

Dana-Ain Davis

THE POLITICS OF REPRODUCTION: THE TROUBLING CASE OF NADYA SULEMAN AND ASSISTED REPRODUCTIVE TECHNOLOGY

On January 26, 2009, Nadya Suleman gave birth to the nation's second set of octuplets. Over the course of 30 days Ms. Suleman became the subject of outrage and outrageous representations over her choice to have in vitro fertilization since she already had six children. Embedded in Suleman's public construction and representations are subtle transcripts of race, class, and reproduction. This article examines these intersections as they relate to stratified reproduction, neoliberal reification of choice in the reproductive marketplace and the silence of mainstream reproductive rights groups in challenging the discourse surrounding Suleman. This discourse is similar to that which has historically been used to justify restricting the reproductive trajectories of women of color, poor and low-income women.

KEYWORDS: *assisted reproductive technology, reproductive justice, stratified reproduction, women of color, neoliberalism, Nadya Suleman*

The USA's first set of octuplets was born in Houston, Texas, in December 1998 to Nkem and Iyke Chukwu. The Nigerian-born couple, who were US citizens, had used fertility drugs to achieve the pregnancy, and all but one of the children survived (Lyman, 1998). Just as with the Chukwu octuplets, the global media trumpeted the arrival of another high-order multiple birth on January 26, 2009, when Nadya Suleman gave birth to the nation's second set of octuplets in Bellflower, California, at Kaiser Permanente Hospital. Following the delivery the

mother and the children were doing well—despite the infants being two and a half months premature. Initially the story possessed all the elements of a mediagenic success, possibly whetting the public's appetite for distraction from the worldwide economic downturn including the plummeting stock market, massive job loss, and increased home foreclosures. Since during hard times diversions are sometimes necessary, the birth took center stage. It seemed that what interested most people was: Who were the parents of these children?

Riveted by the story, over the course of 29 days—from January 26 to February 24, I followed blogs, newspaper articles and television news coverage;¹ my interest fueled by friends who e-mailed articles they thought I might have overlooked. In unpacking the story I found that the blogging public viewed the event as a joyous miracle. Simultaneously, medical and bioethical professionals' appearance on news programs tempered the public's elation by conjecturing how Suleman became pregnant. Embryologists thought it unlikely that the octuplets were the result of natural conception, but rather the product of assisted reproductive technology (ART). The range of ART options that might have been used included in vitro fertilization (IVF) or intrauterine insemination (IUI), with partner or donor sperm.² As answers to various questions unfolded, there was a rising tide of sentiment against Suleman, and as the din of chastisement grew louder, I began to wonder why so few mainstream reproductive rights groups weighed in on the discussions.³ My interest was piqued since Suleman's utilization of ART quite clearly reflects the reproductive rights movement's goals of access and choice. But there was more to this story than meets the eye. Although there was a seeming absence of race and class making in the story's media representation, I want to argue that a race and class vernacular lay just beneath the surface of rhetoric that claimed to be about morality and self-regulation.

My goal is to make sense of the messy representation of Nadya Suleman in thinking about issues of

Dana-Ain Davis is an Associate Professor of Urban Studies at Queens College and Associate Chair of Worker Education. She is the author of *Battered Black Women and Welfare Reform: Between a Rock and a Hard Place* (SUNY Press 2006) and a contributor to the recently published book, *Beyond Reproduction: Women's Health, Activism, and Public Policy* by Karen L. Baird (Fairleigh Dickinson University Press 2008).

race, class, marital status, family formation, and the idea of choice within the realm of reproductive politics. Therefore this article draws on the public discourse around Ms. Suleman and her use of ART to situate several concerns about the politics of reproduction. The first concern reiterates scholarly and activist critiques of the ways in which reproductive stratification is asserted through ART. In interrogating this aspect of the story I uncover subtle systems of racialization and classism in the biased representations of Ms. Suleman and her reproductive choice. The second issue I explore is what I view as the perversity of neoliberal reification of consumption when it sits in the realm of reproductive choice. Then, in light of those two issues, I use Suleman's story to trouble the implications of her choice as this choice relates to the broader reproductive concerns of women of color, low-income women, and others whose reproduction is organized hierarchically in relation to White heterosexual women and those who can afford to pay for health services. It is within the context of this last concern that I examine Ms. Suleman's lack of support from mainstream reproductive rights organizations.

THE LANDSCAPE OF ART

An extensive discussion of the impact of ART is beyond the scope of this essay, but let me briefly highlight some of the issues these technologies raise before settling into my overall discussion. From the low-tech strategies of artificial insemination (using turkey basters) to surrogate mothers as the solution for mostly White middle-class infertility, the breadth of the reproductive technology landscape has proliferated over the last 30 years. The technologies hold both promise and challenge as their implications are being critiqued in global and domestic contexts. On the global front as women's infertility rises, there is the concomitant rise of consumptive motherhood, dramatically articulated in the transnational adoption market (Taylor et al. 2004), through the utilization of fertility technology (Braff 2009), as well as in the sphere of transnational surrogacy (Vora 2009). Domestically analyses of ART encompasses, among other issues, ethics, health-related concerns, equitable access, and regulatory matters. From an ethical standpoint one central focus is to assess the meaning of life when money is involved in its creation (Spar 2006). As ART has developed into an industry many scholars have centered their work on the sometimes problematic role that biotechnologies play in facilitating the exchange and consumption of human tissues, organs, and biological information (see, e.g., Franklin and Lock 2003).

