

Arhe XXI, 42/2024

UDK 179

2-186

2-187.2

DOI: <https://doi.org/10.19090/arhe.2024.42.97-110>

Originalni naučni rad

Original Scientific Article

IOANNA MALANDRAKI¹

National and Kapodistrian University of Athens, Greece

TRANSCENDING DEATH: BIOETHICAL CONSIDERATIONS ON POST-MORTEM ARTIFICIAL INSEMINATION

Abstract: Post-mortem artificial insemination constitutes a method of medically assisted reproduction that is ethically controversial. This method, which has been developed as an outcome of technological advances in the field of medicine, aims at the conception, pregnancy, and birth of children who, from the beginning of their creation, have been deprived of a parent due to death. This raises bioethical concerns relating to the consent of the deceased, the rights of the child, and the intentions of the surviving partner. Post-mortem artificial insemination has been the subject of intense criticism and has become a matter of legal, political, and ethical concern. The bioethical dialogue broaches the potential for human beings to transcend death through this method of reproduction, thereby initiating a perpetual cycle of ethical-philosophical debate. This article contributes to the existing body of literature on the subject of post-mortem artificial insemination by offering a comprehensive review and analysis of the implications and concerns surrounding this practice.

Keywords: post-mortem artificial insemination, bioethics, technology, love, life, death, post-mortem sperm retrieval

¹ Author's e-mail address: iomalan@philosophy.uoa.gr

“[...] if people retain the self-consciousness and self-respect [...], they will let neither science nor nature simply take its course but will struggle to express [...] the best understanding they can reach of why human life is sacred, and of the proper place of freedom in its dominion.”

Ronald Dworkin, *Life's Dominion: An Argument About Abortion, Euthanasia, and Individual Freedom*

I. INTRODUCTION

Medically assisted reproduction (MAR) aims at creating human beings in a laboratory setting² through the use of various sophisticated methods and techniques.³ It is noteworthy that the first case of MAR dates back to the 18th century.⁴ In this case, John Hunter, a surgeon, assisted a woman in conceiving by taking semen from her husband, who suffered from hypospadias, and inseminating her.⁵

The 20th century saw the advent of MAR: the first documented instances of artificial insemination can be traced back to the 50s.⁶ In 1978, the first test-tube baby, Louise Brown, was born as a result of the efforts of Patric Steptoe, Robert Edwards, and their team employing

2 Jasmin Passet-Wittig and Martin Bujard, “Medically Assisted Reproduction in Developed Countries: Overview and Societal Challenges,” in *Research Handbook on the Sociology of the Family*, eds. Norbert F. Scheider and Michaela Kreyenfeld (Cheltenham and Northampton, MA: Edward Elgar Publishing, 2021), 417-418. <https://doi.org/10.4337/9781788975544.00039>

3 In-vitro fertilization, intracytoplasmic sperm injection, intrauterine insemination, oocyte and embryo donation, gestational surrogacy, preimplantation genetic diagnosis and aneuploidy screening, in vitro maturation of oocytes, cryopreservation of testicular and ovarian tissue for future autologous use, transplantation of ovarian tissue or whole ovaries. Peter R. Brinsden, “The Evolution of the Assisted Reproduction Technologies,” in *Fertility Preservation: Principles and Practice*, eds. Jacques Donnez and S. Samuel Kim (Cambridge: Cambridge University Press, 2021), 1. <https://doi.org/10.1017/9781108784368.002>

4 Ibid.

5 Ibid.

6 Ibid., 3.

in-vitro fertilization (IVF).⁷ This marked a significant breakthrough in reproduction – related science and technology,⁸ as well as paving the ground for even more challenging possibilities and options, such as post-mortem artificial insemination.

