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Gift and Beneficence

Not only do most cultures classify human life as a gift. But they take in particular the life of a newborn child to be a gift that has been bestowed upon its parents.
(Hyde 2007, 97)

Abstract Resistance to procreative liberty is often framed in language about life's giftedness, and the impropriety of choosing gifts in the persons of one's children. This chapter examines Michael Sandel's treatment of this argument and further flawed attempts to distinguish the gift from the merely given. Against the idea of children as gifts, anti-natalism contends that life is never so good as to justify being given, and Procreative Beneficence that we ought to choose the best possible lives. This chapter argues that both positions retain an ethic of giftedness, but instead figures parents as giving rather than receiving gifts in their children, where in the case of Procreative Beneficence the capacity to give life well follows from the purposive selections enabled by assisted reproductive technologies.

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In many cultures and traditions, it's common to find life referred to or understood as a gift. But does this notion get us anywhere beyond, perhaps, expressing a healthy appreciation for existential good fortune or an unfashionable religious conviction? Can it make sense to think of children as gifts bestowed upon their parents if we're unable to conceive of an intelligible agency behind the bestowal? As Lewis Hyde observes, such a conception of life is undoubtedly a part of our cultural inheritance, yet advances in scientific understanding, along with new forms of procreation and family life, make it unclear as to whether the language of giftedness tells us anything useful about parenthood and reproductive ethics.

Most conventionally, of course, we find claims for life's giftedness proceeding from religious perspectives that credit a deity with giving life. On such a view, any wilful prevention of a human birth during or following the process of conception, can represent a moral affront against God's creation. In the HFEA's consultation on sex selection for non-medical reasons, respondents were noted as objecting that "because children are the 'gift of God' parents should not seek to choose the kind of children they will have but should gratefully accept and nurture whatever children they have" (2003, para 90). Of course, the small matter of testing this proposition is somewhat complicated by grander metaphysical questions than can be addressed here. But if one rejects the notion of a divine giver, or at least supposes that the burden of existential proof for such a deity has not been met, the giftedness invoked from a personal God is contingent upon a relationship that is still evident only to the faithful.

Giftedness, however, remains a theme that is mobilised in discussions about the morality of selective reproduction without resort to God, as evidenced by a study into the 'ordinary ethics' of lay people considering the morality of social sex selection for non-medical reasons (Scully et al. 2006). In a 2002 UK study, a scenario was presented for group discussion whereby a couple with three daughters planned to have another child and wanted to use PGD in order to ensure they had a son. While there is a broadly permissive view of such action on the basis of individual freedom in what the authors call "secular-liberal bioethics," the study found that 83% of lay participants in group discussions held that it was *not* morally justifiable. Within these discussions, the idea that children are a gift was one that stood out: participants

tended to speak of children as gifts and of parents properly receiving them as such. Since scant reference was made to God as giver of the child's life, the claims were understood as being a metaphor, "used to convey something important about how the speaker believes parents should relate to their children, and the responsibilities this relationship involves" (753). Drawing on the customary etiquette of gift-giving in Western European culture, it was observed that such a metaphor implied the preferred virtue of acceptance; that is, parents ought to accept children just as they come, without rejecting, selecting or seeking to change their characteristics.

Within the established secular literature on reproductive bioethics, the most noted attempt to flesh out this idea comes from American philosopher Michael Sandel. In the first part of this chapter I will attend in more detail to his arguments from giftedness against genetic enhancement and selective reproduction, along with attempts to refine and substantiate them. Ultimately, Sandel's philosophical exposition of what are characterised as the intuitive, emotive—or even hateful (Harris 2005)—responses of lay people to selective reproduction is found to be generally unpersuasive, even when developed further and revised by other thinkers. However, the discussion of giftedness in reproduction precipitated by Sandel's arguments does open up a line of thought that identifies some of the same themes in precisely those thinkers that oppose him. While Sandel is concerned with the morality of receiving the gifts of life, an ethic of giving life well is central to the principle of procreative beneficence expounded by Julian Savulescu, who pits his argument directly against Sandel, and to the anti-natalist position of David Benatar, for whom life is never so good a thing as to warrant being given. Sandel, echoing wide public opinion, concentrates upon the etiquette of how life ought to be received as a gift, but the agency facilitated by reproductive technologies to select or create children by design switches the focus for their advocates onto the proper virtues of how life ought to be given. By drawing out this narrative shift in the ethics of reproduction aided by new technologies, which depict these as privileging parents anew with the capacity to give life well to their children, we will also begin to see how this account colludes with an historical effacement of maternal giving that will be taken up in the following chapters.

Sandel and the Gift of Children

At the heart of many critiques of Sandel's *The Case Against Perfection* (2007), often dismissed as just so much rhetoric, is a fundamental disagreement about the language proper to the debate. Sandel is clear at the beginning about what he considers the failure of mainstream bioethics to capture what is at issue:

In liberal societies, they reach first for the language of autonomy, fairness, and individual rights. But this part of our moral vocabulary does not equip us to address the hardest questions posed by cloning, designer children and genetic engineering ... about the proper stance of human beings toward the given world. (9)

Sandel reaches for a different kind of language, excluded from the limited moral vocabulary of liberal societies where expressions of our relation to a 'given world' have been crowded out. We're now suspicious of such expressions lest they hide an agenda to revive a recourse to some theology or ideology that would curtail our hard-won individual freedoms. It is increasingly difficult to argue from any first principles or accounts of a 'given world' to a position that collides with the presumption of individual liberty, particularly with respect to sovereignty over one's own body. And rightly so. But it ought to be legitimate to stake out the shape of the moral terrain that might follow from the new liberties we look to enjoy, and their effect upon a world that is unaccustomed to them.