Among the health-related concerns, according to Chavkin (2009), are the unclear implications on the neurocognitive development of children born of these technologies. Another is the uncertain consequences of multiple and high-order multiple births (more than two) on women since health risks may include increased cardiovascular risks and challenges on the respiratory system. With regard to equity issues a major question that ART raises is its inaccessibility to all women given the often-high costs that can run into and beyond tens of thousands of dollars. And finally, there are regulatory issues. Comparatively, Europe regulates ART to a far greater degree than the USA. For example surrogacy is illegal in most of Europe. Additionally, in Europe IVF is limited to the implantation of two embryos. While ART guidelines have been developed by the fertility industry in the USA, it is not illegal to not follow the standards. Consequently some have called this lack of regulatory oversight the "Wild West"⁴ of assisted reproduction (Spar 2009).

Not surprisingly the phrase *Wild West* in many ways illustrates the startlingly biased representations of Ms. Suleman that circulated. The media, blogging public, and fertility professionals used Ms. Suleman to police reproductive boundaries similarly to how marginalized women have been scrutinized, at almost every stage of their reproductive lives. The ways in which Suleman was cast, as unfit, and the possible policies that may be implemented as a consequence reflects a striking resemblance to the racial and class discourses controlling the "untamed" reproduction of marginalized or unqualified women in the past. Going back to 1939, for example, the Birth Control Federation developed the Negro Project, which sought to restrain Black women's fertility and childbearing based on the racist assumption that "Negroes" might outpopulate Whites. Moreover, it was argued that control was necessary to prevent those less intelligent and less fit from having and rearing children (Ross 1993). Clearly fecundity continues to echo earlier tensions at the intersection of race, class and reproduction. Paradoxically that angst, deepened by ART, encompasses both the fertility and infertility of Black and other women of color, poor and single women. This point is clarified by such comments as one made by Spar (2009) who wrote, "as reproductive technologies continue to expand, they are bringing us options that push the notion of personal choice to terrifying limits. Do we really want single, unemployed mothers of six (or anyone, really) to produce eight more babies?" (1).

There is a profound incoherence concerning reproductive technology and its relatedness to race

illustrated in the 1999 Fasano-Rogers case, aptly described by Robyn Wiegman (2002). This case exemplifies a twist on the racial complexities of ART. Wiegman discusses the dramatic story in which two women; one White and the other Black underwent IVF in New York City. Only the White woman, Donna Fasano, became pregnant and gave birth to twins one of whom, was White and the other Black. She had been “mistakenly” implanted with the eggs of the Black woman, Deborah Perry-Rogers, as well as her own eggs. What ensued was a custody battle initiated by the Rogers’ for their genetic son Akiel. Wiegman points out that the case is unique for two reasons, one of which is that it reflects how “black women’s infertility is culturally illegible in a dominant imaginary overwritten by notions of hyper reproductive and socially vampiristic black maternity” (860).⁵ I would elaborate on her observation to include that the very fact that the Rogers’ even had to litigate to secure custody of a child born of Deborah’s eggs, demonstrates that Black women’s mothering is also culturally illegible. The main reason the situation was viewed as a mistake was because of race. This imbrication of race and reproduction illustrates both the *cultural illegibility* of infertility and the general problematic of reproduction and maternalism among certain women that I argue, by extension, surfaces in the Suleman case.

Nadya Suleman’s story cannot and should not be separated from interrogating ART and the reproductive rights movement, since Ms. Suleman ostensibly actualized the movements’ stated goals of choice. What is of concern though is the apparent silence of mainstream reproductive rights group from public debates about Suleman. Their omission or self-imposed exile from commenting on the issue left it to the media, fertility specialists, and the blogging public to shape Suleman’s denigration. My critique of their absence is influenced by my participation with reproductive issues since 1974, as an activist, as Coordinator of the Reproductive Rights Education Project at Hunter College, working with the National Network of Abortion Funds (The Network), and as the former co-Chair of NARAL Pro-Choice New York. I left NARAL somewhat jaded because there seemed to be resistance to embracing a broad reproductive justice approach in favor of a reproductive choice perspective. While the latter centers on legal protections for women to obtain abortions, the former includes addressing housing and employment, among other issues. A reproductive justice approach emphasizes reproductive health, as well as the social, economic, and political power to make healthy decisions about one’s body,

sexuality, and reproduction. Thus, the lens through which I consider the meaning of Suleman’s representation is based on familiarity with the distinction between mainstream reproductive rights and reproductive justice.

