

**Regulating Autonomy: Sex, Reproduction and Family by Shelley Day Sclater, Fatemeh Ebtehaj, Emily Jackson and Martin Richards (ed.s). Hart Publishing, 2009.**

**By Dr Jan Macvarish**

Individual autonomy has become the subject of debate in academia and society in general in recent years. Two questions emerge from the discussions – does individual autonomy really exist and is it a good thing?

Doubts about whether humans are truly autonomous emerge in two ways. One suggests that our nature (biological, psychological or genetic) dominates our rational mind. The other suggests that the social (peer pressure, patriarchy or consumer culture) dominates our capacity to make autonomous decisions. Either way, the individual's capacity to make decisions and act on a rational basis is challenged.

The question of whether individual autonomy is a good thing is often posed in terms of whether autonomous decision-making has 'gone too far'. So for example, women who want babies late in life are said to be selfish, pursuing an exaggerated sense of entitlement; or couples who wish to use sex selection techniques are castigated for wanting a 'designer baby' and regarding children as objects to be bought 'off the shelf'. The problematisation of autonomous decision-making happens most vigorously when children are involved and therefore when it happens at an intimate level.

These cases are usually held up as unprecedented dilemmas thrown up by the moral disorientation of society at large. Shifts in gender roles and expectations, the liberalisation of sexual behaviour, the growth of a consumer society, and the consequences of technological breakthroughs are said to have produced previously unheard-of individual choices and loosened the moral frameworks that would have shaped individual decision-making.

*Regulating Autonomy: Sex, Reproduction and Family* brings together legal and sociological viewpoints on a number of these 'moral dilemmas'. The book comes out of a series of seminars run by the Cambridge Socio-Legal Group, and is organised into two sections. 'Intimacies and Domestic Lives' includes chapters on the regulation of prostitution, domestic violence, rape, infant feeding, the family courts, step-parenthood and sex offenders. 'Reproduction' deals with arguments arising in the field of Artificial Reproductive Technologies and abortion.

Although the authors tackle the question of autonomy with varying degrees of directness, the book as a whole is thought-provoking and challenging in the mastery of detail and argument, so often lacking in the public debate. Martin Richards' chapter, 'Which Children Can we Choose? Boundaries of Reproductive Autonomy', dissects the legal logic behind the key areas of law governing the autonomy of parents seeking to reproduce by 'artificial' means and the regulation of the medical procedures involved. Debates familiar to those with an interest in this area, such as 'saviour siblings', the

selection of deaf fetuses by deaf parents, and the pre-implantation selection or elective abortion of genetically compromised embryos, are delicately described in such a way as to peel away the moral huff and puff and accusations of 'eugenics' that often cloud the issue, in order to reveal the core principles considered by the law in such cases.

Ellie Lee and Jennie Bristow's chapter on infant feeding expands the discussion of the regulation of autonomy beyond the law to consider the broader impact of social policy and cultural factors that shape the context in which individuals make choices. The campaign to promote breast-feeding amongst mothers has grown in strength in recent years, leading, it is argued, to a culture of 'constrained choice' where mothers feel forced to justify their decision to breast- or formula-feed their infants. Lee and Bristow describe how the cultural prevalence of 'intensive mothering' as a new model for child-rearing interacts with intensified anxieties about the riskiness of infancy and a broader public health agenda. This pressurised context diminishes social support for individual autonomy and, according to evidence from a study of new mothers, causes mothers to doubt their own decision-making competence.

The chapter presents a complicated picture of decisional autonomy, which demands that we consider not just the legal but the broader social and political forces which impact upon the rational subject. Although they say that we are currently at a stage of 'pre-juridification' when it comes to the regulation of mothers' choices, the law is already being employed to enforce the 'Breast is Best' policy by controlling the freedom of formula manufacturers to advertise their product and of health professionals to offer advice about both breast and formula milk.

Other particularly useful chapters include that by Suzanne Jenkins, who argues that women who work as prostitutes should be credited with making a rational choice to do so, albeit in circumstances which may constrain their freedom of choice. She makes a strong case that the presumption that prostitutes are 'vulnerable victims', for example of trafficking, undermines women's autonomy, and the regulation of prostitution impacts most harshly on women themselves and their children. Helen Reece vigorously tackles the muddy waters created by feminist debates on domestic violence, which have obscured women's autonomy and confused definitions of violence by seeking to politicise men's violence against women.

A chapter by Jonathan Herring on rape argues that 'the current law fails to properly acknowledge the responsibilities that people have when they engage in sexual penetration'. The central responsibility is 'to respect the other's autonomy'. Herring indicates that not respecting the other's autonomy, by, for example, 'lying to a partner, pressurising them, threatening them' in order to gain consensual sex should be viewed on a par with actual violence and regulated by law in order to achieve relationships in which partners listen to one another, 'removing any pressures; giving time, care and support'. Quite how Herring thinks this could be evaluated in the court-room is not spelt out, but by arguing that the law should view alleged crimes in their social and cultural context in order to recognise autonomy as relational rather than individual, he moves away from a legal subject who is rational and autonomous and towards a victimised and infinitely

more individualised subject whose autonomy is doubted and whose intimate relationships would be opened up to an unimaginable degree of scrutiny.

Although this book is written for an academic audience, the breadth of subjects discussed and the fact that many of them familiar from popular discussions make it a fascinating read. It provides insights into both the reach and the limitations of the law in dealing with intimate life and raises important questions about the way in which autonomy has become subject to doubt, both in its necessity and its possibility.

**Dr Jan Macvarish is Research Associate at the Centre for Health Services Studies at the University of Kent, with research interests in the politics and culture of contemporary intimacy.**