While Sandel echoes Habermas's concern for the autonomy of eugenically selected children, he asserts that the case against selection cannot rest on liberal grounds alone. Rather, Sandel argues that "eugenic parenting is objectionable because it expresses and entrenches a wrongful stance toward the world—a stance of mastery and domination that fails to appreciate the gifted character of human powers and achievements" (83). An appreciation for such giftedness is vital to our moral landscape according to Sandel, and finds its quintessential expression in parental openness to the unbidden characters and natures of our children. "To appreciate children as gifts is to accept them as they come,

not as objects of our design, or instruments of our ambition” (45). Thus attempts to engineer in one’s children certain traits or qualities of one’s choosing are acts of hubris and moral hazard that corrupt the norms of parenting and diminish the parent. It is not just, then, about preserving the autonomy of one’s children, but also preserving certain norms of parenthood that serve not just as instruments to childhood flourishing but also to morality in general.

Specifically, Sandel suggests that eugenic parenting, as it diminishes our appreciation for the gifted character of human qualities, will transform three important features of our moral landscape—humility, responsibility and solidarity. He argues that a recognition of being born with talents and abilities that are neither appointed or designed but rather given, restrains a tendency toward hubris and informs a sympathy for the similarly given fortunes and misfortunes of others. As such, our humility may give way with the technologies of procreative choice; we begin to attribute less to chance and regard parents as “responsible for choosing, or failing to choose, the right traits for their children” (87). For some parents, this may not appear especially regrettable, but Sandel points to the considerable moral burden this begins to place upon us. Where prospective parents cannot avoid making choices in the enlarged frame of moral responsibility that accompanies new habits of reproductive control, there are further daunting implications to the consequences of their decisions. “When genetic screening becomes a routine part of pregnancy, parents who eschew it are regarded as “flying blind” and are held responsible for whatever genetic defect befalls their child” (89). We can speculate further that such responsibility could extend to the financial burden involved with the care and treatment of a child with a serious genetic condition since it was within the power of the parents to avoid it; society may begin to question why anyone else should be answerable for the costs of such care when the condition—or at least the risk of it—is knowingly allowed by the parents. Sandel observes that many parents of children with Down’s syndrome or other genetic disabilities feel increasingly judged or blamed because they could have chosen otherwise. An appreciation and preservation of the giftedness of children could help resist a contraction of our social and moral responsibility for the lives of others beyond our own kin.

Sandel warns that the expanded reproductive choices and thereby inferred responsibility for both one's own fate and that of one's children "may diminish our sense of solidarity with those less fortunate than ourselves" (89). An appreciation of the giftedness of the natural talents that allow us to flourish keeps us alive to a duty to those who lack comparable gifts. For Sandel, the question of why we owe anything to the least advantaged members of society is answered compellingly by the appreciation of our existential good fortune; with a declining sense of the contingency of our gifts in a world where they are appointed by and for us, we may slide "into the smug assumption that success is the crown of virtue, that the rich are rich because they are more deserving than the poor" (91). There is a connection, then, between an appreciation for giftedness and the moral sense of solidarity with those others who have been exposed to and created by an equally contingent accident of fate in conception, which simply and indiscriminately furnishes some people with more advantages than others.¹ For Sandel, the foreseeable consequences of enhancement and selective reproduction upon the essential moral features of humility, responsibility and solidarity establish a significant reason to resist such technologies.

The problem that Sandel remains answerable for is drawing lines around which gifts or given qualities are to be honoured and for what reason; which interventions in a 'given world' betray a drive to mastery and which are legitimate undertakings. If there is a moral aspect to preserving a passive relation to reproductive contingency, how passive ought we to be in relation to a wide spectrum of given harms, misfortunes and disadvantages? And if there is only chance in the contingency of human origins, what reason can we have to resist the preferences of individuals to select or engineer against harmful or undesirable conditions? It may be proper to retain a sense of giftedness as an aspect of good character with regard to the domain of contingency so far as that domain extends, but where that domain may be annexed by human control an appeal to giftedness should not arrest the contrivance of enhanced or more preferable outcomes than chance would afford.

Let's take an example, and suppose that one were staging a cricket match in a changeable climate and happened to have a clement day; it may be apt to consider the sunshine a gift or as something for which

one ought to be grateful. That is to say, one had neither the means nor the right to command or expect the sunshine, so an appreciation of one's good fortune would be consistent with good character. However, if one were availed of the latest weather modification technology and employed cloud dispersal chemicals thereby ensuring that play would not be rained off, it would be inappropriate to behold the dry weather as a gift since one had taken measures to guarantee it. One may yet in good character retain a sense of giftedness for the technology and the inventiveness of its creators, but it would not be correct to regard the dry weather itself as a gift since its origins were not a matter of chance. And the presumption should of course be against preserving a passive relation to the contingency of the weather in light of the clear benefits of securing an uninterrupted day of cricket.

Likewise, where the technologies of reproduction begin to crowd out the contingencies that bring about harms or disadvantages for our children, the presumption must surely be in favour of a parental liberty to be availed of them over any abstract valorisation of contingency itself. It's certainly proper to be appreciative of serendipity where desirable outcomes arise by chance, but where such outcomes may be effected by design the preservation of a sense of giftedness should not become a prohibitive end in itself. Few people would argue that we should fail to remedy embodied disadvantages or deteriorations such as sight or hearing loss to honour the vagaries of genetic misfortune. By the same token then, the preservation of this sentiment, valuable as it may be, should not be a barrier to making any practicable selections and enhancements that provide for lives better designed to go well in the world.

Gifts, Givens and Goods

Sandel himself acknowledges that his argument may appear overly or inescapably religious and might seem, therefore, to stand or fall on the plausibility of theism itself (92). Arthur Caplan, himself a critic of enhancement, has reflected that "the gift makes no sense in the secular context such as Sandel proposes. Gifts require a giver but nature offers no likely suspects to occupy this role" (2009, 208). While Sandel

generally restricts himself to speaking of a *sense* of giftedness, or the gifted *character* of human powers and achievements, the philosopher Michael Hauskeller has mounted a defence of Sandel, undertaking to distinguish the gift from the merely given in order to demonstrate the moral significance of resisting genetic enhancement. He takes a common criticism of Sandel, voiced by Leon Kass, who points out: “The mere giftedness of things cannot tell us which gifts are to be accepted as is, which are to be improved through use or training, which are to be housebroken through self-command or medication, and which opposed like the plague” (2003, 19). Hauskeller then endeavours to distinguish between the gifted and the given to enable us to do just that.

