REPRODUCTION

Crimes and misdemeanours: the case of child abandonment

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In 2002, a child was abandoned in a Burger King restaurant in Amsterdam by a Chinese woman, who hoped that the baby would be picked up by someone able to give the child a better life. She was convicted for child abandonment and imprisoned. Whereas some forms of child abandonment are criminalised, others are socially accepted and not even on the ethics agenda. This paper is an invitation to reflect on the inconsistency in the ways in which we prosecute, punish or try to correct some forms of child abandonment and yet make allowances for others.

The opening scene of the film *Crimes and misdemeanours* presents a ceremony in honour of Judah Rosenthal.

- We are all very proud of Judah Rosenthal [...] his endless hours of fundraising for the hospital, the new medical center and now the ophthalmology wing, which until this year has just been a dream. But it is Judah Rosenthal our friend who we most appreciate: the husband, the father, the golf companion [...] You can call him for any medical problem day and night and he will be ready to help. But you can also call Judah to find out which is the best restaurant in Paris...

Judah is a well-established oculist from New York. The choice of the name may not be coincidental, as his betrayal also leads to murder. Judah has prestige and wealth, and is socially very well considered. His lover, Dolores, wants to disclose their relationship to his wife Miriam. Judah does not want his wife to know about his misdemeanour. He asks the advice of one of his patients, Ben, and of his brother Jack. Ben advises Judah to confess everything to his wife. There is no other way out, given that Dolores is going to speak to his wife anyway. Jack, instead, advises that Dolores be killed, and offers to do the job. Judah would not have to do anything. He would be clean. Judah accepts. Nobody suspects him. After an initial period of moral crisis, in which Judah is tormented by deep guilt, he returns to his life as if nothing had happened. In one of the final scenes of the film, Judah encounters a film director, Cliff (Woody Allen).

- I have a great murder story—says Judah
- Yes?
- A perfect plot [...] Let's say there is this man who is very successful. He has everything [...]

Judah narrates how the murderer at some point stopped feeling guilty about the homicide.

- ...And then one morning he weakens, the sun is shining, and his family is around him, mysteriously the crisis has lifted, he takes his family on a vacation to Europe and [...] finds that he is not punished, in fact he is prosperous...His life is completely back to normal, back to his protected world of wealth and privilege.

- Yes—Cliff asks—but can he really go back?

- People carry sins around the world. Maybe every once in a while he has a bad moment, but it passes: with time it all fades...What would you expect do they do? Turn themselves in? I mean...This is reality...we rationalise, we deny...or we couldn't go on living.¹

Woody Allen's film has a moral: the human condition lacks moral order and justice. Although we expect meaning and fairness, and strive for happiness, at times we find that the human moral universe unfolds in an unpredictable way, and the casual, unfair and sometimes cruel nature of human choices and events leaves us confused and shocked. At the end of the film we remain bewildered by the incongruence between the atrocious crime committed and the fact that Judah faces no apparent consequence for his crime: the murder is attributed to somebody else, and Judah's life gets back to normal.

INTRODUCTION

This paper considers the case of child abandonment. In summarising Allen's film, I do not wish to compare child abandonment with commissioned murder. I instead wish to portray the way in which many stories of child abandonment end. In many cases of child abandonment, people who abandon their child or children face no consequences and are allowed to get back to their lives as if nothing has happened. Although in Allen's film Judah can go back to his life because his crime is undiscovered, people who abandon their child may face no consequences for their behaviour because some forms of child abandonment are not considered as such. Although society prosecutes, punishes or tries to correct some forms of child abandonment, it makes allowances for others, as they are not regarded as child abandonment. This paper argues that some types of parental behaviour that are not formally considered as forms of child abandonment (we will see what these are in the next section) are actually forms of child abandonment, with no relevant difference from the forms

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of child abandonment that are prosecuted by law. If my argument that some types of parental behaviour are forms of child abandonment, even if they are not currently regarded as such, is correct, it should follow that these types of behaviours should be treated by law and society in the same way as recognised forms of child abandonment, unless some other difference is found, which may justify difference in treatment.

