

The Right for Reproductive Liberty and Ethical Subjectivity

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I. INTRODUCTION

For Aristotle, man is an animal having additional capacity for politics. But for Foucault, biological life itself became the object and target of political power. There were two historical events for marking a sort of shift in this. One was focused on disciplining the techniques of power on the individual body and second on managing the life of a new political subject on the population or the biopolitics. These two led to a technology of power on life called Biopower. For Foucault, it operates according to the 'maxim, 'fostering life or disallowing it. It also brought a new form of government and social regulation and also new forms of subjectivity. Thus power was not something which operates through violence and not imposed upon the subjects from above. But it gradually shifted through normalizing regulation that administers and fosters the life of the subjects. Power thus takes hold of the body of the citizen through the normalization of life process. He places norms at the centre of the operations of Biopower. According to Judith Butler, norms themselves do not have an independent ontological status. They are manifested in social practice. While norms govern social actions, they are not irreducible to that action. The independence of this norm points out that norms govern intelligibly and also allows other kinds of practices and actions to be recognizable. It operates as regulative ideals against which forms of embodied subjectivity can be rendered legitimate or illegitimate. Foucault pointed out how discipline and Biopower function through norms. In order for power over life to carry out its regulatory and corrective mechanisms it need an operational system of norms. Norm is basically a dimension through which life and behavior can be measured, qualified and constantly corrected. Juridical system of the law only threat people with death, where as power over life takes an effective means of correction. It directs people to internalize certain norms. according to Foucault, a normalizing society is the historical outcome of a technology of power centered on life. Thus modern power manifests itself in human urge to control and modify life. This takes place at two levels. One on the level of individuals through disciplinary technique and second on the level of population through Biopower and its techniques, ie, biopolitics. Both these modes of power are aiming to maximize and extract forces from human bodies. It produce life in a given form by utilizing techniques of disciplinary subjection and biopolitical techniques of reinforcing life. Biopower attains and maintains its reality through the constitution of subjects. It also includes the self-reflexive constitution of oneself as subjects.

Michel Foucault, in his *History of Sexuality*, argues that biological life itself became the object and target of political power. The notion of biopolitics was geared towards the regulation and management of the life of a new political subject, the population. There was a technology of power aimed at life, ie Biopower. This power operates through a violence imposed upon subjects from above through a normalizing regulation that administers and fosters the life of subjects. Power takes hold of the body of the citizen through normative regulation. Thus it was a normalization of life process. The idea of normalization is applied to the principle of reproductive freedom. To state this argument I rely upon Foucault's later works on ethics to argue that reproductive freedom entails a form of ethical self-constitution. Norms doesn't have an independent ontological status but are always manifested in social practices and are operated as regulative ideals.

Foucault links Biopower with disciplinary power in his analysis of concept of normalizing society. Life in its totality entered into a prism of power which targets and thereby modifies human society. In his analysis of normalizing society, biopolitics acts as a specific technology through which certain relations and conditions are realized in a social realm. It promotes public health and regulate harmful phenomenon. According to Rabinow and Rose, in contemporary societies, biopolitics has become essentially a means of improving the quality of life through variety of medical procedures.

The principle of individual liberty/autonomy is the principle focus of this paper. The arguments based on this try to unfold a different kind of analysis. It includes a conceptual and historical specificity on the notion of individual freedom. Apart from mere value judging ethical views, the concept of autonomy is placed in a much broader social and political context, or we can say that this principle of bioethics (autonomy) operates in a biopolitical context. John Harris, conception of reproductive liberty insist that it is a right to negative liberty which protect parents against the imposition of external constraint on reproductive choices. But this negative liberty can be viewed from a positive freedom. Thus the paper tries to have an ontological view regarding individual liberty on reproductive autonomy.