The first of Hauskeller’s requirements is that “a gift is something that has been given to us as a *good*. If *someone* has given it to us, then it must at least have been *intended* to benefit us” (2011, 62). Doubtless most gifts are indeed given in this spirit, and we might recognise, even in receipt of useless presents, that the giver’s heart was in the right place. Yet there is notable ambiguity about whether the good is located in the given thing itself or only in the intention of the giver. Hauskeller continues: “If you give me a load of rubbish, I will hardly consider it a gift, even if I get it for my birthday (unless, of course, I like rubbish, but then it is no longer rubbish to me)” (62). It is unclear exactly what Hauskeller means here by ‘a load of rubbish,’ but his example raises the problem of judging giftedness when the intentions of the giver are not met by the recipient’s attitude to the thing given; when the gift is not *received* as a good. He seems to allow that, in the unlikely event of the recipient being a liker of rubbish, to be given a load of rubbish for one’s birthday may then be considered a gift. But there are other scenarios here if we are to allow that the value of the thing given depends upon the estimation of the agents involved. For instance, I may in good faith give you a load of rubbish for your birthday, perhaps believing that you share *my* liking for rubbish and intending it as a good, but it may be received as a nuisance or insult. It is certainly given as a good, but not received as such, yet it seems to meet Hauskeller’s definition for giftedness. It may also be that, although I know that you like rubbish, I consider it an unhealthy and corrupting inclination; if I yet give you a load of rubbish knowing that you will receive it as a good while I consider

it harmful and unwholesome, the giftedness of the rubbish is muddier still. I might instead decide that a greater good to give you would be a self-help book, designed to cure you of your penchant for trash, but you may consider this offensive or paternalistic.

Hauskeller invokes his distinction in order that we can recognise things that ought to be accepted as gifts, and things merely given that may therefore be opposed, 'housebroken' or enhanced. Proceeding from the questionable principle that a gift must be something that has been given as a good then, he moves without argument to claim that where we receive a thing from no one in particular, "I can then still regard it as a gift, but only if it really is good or at least appears good to me" (62). Accordingly, he suggests, for example, that proneness to disease may be given but is not rightly considered a gift, while a healthy body *can* be thought of as a gift because it is both given *and* a good thing to have. Yet without a coherent or identifiable giver, and therefore any intent in what is given, we appear to be left with little more than contestable claims about what appears as good or *good enough* to the recipient; if there is no giver, or good in mind with what is given, why should we harbour any moral qualms about rejecting or enhancing what we receive, much less characterise only that which appears good to us as morally significant? The language of giftedness seems superfluous here, or if one wishes to retain it to assign a morally compelling aspect to the goods we receive, it would be no less arbitrary to suggest that the harms we are given are to be accepted by the same token. Hauskeller's distinction augurs the possibility of drawing a line between treatment and enhancement, resisting the latter to conserve and honour our 'gifted' goods while submitting given ills to the remediation they deserve. However, without the intent of a giver, this approach only reduces to a kind of emotivism about what some people consider *good enough*, drafting in the rhetoric of giftedness to forestall any further goods we might want to confer upon ourselves or others.

Hauskeller wants to attach conditions to things to help us differentiate between the gifted and the merely given; that is, the morally significant from the incidental. He appears to claim that, ordinarily, givenness is a necessary though not sufficient condition of a gift; it also requires good intention on the part of the giver. Yet he then also seeks to claim

that there are natural gifts for which givenness, in the sense of a purposive gesture, is not a necessary condition, and for these the mere recognition or interpretation of goodness alone is sufficient. That is, where givenness—and with it good intent or beneficence—is not apparent or indeed is inconceivable, the perception of goodness or good fortune in having a thing is quite enough to attach the same morally binding or gifted quality to it. Goodness becomes a sufficient condition alone for giftedness, and a gift is only that which ‘really is good or at least appears good to me.’ In other words, if I consider an un-given or accidental quality good, I may say that it is a gift and, by that token, it ought to be honoured as such. Hauskeller’s turn of phrase here is interesting; his reference to that which ‘*really* is good’ seems to acknowledge that there is some dispute over the nature of goodness, or perhaps that there is some objective quality of the good which can be confused or corrupted. In any case, without the discernment of intent from a giver, the estimation of goodness falls upon those who possess or are affected by whatever it is said has been given. And as we know, such estimations differ. Person A may consider the sunshine a gift as it allows for a full day of cricket; person B may consider a thunderstorm a gift at precisely the same time and precisely because it prevents it. While these may be trivial preferences, it illustrates the fact that what is considered good by one person can be flatly contradicted by what is considered good by another; it would not be sufficient argument against bringing the covers on at the cricket for person B to claim that *they* considered the thunderstorm a gift.

Perhaps the most critical ethical point of distinction for Hauskeller, between the gifted and the merely given, is that “a gift is not a loan. A loan has to be returned to the lender. A gift, on the other hand, has to be accepted and kept ... One has to take good care of the gifts one has received, cherish them, even if one does not like them very much” (63–4). This, of course, is the central principle behind the moral case against choosing one’s children; the gift of one’s own life and the lives of one’s children should be received well and accepted rather than opposed or modified. Yet note Hauskeller’s own concession that one might not very much like the gifts one receives; that is to say, presumably, that one might not consider such gifts a good even if they were given as such.

