Ethical reflection on the harm in reproductive decision-making

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Advances in reproductive technologies continue to present ethical problems concerning their implementation and use. These advances have preoccupied bioethicists in their bid to gauge our moral responsibilities and obligations when making reproductive decisions. The aim of this discussion is to highlight the importance of a sensibility to differences in moral perspective as part of our ethical inquiry in these matters. Its focal point is the work of John Harrisⁱ, who has consistently addressed the ethical issues raised by advancing reproductive technologies. The discussion is aimed at a central tenet of Harris's position on reproductive decision-making—namely, that in some instances, giving birth to a worthwhile life may cause harm and will therefore be morally wrong. It attempts to spell out some of the implications of Harris's position that the author takes to involve a misplaced generality. To support this claim, some examples are explored that demonstrate the variety of ways in which concepts (such as harm) may manifest themselves as moral considerations within the context of reproductive decision-making. The purpose is to demonstrate that Harris's general conception of the moral limits of reproductive autonomy obscures the issues raised by particular cases, which in themselves may reveal important directions for our ethical inquiry.

general theoretical conception of the moral limits of reproductive autonomy confines our ethical inquiry, because it presupposes a singular conception of moral conduct to which we are all accountable. In addition, this kind of approach underplays the significance of differences in perspectives that divide us on specific moral issues. Closely attending to these differences will strengthen our ethical inquiry by developing our appreciation of the variety of forms of moral judgement on specific issues. I do not want to suggest that the mode of inquiry I affiliate with holds the monopoly on the investigation of ethical issues of this kind, but simply want to point to an alternative way of thinking about these matters. To clarify this, I will focus on Harris's position.ⁱⁱ

HARM, WRONGDOING AND REPRODUCTIVE DECISION-MAKING

Harris argues that to intentionally cause avoidable harm is to act wrongly, as that would increase the level of human suffering in the world.ⁱⁱⁱ We are, he suggests, morally obliged to prevent suffering and we are as morally blameworthy in acting to cause suffering as we are in failing to prevent it. This proposition raises the question, what is it to harm someone? According to Harris, a harmed condition exists when an individual has a disability, however minor, where there is a rational preference to be without that disability. Harris provides the example of losing the little finger of the left hand. Because of a person's rational preference for all five digits, to lose the finger as a result of someone else's actions is to be placed in a harmed condition by that other person.

On the basis of this premise, then, Harris suggests that where an individual (A) exists in a harmed condition as a consequence of the actions of another

Advances in reproductive technologies continue to stir up public debate over their use and implementation within the context of reproductive decision-making. From an ethical perspective, concern has been expressed over our moral obligations and responsibilities towards future generations, given the possibilities that these technologies present.² In relation to this matter, a recent article by Rebecca Bennett and John Harris³ endeavours to clarify questions relating to the moral limits of reproductive autonomy. Their discussion presents key arguments that illuminate their own respective positions on this matter, particularly the relation between disability and suffering resulting from reproductive decisions. In my view, the two positions suffer from the same deficiency, namely, the endeavour to attain a general conception of the moral limits of reproductive autonomy. Much of this is contingent on the mode of ethical inquiry that both Bennett and Harris engage with.

In this discussion, I aim to specify an alternative mode of inquiry. I argue that trying to attain a

ⁱ In a previous paper, I addressed John Harris's views on the morality of reproductive decisions (see Murtagh, 2004).¹ However, I do have serious misgivings about the argument presented there, and this discussion aims to rectify those misgivings as well as my original portrayal of Harris's position.

ⁱⁱ Part of the backdrop to Harris's position concerns the ethical and legal issues surrounding actions for wrongful life. However, an in-depth exploration of the question of wrongful life is beyond the scope of this paper. In setting out his own view on the wrongful-life action, Harris distinguishes his position from that of Bonnie Steinbock and Joel Feinberg. See Harris, 1992 (p140–61).⁴

ⁱⁱⁱ Harris's approach to the question of harm can be found in Harris, 1980.⁵ See also Harris, 1985.⁶

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individual (B), it would be true to say that B has harmed A. Likewise, if by virtue of A's decision, B is harmed, the wrong is to be found in A's intentionally bringing avoidable suffering into the world. Based on these premises, Harris moves to reconsider the nature of parental responsibility as it relates to reproductive decision-making. It follows, according to his argument, that if, in making their reproductive decisions, parents deliberately bring avoidable suffering into the world, they are morally blameworthy; indeed, their actions are morally wrong.