Let me make clear from the outset that I refer to this story to neither justify nor condemn Ms. Suleman’s use of ART, nor to speculate on the logic of her maternal impulses. However, Suleman’s scathing public treatment elucidates some of the broader implications of who ART is intended for, as well as the meaning of choice, which is inflected with race and class reproductive normativity.

STRATIFIED REPRODUCTION

On the day the octuplets were born, the *LA Times* reported in an update that the “event” was unbelievably rare. One medical professional claimed that the arrival of the eight infants, if it had been achieved by ART, was not a medical triumph but rather a serious complication. While the first blog responses on January 26 were positive, by 10:54 am on January 27—just one day after the birth—suspicions surfaced regarding the mother’s intentions. Questions arose about why she would want so many children. By the 28th bloggers inquired if the woman had plotted to have that many children for monetary gain—à la Angelina Jolie or Jennifer Lopez; suggesting that she may have wanted to be paid for magazine exclusives which come with substantial compensation.⁶ Because the process by which Suleman had conceived was still unconfirmed through January 28, newspaper reports increasingly incorporated medical professionals’ assessment of the risks associated with high order multiple births, with many emphasizing how unethical it would be for an IVF specialist to implant a large number of embryos—if in fact that was what happened. One clinical embryologist in Atlanta noted that this kind of event gives the fertility world the “heebe jeebies” (Roan and Gottlieb 2009).

Then on January 29, the mother, Nadya, was “outed”—she already had six children at home being cared for by her mother while she was at the hospital. Upon this revelation, one blogger wrote: “Who know who the *dads* are?” [of the other six]. Another wrote, “Now she brings a [liter] litter of eight kids into an already over populated world. Those babies will cost taxpayers millions. I think this is criminal” (Posted by Joe 1/29/09 6:13 pm—*LA Times* Blog). But still there was too little information about who the parents were, allowing Ms. Suleman to escape the full denunciation based on her marital status. On February 9 Suleman’s mother Angela

confirmed that her daughter had undergone IVF. Professionals asked such questions as: Had she been appropriately counseled regarding reductive abortion of some of the fetuses since she already had six children? Which doctor might have assisted her? Medical professionals' concerns about the conception process and the medical risks continued to center on the questionable ethics of any fertility clinic that did not follow industry standards which limit implantation to two embryos.⁷ However, this discussion only lasted as long as it was assumed Suleman was married; an assumption based on the imagined social script that ART is only for people in sanctioned heterosexual relationships. When it was discovered Suleman was a single mother (although previously married) criticism against her crystallized. Initially, the fact that Suleman had a large number of children did not necessarily define her as an imperfect mother in the eyes of medical professionals. But trajectory of their questions revealed a sea change. It was only after the accrual of Suleman's non-normative statuses came to light, that her childbearing decisions constituted bad judgment and bad mothering. In thinking about the children's birth and health, the potential cause of harm was redirected away from the ethics of the fertility clinic and directed toward Ms. Suleman for her irresponsibility and moral ineptitude.

As for some members of the blogging public "the miracle" turned into disgust, which seemed to be fueled in part by an inability to "profile" the woman who gave birth. On February 5, for example, in a *Good Morning America* interview Suleman's newly hired publicist Joanne Killeen was asked by Diane Sawyer "Who is this woman? We know nothing about her." Since no pictures of Suleman had been released, newscasters had no idea what she looked like, making it difficult to use visual cues to determine class status, educational achievements and race or ethnic categories. Seemingly, her unknown identity frustrated attempts to establish the legitimacy of both her maternal aspirations and her use of ART.

Interestingly, for bloggers, the missing information about Suleman's class and race, resulted in indexing her citizenship status and then her race. It was her fertility that became the marker identifying Suleman as an illegal alien evidenced by this blog entry "Does anyone know if the mother is 'Legal'? I still remember the last story the *Los Angeles Times* ran about the illegal alien mom who used fertility drugs and ended up with 10 kids, all at California [T]axpayer expense" (Posted by Skip 1/27/09 at 11:29 am). Shortly thereafter another blogger claimed that

Suleman was African American. Cumulatively the inferences were that "illegal" and African American women are hyperreproductive. Another blogger hoped that the Superbowl would overshadow the "welfare baby momma" news. From there it did not take long for an ideological default to be asserted: she was on welfare. In fact, Ms. Suleman received \$460 a month in food stamps⁸ and disability payments for two of her six children. It should be pointed out that welfare includes government programs that provide benefits and economic supports to no and low-income people. But the negative shroud of welfare, erroneously associated as it is with people of color and single mothers who presumably take advantage of the system by having more children, overrode any possibility that Suleman might have just wanted to be a mother. By using the welfare card to justify denigrating Suleman's decision to have children using IVF, what was also accomplished was that the right to use ART was inextricably linked to White middle-class normativity in the construction of family making.