II. REPRODUCTIVE AUTONOMY

Reproductive liberty as John Harris argues, emphasizes the importance of defending the free choice of parents against state coercion. When state intervention in the control of reproduction within a population takes place it becomes a sort of negative freedom. The right to reproductive liberty as a negative right of non-interference, does not oblige others to participate to exercise that freedom. According to Harris, it should go without saying that a right to reproductive liberty does not obligate others to cooperate in the realization of procreative interests. It is a basic human right. This means that claims against the “presumption of freedom in reproductive choices must be proportionally stronger and the harms that are claimed to result from its exercise must be proportionally greater”. To establish the claim that, reproductive liberty is a dimension of a fundamental human right, Harris relies on the work of Ronald Dworkin. For Dworkin, the principle of procreative autonomy is guaranteed by the First Amendment of the United States of America’s Constitution, which protects freedom of religion and expression. According to Harris, and Dworkin, the core of procreative autonomy is the freedom to choose one’s own way of life and live according to one’s most deeply held beliefs. With regard to this view, Onora O’Neill argues that, reproduction aims to bring a third party – a child – into existence. I.e., reproduction aims to produce a dependent being. That itself enhances individual autonomy.

The issue within reproductive autonomy thus varies from freedom to choose one’s own life style and express and from integrity and dignity. For Dworkin, recognizing an individual right to autonomy makes self-creation possible. Harris on one hand insists that reproductive liberty is a right to a negative liberty that protects parents against the imposition of external constraint on reproductive choices. But on the other hand, he grounds this claim to a negative liberty on a stronger conception of autonomous self-creation through living in accordance with one’s deeply held values and beliefs. So this negative liberty rests on a positive freedom. In the words of Catherine Mills, “reproductive liberty is enacted and negotiated in everyday practice, not simply as a right to unimpeded action, but as a process of ethical self-formation”(42). The approaches of Harris stress the moment of choice and introduce a complexity into procreative liberty. Their understanding on elaborating the conditions of possibility for the enactment of reproductive freedom leaves no room for self-creative dimension of reproductive liberty.

III. SELF-CREATIVE DIMENSION OF REPRODUCTIVE LIBERTY

Foucault was concerned with the historical and social production of the forms of subjectivity. Based on different historical modes of acting upon oneself and technology of doing so, he identifies the production of subject under the term *technologies of the self*. By this he means the practices and means by which individual acts upon themselves as ethical subjects i.e., the way in which individual make themselves as subjects by enacting particular moral codes i.e., modes of being. Practices of self to a large extent are given by the culture in which an individual lives. Thus each individual actively constitutes his or her own identity and ethical capacity in a socio-cultural location. Thus self emerges through the enactment and alteration of norms and models found in the culture and society. The practices of liberty entails that freedom is not given once and for all, but it requires a practical exercise upon oneself. An ethics of self thus involves a self-reflexive relation to one’s own freedom. Freedom then becomes both an object of ethical concern and practical exercise.

Foucault points out four interrelated and distinct aspects of how individuals make themselves as ethical subjects. The first is the identification of one or another part of oneself or of one’s life as the object of moral conduct. The second is the mode of subjectification, the way in which an individual establishes his relation to the moral rule and recognizes himself as obliged to put it into practice. Third is the ethical self-formation the reflexive dimension that one undertakes upon oneself, the kinds of practices, behaviours and techniques that one adopts in order to bring oneself into accordance with rule or value. The last stage is the telos, it is an action by virtue of the place it occupies in a pattern of conduct, which commits an individual to a certain mode of being characteristic of the ethical subject. Thus an ethical subject for Foucault is, when one identifies an aspect of oneself for moral transformation by bringing that aspect into relation with a moral rule, enacting certain practices that allow for or bring about the desired transformation and having a vision of the end or purpose of that transformation, one creates oneself as an ethical subject. Thus self-formation as an ethical subject involves a process in which the individual delimits that part of himself that will form the object of his moral practice defines his position relative to the precept he will follow, and decides on a certain mode of being that will serve as his moral goal. It is a sort of self-awareness. It is a matter of developing a reflexive relation to oneself that constitutes oneself as an ethical subject of one’s own action, through the selection of a certain action or form of being as the object of ethical concern according to the applied criteria. Subjectivity emerges from and is shaped by historical and culturally located experiences. It is thus an artifact of practices of self-formation. The ethics of self does not presuppose a more or less voluntaristic subject that exists prior to its formation through action upon itself. Practices of self-formation are not simply expressions of choice, whether enacted in words or actions, of a preexisting individual rather the individual subject only emerges as an artifact of the enactment of these choices.