For clarity, I do not consider egg and sperm donation. Although it may be argued that egg and sperm donation is a form of child abandonment, this paper deals with people who either procreate or adopt a child with the aim of having and raising a child, not with people who donate or sell their gametes for others to have children. To donate gametes for others to have children amounts to allowing those people to have children whom they could not have otherwise, to provide others with the means to procreate, but does not amount to abandoning children. Child abandonment would happen if those who brought the child into being subsequently abandoned him or her.

Putting children up for adoption is also not a form of child abandonment, as we shall see in the section on unwanted babies. Clearly, my stance partly rests on the value I attach to intentions. Intentions (ie, what people want to do and the purposes for which they do what they do), as we shall see later, matter in these cases. Nobody can be forced to raise an unwanted child—but there are ways of delegating parental responsibility that are not criminal or ethically questionable. Intending to make a child with the aim of bringing a new person into the world seems to carry a stringent responsibility both towards the child and towards the person with whom the child is conceived. Of course, intentions cannot be evaluated in a scientific way. But the trouble with regard to making children is that even if people make a child with the clear intention of having that child, they can then disappear and disregard entirely the life of their child, without this being seen as a form of child abandonment.

A final point that needs clarification before we move on to analyse the forms of child abandonment is that of parental responsibility. Parental responsibility is a matter of social norms and cultural context. This paper does not challenge the concept of parental responsibility. It assumes that parents (either genetic or social) normally have both the right and the duty to bear parental responsibility—to raise the child according to the best of their abilities, to provide shelter, accommodation, food and education according to the child's inclinations and needs.^{2,3} The issue I consider is not why our social and cultural norms place a high value on child protection. The issue is why, given that we attach high value to child protection, we disregard some forms of child abandonment that are in relevant respects similar to those that are prosecuted. This argument of course applies not only to genetic parents but to everyone who makes or adopts a child. Genetic and custodial parents have the same degree of responsibility towards their children, and therefore the arguments apply equally to both of them.

ABANDONING CHILDREN: CRIME OR MISDEMEANOUR?

In 2002, a Chinese woman abandoned her child in a Burger King restaurant in Amsterdam, hoping that the baby would be picked up by someone able to give the child a better life. One year later, she returned to The Netherlands to check on the destiny of her child. She was convicted for child abandonment and imprisoned.⁴

The fact that she is convicted is not surprising. Abandoning pets constitutes a criminal offence under some legislations (see Italian Criminal Code article 727). If abandonment of an animal is a criminal offence, even more so should be the

abandonment of a child. Many forms of child abandonment are, however, not regarded as criminal offences and are not even discussed in ethics debates.

A child is officially abandoned only when both parents abandon him or her. When one parent takes parental responsibility, the child is not officially regarded as abandoned.

Here are some examples of child abandonment that are not regarded as such,

Case 1: Alersandro 29-year-old Italian man, the oldest of three children, has not seen his father since he was 9. His attempts to make contact with the father have failed.

Case 2: Paolo 35-year-old Italian man, his parents were engaged. When the mother got pregnant the father left her. He moved to England, where he started another relationship and had other children. The father had always refused to see the child and this man had never seen his father.

Some of these stories are about famous personalities. Here are two examples.

The Italian actor Nino Manfredi, who died in 2003, had a relationship with a Bulgarian woman whom he met on the set of a film. From this relationship, a girl, Tonina Bogdanova, was born in 1985. The actor never recognised or saw the girl. The girl tried to make contact with the father to establish a relationship with him. It is known, for example, that in 2002 she sent a Christmas card to her father. The actor's wife replied, "We all wish you Merry Christmas too." In 2003, after many attempts on her part to get in touch with her father, the actor's lawyer informed her that her father was ill and would reply when he recovered.⁵ He died soon afterwards.

Another story is about Duke Amedeo of Savoia and Lady Kyara van Ellinkhuizen. We do not know whether the Italian actor intended to have a child with the Bulgarian woman, but the Duke declared that he wanted to have a family with Lady Kyara. The Duke and Lady Kyara give the same version of their relationship. In May 2005, the Duke, recently separated, meets Lady Kyara. The two begin a relationship. The Duke asks her father's permission to marry her, according to the custom of Italian aristocracy. He then asks her to marry him. Both of them declare that they have decided to have a baby. She gets pregnant and soon after he changes his mind and gets back with his wife. We do not know yet what will happen, as the baby is still unborn at the time this paper is being written.⁶ We do not know whether the child will be recognised by the father and how much contact, if any, the father will have with the newborn baby—we can only imagine that, however enlightened the Duke's wife may be, the new baby will not see much of the father. But the point here is that the Duke of Savoia, like any other man whose partner is pregnant, could decide to disconnect himself entirely from the child and to never even see the child, without this being regarded as a form of child abandonment.