Oddly neither Ms. Suleman's race/ethnicity nor her citizenship status was remarked upon on the news programs, except a passing mention that her father is Iraqi.⁹ Once it became clear that she had been a stay-at-home mom with an unknown source of income, Suleman's "achieved" a level of toxicity replicating a decades old stereotype that single and low-income or poor women are bad mothers (Ladd-Taylor and Umansky 1997). This logic led to the view that she should be punished, and Suleman even received death threats. Thus it was no surprise when bloggers and media personalities such as Bill O'Reilly and radio host Dr. Carole Lieberman demanded either Suleman's arrest or that she have her children removed based on the argument that although having 14 children was not abuse, there is bound to be some form of neglect in the future.

Essentially Suleman, vis-à-vis her childbearing, was vilified in much the same way that low-income and women of color have been in the past for their reproductive acts. As is so often the case, assessments of women's childbearing is related to race and class. For example in a response to a Salon.com inquiry about Suleman, Lynn Paltrow, Executive Director of National Advocates for Pregnant Women,¹⁰ remarked that when a pregnant woman is not brown or black and the drugs/technologies are provided by big pharmaceuticals the discussion (of reproduction) focuses on questions of ethics. She went on to say that when drugs/technologies are related to low income, and women of color and their reproduction, the focus is on punishment through

the criminal justice or child welfare system. Take as one example the rising arrests of pregnant women who test positive for drugs and are then charged with child abuse (reinterpreted as fetal abuse) for delivering drugs to a minor either through the umbilical cord or breast milk. In some cases women are charged with homicide if the baby is stillborn or is born and then dies. Yet there is differential treatment of mothers at the intersection of race and the drugs used. Campbell (2000) concludes that the type of drugs White women use (such as methamphetamine) does not register the same portrayal or castigation as mothers of color who use such drugs as crack. Legal scholar Dorothy Roberts (1997) also points out that most of the women arrested while pregnant and criminally charged are poor and Black. These observations are clearly congruent with the reproductive control, stigmatization and criminalization of what I call “particular others”—those who are valued differentially based on race, ethnicity, citizenship, class, nationality, sexuality and gender (Silliman et al. 2004:4).

Backlash against “particular other” women and their reproductive desires are evident in the representational and linguistic repertoires often used to describe them. One example is when they are referenced in nonhuman terms such as “brood mare” (Lister 2004). A similar repertoire was directed at Suleman whose moniker “octo-mom” can be used interchangeably to describe the fact that she had eight children and to summon up an image of the notorious invertebrate with eight arms. Deploying the term *octo-mom* generated images of Suleman’s supposedly questionable subhuman qualities making it easier to condemn her reproductive decisions. Additionally, public calls to punish Suleman reinforce several points made by many in critical scholarly and activist circles about reproduction generally: That there are aims of social convention related to “stratified reproduction” which is the power that gives some groups access to reproductive choices while limiting the choices of others (Colen 1986; Ginsburg and Rapp 1995) especially when they are not the standard bearers of normativity.

Technologies associated with infertility, according to Quiroga (2007), are often directed to creating families that reproduce the heteropatriarchal norm. Many feminist scholars have critiqued how ART has been used toward this end, but much less attention has been paid to the ways in which race operates in the delivery and utilization of ART. One notable exception is Roberts (1997) who argues that keeping whiteness pure is one goal of American law and social convention related to genetics, racial classification,

and reproduction. Ms. Suleman’s Iraqi–Latvian background, although identified later during the media blitz, came too late to rescue her from being maligned relative to the dominant racial privilege associated with ART. She had already been “marked,” if you will, as a “particular other” despite her ethnicity. Or, maybe even because of it for in some ways she does not necessarily represent whiteness, but rather skates across a postmodern “other” who is not quite White.

One might even argue that her marital status, the number of children she had, and her Middle Eastern/Eastern European parentage conspired to “primitivize” her as against the celebrated White middle-class standard of motherhood, making her culturally ineligible for IVF.¹¹

Further, in terms of kinship, Ms. Suleman, as a single woman was not viewed as having a “real” family, and there was broad acceptance that her transgression reflected the ways in which family formation and kinship are believed to be immutably normative. Nadya Suleman may be seen as a casualty in the process of stratified reproduction, whereby her right to reproduce and nurture was denounced because she was single, had no verifiable source of income, and was an inadequate representative of whiteness. This, despite Ms. Suleman’s constant claim of wanting a large family and saying that all she wanted in life was to be mother (Garrison and Yoshino 2009). In the court of public, medical professional, and elite media opinion, Suleman violated the stratified privileges associated with ART and maternalism, leading to calls for measures to circumscribe the choice she made. How is choice recast in this case? It is to this issue that turn to next.

