Judith Daar
The New Eugenics: Selective Breeding in an Era of Reproductive Technologies
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Reviewed by Jordan Liz, 2020

Jordan Liz is an Assistant Professor at San José State University. His research focuses predominantly on epistemic and ethical issues related to the use of "race" in contemporary biomedical research, especially in discourses of genetic susceptibility. More recently, it has centered around the impact of COVID-19 on racial minorities and other marginalized groups.

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Assisted reproductive technologies (ART) refers to a broad range of medical procedures aimed at treating infertility, including *in vitro fertilization* (IVF), intrauterine insemination (IUI), and artificial insemination by donor (AID). In recent decades, the proliferation of such technologies has raised a series of social, political, and economic concerns. Among these, ART has been widely criticized as advancing a new eugenics program wherein parents are able to select traits for their child based on their normative vision of humanity. Instead of preventing "deficient" or "deviant" individuals from having a child, ART, as a eugenic technology, operates by discarding "deficient" or "deviant" embryos. As such, both suppress the birth of "undesirables." Now, although Judith Daar agrees that this criticism is warranted, she holds that it misses the point about the true danger of ART. For Daar, "The true eugenic impact of modern-day reproductive technologies is not in their use but in their deprivation" (xiii). Currently, ART represents an international, multi-billion-dollar industry. Yet, for millions of people who experience infertility, "ART remains an elusive luxury for many, namely those who are not wealthy, not married, not heterosexual, not able-bodied, not white" (6).

In *The New Eugenics*, Daar focuses on four sets of barriers: (1) class and economic barriers, (2) racial barriers, (3) barriers against those with social infertility (for example, same-sex couples), and (4) barriers for those with disabilities. The first, and the most prominent, barrier to infertility services and ART is cost, with prices ranging anywhere from an estimated $36,000 for a single round of IVF to upwards of $500,000 for gestational surrogacy or more. Because health insurance rarely covers such services, an estimated 85% of these costs are out-of-pocket. Given the low success rate of most ART, multiple attempts are usually necessary, thereby further increasing costs. Importantly, as Daar notes, economic barriers are not limited just to payment. Some ART providers specifically screen for "financial stability" and even admit to being more likely to deny service to those seeking to pay with social security checks or other public sources of funds (71). Similarly, those seeking to become donors or to serve as surrogates are also screened for income and educational attainment. For those who can afford ART, such financial barriers generally promote riskier behaviors. For example, many opt to have more embryos implanted at once than is medically recommended. This increases the likelihood of a successful pregnancy, but it also increases the likelihood of multiple births. Ironically, the social cost of such multiple births is estimated to be far greater than the health insurance dollars saved by not covering IVF and other ART. For Daar, this peculiar result suggests that the economics of ART

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is governed by a dangerous ideology: "Those who form families in nontraditional ways are less worthy of society's support for their parental aspirations; only those wealthy enough to overcome their fertility should be privileged to enter the ART market" (77).

Such economic barriers negatively impact access to ART by the poor, and they disproportionately affect people of color. Not only are nonwhites disproportionately poor; but many of them, especially African Americans and Hispanics, receive public assistance, and are thus more likely to be turned away from fertility clinics and ART providers. Moreover, the majority of fertility clinics are clustered around predominantly white, middle-class neighborhoods, thereby creating additional geographical barriers for people of color. Importantly, however, the barriers for people of color are not limited to class. Even when controlling for socioeconomic status and level of health-care coverage, racial minorities are still far less likely to utilize ART due to a multiple of additional barriers. For example, social stereotypes about the "hyperfertility" and "hypersexuality" of African Americans, Hispanics, and Arab Americans leads physicians to minimize and even overlook legitimate reproductive health needs by members of these communities. As Daar reports, such stereotypes may even explain why physicians are less likely to recommend ART to nonwhite patients compared to their white counterparts. Such stereotypes also negatively impact the self-perception of racial minorities experiencing infertility, rendering them less likely to seek treatment or advice. This is particularly troublesome since people of color are already far less likely to seek medical treatment. When they do, they generally wait much longer than whites before seeking treatment. A major reason for this is a historical distrust of physicians and hospitals by racial minorities, especially African Americans. The legacy of the infamous Tuskegee Syphilis Experiment, sickle-cell screenings that led to employment and insurance discrimination, and the overcriminalization of drug use among pregnant women of color, among many other factors, have tainted relationships between the medical community and people of color.