Officially recognised forms of child abandonment are criminal offences or signs of psycholability. Even a sense of rejection of the baby not followed by an act of rejection is regarded as a sign of psychiatric disorder—post-partum depression.⁷ Instead, leaving children behind in the manner illustrated in the two case histories is not regarded as a form of child abandonment and is therefore not considered by society to be seriously problematic behaviour.

I contend that wherever people who have willingly and deliberately made or adopted a child, and who, without being forced to do so by grave incompetence or illness, disconnect themselves entirely from that child, perform an act of child abandonment, which is in all relevant respects similar to recognised and prosecuted forms of child abandonment.

It is hard to estimate the number of these types of abandonment, as they are not conceptualised as abandonment

and therefore do not appear on official statistics. As far as the child is left in the hands of an identifiable competent care giver—rather than at a Burger King restaurant—parents can lose contact with their children without their behaviour being regarded as a form of child abandonment. These forms of child abandonment are regarded at most as misdemeanours, and thus remain unchallenged, even in the professional literature or in ethics debates. It is indicative that at least since 1998 not one paper on the topic has been published in any of the most prestigious international journals of bioethics and ethics, such as *Bioethics*, *The Cambridge Quarterly of Health Care Ethics* and the *Journal of Medical Ethics*. Books on children's welfare⁸ and on ethics of reproduction¹⁰ have, so far, not dealt with unrecognised forms of child abandonment from an ethical point of view.

A deep irony lurks here: although issues around procreative freedom are widely and frequently discussed, the ethics of child abandonment is seldom debated. It seems appropriate to speculate endlessly on whether people have a right to have children,¹¹ what forms of procreation are ethical¹² and what children we should be bringing into the world,¹³ but then it is tacitly accepted that, once the babies are born, we can abandon them. Thanks to a paradoxical reversal, how to make children is an ethicolegal matter; abandoning them is not. Abandoning children is a private affair, the ethics and legality of which need not be publicly discussed. Despite the tacit acceptance they receive, these forms of child abandonment are not less criminal than others, and it is unclear why they are regarded differently.

I am not saying that all forms of child abandonment should be criminalised or punished, or if they are to be punished, how they should be punished. There may be reasons not to punish any form of child abandonment, but rather to intervene in other ways—for example, with the involvement of psychological and social services. The point is that some forms of child abandonment are not regarded as such. Not only are they not criminalised and prosecuted, whereas others are, despite the absence of extenuating circumstances, they are not even on the ethics agenda. But as unrecognised forms of child abandonment do involve the abandonment of a child, there seems to be an apparent inconsistency in our thinking; hence we should reflect more on such issues.

Not all forms of delegation of parental responsibility are equally problematic or psychologically bewildering. The case of the 16-year-old boy who by mistake makes a girl pregnant during a one-night stand and refuses to take parental responsibility, or of the parent who decides to put a child up for adoption, are not comparable to the situation of the Chinese woman. These cases will be discussed in the later section. The main focus of this paper will be on forms of child abandonment, which are in all relevant aspects similar to officially recognised crimes and yet are legal and socially accepted, and do not appear in ethics debates.

WHAT IS BAD ABOUT LEAVING YOUR CHILDREN AT THE BURGER KING?

Apart from the potential diet, a number of other elements make the behaviour of the Chinese woman bewildering.

We will now see that the same elements make unrecognised forms of child abandonment equally bewildering.

Hazard for the child

One of the main problems in the conduct of the Chinese woman is the risk to which the baby is exposed. The baby is abandoned to an unknown destiny.

Whereas the conduct of the Chinese woman is rightly criminalised because of the hazards for the child, other forms of disconnection from our children do not seem to have similar risks for the child. When one parent (who I shall identify as

“he”, as it is more often fathers who fail to take parental responsibility) leaves his baby or child in the hands of the other parent, and cuts himself off entirely from the life of the child, his action is not criminalised because the child is handed to an identifiable caregiver rather than to strangers or to nobody. The child is not regarded as being in danger.