Post-mortem artificial insemination is probably the most contentious among the methods of MAR, given its implications for life and death. The method has a bearing upon life and death by conceptualizing both in a manner totally different from conventional understanding. The objective of post-mortem artificial insemination is the conception, pregnancy, and birth of a child who, from the beginning of its creation, will have only one parent, in view of the fact that the other will have already been deceased.⁹ In the context of post-mortem reproduction, as it is often the case with medical breakthroughs,¹⁰ the deceased seems in a way to transcend the limitations of mortality.

MAR, and indeed post-mortem artificial insemination, has been the subject of intense criticism and has become a matter of law, politics, and ethics. The ethical concerns that come accompany MAR are manifold. These include issues of consent, the rights and best interests of the child, as well as the intentions of the (living) parent.¹¹

The following section introduces the concept of post-mortem artificial insemination, providing the necessary context and historical background, while the subsequent “The Consent of the Deceased,” delves into the critical issue of consent, analyzing the ethical and legal challenges associated with it in such cases. Next, “A Priori Orp-

7 “In-vitro fertilization (IVF) involves retrieving eggs from the woman’s ovaries and collecting sperm from the man to fertilize them in vitro i.e. in a laboratory test-tube [...]. One to three embryos are then placed into the woman’s uterus in the hope that at least one will implant and develop into a live baby.” Élise de La Rochebrochard, “In-vitro Fertilization in France: 200,000 ‘test-tube’ babies in the last 30 years,” *Population et Sociétés*, no. 451 (2008): 2.

8 Peter R. Brinsden, “Thirty Years of IVF: The Legacy of Patrick Steptoe and Robert Edwards,” *Human fertility* 12, no. 3 (2009): 137-143. <https://doi.org/10.1080/14647270903176773>

9 Yael Hashiloni-Dolev and Silke Schicktanz, “A Cross-Cultural Analysis of Posthumous Reproduction: The Significance of the Gender and Margins-of-Life Perspectives,” *Reproductive Biomedicine & Society Online* 4 (2017): 21. <https://doi.org/10.1016/j.rbms.2017.03.003>

10 For instance, organ donation.

11 It should be noted that bioethical concerns extend beyond the scope of these issues. These issues are the subject of this paper.

hans” explores the philosophical implications of creating children who are knowingly brought into the world without a living parent. Finally, “Transcending Death” presents a critical evaluation of the practice, weighing the diverse arguments for and against it and exploring its broader existential implications.

II. POST-MORTEM ARTIFICIAL INSEMINATION

The objective of post-mortem artificial insemination is the conception, gestation, and birth of a child who, from the moment of their first breath, will have only one parent.¹² This case is essentially distinct from instances where the child is unaware of who their biological parents are.¹³ The first post-mortem sperm retrieval was recorded in 1980:

“A 30-year-old man sustained a fatal brain injury in a motor vehicle accident. At his family’s request an attempt was made to preserve his sperm. There appeared to be four options available to obtain viable sperm from a man with brain death—three antemortem and one postmortem. The antemortem procedures are intrathecal neostigmine injection, electroejaculation, and manual stimulation, all of which were impractical. The postmortem approach which we used after organ donor surgery was harvest of the sperm-containing excurrent duct system.”¹⁴

The procedure is currently conducted in the following manner. Since the now deceased father had cryopreserved his sperm, it is possible that the prospective mother be artificially inseminated.¹⁵ In-vitro fertilization facilitates gestation in the event of the father’s demise, as well as in the event of the mother’s demise, by employing a surrogate mother.¹⁶

12 Hashiloni-Dolev and Schickltanz, “A Cross-Cultural Analysis,” 21.

13 Ibid, 22.

14 Cappy Miles Rothman, “A Method for Obtaining Viable Sperm in the Postmortem State,” *Fertility and Sterility* 34, no. 5 (1980): 512. [https://doi.org/10.1016/s0015-0282\(16\)45147-2](https://doi.org/10.1016/s0015-0282(16)45147-2)

