

Reproductive Rights as An Essential Element of Somatic Rights: A Theoretical Legal Analysis

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Abstract

This article examines reproductive rights as one of the most important structural elements of somatic rights. It argues that the protection of the human body in law cannot be understood only through the categories of physical inviolability or medical consent in a narrow sense. Reproductive rights reveal a broader legal reality: the body is also a sphere of existential choice, moral agency, dignity, and identity. For that reason, reproduction should be analysed not merely as a medical or demographic matter, but as a central dimension of somatic self-determination. The article develops a theoretical account of the relationship between somatic rights and reproductive rights by drawing on bioethics, human rights law, and European jurisprudence. It engages the ideas of John A. Robertson, Rebecca J. Cook, Bernard M. Dickens, Catherine Mills, and other scholars who have shaped the modern understanding of reproductive autonomy. Particular attention is given to the concepts of bodily integrity, procreative liberty, informed consent, reproductive justice, and positive state obligations. The article concludes that reproductive rights constitute not a peripheral branch of personal rights, but one of the clearest legal expressions of somatic autonomy. At the same time, the article argues that a purely choice-based understanding of reproductive freedom is insufficient. A mature theory of somatic rights must integrate dignity, vulnerability, equality, and access to conditions that make meaningful reproductive decision-making possible.

Keywords: Somatic rights, reproductive rights, bodily autonomy, bodily integrity, procreative liberty, reproductive justice, dignity, informed consent, reproductive health, human rights.

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1. Introduction

In contemporary legal theory, the category of somatic rights is increasingly useful for describing the legal protection of the human body as a sphere of autonomy, integrity, identity, and personal freedom. Although the terminology differs across legal systems, the underlying idea is clear: the body is not merely a biological fact, but also a juridical value. This means that the person must

enjoy legally protected control over interventions affecting bodily existence, including decisions concerning health, sexuality, reproduction, and medical treatment. In my view, reproductive rights occupy a special place within this framework because they concern not only bodily inviolability, but also the power to decide whether, when, and under what conditions one will become a parent. Reproductive choice therefore cannot be reduced to a derivative medical entitlement; it

is one of the most concentrated forms of somatic self-determination. This interpretation is consistent with international human-rights materials that connect control over one's body with the freedoms protected by the right to health and the right to private life.

The theoretical foundation of reproductive rights within somatic rights begins with autonomy. John A. Robertson's work on procreative liberty remains one of the most influential starting points. Robertson argued that decisions about reproduction deserve especially strong protection because they are closely linked to personal identity, dignity, and the meaning of life itself (Robertson, 1988). His position is important because it moved reproductive decision-making away from a paternalistic model of state control and toward a presumption of liberty. Yet Robertson's theory is not exhausted by the language of privacy. It presents reproduction as a central zone of moral agency. In my view, this is precisely why reproductive rights should be treated as part of somatic rights: they arise from the legal significance of the body as a site of self-authorship. A person's authority over reproduction is not simply an abstract freedom; it is a concrete manifestation of control over the body's future, capacities, and vulnerabilities.

At the same time, the autonomy-based model is not sufficient on its own. Catherine Mills has argued that reproductive autonomy should not be understood only as negative freedom from interference, but also as a form of positive freedom connected to self-making and ethical agency (Mills, 2013). This insight is highly significant for somatic-rights theory. If reproductive freedom is understood only as non-interference, the law risks ignoring the material, institutional, and relational conditions under which reproductive decisions are actually made. In my view, Mills's approach strengthens the somatic-rights framework because it shows that control over the body is meaningful only where persons are genuinely capable of exercising judgment over their embodied lives. A formally recognised right without conditions for its exercise is legally thin and morally incomplete. Thus, within the system of somatic rights, reproductive rights must be conceptualised not only as defensive liberties, but also as rights requiring conditions of real agency.

This broader approach also helps explain why Rebecca J. Cook's scholarship remains central to the discussion. Cook has long argued that women's reproductive health is not a marginal policy issue, but a human-rights

question deeply entangled with sexuality, social norms, and legal power (Cook, 1993). Later literature associated with Cook and Dickens reflects a shift from the language of isolated "choice" toward the richer framework of "reproductive justice" (Cook and Dickens, 2009). I consider that shift especially important for the theory of somatic rights. A purely individualistic model may protect decision-making in formal terms while ignoring the structural inequalities that shape whose bodily choices are respected and whose are constrained. Reproductive rights become fully intelligible as somatic rights only when law recognises both dimensions: first, the person's authority over reproductive decisions; second, the state's duty not to organise social and legal conditions in ways that render that authority illusory.

The jurisprudence of European human-rights law supports this theoretical position. The Oviedo Convention places free and informed consent at the centre of interventions in the health field, while the European Court of Human Rights has consistently treated reproductive decision-making as falling within the sphere of private life under Article 8 of the Convention. In *Evans v. the United Kingdom*, the Court addressed the conflict between two former partners over the use of stored embryos, thereby recognising how deeply reproductive decisions are bound up with identity and personal destiny (European Court of Human Rights, 2007). In *S.H. and Others v. Austria*, the Court accepted that the decision of a couple to conceive a child through medically assisted procreation falls within Article 8, even though states retain a margin of appreciation in regulating assisted reproduction (European Court of Human Rights, 2011). In *Costa and Pavan v. Italy*, the Court found a violation of Article 8 where domestic law inconsistently denied embryo screening while permitting medically assisted termination of pregnancy on similar medical grounds (European Court of Human Rights, 2012). In my view, these cases are important not only because they concern reproductive technology, but because they confirm a more general principle: reproductive decisions are part of legally protected bodily autonomy, even when the body's reproductive future is mediated through medicine, technology, and regulation.