He is again locating giftedness solely in the good intent of the giver, acknowledging that what is given may not actually be a good in itself, but so long as it is given as a good we must honour the gift by preserving it. This is not an immediately compelling claim in any case, for if something given as a good is, in fact, so disagreeable as to be harmful, the notion that one is yet obliged to cherish it is certainly questionable. But in the matter of our natural gifts of life and health, things that we think have not been given to us by anyone in particular, there is no good intent for us to honour but, again, only the question of whether, in Hauskeller's words, the gift 'really is good or at least appears good to me.' If the gift does not appear good—or good enough—then, and there is no giver or good intent against which one's failure to cherish the gift might offend, it is unclear why one is yet obliged to accept what has or may be given. The only argument for Hauskeller's claim that gifts have to be accepted and kept, is that they "can only be returned at the risk of insulting" the giver (64). Quite apart from the question of whether an insult is tantamount to a moral offence, if there is no agency in the giving there can surely be no such risk anyway.

Hauskeller's attempt to refine Sandel's objection to enhancement by distilling the concept of gifts from the merely given, illustrates the difficulties of trying to draw legitimate moral conclusions from such a distinction. He needs to establish that there are two kinds of gifts: those from distinct and identifiable givers, and impersonal or natural gifts from no one in particular. Yet since he says a defining criterion of the gift is that it is given to us as a good, he must do more to insist that the second kind of gift remains properly a gift when we cannot discern any good intent in the given. He seems to provide a definitive feature of gifts, acknowledge an exception in what we appear to be given from no one in particular, yet maintain that these too are gifts simply by virtue of our believing them to be goods that we have no legitimate claim to have possessed. While it is certainly true that such things as a healthy body or birth into a prosperous life do not come to us on merit, it is a further stretch to say that this is true of all gifts and that it should always warrant an obligation to accept and keep whatever is given. It is not obvious that a terrible gift should be preserved regardless, for we can be entitled to find fault with the giver's choice of gift in spite of their intentions, and

the grounds for this obligation are void if an undeserved good comes from no one in particular. We might believe that it creates obligations to help those with undeserved ills, but there is no inherent injunction against enhancing goods or indeed choosing preferable outcomes to what might otherwise have been given when there is no giver to speak of.

Separating gifts from the merely given would provide some philosophical justification for the gift motif we see mobilised in lay responses and objections to selective reproduction, where the key entailment is understood to be acceptance. As Scully et al. explain: “The notion of gift implies a lack of control over what is received. To speak about children as a gift is therefore to say that they should be accepted as they are, and that it is not appropriate to refuse them or to want to change their characteristics” (2006, 754). The emphasis is very much upon the virtues of parents as the recipients of gifts in their children, afforded them by divine or natural providence; as beneficiaries of the unmerited good of having children, parents should gratefully accept and welcome the gift of their progeny in whatever condition they are conceived. Yet these virtues have been a corollary of what, until recently, has been possible in reproduction; before ARTs were available, and under erstwhile religious presumptions of life’s sanctity, the reality of procreation did not afford the possibility of selection, or indeed any of the virtues that we consider may now be attendant with it. The virtue was in *receiving* one’s given child beneficently, which is to say without condition, since it was simply not within the gift of parents to select or stipulate the condition of the child. Sandel and Hauskeller endeavour to carry those same virtues over into an age in which it *is* now within the power of prospective parents to make such selections, in what looks like vain resistance to a new normative framework for reproduction that follows from the technologies that allow for ever greater procreative choice. Yet the language and code of the gift have not been left behind, but rather appropriated into a discourse of beneficence and obligation where parents are recast as givers rather than recipients of gifts in reproduction. In the following pages, I will show how two contemporary theorists of procreation do just that, one by way of opposing the creation of future generations altogether, and the other by positing an obligation to give life to future generations as well as possible.

Good Enough Lives

We have already briefly touched upon the difficulty of reconciling giftedness with those lives that are unbearably brief and excruciating; it's hard to understand such lives as gifted because it is hard to understand such lives as good. While there are those who might faithfully maintain that there is good in such lives to which mere human beings are not privy, such conjecture is unintelligible at the bedsides of dying infants. If there is indeed a wider good or purpose according to some theology for which these lives are given, many people would flatly reject a giver with such designs in any case. As for the idea that parents receive a gift in the person of their child, regardless of that child's condition, the thought that some purposive intent lies behind the lives of desperately sick neonates is similarly objectionable. It seems clear that there are some lives so terrible that the attribution of goodness to their existence is plainly inappropriate, or at least relies on a notion of goodness unrecognisable to the vast majority of people. To paraphrase Hauskeller's qualification, and disregarding the idea that God has gifted such lives, no one would be able to say that they really are good, or could appear good to anyone. These tragic lives might be thought the exception to the intuition that to exist at all, in a condition of reasonable or at least bearable subsistence, is a good thing. However, there are those who deny that this is the case; that far from life being a gift, it is *never* a good thing to have been brought into existence.

This view proceeds from a curious feature of acts of procreation, which bring into existence individuals who would not otherwise have been. If, indeed, we are to talk of the giftedness of life, we need to acknowledge that such a gift is of a unique and different order to the kinds of exchanges and offerings that Hauskeller tests our intuitions against. This problematises our thinking about selective reproduction since the alternative to selection is not existence in some state other than that in which one could have been selected, but non-existence altogether. Similarly, to be selected—to be born at all—is to be brought into existence in the singular circumstance in which it were possible for one to exist. This has been called the paradox of future individuals (Kavka 1982), or non-identity problem (Parfit 1984). In this spirit, we can all

reflect upon the precariousness of our own existence, the chance genealogy of our parents' unlikely passage to one another, not to mention their parents before them; the impulses, decisions and happenstance that led two individuals to meet, perhaps to fall in love, and by accident or design to conceive a life at precisely the moment that they did. Any seemingly trivial deviation in the antecedent course of events would have spelled non-existence for us, just as any broader social or political variation effected by myriad strangers upon the lives of our forebears would have made for quite different people. Perhaps we might think there is somewhat less chance involved in the creation of children from arranged marriages, but even the juncture at which conception occurs is critical in the existence of one child rather than another. Given that one's unique genetic origins are a necessary condition of one's existence, if one had not been conceived at the time, in the circumstances and to the parents that one was, the only alternative state of affairs is that one would not have existed at all.