15 Kalliopi Kipouridou and Maria Milapidou, “The Legal Framework of Post Mortem Fertilization in Greece and Sweden,” *Bioethica* 4, no. 1 (2018): 57. <https://doi.org/10.12681/bioeth.19698>

16 Ibid.

The first legal case pertaining to post-mortem artificial insemination was brought to court in 1984. Corine Parpalaix's husband was diagnosed with testicular cancer, which would likely result in infertility. Consequently, he decided to cryopreserve his sperm, thereby ensuring the possibility of future offspring.¹⁷ Before any action was taken, he died and Corine Parpalaix requested the sperm bank to provide her with his cryopreserved sperm to undergo artificial insemination.¹⁸ The sperm bank rejected her request, necessitating the pursuit of legal recourse.¹⁹ The jury approved her request and granted her permission to use her deceased husband's sperm on the grounds that this was not against her husband's wish.²⁰

The practice of post-mortem artificial insemination is currently permitted in 12 countries, and not permitted in 19 countries.²¹

"There are variable requirements in those countries in which it is used. In Australia, South Africa, and the United Kingdom, a written agreement before death is needed. In New Zealand, the specimens can only be used by a named person, and prior informed consent is essential. In Israel, the procedure can only be used by a spouse or common-law wife and after court application. In Spain, its use is only allowed for 6 months after death, and in Belgium, for 1 year. In the United Kingdom, the welfare of the child must be considered, and extensive counseling is required; dead fathers may be named on the birth certificate."²²

17 Gulam Bahadur, "Death and Conception," *Human Reproduction* 17, no. 10 (2002): 2771. <https://doi.org/10.1093/humrep/17.10.2769>

18 Ibid.

19 Ibid.

20 Ibid.

21 In particular, it is permitted in Australia, Austria, Belgium, Greece, India, Israel, the Netherlands, New Zealand, South Africa, Spain, the United Kingdom and Ukraine and not permitted in Argentina, Bulgaria, Denmark, Egypt, France, Germany, Hong Kong, Italy, Japan, Korea, Morocco, Norway, Philippines, Singapore, Slovenia, Sweden, Switzerland, Taiwan, and Tunisia. "Chapter 7: Posthumous Insemination," *Fertility and Sterility* 87, no. 4 (2007): S26-S27; <https://doi.org/10.1016/j.fertnstert.2007.01.091> "Ukraine Allows Post Mortem Sperm Donation," *The Surrogacy Law Center, PLC*, <https://surrogacy-lawyer.com/fertility-preservation/ukraine-allows-post-mortem-sperm-donation/>

22 "Chapter 7: Posthumous Insemination."

III. THE CONSENT OF THE DECEASED

In the context of medical ethics, the right to choose, exercised in accordance with one's free will, is of paramount importance. This right is crystalized in the principle of autonomy,²³ which is prominent in medical ethics and bioethics.

“In medical ethics it has become standard to stress the distinctiveness of human capacities for agency, and to stress capacities for autonomy, and so to emphasise the special ethical concern and respect to be accorded to persons, including patients, and the special importance of human rights.”²⁴

The issue of informed consent plays a pivotal role in the principle of autonomy. In ethical and legal terms, informed consent is distinguished by normative force²⁵ implying respect for the patient's right to self-determination and the determination of his or her right to decide, either consent or refusal, after having been informed by the physician: “it is tightly connected with notions and ideas such as rights, autonomy and respect.”²⁶ Therefore, informed consent is interrelated with various manifestations. It is linked to respect for religious belief, individual preferences, fears, and other factors. This underscores the fact that the principle of autonomy is characterized by high demands and difficul-

23 The principle of autonomy is indissolubly linked to ethics. An examination of the term's meaning within the ethical philosophical tradition reveals a dual approach, from Kantianism and Utilitarianism [David DeGrazia and Joseph Millum, *A theory of Bioethics* (Cambridge: Cambridge University Press, 2021), 98]. The Kantian theory, being normative, highlights the value of the patient's capacity to decide on the involvement of other persons in their body and defines it as a right. In contrast, the Utilitarian theory, which is inherently consequentialist, posits – with guiding criterion the bliss of covey – that the capacity of autonomous action can maximize the good, viz the bliss. In sum, the Kantian school views autonomy as a foundation stone for claiming rights, whereas the Utilitarian school considers it an essential element for the promotion of well-being. DeGrazia and Millum, 98.