For example, a child born with congenital blindness may well find its life worth living by having benefited overall by life itself. Nevertheless, on Harris's account, that child has been harmed if the parents could have avoided bringing all the suffering of congenital blindness into the world and has been wronged if the child finds life not worth living (p90).⁴ According to Harris, given the available alternatives, "it is better to have healthy children than to have handicapped children where these are alternatives, and it is better to have handicapped children than to have no children at all" (p166).⁷

One of the implications of his argument is that we may, in some circumstances, be morally culpable in choosing not to terminate a pregnancy. The presupposition behind Harris's argument is that if the pregnancy is terminated, the disabled fetus loses less overall in terms of net satisfaction than the normal fetus. Therefore, all things being equal, there are rational moral reasons not to cause the disabled child to be born when there is an opportunity to give birth to a normal child. This presumably is related to Harris's view that "a moral belief is, whatever else it is, to believe that the world will be a better place if certain things happen and others do not, and that it will be a worse place if the reverse is true" (p5).⁶

THE IMPORTANCE OF MEANING

The purpose of this discussion is to illustrate two things: first, the importance of "a deepened understanding of the meaning or of the significance of what we do" as human beings (p127);⁸ second, that a general theoretical conception cannot account for all instances of moral action that may involve harm or human suffering.

According to Harris, the harm caused to someone if we intentionally cut off their little finger is the same as the harm caused by giving birth to a child who will be born with the little finger missing.

In this way, Harris asks us to treat both cases as logically connected and equivalent, because in each case, according to him, we facilitate an increase in the amount of human suffering in the world by acting or failing to act. However, as part of our ethical inquiry, this type of approach can be misleading. For example, the extent to which A's acts or omissions towards B can be held morally accountable is contingent, not on a general definition, but on the meaning B ascribes to the situation and the extent to which the act or omission strikes B as a morally intelligible accountable matter. With this in mind, the extent to which the decision to have a child that may result in harm being caused to that child opens up a vast array of contingent factors. Factors such as the severity of the disability and whether or not it justifies termination will mean different things to different people. Each one of us may have different understandings of what is a harmful, hurtful or disabling condition.

Harris may counter this kind of view and argue that it is precisely because of this diversity in moral viewpoint that we need an adequate framework within which such decisions can be responsibly made. I agree with Harris, certainly at the practical level, that an appropriate framework is important precisely because of the issues at stake. At the level of ethical reflection, I also agree that to cause harm to others intention-

ally is necessarily a bad thing; I believe most people would share that opinion. Indeed, Harris's argument is a persuasive one, not least because it appeals to this broadly accepted standard or norm. The point is, however, to observe how this agreed standard or norm is understood in particular contexts (eg, reproductive decision-making) and cases. This demands a deeper sensibility to the variety of ways in which the moral significance of a particular issue is comprehended by those involved. A deeper sensibility to these differences, in turn, may help inform any legal or ethical framework.

DETERMINING THE RIGHT DECISION

Harris's argument seems to imply that when it comes to considering the moral limits of reproductive autonomy, one can harmonise the heterogeneity of moral perspectives or generate a rational solution by elevating a philosophical conception of harm as a general unifying concept to cover particular cases. The reason for this is that Harris is concerned not simply with what a person thinks is the right thing to do, but what *is* the right thing to do. Thus, arriving at an answer must be an answer that any rational being would agree with given the same set of circumstances.

In this respect, Harris offers something like a legalistic conception of morality. On the basis of this conception, questions of right and wrong are, in principle, evidently discernible when presented to any rational being concerned to do the right thing in any given set of circumstances. Moreover, questions of right and wrong can be determined independently of the perspectives of those involved. Even where concession may be given to the perspectives of those involved, they are taken into account only in relation to a singular notion of morality to which, it is argued, we are all morally accountable. For the purposes of a public morality or public reasoning, this kind of model is very appealing. However, it underplays the significance of what is involved in making a moral judgement. It does this by failing to adequately account for the fact that the meaning of a moral issue or the "resolution" to a dilemma is not given by a general definition or framework but is given by the viewpoint of the moral agent. In this respect, the potential harm to be caused by reproductive decisions will mean different things to different people, thereby exhibiting different "resolutions" to the dilemma at hand. Morality, unlike the law, is not a guide to conduct in the way that Harris implies.