However, the parent who fails to have *any* contact with his children, in fact, also leaves them to *an unknown destiny*. He may want to believe that he is leaving the children with the other parent. In a way, his choice is less risky for the child than the choice of the Chinese woman, who does not know who will pick up the child. When a parent, however, decides to ignore the destiny of the children, he does not know what will happen to them. The story could continue in different ways: the care giver may meet “Mr Right” and the children will have a new dad who will wait for them to be born, will put his finger in their new small hands for them to squeeze, will see their first teeth coming up, will be there to kick the first ball to, to turn the light off when they are asleep, to care for their education, for their growth and life. Thanks to especially lucky circumstances, the children may not be harmed, and may even benefit from the genetic father's rejection. But the story could well go in different ways: the care giver may experience enormous psychological distress; may become ill and die; may attempt suicide; may put the child up for adoption; may be unable to cope with work and child care and have to leave her job, thus raising the child in poverty; or the child could suffer because of parental rejection, which the absent partner or father will never know, if he will never have contact with the care giver and the child. Contrary to what it may seem like at first sight, the ignorance of the parent who detaches himself from his children is not dissimilar to the ignorance of the Chinese woman. They both fail to take parental responsibilities and leave the children to an unknown destiny. They both fail to ensure that the children will be fine, with whomever they will be raised. They both refuse to provide the care that is necessary to psychophysical health, while not knowing that the responsibility will be taken up by others.

The parent who loses all contact with his children acts like the doctor who is in charge of a surgical operation with another surgeon, and walks out of the operating theatre, leaving the other to do the job without ensuring that the other has the means to do the job, or like the pilot who gets drunk. Although there is another surgeon in the theatre, and another pilot on the plane, that desertion is still reckless for at least two reasons: one is that the deserters give up their responsibilities in the middle of an important operation (parenting, operating, flying), and the other, more important, is that by doing so they expose others to a risk, without knowing that their responsibilities will be taken up, and how they will be taken up, by others. It is not only the passengers or the patients who are exposed to risk and danger. The remaining care giver, whether parent, pilot or surgeon, is at a greater risk, stress and hardship as a result of the actions of the deserter as are those who assist them both in the short and long term.

Of course the patient in the theatre and the passengers on the plane may all survive, thanks to the skill and commitment of the remaining surgeon and pilot. Likewise, the abandoned child, thanks to fortunate circumstances, may receive adequate care and love from other care givers and may be able to develop functional patterns of attachment despite parental abandonment. But independent of whether the child will actually suffer harm, the person who hands in the child to an unknown destiny exposes the child to serious risk. Whether or not other circumstances may correct or prevent harm is secondary to the attribution of moral responsibility. In this sense, the father's action is not in any relevant way different from the act of the

Chinese woman and is remarkably like that of the drunken pilot or the disappearing surgeon.

Harm to the child

Another important problem with child abandonment is potential and likely harm to the children if they are deprived of parental love. Although children can be resilient and may adjust to uncommon circumstances, not receiving parental love and attention is known to compromise psychological, physical, neurological, cognitive and emotional growth. Provision of food, shelter and clothing needs to be accompanied by provision of emotional essentials, which include touch, movement, eye contact and smiles.^{14 15} It is now established that “the roots of healthy emotional development may be laid out [...] in the first year”¹⁶ and that early experiences of deprivation during infancy may cause serious behavioural disturbances.^{17–19}

The bad of abandoning children does not simply lie in the fact that the parent renounces parental responsibilities. In other words, the bad is not simply the violation of an abstract principle, but the real harm that a person is likely to suffer, either in the short or in the long term.

Not only officially recognised forms of child abandonment but all other forms of child abandonment expose children to this type of harm.

Objection 1: Single parenting does not harm children and therefore child abandonment does not harm children.

It could be objected that there is thin evidence that single parenting harms children,^{20 21} and therefore from the point of view of the children’s well-being, there is thin evidence that being abandoned by one of their parents is harmful. Especially if abandonment occurs early in infancy, the child will have known nothing else apart from a dyadic form of attachment with the remaining care giver, and therefore will not suffer.²²

There are at least two responses to this objection.

Response 1: I have blinded your baby, but he has known nothing else, so you have nothing to complain of.