24 Onora O' Neill, *Autonomy and Trust in Bioethics* (New York: Cambridge University Press, 2002), 6.

25 Stavroula Tsinorema, “Consent and Autonomy in Contemporary Bioethics,” in *Annuaire International Des Droits De L' Homme* (Athens-Thessaloniki: Sakkoulas & L.G.D.J./Lextenso Publications, 2016), 229.

26 Konstantinos Papageorgiou, “The Analytic Model of Consent and the Square of Opposition,” *Conatus – Journal of Philosophy* 4, no. 1 (2019): 79. <https://doi.org/10.12681/cjp.18611>

ties in observing it precisely because of the many aspects that make up the principle.²⁷

The method of post-mortem artificial insemination entails fluidity in terms of the consent required. In the event that the deceased has provided written consent for the utilization of their genetic material following their demise, the reproductive process may then be initiated. Nevertheless, the case is complicated in the absence of explicit consent,²⁸ as questions of interpretation arise, namely on whether implied consent could be deemed sufficient or not.

The consideration of whether the deceased could have consented to post-mortem artificial insemination is a part of a broader discussion about the principle of autonomy, encompassing medical, social, and religious contexts. In certain instances, inferred consent can be argued based on the alignment of the deceased's expressed desires with the procedure in question, thereby respecting their autonomy.²⁹ In parallel, inferred consent may also be perceived as an act of disrespect towards the deceased.³⁰

The following case is quite telling about consent-related issues. The case occurred in Greece between 2015 and 2018. A couple was trying to have children; despite the husband being diagnosed with cancer, the couple resorted to assisted reproduction methods.³¹ Due to his condition which posed threats to the quality of his sperm, the man gave his consent to have his genetic material cryopreserved. Ultimately, the man died and, following his demise, his wife set in motion legal

27 Tom L. Beauchamp, *Contemporary Issues in Bioethics* (Belmont, CA: Wadsworth Publishing Company, 2003), 19-20.

28 That is to say, "a patient's written consent or verbal consent that is documented by a health care provider." Carson Strong, Jeffrey R. Gingrich, and William H. Kutteh, "Ethics of Postmortem Sperm Retrieval: Ethics of Sperm Retrieval after Death or Persistent Vegetative State," *Human Reproduction* 15, no. 4 (2000): 742. <https://doi.org/10.1093/humrep/15.4.739>

29 Ibid.

30 "For example, removing organs from a brain dead patient who would have objected is disrespectful toward the previously alive person. Thus, we inquire about the patient's wishes in part because we want to avoid such disrespect." Ibid.

31 «Απόφαση σταθμός: "Ναι" σε τεχνητή γονιμοποίηση χωρίς νόμιμη έγκριση του νεκρού συζύγου», *Πρώτο Θέμα*, 28 Ιανουαρίου 2019, <https://www.protothema.gr/greece/article/859505/apofasi-stathmos-nai-se-tehniiti-gonimopoiisi-horis-nomimi-egrisi-tou-eklipodos-suzugou/>.

procedures to be artificially inseminated. However, the court rejected her request, since her deceased husband had not provided consent for post-mortem artificial insemination in a notarial deed. Instead, the man had signed an agreement at the IVF Centre for in vitro fertilization and the freezing of his genetic material, even after his death. In consideration of the aforementioned document, the Court of Appeal permitted the woman to pursue the artificial insemination. It appears that the Court structured its decision based on a series of specific incidents, including the death of the spouse, the pre-existing illness, the couple's desire to gain a child, the existence of the written consent of the husband in cryopreservation of his sperm even after his death for use with the genetic material of his wife.