It is for this reason that we approach a difficulty in making claims about what is good or bad for the prospective individuals augured by the conscious and unconscious selections around reproduction. For if the alternative to existence in whatever state it is afforded us is non-existence, it is counter-intuitive to reckon that it would have been preferable never to have existed at all, except perhaps in the most extreme circumstances. It appears good to most of us that we were born, given that the alternative was not a differently embodied life in some other state or time, but no life whatever. Thus, claims that procreative actions or decisions can be bad for whoever is brought about in procreation have a problem: as John Robertson explains, "bringing unavoidably handicapped offspring into the world does not harm them because there is no way for them to be born healthy" (1994, 152). None of us can claim that we could or ought to have been born otherwise, for another birth would have resulted in quite another person. We might say that it would have been a better world, or one of less aggregate harm, had we never existed, but we cannot mean that it would have been better *for us*. Insofar as we suppose that the goodness or otherwise of an act can be evaluated as it affects persons, the act of bringing a person into existence—whom we can categorically say would not

otherwise have been—can only ever be good for that person against the alternative of never existing at all.

However, although living may appear good to us all told, there is an asymmetry here that means it can be said that *not* living is not bad for us either. For in all the contingent moments approaching and indeed during our conception, it cannot be said that variations in events that would have resulted in the different possible world of our non-existence affected us for better or worse since we were simply not yet persons to be affected. Had my mother not been reluctantly persuaded to go to the party where she met my father, it would not have been bad for my siblings or myself since we didn't—and thereafter wouldn't—exist. There is no harm done. It may appear to me in retrospect that it was in my interests that she was persuaded, inasmuch as my life appears a good thing to me, but neither would it have been a bad thing for me never to have come into existence. The argument is complicated somewhat in assisted reproduction by the generation of multiple embryos, where those embryos which do not merit selection may yet be considered by some to have interests insofar as they have begun to exist *materially* on the threshold of the only lives they could have. However, assuming that the interests of embryos themselves, if they are coherent at all, do not carry the same weight as those of existing persons, we may still reject the notion that they can be harmed by a failure to implant them for gestation and birth. That is, even if we allowed that overlooking them for implantation could be said to be *bad for* the embryos, this is no more morally significant than saying a sperm cell's failure to fertilise an egg is *bad for* that sperm cell; there is no person-affecting justification for the expression of moral regret for whomever that cell might have created.

There are, as we have acknowledged, those most awful genetic conditions that do elicit our regret, where even the curiosity of consciousness is not thought to compensate for the horror of existence (see, for example, Archard 2004). But in such exceptional cases, where we compassionately consider it would be better that individuals not be brought into existence, the same problem of non-identity might seem to apply if an embryo is similarly indifferent to what is better or worse for it. Although it is not bad for the embryo not to be implanted that a resultant human being be brought into existence, can we say implantation

is bad for the embryo—and worse for the potential emergent child to be born—given that the alternative non-existence is not a state that can be compared with anything? The most satisfactory answer for all practical purposes seems to be that of Joel Feinberg (1992), who interprets the assertion that one would have been better off not to have come into existence as a claim that “the preference for the one state of affairs over the other is a rational preference (...) In the most extreme cases ... I think it is rational to prefer not to have come into existence at all, and while I cannot prove this judgement, I am confident that most people will agree that it is at least plausible” (17). According to this interpretation, we might expect only a small minority of lives to be supposed so bad as to be harmful in themselves; lives that could not plausibly be portrayed as gifts if we suppose that gifts must at least appear good to us. So much for the exceptions, but there is also an argument that the harmfulness of coming into existence is actually the rule.

According to Feinberg, if we can plausibly say that “non-existence in a given case would have been objectively preferable to existence ... then any wrongful act or omission that caused (permitted) the child to be born can be judged to have harmed the child” (17). Taking a view on acts of selection then, and the technologies that allow us to predict and anticipate the medical condition of resultant children, we may say that it is morally blameworthy to permit the birth of a child in a condition over which non-existence is ‘objectively preferable.’ Feinberg’s recourse to an idea of what is objectively preferable appears to be a necessary concession to a notion of the good that is independent of mere person-affecting criteria; after all, what is *subjectively* preferable is preferable to whoever is *subject* to preferences, and those who have not yet been brought into (morally considerable) existence are not yet subjects proper. But if we are to defer to a notion of what is objectively preferable at moments of reproductive choice, the burden of proof must surely fall upon those who have determined to bring a subject into existence at all. For, as David Benatar (2006) has argued, existence is always attended by significant harms, whereas nobody is subject to non-existence; thus not bringing a person into existence is not a deprivation to anyone of the pleasures of existence, but to bring someone into being is certainly to subject them to the assured and manifold pains of life. Although we

might reasonably predict substantial and significant pleasures for the prospective lifetime of a given child, the absence of those pleasures in the alternative possible world of their non-existence is not bad since there is nobody for whom that absence is a deprivation. What is objectively preferable must be indifferent to the potential pleasures experienced by subjects not yet born, even if they were to live and consider for themselves that their lives really are good, for not bringing them into existence yields the certain good of avoiding the pain they would also no doubt have suffered. Given that the pains of existence are assured, and there is no harm in averting another's existence altogether, the most objective preference seems to speak against coming into life at all.