NEOLIBERAL CONSUMPTION AND REPRODUCTIVE CHOICE

Kathryn Pauly Morgan (1996) notes that the autobiography of reproduction was supplanted by technological treatments whereby choice in the domain of the natural became technologically mediated, and the knowledge, power, and control of ART was expertized and commodified. In lockstep with neoliberal mandates reproductive choices and ART exists in the context of neoliberal expectations that individuals engage in the exchange of goods and services independently with no barriers (Kingfisher and Goldsmith 2001:716). But reproductive rights and choices operate in a marketplace characterized by consumption, marketing, and commercialization geared to White women (Craven 2007). To illustrate this point a recent Newsweek.com article titled “Have Another Fertilini” (Kalb 2009) is accompanied by

a photo of a young White woman wearing a belt with a clock for a buckle. The article reports on the Fertility Association's launch of a series titled "Manicures and Martinis" at the upscale Dashing Diva Nail Salons in New York City.¹² It is hoped that the program will go national and is being billed as a series of 1-hour conversations about reproductive health targeting women in their 20s and 30s. Participants will learn from leading fertility experts about the reality of the biological clock and other risk factors for infertility. Narrow in scope, the informational series on reproductive health is limited to infertility issues, obscuring other reproductive justice concerns, such as childcare, that might also be germane in one's reproductive health decision making. But this focus makes a highly probable bet that the target audience will in fact only need to make decisions about delaying pregnancy as a result of prioritizing their careers, and how they might be able to address that problem later on.

Given the location of the salons and the content of the workshops, the women attending the "Fertilitini" events are likely to be White with either earnings or potential earnings that will enable them to afford fertility treatments, which routinely cost \$10–15,000.¹³ Such costly treatments almost guarantee stratification in the direction of those with "means" the definition of which coalesces around race and affluence. For those without the means, ART, specifically IVF can be prohibitively expensive. And, since there are 35 states that do not provide insurance coverage for ART, there is geographic stratification as well.¹⁴ These very facts prompt a falsity about participating in the marketplace of reproductive services. Touted as an open market accessible to all, ART is in fact highly restricted both economically and geographically. Here again, Ms. Suleman's story is instructive. She took advantage of a reproductive option using a portion of a \$165,000 settlement received after a work-related injury, to pay to have six embryos implanted—two of which split. Ironically, while she complied with two constructed ideologies that of maternalism and consumption, some saw Ms. Suleman's choice to participate in the reproductive marketplace to actualize her maternalist impulse, (whatever the reasons) as an abomination of science and morality.

Suleman became the face of a crisis in reproductive technology, linked to neoliberalism's focus on "choice" that many say requires more regulation.¹⁵ In fact, commenting on Suleman's "choice" one medical professional, an OB/GYN, made the argument that "choice is the decision to have an abortion, and it does not extend to any possible

choice in reproductive ethics . . . it is a misunderstanding of reproductive rights to claim she did . . . The right to choose is the right to choose to terminate, it does not confer a right to choose anything . . ."¹⁶ In arguing that choice is restricted to decisions about termination, which we know is not available for all women, not conception the doctor's perspective consecrated ART for the culturally legitimate.

Ms. Suleman's choice and her access to ART generated ire which was fueled by questioning her judgment and denaturalizing her, a project in which her mother and to a lesser degree her father participated. Her mother commented that instead of "becoming a kindergarten teacher or something, she started having them, but not the normal way" (Associated Press 2009). There were further insinuations that Ms. Suleman had mental health issues, and some television broadcasters made provocative comments saying that Suleman would not be able to love 14 children; she has an Angelina Jolie fetish; and that her priorities were mixed up because she got her nails done after the delivery and release from the hospital. By demonizing the woman, it is easy to see the way that presumptive rationalizations emboldened in neoliberalist ideology was reshaped to rescind "choice."

Interest in restricting Suleman's choice represents a clumsy backlash against the valorization of individualism and the coherency of choice. How was this achieved? By constructing a neurotic profile of Suleman. It was suggested that she was psychologically and economically incapable of raising children and should therefore be prevented from actualizing the choice she made. Inadequacy as the rationale for controlling reproduction sits in contradistinction to neoliberal assumptions of free choice and the role that race plays therein. To get the relationship between the two one must ask: Are questions about using ART and the possibility of having to raise large families being asked of married White middle-class women? Evidently race, marital status, and class results in varying degrees of acceptance with regard to having large families especially when they are formed through reproductive technology. We see this in the more positive depiction bestowed upon two large families, the first being Jon and Kate Gosselin, a married couple with eight children and the stars of their own TLC show *Jon and Kate Plus Eight*. Kate underwent fertility treatments, first having twins, followed by more treatments which resulted in the birth of sextuplets. For several years the public has watched this reality TV show with great interest, and although the tides of public support have turned somewhat against the Gosselins

due to infidelity and other issues, questions about their rights to have used ART have not been as virulent as against Suleman (see Stelter 2009). A second example of a circumstance in which large families are deemed acceptable, even valorized rests with Michelle and Jim Bob Duggar who have 18 children and are also the subjects of a TLC program, *18 and Counting*. In the Duggar's case, their religious beliefs justify the number of children they have. At the same time their source of income, primarily from rental property, helps solidify the construction of White heteronormative families achieved through marital and class status.