In this example, it seems that a combination of explicit and implicit consent was employed. The explicit consent is ratiocinated through the fact that the deceased had previously consented to IVF and the freezing of his genetic material, even after his death. The inferred consent arises from the fact that, despite not having specifically consented to post-mortem artificial insemination, the deceased had agreed to IVF. The decision of the Court represents a significant advancement beyond the traditional interpretation of the law, integrating the tools of justice and medical science to pave the way for post-mortem artificial insemination.

Having addressed deceased's rights and wishes, it is now crucial to bring our attention to the implications for the offspring. In particular, it must be considered the ethical-philosophical questions that arise from bringing into the world children who are orphans a priori.

IV. A PRIORI ORPHANS

Is it morally justifiable to bring children into the world with the knowledge that they will be born orphans? The case of post-mortem artificial insemination is distinguished by several particularities. Concerning this, the discussion appears to be a part of the heated debate on "children on demand,"³² and particularly on "a priori orphans."

32 Julian Savulescu and Evangelos D. Protopapadakis, "'Ethical Minefields' and the Voice of Common Sense: A Discussion with Julian Savulescu," *Conatus – Journal of Philosophy* 4, no. 1 (2019): 125-133. <https://doi.org/10.12681/cjp.19712>

On the one hand, it can be argued that such children should be treated as if they have lost a parent at an early age, based on the premise that is preferable to be born than to never exist. This positioning brings to the surface the principle of beneficence³³ and the principle of nonmaleficence,³⁴ i.e. it would appear that the proposition that non-existence is a worse state takes precedence over the proposition of existence in a potentially harmful condition.³⁵

“The claim that post-mortem insemination harms the children who are brought into being [...] amounts to saying that the children are worse off than they would have been if they had not been created.”³⁶

This consideration seems to override the thoughts upon the formation of single-parent families³⁷ – even though single-parent families are the consequence of a multitude of factors in contemporary society, which (ought to) accept them. It is asserted that the challenges faced by children of single-parent families are not necessarily equivalent to a life filled with negative experiences (unhappiness, pain). Consequently, it is not a reasonable conclusion to draw on the view that the birth of these children involves harm.³⁸

33 The principle of beneficence promotes the well-being. Into the field of Bioethics, the welfare is shaped and conceptualized by social regulations, creating an implicit assumption in the medical field that ethics must govern the institutional framework. Tom L. Beauchamp and James G. Childress list a number of sets of situations in which it is moral duty of people to act, irrespective of conventions (family, friendship, etc.). Tom L. Beauchamp and James F. Childress, *Principles of Biomedical Ethics* (New York: Oxford University Press, 2019), 160-163.

34 The principle of nonmaleficence underlines the value of avoiding the imposition of harm. At literature the precept “primum non nocere” is identified with the content of the principle. The principle is based on the following rules; do not kill, do not cause pain or suffering, do not frustrate, do not cause offence, do not deprive from other persons the benefits of life. *Ibid.*, 118-120.

35 Strong, Gingrich, and Kutteh, 741.

36 *Ibid.*

37 Even though, “some (physicians) decline to provide services to single women based on studies showing children of single parents do not do as well as children with both parents.” R. D. Orr and M. Siegler, “Is Posthumous Semen Retrieval Ethically Permissible?,” *Journal of Medical Ethics* 28, no. 5 (2002): 301. <https://doi.org/10.1136/jme.28.5.299>

38 Carson Strong, “Ethical and Legal Aspects of Sperm Retrieval After Death or Persistent Vegetative State,” *Journal of Law, Medicine & Ethics* 27, no. 4 (1999): 353. <https://doi.org/10.1111/j.1748-720x.1999.tb01470.x>

“The fundamental right under the umbrella of the law is the right to life. The right to death is not formed. Moreover, rights-holders can only be living people in accordance with the rule of Law. Therefore, we cannot refer either to the interest of the unborn child or to the interest of the deceased parent.”³⁹

On the other hand, it can be claimed that the child is deprived of the right to be nurtured by both parents from birth due to the callous desire of the surviving parent to maintain the memory of the deceased, without fully considering the moral-social-psychological consequences that may be reflected in the child.