One need not be of an especially morbid disposition to concede that life is often utterly cruel and sometimes insufferable. Many people conclude, on the strength of the perceived horror of the world and/or their lives in it, that to no longer exist would be no deprivation in any case; that to give up existence is preferable to continuing to endure it. Many more consider the thought. In support of his anti-natal argument, Benatar describes a world of obscene suffering and travesty, of natural disaster, rapacious and unrelenting disease and all the dreadful terror that human beings inflict upon each other and the world around them. It is hard not to be persuaded that life, for most human beings who have yet existed, is indeed nasty, brutish and short.² Perhaps this makes all the more remarkable the widespread human instinct to cling to life at almost all costs, to regard existence even in the most miserable and tortured of circumstances as preferable to quitting it altogether. For Benatar, on whatever view one takes about what makes for quality of life, there is an invariable distinction between (a) how good a person's life actually is, and (b) how good it is thought to be. Recall that Hauskeller, though in a different context, mentions a similar distinction between what 'really is good' and 'what at least appears good to me.' According to Benatar, what merely appears good to me is no standard for what actually is good. He goes on to claim that we are predisposed to make favourable assessments of the quality of our lives by certain features of human psychology, and it is "these psychological phenomena rather than the actual quality of a life that explain (the extent of) the positive assessment" (64). This casts into doubt the reality and reliability

of what appears good to me, since I am minded to find the good (and the gifted) in blithe disregard to my life's actual quality. For Benatar, that my life appears good to me is not sufficient to make a claim that it is a good in itself; in fact, it really is not good, nor were any prospective pleasures it might have held for me sufficient to invite the harms of bringing me into existence when the avoidance of those harms would have been good and the avoidance of me would not have been bad.

So far from being a gift, and even if we think our lives a good, being brought into existence is really a matter of dreadful bad luck according to the anti-natalist. Of course, some are certainly more unlucky than others, and this perhaps ought to motivate us to aid those condemned by accident of birth to lives more terrible than our own, but there should actually be a strong ethical presumption against bringing *any* lives about if we want to avoid causing harm. Benatar's central claim about the asymmetry of pains and pleasures in reproductive ethics, such that we can say the avoidance of pain is good while the avoidance of pleasure is not bad, leads him to advocate, apparently quite seriously, a phased and humane extinction for human beings. His dim view of the quality of lives speaks against the idea that we should be giving birth at all, at least if we intend the good in what is given. Benatar's commitment to what really is good or objectively preferable leads him to a conclusion where the disparity with what only *appears* good to human beings becomes superfluous on account of human beings being no more. That is, the question of the good is independent of human appreciation, and we should honour and seek the best state of affairs even if it does away with human beings altogether. The intuitive absurdity or pessimism of such a conclusion will be sufficient for some to oppose the premise of Benatar's argument. After all, if there are no persons for whom the distinction matters come our extinction, what really is good would be no more important than what appears good to persons; if the distinction is important, the subjects for whom the distinction matters ought to be preserved. And if the distinction is not *so* important, why not be content to leave human beings to the glad, if perhaps misguided, appreciation of lives that do appear good to them? But perhaps a rejection of the asymmetry underlying Benatar's anti-natalism must rely on an optimism that is beyond the scope of utilitarian reasoning alone.

No less a utilitarian than Peter Singer, in a *New York Times* discussion of Benatar's argument, resorts to simple optimism in resisting his conclusion: "In my judgement, for most people, life is worth living. Even if that is not the case, I am enough of an optimist to believe that, should humans survive for another century or two, we will learn from our past mistakes and bring about a world in which there is far less suffering than there is now" (2010). Singer seems unable to rebut Benatar's case on its own terms, repairing instead to his own hopefulness. Indeed, even if a world of far less suffering *were* brought about in another century or two, one wonders if the benefits for the inhabitants of such a world could be justification enough for the suffering of the subjects of the intervening years. It is quite some moral ledger to preside over, but it is in this optimistic spirit of seeking to bring about what is objectively preferable *for* human beings that some bioethicists advocate selection of human beings whose lives are objectively preferable.

Procreative Beneficence: Giving Best

Julian Savulescu does just this in proposing a principle of Procreative Beneficence, that where selection is possible prospective parents "have a significant moral reason to select the child, of the possible children they could have, whose life can be expected, in light of the relevant available information, to go best or at least not worse than any of the others" (2009, 274). Since the unselected cannot be harmed or wronged by not coming into existence, and children can be more or less disadvantaged in the possession of different qualities, it seems right to select children who will possess those qualities that are most advantageous in life and opposed by the fewest obstacles. It likewise appears morally suspect to select children whom we know will possess qualities that disadvantage them when, although *they* could not have been brought into existence otherwise, nor could they have been harmed by *not* being brought into existence in favour of creating another more advantaged child. Furthermore, it must also be morally suspect to refuse selection if it is possible, particularly where there is a known risk of passing on significant disadvantages, leaving the child's quality of life to chance.

Like Benatar, Savulescu is no stranger to controversy, for his views tend to challenge established parental norms and intuitions, though perhaps not quite so dramatically. While for Benatar no life is really good, or so good as to justify giving it, for Savulescu we must recognise that lives are more or less good and strive to bring about lives that are better than other possible lives. Tellingly, Savulescu pits his principle directly against his account of Sandel's argument, that "a child is a gift, to be cherished and loved for what she is. To be a good parent is to be prepared to accept and nurture one's child, regardless of that child's talents or disabilities" (274). Rather, where selection becomes possible, according to Savulescu, a good parent should not be indifferent to the qualities a child will inherit but ought to ensure that they possess qualities that allow their lives to go well, or not worse than the other possible lives at hand. So long as the means of selection is not morally problematic, prospective parents have good reason to seek to give birth to children with the best chance of flourishing. That is, they have more than simply freedom to do so with the technologies that are available, but ought also to feel a weight of obligation to use those technologies to create a child with preferable chances in life. The burden of justification is shifting from those who would seek to choose their child to weigh upon those who would not, so that we may hold as morally blameworthy those prospective parents who resist forms of selection that would vouchsafe the birth of the best possible child.