This objection would only apply to unborn or very small babies, and would not cover the case of children abandoned at a later stage of their life. Even focusing on cases of abandonment of unborn or very small babies, if we accepted the argument that the babies will not suffer harm because they will have known nothing else, then we should also accept the claim of the obstetrician who deliberately blinded the baby during childbirth and then said, “Since he will have known nothing else, having lost sight does not make any difference to him.” The fact that the child will have known nothing else is of a little consolation. In fact, the remaining care giver could cry that the tragedy is precisely that the child will have known nothing else. The child who is abandoned in early years will not even have the concept of dad (or mum, depending on who the deserter is), just as a blind baby will not have the concept of colours. In one sense, this is probably the saddest aspect of the story. Lack of interaction with, even of knowledge on such an important figure such as a dad or a mum can hardly be believed to be indifferent to the child, and is appropriately regarded as a damage—like blindness: one with which the child can learn to cope, but which still remains a great disadvantage.

Response 2: The fact that single parenting is not in itself harmful does not mean that abandoning children is not harmful.

No doubt many single parents do a great job as parents, and children may be disadvantaged more by a dysfunctional couple than by a functional single parent. Arguably, parents who abandon their children are dysfunctional parents and partners, so the old adage “you are better off without” is more than a consolation. Also, I am not suggesting that single parents who decide to take responsibility for their children on their own are

to blame. On the contrary, many single parents are to be admired for continuing to care for their children when they are left alone to take full parental responsibility.

The claim, however, that single parenting is not harmful is too optimistic. Empirical evidence shows conflicting results. According to one study, negative social, behavioural and emotional outcomes are related to single motherhood.²³ Studies on children raised without the father from birth or early infancy show that these children do not appear to be negatively affected at a social and emotional level by paternal absence, although boys in fatherless families show more feminine behaviour than peers raised in two-parent households.²³ Moreover, these children generally display stronger attachment patterns towards their mother, but perceive themselves as less competent, both physically and intellectually, than their peers.²⁴ Other studies on children raised by single parents found that these children, especially the boys, are at greater risk of psychiatric problems, substance misuse and suicide.^{25–27} Some argue that the negative outcomes are related to the disadvantages that often accompany single motherhood (especially low social and economical status)^{28 29} rather than to single parenting itself.

Even if we assume that single parenting is not intrinsically harmful, the inference that because single parenting is not intrinsically harmful therefore the child will not be harmed is not valid (because, as we have seen, the corollary in which single parenting may take place is often disadvantageous for both mother and child, and lack of paternal support may be one of the factors that make it disadvantageous).

But, more importantly in this context, the other inference—namely, that because single parenting is not intrinsically harmful, then abandonment by one parent is not harmful—is certainly invalid. Parents who completely deny their presence to children expose the children both to risk of deprivation for the effects of abandonment on the remaining care giver, and consequently on the care giver–child relationship, and for the effects of abandonment on the children themselves. Abandonment by one parent can harm the child in the following four ways:

- The remaining care giver will have to satisfy all the other needs of the children, and it is not clear whether she will be able to also fulfil their emotional needs.³⁰
- The psychological distress that the remaining caregiver is likely to suffer may affect the relationship with the children.³¹
- If the children are grown up, they may suffer the deprivation (although the extent and modalities of suffering will vary from case to case).³²
- Even if the child is a small baby, it is possible that he or she will be affected by parental abandonment.^{18 33}

Empirical issues regarding the effects of different family structures on children’s psychophysical health cannot be discussed in detail here. I have pointed out that there is conflicting evidence on the effects of single parenting, and, more importantly, that children and babies are likely to suffer as a result of parental abandonment, even if single parenting were not found to be intrinsically disadvantageous. But the main point here is not whether and how much children will suffer or benefit from any specific type of upbringing. The main point here is an ethical one: child abandonment is an important ethical issue. The question of whether a parent abandoning a child harms someone is a serious one, and therefore deserves discussion. There is no reason to debate sex selection or other issues that may affect the life of babies and children and to ignore parental abandonment.