“[...] the wife ought not to treat the deceased husband’s genetic material as a ‘souvenir.’ [...] Some writers emphasize the self-interest that characterizes the will of the wife to move on to this method, with a major incentive to inherit her husband’s/partner’s property. [...] In the case where the mother carries out a posthumous conception, her share of property as a beneficiary falls to $\frac{1}{4}$, but the remaining relatives are totally excluded from the heritage.”⁴⁰

V. TRANSCENDING DEATH

Post-mortem artificial insemination raises metaphysical confrontations between the ephemeral and the eternal, the perishable and the imperishable, the human and the divine, and ultimately between death and life. This method of reproduction is rooted in deep existential anxiety about death, which may be interpreted as an indication of the necessity for human beings to come to terms with their beginning and their end and to fight for their freedom in the sense of confronting death.

The confrontation of death is undoubtedly a challenging process, as evidenced by the human need to overcome it. It is obvious that this need is legitimate because it advances human knowledge and, by extension, technological capabilities in the field of medicine.

“[...] attempting to rescue humanity from the inevitability of death and dying, immortality projects motivate contributions to the develop-

39 Aikaterini Frantzana, “Ethical Dilemmas in Posthumous Assisted Reproduction,” *American Journal of Biomedical Science & Research* 5, no. 3 (2019): 166. <http://dx.doi.org/10.34297/AJBSR.2019.05.000902>

40 Ibid., 166-167.

ment of curing (terminal) diseases. [...] A further crucial point is the fact that immortality projects ‘deny’ human mortality. This should not be understood as a delusional conviction that one will never die, but rather as events wherein the terror of death stimulates human beings to create and become part of long-term projects that can perceptually ‘last eternally.’”⁴¹

Post-mortem artificial insemination represents a means of transcending the limitations of death by using genetic material from the deceased parent to create new life. However, the potential impact of these children on their life merits further investigation.

VI. CONCLUSION

Post-mortem artificial insemination gives rise to profound ethical concerns pertaining to the boundaries of life and death; it constitutes an ethically controversial method of MAR. Its objective is the conception, pregnancy, and birth of a child who, from the beginning of its creation, did not have one parent due to death. In this context, the deceased is, in a way, able to transcend the limitations of mortality. This article contributes to the existing body of literature on the subject of post-mortem artificial insemination by offering a comprehensive review and analysis of the implications and concerns surrounding this practice.

The method of post-mortem artificial insemination entails fluidity in terms of the consent required. In the event that the deceased has provided written consent for the utilization of their genetic material following their demise, the reproductive process may then be initiated. In the absence of explicit consent, however, there is a problematic issue. The consideration of the deceased’s inferred consent for post-mortem artificial insemination relates to a broader concept of autonomy, encompassing medical, social, and religious contexts.

Is it morally justifiable to bring children into life with the knowledge that they will be born orphans? On the one hand, it can be argued that such children should be treated as if they have lost a parent at an early age, based on the premise that is preferable to be born than

41 Donovan van der Haak, “Death Anxiety, Immortality Projects and Happiness: A Utilitarian Argument Against the Legalization of Euthanasia,” *Conatus – Journal of Philosophy* 6, no. 1 (2021): 165. <http://dx.doi.org/10.12681/cjp.24316>

to never exist. On the other hand, it can be claimed that the child is from birth deprived of the right to be nurtured by both parents due to the callous desire of the surviving parent to maintain the memory of the deceased, without fully considering the moral-social-psychological consequences that may be reflected in the child.