Savulescu finds no relevance for the language of giftedness employed by people like Sandel to object to enhancement and the exercise of parental discretion in reproduction. There is no external theological or cosmic intent for us to honour in conception, natural or otherwise, so why not make good, or best, of the children we can bring into existence? For Benatar, no life could be considered really good, or good enough to warrant inviting the manifold harms of existence; far from valorising the undeserved goods of existence, we should be more interested in averting the unmerited harms occasioned by birth. But in fact it seems that a notion of giftedness is still in evidence in both approaches. Peter Singer's comment on enhancement spells this out: "If there is no God, life can only be a gift from one's parents. And if that is the case, wouldn't we all prefer parents who try to make the gift

as good as possible, rather than leaving everything to chance?” (2009, 279). This is basically an abridged version of Savulescu’s argument, but tellingly Singer recasts the parents as the givers in the absence of a deity; if they can choose a more advantageous life than what is given left to chance, they are more virtuous givers for doing so. Although Savulescu dispenses with the language of gifts along with Sandel’s case against selection, Singer helps us see how he retains the notion implicitly in the shift from considering the obligations of parents receiving gifts, to those of parents giving the gift of life to their children. In much the same way, David Benatar speaks against procreation altogether precisely because he argues that life is never a good thing to have been given. Though parents might try to make the gift as good as possible, it can never be really good, or good enough, to warrant giving it. For Savulescu, who does not question the objective preferability of existence, what matters is the intent of the givers in selecting the qualities of their prospective children. For Benatar, for whom it is always better never to have been, the quality of any given life is never sufficient to justify giving it; the greatest beneficence is in not giving at all.

Although there is rather more history to the anti-natal pessimism of Benatar,³ it is important to recognise and reiterate the significance of the very recent developments that have given rise to Savulescu’s notion of Procreative Beneficence. The moral understanding we find Sandel operating with is the product of a bygone reality where it was an impossibility for parents to entertain the thought of selecting the qualities of their offspring prior to birth. The virtues of gratitude, humility and acceptance were therefore quite proper in response to the hitherto unmanageable contingencies of procreation; parents understood themselves as receiving, more or less well, whatever gifts nature or God threw at them. However, where the various technologies of selective reproduction have allowed prospective parents to exercise some control in procreation, the virtues or obligations of giving life well now enter our thinking. The virtues are, amongst other things, a product of what is possible; where I cannot determine the outcome, I can only, in good character, accept any misfortune serenely. Likewise, to receive well a child out of the traditional contingencies of natural reproduction has tended towards parental ideals of unconditional love and hospitality. Yet

those contingencies have receded rapidly, so that the character of procreation is less a submission to fortune and increasingly a purposive gesture to the future, which demands more of prospective parents as givers.

On Savulescu's principle of Procreative Beneficence, parents ought to embrace the opportunity to give life that confers the greatest benefit upon its recipient. The word beneficence itself belongs to the language of giving, of bestowing favour and generosity, translating from the Latin *bene facere*—to do good. Such beneficence is entertained quite uncontroversially by prospective parents who consider carefully the juncture at which they attempt to conceive, mindful of the disparate upbringings and material resources they might be able to offer a different child at different times. Savulescu is simply pressing for an extension of this beneficence to the genetic inheritance that parents are also now able to give their children by virtue of ARTs. If we consider it good to give a child an environment in which it is expected their lives will go best, or certainly not worse than others, it should also be equally commendable to give a child a particular body or genome out of the same beneficent purposes—and considered remiss to leave it to chance where selection is possible. As Singer seems to imply in his comments, there is an ethic, or at the very least an etiquette, to gift giving that means it is morally preferable, or more virtuous, to make the gift as good as possible.

Savulescu's principle of Procreative Beneficence marks the point at which the liberalism of the new eugenics tips into more prescriptive direction on reproductive choice, albeit awkwardly constrained by the abiding commitment to individual liberty. To be sure, that liberty is so fundamental as to be presently considered worth preserving against the prospect of direct reproductive duress, even though it may result in more disadvantaged and painful lives than might otherwise have been; however, we can see in the clinical performance of pregnancy and choice regimes of selective reproduction a certain coercion towards the creation or selection of children whose lives can be expected to go better than others. The virtues invoked are pitted against the gift mentality of many lay people, along with that of Sandel and Hauskeller, which is rendered as an outdated moral deference to God or fortune, and a construction of reproductive parenthood as the receiving of unpredictable and unwarranted gifts from a divinely ordered or natural providence.

In a sense, the critique of this position also amounts to an indictment of committing the naturalistic fallacy (Moore 1959), where the charge would be that the erstwhile contingent reality of reproduction has been mistaken for a normative edict on the nature of parenthood. Just because having children *was* a receiving of the unbidden, it does not follow that parenthood *ought* therefore to be an unconditional and passive acceptance of whatever child is conceived. The notion of giftedness tends only to be mobilised in reproductive bioethics to support this fallacy and the normative construction of parenthood as exemplified by the virtues of receiving gifts well.

The moral obligation to act beneficently in considering reproduction, either by avoiding it altogether according to Benatar, or selecting for lives of the greatest foreseeable advantage per Savulescu, takes a view of reproductive parenthood as more properly exemplifying the virtues of a giver. Although the language of giftedness is avoided, except in directly opposing it, there is, in Savulescu particularly, an advocacy and discourse of giving life well where the agency facilitated by ARTs allows parents to exercise and evidence good intent in the qualities they give to their child. The gift is present both in Sandel's objections to selective reproduction and Savulescu's endorsement of it; the difference is that Sandel figures parents as properly receiving gifts in their children, and Savulescu sees parents as newly capable of giving them, and being morally superior in seeking to 'make the gift as good as possible.'

The ability to select or engineer so that the goodness of one's procreative will can be made incarnate in the characteristics of one's children seems to secure the very capacity for beneficence in the narrative of optimism that accompanies ARTs.⁴ Newly cognisant and able to choose the child to be given birth, and to make that gift as good as possible, we can now find that the parental refusal of such choices is regarded as a morally blameworthy rejection of the possibility of being beneficent. The parental ethic of unconditional welcome becomes a well-meaning but anachronistic category error of thinking procreation as accepting gifts, when the purposive selections offered by ARTs now make it more properly the chance to give them. Beneficence is gauged against the practices of what is possible, so that to decline the possibility of giving life better, or a better life, is to eschew a certain moral responsibility to future

generations. The story about procreation that emerges is that where once it was an exposure to the vagaries of fortune, and thereby culturally or religiously interpreted as a gift from God or nature, now that it is subject to the wilful intention and design of creators we can exercise beneficence and discern the virtues of gift-givers in choosing children.

