there are no easy answers to the question of how states should be involved in reproduction. But we still think it is a question worth posing. To be sure, there are good reasons to approach such a question with trepidation, given the atrocious histories of various forms of state involvement in reproduction around the world. That is one reason why it is difficult to say bluntly what states *should* do in this regulatory domain, as compared with other domains more commonly discussed as part of the 'welfare' state. Indeed, even making the suggestion that state support of reproductive autonomy does, in fact, constitute an act of *welfare* seems provocative, as compared with, for example, reducing poverty. But that is exactly the kind of thinking we wish to encourage, not only amongst scholars of the welfare state or reproduction, but amongst policymakers.

In conclusion, our comparative exercise reveals that, despite the many pathways states could take, if the goal is to support reproductive autonomy, it would look very different from our current institutional arrangements, stated goals, and policy instruments. Aligning reproduction policy with the goal of reproductive autonomy would involve considering the role of the state much more comprehensively and enabling a range of supportive instruments, regardless of what individual reproductive goals may be. Creating true and full reproductive welfare would require going far beyond the basic question of legalising abortion to encompass a range of issues associated with sex education, pregnancy care, contraception, and medically assisted reproduction. It would involve a range of policy stakeholders, regulatory levels, and policy instruments, with the ultimate goal of a more reproductively just society for all.

NOTE

1. We do not consider other models here, due to space limitations (e.g. Southern European and post-transformation Eastern European models).

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