

LIMITS TO PROCREATIVE CHOICE



PROFESSOR DAVE ARCHARD
QUB

BETTER NEVER TO HAVE BEEN BORN



- David Benatar's argument:
- First, there is a *critical asymmetry*. Whilst it seems wrong to create miserable lives, it does not seem wrong not to create happy ones. We have an obligation to improve the lives of those who are born, but not an obligation to bring into existence people whose lives will be better than non-existence. Thus, the absence of the benefits of existence cannot count in favor of procreation, whilst, nevertheless, the presence of the harms of existence do count against procreation.
- Second, a *distinction*: the outweighing of the harms of existence by its benefits gives us reason to judge that life is worth *continuing*. However, it does not give us reason to *start* living.
- Third, the *empirical evidence*: the sheer number and extent of harms that befall us as existent beings, and our tendency systematically to misjudge or misremember them, gives us overwhelmingly strong, and not just good reasons, not to come into existence.

The asymmetry



- Why does the absence of good not count in the balance of benefits and harms if there is no-one for whom there can be such a lack, whilst the absence of ill does count in that balance even though, just the same, there is no-one who does not suffer that absence?
- Others will insist that the asymmetry is so powerfully entrenched within common-sense morality that its abandonment is impossibly difficult or costly for the maintenance of our considered moral judgments.

Saviour siblings



- *Saviour siblings* – the deliberate creation of a sibling to supply life saving tissue for an existing child with a serious and possibly life limiting condition.
- Managed by fertility treatment, PGD (pre-implantation genetic diagnosis) and HLA (human leukocyte antigen) typing for genetic compatibility.
- Very rare procedures in the UK and strict limits on permissibility:
- Condition of the affected child should be severe or life-threatening, of a sufficient seriousness to justify the use of PGD
- All other possibilities of treatment and sources of tissue for the affected child should have been explored
- Equally strict limits on the extent of tissue that can be used: umbilical stem cells permitted but constraints on other tissue (spinal stem cells; organs)



Key UK cases



- *Whitaker* [2003]: refusal by the HFEA – upheld after judicial review - to allow creation of savior sibling to save life of existing child, Charlie, who suffered from Diamond-Blackfan anaemia, a rare blood disorder which meant he needed blood transfusions every three weeks. His only chance of living beyond early adulthood was a bone marrow transplant from a compatible donor.
- *Hashmi* [2005]: Here three-year old son, Zain Hashmi, suffered from the blood disorder, Beta Thalassaemia (BT). Zain had to undergo regular blood transfusions and might die without a bone marrow transplant. BT is hereditary and both of the Hashmis were carriers, which meant that any child they produce carries a one in four chance of having BT. Mrs Hashmi initially conceived naturally in the hope that she might be able to create a match for him. The resulting child, Haris, though free of the disease, was not a tissue match for Zain. His parents then launched a worldwide search for a donor and, when that failed, began to consider alternative options.
- In this case the HFEA gave permission for the creation of a savior sibling.

Moral basis of distinction



- Whitaker and Hashmi differed in that there was no particular risk in the case of Whitaker as there was with Hashmi that a child might inherit the same genetic condition as the existing sibling.
- Thus PGD was being used in the former *only* to create a savior sibling whereas in the latter it was used *both* to create a savior sibling *and* to ensure a healthy child (free of the particular genetic condition)
- ‘If the embryo to be biopsied is not at risk of a serious genetic disease; if you are doing PGD simply in order to benefit another person, is it acceptable that a child should bear these unquantified risks in order to make it possible to save the life of its sibling? Is this a just imposition of risk?’ Suzi Leather, Chair, HFEA, 2003
- HFEA thus added as an extra condition to those already cited:
- the embryos conceived in the course of this treatment should themselves be at risk from the condition by which the existing child is affected;
- The HFEA has since changed its rules to allow for the creation of a saviour sibling who is not him or herself at risk of the condition

Wrong to create savior siblings



- A general objection to the creation of savior siblings, namely that it is wrong to have an instrumental reason for creating a child, as a means to a purpose (saving life of existing child) when child is properly regarded as end in itself.
- For example: ‘We are not treating this saviour sibling as a human being of equal worth to other humans. We are not creating this saviour sibling to be a child in its own right. We have created it – designed it – to be a source of spare parts for an existing child. If you start designing other human beings, you are putting them on a lower level than yourself’ Richard Nicholson, Editor, *Bulletin of Medical Ethics*, 2003

Kantian objection



- Kant's dictum is not 'Never treat people as a means but always treat them as an end', but rather 'Never treat people *solely* as a means; and
- Parents who create a savior sibling also create a child who will be loved.
- Moreover, many parents have children for dubious instrumental reasons:
- 'to prove it can be done, to spite or to blackmail another adult, to bring about a life that avoids the errors of its begetter, to try to save a disastrous relationship, to create a companion and an assistant for one's dotage, to add another soldier to the army of the motherland or another true believer to the ranks of the faithful, and so on'

Further objections



- The child will grow up knowing that it had been created for this particular function and this knowledge would be psychologically damaging;
- Such claims are unsupported by existing evidence; and one could just as convincingly argue that knowing that one was able by one's existence and tissue to save the life of a loved sibling would be psychologically rewarding.
- Slippery slope: but why slide and what lies at the bottom of the slope?

Eugenics



- *Liberal eugenics*
 - choices left to parents who choose for their own children
 - on the basis of their own conceptions of the good
 - Enhancement of possible future persons
 - Pre-natal interventions
 - Scientifically based conceptions of disability and abnormality
- *Authoritarian eugenics:*
 - state has responsibility for eugenic choices
 - and does so on basis of a monistic conception of good
 - Elimination of existing imperfect persons
 - Involuntary homicide of living
 - Unproven and false ideological conceptions of superiority

Liberal eugenics



- Liberal eugenics as procreative autonomy + parity of parental rearing
- Grants that procreative autonomy is essential element of personal autonomy
- *Parity of parental rearing*: ‘if we are permitted to produce certain traits by modifying our children’s environment, then we are also permitted to produce them by modifying their genomes’ (Agar’s ‘Nurture’ principle)
- Procreative autonomy + parity = parents permitted to use available techniques of genetic enhancement just as permitted to modify child’s (educational, religious, cultural, recreational, etc.) environment

Objections to even liberal eugenics



- Aggregation of many individual choices may have unintended and undesirable overall consequences. (e.g: everyone choosing male offspring skews gender balance)
- Justice: inasmuch as only those with means can make certain choices for their children, allowing liberal eugenics will augment and reinforce existing social inequalities.
- Indirect harms to others (e.g. stigmatization of and discrimination against disabled)

Why allow parents to choose?



- Parents have, as the primary carers, to live with the disability
- Parents (and members of the extended family) may (and probably will) have direct experience of the disability
- Yet legitimate public interest in regulating exercise of parental choices – largely because of unintended collective consequences and issues of justice.

Genetic choices, genetic testing and open future



- **Feinberg's right to open future**
- **'The primary argument against deliberately seeking to produce deaf children is that it violates a child's own autonomy and narrows the scope of her choices when she grows up' (Dena S. Davis)**
- **Is the foreclosure of certain options harmful to the future child?**
- **Is closing off of choices as such a distinctive harm?**

Genetic choices, genetic testing and open future



- **‘Testing in childhood removes the possibility of that individual making an autonomous decision as an adult’ (Human Genetics Services Association, 2003)**
- **Autonomous choices can only be made in the light of the maximum amount of relevant information**
- **The pre-emption of later choices is made in respect of many matters - e.g. educational choices for child**