In conclusion, the core of this discussion does not focus on whether it is better to allow or prohibit post-mortem artificial insemination. Rather, it is emphasized that we need to engage in a process of introspection about whether the true intrinsic motivation of the living parent stems from a sincere position of unconditional love and commitment to the deceased partner, or from the eternal human desire to cheat death by preserving a legacy.

REFERENCES

- «Απόφαση σταθμός: “Ναι” σε τεχνητή γονιμοποίηση χωρίς νόμιμη έγκριση του νεκρού συζύγου». *Πρώτο Θέμα*, 28 Ιανουαρίου 2019, <https://www.protothema.gr/greece/article/859505/apofasi-stathmos-nai-se-tehniti-gonimopoiisi-horis-nomimi-egrisi-tou-eklipodos-suzugou/>.
- Bahadur, Gulam. “Death and Conception.” *Human Reproduction* 17, no. 10 (2002): 2769-2775. <https://doi.org/10.1093/humrep/17.10.2769>
- Beauchamp, Tom L. and James F. Childress. *Principles of Biomedical Ethics*. New York: Oxford University Press, 2019.
- Beauchamp, Tom L. *Contemporary Issues in Bioethics*. Belmont, CA: Wadsworth Publishing Company, 2003.
- Brinsden, Peter R. “The Evolution of the Assisted Reproduction Technologies.” In *Fertility Preservation: Principles and Practice*, edited by Jacques Donnez and S. Samuel Kim, 1-10. Cambridge: Cambridge University Press, 2021. <https://doi.org/10.1017/9781108784368.002>
- Brinsden, Peter R. “Thirty Years of IVF: The Legacy of Patrick Steptoe and Robert Edwards.” *Human fertility* 12, no. 3 (2009): 137-143. <https://doi.org/10.1080/14647270903176773>
- “Chapter 7: Posthumous Insemination.” *Fertility and Sterility* 87, no. 4 (2007): S26-S27. <https://doi.org/10.1016/j.fertnstert.2007.01.091>
- DeGrazia, David and Joseph Millum. *A theory of Bioethics*. Cambridge: Cambridge University Press, 2021.
- De La Rochebrochard, Élise. “In-vitro Fertilization in France: 200,000 ‘test-tube’ babies in the last 30 years.” *Population et Sociétés* 451 (2008): 1-4.
- Dworkin, Ronald. *Life’s Dominion: An Argument About Abortion, Euthanasia, and Individual Freedom*. New York: Vintage, 2011).