IV. REPRODUCTIVE LIBERTY IN THE LIGHT OF FOUCAULDIAN SELF –FORMATION

Foucault's understanding of a practice of self can now be applied to the prospects of new reproductive practices. Among the four dimensions of self-formation,(object of moral conduct, mode of subjection, ethical work, *telos*) as an ethical subject, the last, *telos*, explicitly or consciously recognized or not aims to become a free/reproductive subject. Here the ethical self-formation involves self-awareness. Technologies of the self is the relation that individual establish with themselves, in relation to the sets of values, principles and codes for living. He shapes the way in which individuals constitute themselves as subjects of their own actions through certain practices and matrices of knowledge. Reproductive liberty can be also seen as a form of ethical self formation. Here the reproductive subject comes into being through the enactment of principles of individual freedom in everyday practices.

In the words of Catherine Mills, The part of oneself that is isolated for transformation is the desire and capacity for reproduction and associated activities of child rearing ... the maintenance of successful pregnancy that ideally gives rise to a 'normal healthy child'. Thus the free reproductive subject is born (50)The birth of a free reproductive subject is a matter of false consciousness. It is a thorough determination of subjectivity. The force of individual freedom as a moral norm is inseparable from being a norm of subjection. Individual freedom can be seen as an artifact of liberal governance. Reproductive freedom gains its meaning and reality through its enactment in everyday practices of ethical self-formation. According to Nikolas Rose, freedom of choice is the matrix through which individuals are expected to interpret themselves and their actions. He argues that individuals are expected to interpret their past and dream their future as outcomes of choices made or still to be made (50).

Reproductive liberty thus can be considered as a form of ethical self-formation. Here the free reproductive subject comes into being through the enactment of he principle of individual freedom in everyday practices. This can also be seen as a positive freedom, where individuals are free to adopt their ways of life in accord with the reproductive choices without any exteranal constraints and give meaning to their lives. So Foucault emphasis the importance of individual capacitites as preconditions for the exercise of freedom. He identifies two constraints, one external and secondly internal. External comes under negative freedom, the latter the internal constraints is the desire or will for self-government ie, individual's capacity to formulate and enact a course of action. Making use of one's negative freedom depends on the exercise of positive freedom in the sense that it requires the absence or overcoming certain internal limitations. In the words of Catherine Mills,

The freedom entailed in self-formation and the development of a subjective ethos necessarily requires the prior existence of an arena or area in which a person an act without interference and coercive limitation of the paths of action or modes of being available to them. For Foucault, freedom is the ontological condition of ethics. But ethics is the considered form that freedom takes when it is informed by reflection. This can be understood as negative liberty and the considered form that that it takes is the positive freedom. It is the self-formation or ethics understood as ethos. Thus negative liberty is the precondition of positive liberty. Negative liberty is dependent on its enactment in positive practices of freedom in everyday life. Both are not in conflict, but appear as mutually reinforcing and they constitute the two necessary dimensions of ethical self-formation.

V. CONCLUSION

John Harris emphasise that reproductive freedom entails a right of non-interference, whereas Foucault's approach is less determinate according to Mills, he identifies a new conception of rights which is not sovereign or disciplinary. Foucault's approach is naturalistic in the sense that it includes operations of power and practices of freedom. Rights are historically contingent. Historically contingent values and social norms are constitutive of ethical subjectivity, but not in the sense that these factors determine subjectivity. But in the sense that ethical subjectivity is attained in practical relation to them. So reproductive freedom gains its meaning and reality through its enactment in everyday practices of ethical self-formation.

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