In the following chapter, I will show how the advocates of genetic enhancement and selection depict unassisted or natural reproduction as a creation lottery, against which ARTs allow the prospect and obligation of securing less harmful outcomes than chance would afford; the colonisation of the natural by the just (Buchanan et al. 2000), where the mother is associated with nature and the medical technologies of intervention augur justice. This portrayal, I will argue, colludes with a long and ignominious patriarchal history of effacing and denigrating the maternal body, and forgetting the gift of life delivered only by mothers. Reviving the thought that life has always been a gift, not received from God or out of a morally indifferent vacuum, but given by mothers, we can regard the significance of selective reproduction as not giving life anew with a novel access to beneficence furnished by technology, but rather giving life differently. A keener regard for this difference, informed by a more critical appreciation for the matricidal thinking that is still reproduced in reproductive bioethics today, allows for a perspective that articulates what may be at stake in the shift from giving life to strangers, to giving life to chosen future kin.

Notes

1. For a thorough account and analysis of moral luck in reproduction and its implications for principles of justice, see Yvonne Denier (2010) "From Brute Luck to Option Luck? On Genetics, Justice, and Moral Responsibility in Reproduction." *Journal of Medicine and Philosophy* 35(2): 101–129 (Denier 2010).
2. Though levels of violence have been in decline over millennia, so that existence in the present age is reckoned on some accounts a far preferable prospect to living in other historical periods—see Steven Pinker (2011) *The Better Angels of our Nature: The Decline of Violence in History and its Causes*. London: Allen Lane (Pinker 2011).

3. For example, Sophocles, E. Grennan and R. Kitzinger (2005) *Oedipus at Colonus*. Oxford: Oxford University Press. Also, Schopenhauer, A. (1900) *Studies in Pessimism: A Series of Essays*. [S.I.], Swan Sonnenschein (Schopenhauer 1900; Sophocles et al. 2005).
4. For an account of the clinical and professional narratives of genetic technologies, medical screening and disability, see Tom Shakespeare (1999) "Losing the plot? Medical and activist discourses of contemporary genetics and disability." *Sociology of Health & Illness* 21(5): 669–688 (Shakespeare 1999).

References

- Archard, D. "Wrongful Life." *Philosophy* 79, no. 309 (Jul 2004): 403–420.
- Benatar, David. *Better Never to Have Been: The Harm of Coming into Existence*. Oxford: Clarendon, 2006.
- Buchanan, Allen E., Dan W. Brock, Norman Daniels, and Daniel Wikler. *From Chance to Choice: Genetics and Justice*. Cambridge: Cambridge University Press, 2000.
- Caplan, Arthur. "Good, Better or Best?" In *Human Enhancement*, edited by Julian Savulescu and Nick Bostrom, 199–209. Oxford: Oxford University Press, 2009.
- Denier, Yvonne. "From Brute Luck to Option Luck? On Genetics, Justice, and Moral Responsibility in Reproduction." *Journal of Medicine and Philosophy* 35, no. 2 (2010): 101–29.
- Feinberg, Joel. *Freedom and Fulfillment: Philosophical Essays*. Princeton, NJ: Princeton University Press, 1992.
- Harris, J. "Sex Selection and Regulated Hatred." *Journal of Medical Ethics* 31, no. 5 (May 2005): 291–94.
- Hauskeller, M. "Human Enhancement and the Giftedness of Life." *Philosophical Papers* 40, no. 1 (2011): 55–79.
- HFEA. "Sex Selection: Options for Regulation. A Report on the HFEA's 2002–2003 Review of Sex Selection Including Discussion of Legislative and Regulatory Options." http://www.hfea.gov.uk/docs/Final_sex_selection_main_report.pdf, 2003.
- Hyde, Lewis. *The Gift: How the Creative Spirit Transforms the World*. Edinburgh: Canongate, 2007.
- Kass, Leon. "Ageless Bodies, Happy Souls." *The New Atlantis* 1 (2003): 9–28.
- Kavka, G. S. "The Paradox of Future Individuals." *Philosophy & Public Affairs* 11, no. 2 (1982): 93–112.

- Moore, G. E. *Principia Ethica*. Cambridge: The University Press, 1959.
- Parfit, Derek. *Reasons and Persons*. Oxford, Oxfordshire: Clarendon Press, 1984.
- Pinker, Steven. *The Better Angels of Our Nature: The Decline of Violence in History and Its Causes*. London: Allen Lane, 2011.
- Robertson, John A. *Children of Choice: Freedom and the New Reproductive Technologies*. Princeton: Princeton University Press, 1994.
- Sandel, Michael J. *The Case Against Perfection: Ethics in the Age of Genetic Engineering*. Cambridge, Mass; London: Belknap Press, 2007.
- Savulescu, J., and G. Kahane. "The Moral Obligation to Create Children with the Best Chance of the Best Life." *Bioethics* 23, no. 5 (Jun 2009): 274–90.
- Schopenhauer, Arthur. *Studies in Pessimism: A Series of Essays*. [S.l.]: Swan Sonnenschein, 1900.
- Scully, J. L., T. Shakespeare, and S. Banks. "Gift Not Commodity? Lay People Deliberating Social Sex Selection." *Sociology of Health & Illness* 28, no. 6 (Sep 2006): 749–67.
- Shakespeare, Tom. "Losing the Plot? Medical and Activist Discourses of Contemporary Genetics and Disability." *Sociology of Health & Illness* 21, no. 5 (1999): 669–88.
- Singer, Peter. "Parental Choice and Human Improvement." In *Human Enhancement*, edited by Julian Savulescu and Nick Bostrom, 277–291. Oxford: Oxford University Press, 2009.
- . "Should This Be the Last Generation?" *New York Times*, June 6, 2010.
- Sophocles, Eamon Grennan, and Rachel Kitzinger. *Oedipus at Colonus* [Translated from the Ancient Greek.]. Oxford: Oxford University Press, 2005.



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