Normativity as a defining feature of choice was “expertly” manipulated in a February 10 CNN interview between host Anderson Cooper, and Dr. Arthur Caplan of the Center for Bioethics at the University Pennsylvania. The conversation revealed quite a different set of expectations around actualizing choice when what is thought to be a bad “choice” intrudes upon a market-based logic. After Cooper asked Caplan if fertility doctors should be more engaged in determining who should have IVF, Caplan replied that such questions as “Do you have money?” and, “Do you have a home?” should be asked. The answers, Caplan indicated, should factor into decisions to implant. Caplan's position merges professional prerogative in managing ART's consumption with family formulation that replicates dominant class norms. His “recommendation,” if you will, extends way beyond the scope of assessments conducted prior to implantation, which typically include an interview with the woman to identify any red flags in her decision to be implanted such as coercion and abuse, and identifying any potential stressors of going through the IVF process. If we take Caplan's opinion to heart, then it seems perverse to claim that markets, in this case the market of reproductive services, are open because his position diminishes consumer's right (if one wants to pursue the logic of neoliberalism). Simultaneously, Caplan's position proposes developing controls that almost fly in the face of free market ideology since he implies restricting the availability of ARTs by using professional privilege to determine women's access to something that often they have to pay for.

Certainly there is precedent for denying ART based on race, ethnicity and sexual citizenship, for instance in the California case *Benitez v. N. Coast Women's Care Medical Group*. In 2006 Guadalupe Benitez received some treatments at the North Coast Women's Care Medical Group to enhance her fertility. But later the physicians refused to perform intrauterine donor insemination (IUI) based on

personal ethics. Benitez said it was because she was a lesbian. According to the American Society of Reproductive Medicine (ASRM) “the doctors had argued that First Amendment issues were involved, and that their refusal to perform certain infertility services were protected under freedom of speech and religious principles and should be considered an exemption to the state's Civil Rights Act (the Unruh Act)” (ASRM 2008). While ultimately the court affirmed that lesbians cannot be refused fertility treatment, the fact that Benitez was denied reproductive services in the first place demonstrates that medical professionals do attempt to control access to ART based on marginal status. This case reveals that Caplan's almost moral view of restricting access to ART has a “legitimizing” legal history in which access to ART has been seen as a privilege for White heterosexual couples, and that lesbians—like poor women or women whose identity rests in any other categorically subordinate domain—may not be seen as being legitimately infertile (Mamo 2007). It is clear that professionals hold views about the intended consumer of reproductive technology. Cumulatively Caplan's argument and the Benitez case underscores at least one problem with the choice framework: that ART choices can be guided and revoked by biomedical practitioners who control the technology (Quiroga 2007).

THE REPRODUCTIVE CHOICE CONUNDRUM

The Suleman case exemplifies what a politics of reproduction can descend into when reproductive justice is not front and center in framing issues—issues centered on the complete physical, mental, spiritual, political, social, environmental, and economic well-being of women and girls based on the full achievement of women's human rights.¹⁷ In the context of the broad themes that emerged from Nadya Suleman's story, it is curious that no mainstream reproductive rights organization participated in the debates. I am not deploring them for not defending her, per se. But the silence rendered despite how the story was represented in the media and on blogs is disturbing because the conclusions that circulated in the public sphere included Suleman being marginalized, symbolically criminalized, and castigated for her maternalism and her reproductive decisions and process.

These conclusions speak to some of the ideological and political incongruencies surrounding the politics of reproduction. As Andrea Smith (2005) argues much of that politics depends on the language of “choice” narrowing the broad focus of reproductive justice politics. This is the case because “choice,”

as I have argued earlier, can be conditional. It is “choice” that is of concern to the mainstream reproductive rights organizations, and the problem is that the lure of “choice” obscures the legitimate needs and concerns of women who do not have any, a point cogently made by Solinger (2002). In other words “choice” rests on the availability of resources and sanctioned status; without resources and status some women are unable to actualize “choice” in the same way that others might. Prochoice language has framed the work of mainstream reproductive rights organizations, which have historically engaged in single issue organizing: Abortion. My reading of prochoice groups, as a former participant in that movement, is similar to Smith’s argument (2005) which is they focus on the moral culpability of people who have children but may not have the power to protect the life of their children. This is why prochoice groups for example have not challenged the criminalization of pregnant women of color, discussed earlier.

Further the “choice” framework rests on consumerist ideas of free choice that operates neatly with the neoliberal stance of individualism. In the Suleman case, it was her right not as a citizen but as a consumer of goods and services that was challenged. Challenging her decision to use IVF and then to carry all of the implanted eggs to come to term illustrates one problematic of neoliberalism. It creates a hierarchy among women based on who is capable of making “legitimate” choices (made by Solinger 2002:6). In the marketplace of reproductive services, then, “choice” serves in the interest of those with access and the privilege of legitimacy, trumping the “choices” of those in need. Because choices can be reined in, it is consistent to withdraw reproductive options from any number of categorically marginalized women including poor women who, for example, have experienced the consequences of restrictive reproductive policy in the form of the Hyde Amendment, which eliminated federal funding for abortion (Smith 2005:128).