5. DIFFERENT CASES

Unwanted babies: the importance of intentions

In most cases, genetic parents who decide not to take parental responsibilities are either boys who by mistake inseminate a girl, or men who again by mistake make a woman pregnant or who are “trapped” into an unwanted pregnancy. These two groups of men are in a sense forced into parenthood, as they had no intention of becoming parents. Given that men have no power to interrupt the pregnancy, the law recognises their right not to exercise parental responsibilities. A man who has no intention of having a child or who is in a sense forced to have a child is in a similar position to the layperson who is forced to help a pilot on a plane or forced to assist in an operation in which he does not want to participate. Both have good grounds to refuse to take on the role. The fact that they are affected non-consensually is not a good reason to expose passengers to risks that are preventable or to leave children at a Burger King restaurant. It is debatable how much responsibility people in this position should take. What is not debatable is that the parent who deliberately and consensually makes a child has a stringent moral responsibility, in the same way as the pilot who is willingly in charge of a flight.

Intentions, which in bioethics debates are often discarded as vague and untestable, seem to have an important role in shaping our psychological and moral reaction towards acts of child abandonment. The mens of the agent qualifies the act of child abandonment in an important way.

Although it may sometimes be difficult to prove the intentions of the agents, the problem with unrecognised forms of child abandonment is that even in cases in which there is sufficient evidence that both parents have intentionally, deliberately and consensually brought a child into the world, one of the parents can in fact abandon their child without having to face any consequence. A person can openly state:

I intended to bring this baby into the world. I have consensually and deliberately had unprotected sex with this woman, in the hope that she would get pregnant and that we would have a baby together. But then I changed my mind and I don't want to have any involvement with the child, because I prefer my life to go in another direction; my life will be easier this way, and thus it is *best* that I disappear

and his action is not a form of child abandonment. It is at the least incongruent that these forms of child abandonment are entirely tolerated, whereas others are criminalised. The point is not that these forms should be legally criminalised or even how they should be criminalised (what punishment should be given, if any). It is that whereas some are clearly criminalised and society either punishes them or tries to mitigate their consequences with, for example, the involvement of social and psychiatric services, other forms of child abandonment are not questioned. They are tacitly accepted. They are not regarded as a problem at all. Even in ethics debates, they are ignored. If recognised forms of child abandonment are problematic, from a legal, or psychological or ethical point of view, the unrecognised forms also are.

Adoption: delegating parental responsibilities

The case of child abandonment also differs from that of adoption. It is not intrinsically unacceptable that parents decide to give their own children to others for care, when they believe that the others would be more fit or better than they are to raise the children, and that they would be better off with adoptive parents. Indeed, the choice of putting a child up for adoption may be a responsible one. It may be motivated, at least to an extent, by the future interests and well-being of the child. The

modality in which parental responsibility is delegated is also made in consideration of the child's needs. Until a suitable foster parent or adopter is found, the baby generally remains either in the care of the genetic parents or in the care of some other competent care giver. The baby is not abandoned to an unknown destiny, possibly with no nurturing and care. Genetic parents usually have a degree of control over the destiny of the child, in that they are able to participate in the selection process for an adoptive family. The baby is provided with care and support until a more suitable environment is found.

What primarily makes an act of child abandonment irresponsible, thus, is not that the parent delegates parental responsibilities, but the modality in which he or she decides to delegate them. Child abandonment occurs when the parents fail to ensure adequate care for the child.

Incompetence of the parent

In some instances, cases of child abandonment concern people who are, or are believed to be, physically, mentally or financially unable to care for their child. The example of the Chinese woman is one of these. It is possible that as an immigrant from a non-European Union country, with scarce knowledge of the language, the woman may have faced enormous difficulties in even getting by, let alone organising proper care for her own child, and, in a moment of desperation, she believed that leaving the child in a crowded place was the best option. She will have acted with utmost superficiality, and has exposed the child to extreme risk, but extenuating circumstances may lead us to soften the otherwise strong psychological and moral aversion to her action.

Extenuating circumstances such as these are often absent in other cases of child abandonment. Parents, as we have seen, can disconnect themselves from their children for no reason other than that their life will be easier or happier. This behaviour is unchallenged, and thus implicitly accepted as appropriate. It is difficult to understand why the extreme action of the Chinese woman, which can be mitigated by extenuating circumstances, is criminalised, whereas other extreme actions of child abandonment (typically the father who disappears from the destiny of his children) receive no legal or social attention, and are regarded as ethically unproblematic.

ABANDONING CHILDREN: BAD OR MAD?