Social infertility also presents a novel set of challenges. Social infertility refers to those whose intimate social relationships (or lack thereof) preclude the possibility of sexual reproduction. This may include individuals who are single (especially if unmarried), transgender individuals, and same-sex couples. Beyond issues of class and race, the primary problems facing these populations are cultural stereotypes and legal restrictions concerning parentage and family formations. With regard to the former, Daar provides detailed empirical studies demonstrating that a significant portion of physicians and ART providers believe that they should consider the perceived "fitness" of the parent(s) before offering services. In addition, many reported being "very or extremely likely to turn away" a person who was unmarried (112). For example, "Commonly expressed concerns include that children of single or lesbian mothers will lack essential male role models; that children of gay and lesbian parents will experience social isolation and gender-identity or sexual-orientation problems; that children of gay fathers are more likely to become gay themselves; and that gay males are likely to be sexual predators who may molest their own children" (114). Such problematic and ignorant stereotypes also plague the legal system. Since 2005, a number of states, beginning with Indiana, have introduced bills that would bar unmarried couples from using ART. Although such measures have failed to become law, existing civil rights laws offer limited protection. For example, though Title VI of the Civil Rights Act prohibits discrimination by physicians and hospitals, it explicitly excludes sex, marital status, and sexual orientation, and, even when applicable, it requires demonstrating

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intentional discrimination, which is a difficult benchmark to meet. Similarly, since family law in many states favors traditional marriage, it presents additional barriers. For example, many states regard a traditional surrogate as the legal mother of the child, regardless of her own desires or those of the intended parents.

The final set of barriers pertains to those living with disabilities. In general, physicians and ART providers are unwilling to offer procreative services to people with disabilities for two reasons. The first revolves around what Daar refers to as “conceptive harms” (137). The worry is that if the gametes of a disabled parent are used in the procedure, then the “harm” affecting them will transfer to the child. The assumption that disabilities constitute a “harm,” or that such lives are less desirable, has been widely challenged by disability advocates. Nevertheless, it remains prominent throughout the ART industry. For example, before being implanted via IVF, embryos undergo preimplantation genetic diagnosis (PGD) to screen potential embryos for “abnormalities.” The “best” embryo is used for IVF. As Daar explains, “Parents who opt to investigate the genetic makeup of their developing embryos implicitly agree that they will participate in the selection (and the corresponding deselection) of embryos based on their revealed genetic health” (145). Such clear favoritism toward those deemed “healthier,” and therefore “better,” is among the clearest examples of eugenic logic facilitated by ART. The second set of concerns pertains to “rearing harms,” or the belief that disabled parents will be less fit to care for their child. As Daar explains, this is often justified by appeals to the child’s welfare, and more specifically the parent’s presumed inability to provide a safe and nurturing household given their own disability. Despite the ubiquity of this stereotype, the empirical evidence does not support the image of the “unfit disabled parent(s).”

The presence of such barriers poses clear harms to those denied services. For example, their social or biological infertility is transformed into a permanent state of forced childlessness. The psychological effects of such a condition are yet to be fully studied, but it is clear that infertility is a major source of stress and depression among those who experience it. Such deprivation may cause one to see their life as less meaningful and as empty. Indeed, as Daar notes, deprivation of parenthood may also produce a “deprivation of the human dignity that is at the root of procreative decision making” (166). For those determined to become parents, the remaining options are littered with obstacles. On the one hand, adoption centers in many states are legally allowed to discriminate against unwed, non-same-sex couples. Meanwhile, adoption from private agencies may cost as much as IVF, and thus present substantial economic barriers. On the other hand, going out of state for reproductive care represents an expensive alternative, especially since it typically involves high travel costs on top of the costs of treatment. Importantly, however, for Daar, the harms extend beyond those directly targeted by these structural barriers. On her account, three additional parties are also harmed. First, physicians and ART providers experience harm via economic losses (from withholding services), incurring a bad reputation (from discrimination lawsuits), and even the psychic cost of balancing a physician’s duty to care and their own personal values. The second harmed party is the children themselves. For example, the children who are never born as a result of their parent’s denial are deprived of the opportunity to be born and have a “life like ours.” Such deprivation may constitute a harm. Finally, society as a whole is harmed via the tolerance of discriminatory practices that serve no other purpose than to regulate groups of people into second-class citizenship.