This is where reproductive justice is more efficacious because it is concerned with rights that are accessible regardless of the woman’s resources. The justice approach is organized around the particular understanding that women of color have of their reproductive needs and operates within a political agenda that seeks to make linkages between all women’s oppression, their agency, and reproductive rights. For example, asking what are the reproductive implications for Asian women being exploited through sweatshop labor policies and then organizing around labor issues is what reproductive justice

work can entail. Reproductive justice is certainly concerned with pointing out stereotypes that circumscribe women’s reproductive options, such as those stereotypes leveled against Suleman. Moreover, reproductive justice workers can speak to developing policy and organizing efforts that ensure comprehensive treatment of women’s reproductive circumstances (Silliman et al. 2004). A reproductive justice approach does not condemn Suleman for her choice but asks what supports does she have a right to as a person raising 14 children?

In the absence of principles and politics guided by reproductive justice, few mainstream groups opposed Suleman’s public condemnation, and few challenged the harmful discourse, which was the very same discourse that has dominated marginalized women’s reproductive rights. This left an awkward opening to undermine political projects seeking to secure the full articulation of rights to information, birth control, economic resources, and the multitude of supports needed to control fertility, activate fertility, raise children, select birthing options, and live in fundamentally good housing, among other concerns. With too few critiques for example, of the call for state regulatory agencies to investigate and remove Suleman’s children, other women—poor and low-income, women of color, disabled women and lesbians—were put at risk for being subjected to similar punitive demands. By not challenging the media’s obsession on the “failure” of one woman to make good choices, the possibility of creating panics that result in marking others as having made bad choices, was reinvigorated. In remaining silent about the negative representations, an opportunity slipped away to disentangle the complex web in which a perverse elision between choice and pathology quickly emerged.

Indeed what was so stunning was that in neglecting to challenge the demonizing strategies, mainstream reproductive rights groups were complicit in perpetuating ideological and political consent on two points, reifying who in fact should have access to ART and ceding control over one more point on the axis of reproductive decisions to pundits, not necessarily as a *fait accompli*, but certainly as a possibility.

In concluding I want to ask a somewhat similar question as that which Robyn Wiegman asks about the *Fason v. Rogers* case (2002). What critical understanding maps the complexity of this situation? Some of it rests on what Wiegman calls the crisis of signification, in which the discourse surrounding a circumstance emerges as if no critical attention is necessary and as if there is no historical precedent for

analyzing the situation. One historical precedent of the intersection of race/ethnicity and reproductive restrictions is the eugenic supremacy that resulted in Puerto Rican women being sterilized (Lopez 2008). Sometimes a crisis of signification emerges as one story accrues disproportionate power. Magnifying a story can create the kind of reaction that precipitates the circulation, passage and implementation of detrimental policies. One need only recall Reagan's use of the Welfare Queen, whose story of supposed abuses of state resources ultimately led to the contraction of the welfare safety net (Davis 2006; Zucchini 1997). Or, we might consider what has now been identified as the exaggerated story of the crack baby crisis that led to, among other policies, adoption reform instituted by President Bill Clinton (Ortiz and Briggs 2003). Finally we can recall the teenage pregnancy crisis that ushered in a rash of punitive policies such as forced contraception and restrictive measures for receipt of welfare (Luker 1997).

The same is true of Suleman who magnified a crisis of ART, which generated a panic that turned into a bill introduced by State Senator Hudgens of Georgia. The bill titled the "Ethical Treatment of Human Embryos Act" sought to regulate IVF. But it also identifies embryos as human beings, setting the stage (yet again) to undermine access to abortion.

In troubling the Nadya Suleman story, again this is not condemn or reify her decision. Rather, it demonstrates the fragility of the choice framework and complicates the implications of ART, where race, class, marital status, and family formation intersect. As such, it intervenes as a critical assessment in acknowledging the complex web of who is encouraged to do what. For example in terms of underlying assumptions about the achievement of perfect motherhood, Suleman was portrayed as a "bad" mother. In contradistinction to Suleman, a "good" mother would not choose to have a child if she were poor or low-income, and/or single. As well no "good" mother would choose to have a child if she were not White, or White enough. Using this logic, poor, low-income, single and non-White women should not seek to have children.

Suleman's case also reveals two crises, both imagined. One is that White middle-class women have fertility problems that should be addressed. The other is that women of color, or women marked as being of color, poor or low-income women, and single women do not have fertility problems that should be addressed. While arguing for the "choice" to use ART by deserving White middle-class women, this construct simultaneously limits the understanding of reproductive justice issues for "particular

other" women as one of having to control their reproduction in terms of preventing conception or birth. But also the fact remains that illegible women are subjected to a discursive failure in the domain of choice. They neither possess legitimate claims to the choice to have children through ART nor legitimate claims to not have children (specifically abortions). This is the story that was so spectacularly erased in the troubling case of Nadya Suleman.