In England and Wales, around 141 000 divorces are granted annually.³⁴ It is realistic to suppose that in many instances parents who divorce or separate have children. In many of these cases, the parent who does not have custody of the children (normally the father) still exercises parental responsibilities. In fact, many separated fathers have to fight to have a satisfactory degree of contact with their children and control over their children's lives. Although the modification in the family dynamics is often traumatic for all parties concerned, where both parents continue to share the care of the children, although on unequal bases, no child abandonment takes place.

Cases of child abandonment are much more bewildering than cases of separation and divorce, not because they are less common but because there is something profoundly disconcerting in the fact of deliberately and consensually having children and then leaving them, where leaving means deciding not to know what is going to happen to them now and in the future.

Some forms of behaviour seem to deviate so much from the expected patterns that they go beyond moral culpability and seem to be expressions of grave dysfunctionality in the agent. Some sentiments seem to be part of our psychobiological functioning, and parental attachment to children (here including the desire to be near, to nurture, care and protect the child) seems to be one of these. With obvious individual variations, patterns of reciprocal attachment between children and care

givers are so typical that they can be observed and studied scientifically. The clause “patterns of reciprocal attachment” means that not only does the baby bond with the care giver, but that the care giver also generally bonds with the baby. The person who deliberately makes a child and then does not display any of these sentiments, but who, on the contrary, shows no sign of them horrifies and shocks us; such a person is seen not only as a morally faulty person, but also as a monstrosity, an anomaly.

Whereas some experiences and behaviours that show profound dysfunctionality in the agent (such as sexual acts with children) require psychiatric attention, especially when they may cause harm to others, child abandonment, which also shows dysfunctionality in the agent and may cause harm to others, is unproblematic. Clearly, nobody can be forced to love and care for someone they do not love and care for. But it is unclear why some forms of child abandonment, such as the one regarding the Chinese woman, are recognised to be either criminal or as signs of profound dysfunctionality in the parent, whereas others remain entirely unchallenged, both from an ethicolegal and from a psychiatric point of view, as if they were an entirely private matter, a matter of choice, over which society and law are not called to deliberate.

CONCLUSION

We are all faced thorough our lives, with agonising decisions, moral choices [...] we define ourselves by the choices we have made. We are in fact the sum total of our choices.¹

Woody Allen's film concludes with a party, in which Judah seems to enjoy the company of his wife and colleagues. Judah's life goes back to normal. Despite this, we would probably not want to be in Judah's shoes, because the sum total of his choices is pushing the scale towards an undesirable destiny despite his wealth and prestige. Judah is doomed to loneliness, forced to silence. He has lost his freedom: he cannot share his past with anyone; he cannot get in touch with the reality of what he has done. He has been so fragile that he could deal with his dilemma only by committing a crime. Everyday he will have to convince himself that this was overall the best action, or even the only possible action, against evidence. A miserable life, most of us would conclude, and a fragile happiness, forever tormented by the deep awareness of the crime committed. At the end of the film, we nearly pity Judah. To tolerate his life, Judah has to create a self-defence: “This is reality...—he says—we rationalise, we deny...or we couldn't go on living...”

The moral of the film is that we have no reason to believe that the human universe is a just and moral one: “Events unfold so unpredictably, so unfairly...” Long before Woody Allen, Voltaire³⁵, with pungent irony, objecting to any theodicy, also discredited the belief that the one we inhabit is the best of all possible worlds. Philosophical systems based on an eschatological view of the world have fallen during the 20th century.

If we have to remain committed to our function as philosophers and ethicists, however, we should at least recognise and analyse the incongruity with which we conceptualise some actions as crimes and prosecute them or try to correct them; and yet, we decide to completely ignore or tolerate others, similar in all relevant ways.

This paper has shown that, although some forms of child abandonment hit the press and create scandal, others do not. Some unrecognised forms of child abandonment are equally if not more criminal as those that are recognised as criminal, and, because of a strange incongruence, they go unpunished and

unchallenged. Like Judah Rosenthal, the person who has abandoned his child, and has lost all contact with him or her, is allowed to go back to normal. The difference between Judah and the parent who abandons the child is that Judah is forced to silence because society recognises that murder is a crime, and it is only by hiding the crime that he can go back to normal, whereas the parent who abandons his child can go back to his life without even having to hide anything: child abandonment—when performed by one parent only—is regarded as ethically and legally unproblematic.

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