An equally important theoretical dimension of reproductive rights is bodily integrity. Reproductive freedom is not only about access to contraception, abortion, or assisted reproduction; it is also about protection against coercive interference. The strongest

example is forced or non-consensual sterilisation. The European Court's case law in *V.C. v. Slovakia* and related cases treats sterilisation without full and informed consent as a grave interference with physical and mental integrity, dignity, and private life (European Court of Human Rights, 2011). This line of reasoning is conceptually decisive. It shows that reproductive rights are inseparable from somatic rights because the destruction or control of reproductive capacity is one of the clearest ways in which the law may fail to protect the person as an embodied subject. In my view, this jurisprudence demonstrates that reproduction must be analysed from both sides: the right to choose reproduction and the right to be free from imposed non-reproduction. Both are rooted in the same somatic principle—no one may legitimately appropriate another person's body for demographic, medical, familial, or ideological purposes.

Yet reproductive rights cannot be conceptualised solely in terms of adult autonomous choice. Bioethics and human-rights law also require attention to vulnerability, dependency, and moral pluralism. UNESCO's Universal Declaration on Bioethics and Human Rights links autonomy with human dignity, consent, and respect for vulnerability and personal integrity. This is crucial because reproductive decision-making often takes place in circumstances marked by unequal power, social pressure, medical uncertainty, or economic dependence. In my view, a theory that treats reproductive rights as part of somatic rights must therefore resist two opposite errors. The first is paternalism, which removes agency from the person in the name of protection. The second is formalism, which assumes that any apparent act of consent exhausts the demands of justice. A somatic-rights approach must ask whether consent is informed, whether refusal is genuinely possible, whether medical systems respect bodily integrity, and whether the law protects persons whose reproductive capacities are especially vulnerable to coercion.

This becomes especially visible in the debate over abortion, prenatal testing, and reproductive technologies. Reproductive rights are often contested because they sit at the intersection of autonomy, morality, religion, public policy, and ideas about the value of nascent life. Reva Siegel's work has shown that reproductive-rights debates cannot be understood only in the vocabulary of privacy; they also implicate equality and dignity (Siegel, 2007). I agree with this broader reading. If reproductive rights are treated only as private preferences, their connection to

legal personhood remains underdeveloped. But if they are seen as part of somatic rights, the analysis becomes sharper: restrictions on reproduction are restrictions on embodied self-government. This does not mean that every reproductive claim automatically prevails over all competing values. It does mean, however, that the state bears a serious justificatory burden whenever it regulates decisions that shape whether a person will gestate, reproduce, avoid reproduction, or preserve reproductive capacity. That burden is especially heavy where regulation produces humiliation, coercion, or unequal access to bodily self-determination.

A further theoretical advantage of classifying reproductive rights as somatic rights is that it clarifies the relationship between negative and positive obligations. International materials do not present reproductive rights merely as freedom from interference. WHO has repeatedly framed sexual and reproductive health and rights as part of the right to health and as a matter of dignity, equality, and access across the life course. Likewise, CEDAW General Recommendation No. 24 treats access to health care, including reproductive health, as a basic right and requires states to remove barriers that undermine women's health and equality. In my view, this confirms that reproductive rights are not exhausted by abstention duties. Somatic rights in the reproductive sphere require legal and institutional arrangements that make meaningful decision-making possible: access to information, non-discriminatory services, consent procedures, protection against abuse, and remedies for violations. Without these conditions, the supposed right remains conceptually detached from the embodied person it is meant to protect.

Finally, reproductive rights show that somatic rights are never only about the present body; they are also about the body's future. Decisions concerning contraception, pregnancy, infertility treatment, embryo use, sterilisation, and childbirth shape the long-term narrative of personal identity. That is why reproductive rights generate legal conflicts of unusual intensity. They concern not simply what may be done to the body now, but what forms of life the body may be permitted, required, or prevented from entering. In my view, this temporal dimension explains why reproductive rights are such a revealing component of somatic rights. They make visible the full depth of bodily freedom: not merely freedom from invasion, but freedom to determine the biological and social trajectory of one's embodied

existence within a framework of dignity, equality, and responsibility.

Reproductive rights should be regarded as one of the most important elements of somatic rights because they express, in a particularly concentrated form, the legal relationship between the person and the body. A narrow understanding of reproductive rights as a subfield of health law or privacy law does not fully capture their normative importance. Theoretical analysis shows that reproduction engages bodily autonomy, informed consent, dignity, integrity, vulnerability, equality, and personal identity all at once. Robertson's theory of procreative liberty explains why reproductive choice deserves presumptive protection. Mills usefully demonstrates that such freedom must also be understood positively, as a form of self-making. Cook's rights-based approach reminds us that reproduction is inseparable from power, gender, and justice. European human-rights jurisprudence confirms that reproductive matters fall within the sphere of private life and bodily integrity, while international instruments require states not only to refrain from coercion, but also to secure conditions for meaningful reproductive agency. In my view, the strongest conclusion is this: reproductive rights are not merely an applied issue within somatic rights; they are one of the clearest doctrinal windows through which the very idea of somatic rights can be understood.

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