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In the concluding chapter, Daar offers six recommendations to address these problems. The first is to broaden financial support and insurance coverage for infertility care at both the national and state levels. Second, additional programs aimed at developing newer, more innovative, and reduced-cost treatment are needed to ensure accessibility for all. Third, more policies are needed to expand the currently underdeveloped charitable arm of the fertility industry to provide no- and low-cost treatment to underserved populations. The fourth is to develop strategies to incentivize fertility clinics and ART providers to establish centers and outreach in underserved areas. Fifth, cultural competency training should be improved to include the impact of denial of fertility services to marginalized communities, including the socially infertile. Finally, ART providers should be encouraged to embrace explicit, broad-range antidiscrimination policies that protect underserved populations from being denied coverage due to the physician's personal values.

Throughout the book, Daar provides a thorough and detailed account of the exact barriers and harms experienced by underserved communities seeking fertility treatment. Central to the theme of the book is that these barriers, and the deprivations they promote, capture "the true eugenic impact" of ART (xiii). Deprivation may appear initially to be at odds with the popular vision of eugenics as a state-sanctioned and enforced program, but Daar argues that a more robust account of the eugenics era better captures the similarities. In particular, Daar distinguishes among four aspects of eugenics. First, and the most well-known, is *public eugenics*, or state-sanctioned policies or laws that promoted eugenic ideals. Second, *private eugenics* refers to the voluntary adoption of eugenics ideals by individuals or institutions. Examples of this include the embrace of eugenic teachings by universities and the adoption of eugenic ideals and practices by families. Third, *negative eugenics* sought to control and/or prevent certain people or groups from breeding; and finally, *positive eugenics* promoted marriage and the well-being of certain children. The most common example of positive eugenics were the "Better Baby" and "Fitter Family" contests that encouraged parents to raise their children based on eugenic theory. As a eugenic institution, ART appears to have strong parallels to both negative and positive private eugenics.

Yet, despite introducing this terminology in chapter 2, Daar rarely draws upon it to explain the underlying mechanisms that promote existing barriers to ART. Such an omission is striking for at least three reasons: first, examined as a form of public eugenics, the limited availability of ART represents the extent to which eugenic ideology remains culturally and socially influential. To be clear, this influence is not simply at the level of institutions, but of families themselves. This could explain not only the popularity of PGD among fertile partners, but even why some of those experiencing biological or social infertility do not seek treatment either. The possibility of entrenched public eugenic thinking as itself representing a barrier to treatment is an important yet overlooked dimension of the problem. Second, though some of the recommendations, especially providing low- to no-cost treatment to underserved populations and improving cultural competency, may help with outreach to marginalized communities, it is unclear whether it is enough to address historical distrust, especially among racial minorities. Programs aimed at educating racial minorities about fertility services, and the legal protections they have when using them, could help address those concerns.

Third, though it is clear how the recommendations Daar provides begin to address some of the existing barriers, it is unclear whether they are robust enough to address the larger structural

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problems of ART as a form of public eugenics. That is, most of the recommendations operate at the level of physicians and ART providers themselves, whether by creating conditions for greater accessibility or improving cultural competency. However, if the underlying problem regarding accessibility is an implicit commitment to public eugenics, then it is unclear what would motivate the fertility industry to adopt these recommendations. To be clear, the barriers and harms that Daar outlines are compelling; yet without an extra argument demonstrating that such barriers not only have disproportionate effects, but are ultimately morally wrong, it's debatable how much moral suasion they have on their own. A physician or ART provider may agree that such barriers and harms are regrettable, but ultimately contend that the benefits outweigh the harms. Such utilitarian thinking seems central to eugenic ideology. This issue is particularly difficult for Daar given her own admission that, "Even while authoring a book decrying barriers to ART access, I would answer this query [regarding an unlimited right to access assisted conception] in the negative. I don't believe, nor do I argue herein, that US law and policy should embrace unlimited and unconditional access to ART for all" (27). This admission does not detract from the central strength of the book in exposing unequal access to ART, but it does make it unclear why existing barriers should be erased, regardless of whether they cause harm.

Overall, *The New Eugenics* provides a fascinating analysis of the barriers ands harms encountered by underserved populations. In doing so, it sheds new and important light on the eugenic impact of the fertility industry and ART upon contemporary society.

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