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NOTES

1. I draw my information on Suleman from the articles posted on the *Los Angeles Times* webpage (<http://www.latimes.com>), the *LA Times* blog, <http://www.biopoliticaltimes.org> blogsite, CNN and MSNBC news coverage, *ABC Good Morning America*, *Oprah*, and *The Today Show*.

2. ART, according to the Centers for Disease Control, includes all fertility treatments in which both eggs and sperm are handled. In general, ART procedures involve surgically removing eggs from a woman's ovaries, combining them with sperm in the laboratory, and returning them to the woman's body or donating them to another woman (<http://www.cdc.gov/ART/>). The typical procedures include the following: IVF in which eggs and sperm are mixed in a Petri dish under optimal conditions for fertilization. IUI is the process by which sperm is deposited in a woman's uterus through artificial means. For many couples, this is a less invasive and more affordable alternative to IVF. Intracytoplasmic sperm injection (ICSI) is a procedure in which a single sperm is injected directly into the egg and then the fertilized eggs are transferred to the uterus. Controlled ovarian hyperstimulation is generally used to

achieve pregnancy in women who do not ovulate. It stimulates the ovaries to produce a number of eggs and as the eggs near maturity the patient has artificial insemination. Some patients opt to try controlled ovarian hyperstimulation instead of IVF because it is far less expensive costing approximately \$2,000–\$3000. ART also includes surrogacy.

3. Mainstream reproductive rights groups include the National Abortion and Reproductive Rights Action League (NARAL) and Planned Parenthood.

4. Deborah Spar, President of Barnard College, wrote an editorial response to Nadya Suleman's IVF. The article "Taming the Wild West of Assisted Reproduction" points out, among other issues, that ART is regulated in Europe but is largely untamed in the USA.

5. A second, but somewhat different example of the intersection of race and reproductive technology is exemplified in the story of Laura Howard, a Black woman who in 2004 was inseminated with the "wrong" sperm, the sperm of a White man (see Salzman 2004).

6. Entertainment magazines reported that Jennifer Lopez was shopping around for best offers to publish the first pictures of her twins. It is speculated that she received \$6 million. http://www.hollyscoop.com/jennifer-lopez/jennifer-lopez-sells-baby-photos-to-ok_14767.aspx. *People* Magazine reportedly paid \$14 million for first rights to the pictures of Angelina Jolie and Brad Pitt's twins, Knox and Vivienne. <http://latimesblogs.latimes.com/thedishrag/2008/08/check-out-brad.html>

7. For further information on ART guidelines, see the Society for Assisted Reproductive Technology website at <http://www.sart.org/>

8. As of October 1, 2008, Supplemental Nutrition Assistance Program (SNAP) is the new name for the federal Food Stamp Program, which provides assistance to low income families. The new name reflects the changes made to meet clients' needs which, includes a focus on nutrition and an increase in benefit amounts. State programs may have different names.

9. One newspaper report noted that her mother was Latvian.

10. National Advocates for Pregnant Women provides litigation, litigation support, advocacy, and organizing for pregnant and parenting women who experience criminalization.

11. I owe an intellectual debt to Christa Craven for this point on how non-Western European women may be viewed as "primitive. Some literature on the representations of Eastern Europeans at the turn of the 20th century exists, but within a narrow range

alternating between civil and savage. Much of this treatment examines cultural representations of Eastern Europeans in Western Europe, owing to migratory flows. While there have been increasingly more positive representations of Eastern Europeans, there is still an overreliance on homogeneity and stereotype (see Gephardt 2005).

12. Dashing Diva is a franchise operation with locations primarily in New York. In Brooklyn the salons are located in the neighborhoods of Brooklyn Heights, Park Slope, and Cobble Hill. In Manhattan there are locations on Madison Avenue, the Upper West Side, the East Side of Manhattan, and in the East and West Village. Dashing Diva salons are also in Pasadena, CA, and Hickory, NC.

13. The Southern California Center for Reproductive Medicine estimates the costs at between \$10,000 and 15,000. <http://www.socalfertility.com/ivf-cost-information.html>.

14. The 15 states in which there is some insurance coverage for ART are Arkansas, California, Connecticut, Hawaii, Illinois, Louisiana, Maryland, Massachusetts, Montana, New Jersey, New York, Ohio, Rhode Island, Texas, and West Virginia. Interestingly of these states, eight have anti-abortion laws and three have restricted access to abortion.

15. David Magnus of the Stanford Center for Biomedical Ethics, Art Caplan of the Center for Bioethics at the University of Pennsylvania, and Linda MacDonald Glenn a scholar with the Women's Bioethics Project are just some of the professionals who have weighed in on the Suleman story. Most discussed the need to regulate the fertility industry. <http://www.biopoliticaltimes.org/article.php?id=4503>

16. This comment was made by Amy Tuteur, an OB/GYN in response to the birth of the octuplets: <http://www.biopoliticaltimes.org/article.php?id=4503>

17. I take this definition from Asian Communities for Reproductive Justice <http://www.reproductivejustice.org/reproductive.html>.

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