-
- Frantzana, Aikaterini. "Ethical Dilemmas in Posthumous Assisted Reproduction." *American Journal of Biomedical Science & Research* 5, no. 3 (2019): 164-168. <http://dx.doi.org/10.34297/AJBSR.2019.05.000902>
- Hashiloni-Dolev, Yael and Silke Schicktanz. "A Cross-Cultural Analysis of Posthumous Reproduction: The Significance of the Gender and Margins-of-Life Perspectives." *Reproductive Biomedicine & Society Online* 4 (2017): 21-32. <https://doi.org/10.1016/j.rbms.2017.03.003>
- Kipouridou, Kalliopi and Maria Milapidou. "The Legal Framework of Post Mortem Fertilization in Greece and Sweden." *Bioethica* 4, no. 1 (2018): 55-67. <https://doi.org/10.12681/bioeth.19698>
- O' Neill, Onora. *Autonomy and Trust in Bioethics*. New York: Cambridge University Press, 2002.
- Orr, R.D. and M. Siegler. "Is Posthumous Semen Retrieval Ethically Permissible?." *Journal of Medical Ethics* 28, no. 5 (2002): 299-302. <https://doi.org/10.1136/jme.28.5.299>
- Papageorgiou, Konstantinos. "The Analytic Model of Consent and the Square of Opposition." *Conatus – Journal of Philosophy* 4, no. 1 (2019): 79-98. <https://doi.org/10.12681/cjp.18611>
- Passet-Wittig, Jasmin and Martin Bujard. "Medically Assisted Reproduction in Developed Countries: Overview and Societal Challenges." In *Research Handbook on the Sociology of the Family*, edited by Norbert F. Scheider and Michaela Kreyenfeld, 417-438. Cheltenham and Northampton, MA: Edward Elgar Publishing, 2021. <https://doi.org/10.4337/9781788975544.00039>
- Rothman, Cappy Miles. "A Method for Obtaining Viable Sperm in the Postmortem State." *Fertility and Sterility* 34, no. 5 (1980): 512. [https://doi.org/10.1016/s0015-0282\(16\)45147-2](https://doi.org/10.1016/s0015-0282(16)45147-2)
- Savulescu, Julian and Evangelos D. Protopapadakis. "'Ethical Minefields' and the Voice of Common Sense: A Discussion with Julian Savulescu." *Conatus – Journal of Philosophy* 4, no. 1 (2019): 125-133. <https://doi.org/10.12681/cjp.19712>
- Strong, Carson, Jeffrey R. Gingrich, and William H. Kutteh. "Ethics of Postmortem Sperm Retrieval: Ethics of Sperm Retrieval after Death or Persistent Vegetative State." *Human Reproduction* 15, no. 4 (2000): 739-745. <https://doi.org/10.1093/humrep/15.4.739>
- Strong, Carson. "Ethical and Legal Aspects of Sperm Retrieval After Death or Persistent Vegetative State." *Journal of Law, Medicine & Ethics* 27, no. 4 (1999): 347-358. <https://doi.org/10.1111/j.1748-720x.1999.tb01470.x>
- Tsinorema, Stavroula. "Consent and Autonomy in Contemporary Bioethics." In *Annuaire International Des Droits De L'Homme*, 229-244. Athens-Thessaloniki: Sakkoulas & L.G.D.J./Lextenso Publications, 2016.

“Ukraine Allows Post Mortem Sperm Donation.” *The Surrogacy Law Center, PLC*, <https://surrogacy-lawyer.com/fertility-preservation/ukraine-allows-post-mortem-sperm-donation/>.

van der Haak, Donovan. “Death Anxiety, Immortality Projects and Happiness: A Utilitarian Argument Against the Legalization of Euthanasia.” *Conatus – Journal of Philosophy* 6, no. 1 (2021): 159-174. <http://dx.doi.org/10.12681/cjp.24316>

JOANA MALANDRAKI

Nacionalni i kapodistrijski univerzitet u Atini, Republika Grčka

TRANSCENDIRANJE SMRTI: BIOETIČKA RAZMATRANJA POSTHUMNE VEŠTAČKE OPLODNJE

Sažetak: Posthumna veštačka oplodnja predstavlja metod medicinski pomognute reprodukcije koji je etički kontroverzan. Taj metod, koji je razvijen kao rezultat tehnološkog napretka na polju medicine, za cilj ima začecje, trudnoću i rođenje dece koja su, od samog početka svog postojanja, lišena roditelja usled njegove smrti. To pobuđuje bioetička pitanja u vezi sa pristankom preminulog, prava deteta i namere preživelog partnera. Posthumna veštačka oplodnja predmet je intenzivne kritike i postala je pitanje pravnog, političkog i etičkog interesa. Bioetički dijalog pokreće pitanje mogućnosti ljudskog bića da ovim metodom reprodukcije transcendira smrt, čime se započinje neprekidni ciklus etičko-filozofske debate. Ovaj članak doprinosi postojećem korpusu literature o pitanju posthumne veštačke oplodnje tako što nudi obuhvatan pregled i analizu implikacija i zabrinutosti koje prate ovu praksu.

Ključne reči: posthumna veštačka oplodnja, bioetika, tehnologija, ljubav, život, smrt, posthumno vađenje sperme

Primljeno: 29.6.2024.

Prihvaćeno: 24.8.2024.