

The Right to Procreate

Intervention by the state into such basic matters as a family's right to procreate raises apprehension about the unfettered powers of government and intrusion into the private domain of family. It pits rights to privacy, decision-making, and lifestyle against larger societal considerations such as the well-being of children whose parents are unwilling to support them and the state's interest in not having to support them. *State v. Oakley*, 2001 is a Wisconsin case that may be headed for the U.S. Supreme Court.

Oakley was convicted by the Wisconsin Circuit Court of intentionally failing to pay \$25,000 in child support owed to four women with whom he had fathered nine children. His conditions of probation included a prohibition against having any more children unless he could support them and eight years of prison if he violates these terms. Oakley appealed the decision claiming it violated his constitutional right to procreate. The court disagreed and opined that probation conditions could infringe on the constitutional right of individuals who violated the law, "as long as they are not overly broad and reasonably related to the person's rehabilitation." The dissenting justices, all female, objected to terms of probation infringing on the right to have children and to the concept of attaching criminal sanctions to giving birth.

This case is reminiscent of the cuckoo bird that can't be bothered to build a nest and instead lays her eggs in the nests of birds of very different species, such as the much



Diane H. Schetky, M.D.

smaller fantail. The female cuckoo is a master of deception and cunning. She swallows one egg from the chosen nest then replaces it with one of her own. Since the foster nest is too small for her to alight on, she must drop her egg from above. The foster bird is taken in by this duplicity even though the cuckoo egg is much larger than her clutch. The cuckoo, having escaped the tedium of nesting and trials of foraging for food for her young ones, repeats this performance in several other nests then presumably takes off with her mate to vacation in warmer climes. Bonding with their offspring is clearly not part of their repertoire. Meanwhile, the cuckoo chicks hatch and the foster mother is left raising a child from Hell who has a voracious appetite and kicks its foster siblings out of the nest so as to minimize competition for food. After 18 days, the cuckoo chicks leave their nests and later, as adults, perpetuate this cycle.

APA Announces Candidates for 2002 Election

The Nominating Committee of the American Psychiatric Association (APA) has announced the following candidates for its 2002 election. The APA will mail election ballots to all voting members on January 7, 2002 and all ballots must be returned by February 7, 2002. Visit the APA's web site at www.psych.org for a list of the complete slate of candidates and additional election details.

President-Elect

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These avian sociopaths have much in common with some families we encounter in practice. Their behavior is successful for perpetuation of the species as by having many offspring in different nests they increase their chances of survival. Their chicks, as with many unwanted babies, are difficult to rear. The cuckoos are rewarded by not having to bother with the fuss of raising them and have no qualms about letting others take over these responsibilities. Their behavior raises interesting questions about nature versus nurture. The cuckoo's parasitic behavior appears genetic in origin given the lack of contact between the generations, but presumably one cannot rule out attachment disorder. Antisocial behavior in humans is more complicated with evidence for both genetic and social factors at play. Some might argue that social services and Aid to Families with Dependent Children enable fathers, and some mothers, to shirk their parental responsibilities. On the other hand, if the state fails to intervene what does that say about our values as a nation?

Cuckoo has become a pejorative term but the behavior of cuckoos, as exploitative as it is, works for them and is not likely to change. As for deadbeat dads, a wise patient of mine once suggested a "no pay-no play" policy wherein parents who failed to provide child support would not be allowed such necessities in life as licenses to hunt, fish, and drive. However, this policy might not have much clout in urban areas. Given the fact that this group of antisocial humans have more grey matter than the cuckoo and some ability to plan ahead, if not accept consequences, can we expect more from them or force them to alter their behavior and will dire consequences have any impact?

It will be interesting to see if the U.S. Supreme Court accepts this case and if so, what it decides. In the meantime, we can think about competing interests and ethical values and our own beliefs as to what the right course of action is. Ethical conflicts are created by competing ethical values and there is often no one right answer. ■

Dr. Schetky practices child and adult forensic psychiatry in Rockport, Maine.

Reference

State v. Oakley, 629 N.W. 2d 200 (Wis.2001) November 29, 2001