I want now to consider some examples to elaborate the points that I have made so far. Take the example of a practising Catholic couple who believe that human life begins from the moment of conception. It follows, therefore, that intentional destruction of that human life will not present itself as a viable option. However, the couple may see an exception where the destruction is a consequence of the attempt to save the life of the mother. They may choose to undergo some screening procedures. Depending on the extent of commitment to their ethical position, further testing in the form of prenatal diagnosis may be an option. During the pregnancy, the couple decide to have prenatal diagnostic tests which subsequently indicate that the child has Down syndrome. The woman is young and therefore in a good position to terminate the pregnancy and try again for another child who will not have Down syndrome. However, given their commitment to their moral views, the couple's decision is to continue with the pregnancy.

Harris is a strong advocate of reproductive autonomy and would acknowledge this decision as the couple exercising their own autonomy. Nevertheless, on his account, the parents in the example will cause harm, and their decision to bring avoidable suffering into the world is morally wrong. He would presumably argue that they have no adequate conception of what it means to cause harm. This is a consequence of Harris's

argument that I believe misrepresents what is at stake. It is, perhaps, more appropriate to say that in the given example, the couple hold a different conception of harm that is rooted in a particular moral perspective. As a moral decision it is not, as Harris has suggested, a belief that the world will be a better place for making that decision but is, rather, an expression of the importance of the couple's religious values and the place those values hold in their lives. The point of this is that an appeal to the principle to avoid harm (for the reasons Harris gives) will be self-defeating. That is to say, it is precisely what it means to cause harm (through reproductive decisions) that the couple and Harris are in disagreement over in the first place.

This example is perhaps not the best one, in so far as the couple will (not unlike Harris) hold a particular conception of the moral status of the embryo or fetus that will also play a role in informing their decision. The example is used, however, to demonstrate an important point, namely, that decisions concerning which course of action to take, among given alternatives, have to be set against the backdrop of what a person takes the alternatives *to be* in any given set of circumstances.⁹ In this instance, for the couple concerned some of the alternatives may not figure as morally relevant possibilities in the decision that they have to make.

Let us say that another woman or couple have been placed in an "at-risk" diagnostic category. They are offered prenatal diagnostic testing but refuse it, not because of a belief in the preciousness of human life but because of their concern over the risk of harm or disability that diagnostic testing procedures present to the fetus. This particular couple are, it seems, in agreement with Harris that to cause harm intentionally is necessarily a bad thing. The couple's response, however, demonstrates a different conception of harm as a moral consideration. This different conception is reflected in their decision not to pursue prenatal testing.

RELATIVISM IN REPRODUCTIVE DECISIONS

Harris acknowledges that there are differences in perspective and different conceptions of morality. However, he may object to the reasoning behind the examples discussed by arguing that any rational moral agent would clearly desire to discern adequate moral reasons among the alternatives in order to pursue the best moral course of action. He may argue further that in so far as the reasons given in these different examples may not withstand scrutiny, we have no grounds for demonstrating them to be either right or wrong. Harris's quest for a paradigmatic notion of harm is justified by the fact that it will unify all kinds of harm or disability, irrespective of their degree, thereby ruling out subjective notions of the concept.

In relation to this, it could be argued that what I have proposed in this discussion is relativism, namely that the moral limits of reproductive autonomy are relative to cultural, social and individual circumstances. However, this would be a confused conclusion. While I have argued that different moral perspectives on the question of reproductive autonomy can be equally coherent, this does not commit us to the view that different moral perspectives on this issue are equally valid and therefore morally indeterminate. The fear of relativism is built out of a distorted picture of what is involved in taking a moral position and making a moral judgement. Anyone who is concerned with judging a moral issue does not decide on the basis that their decision is one kind of judgement among many other, equally correct, ones. Rather, they decide that their judgement is, all things considered, the correct kind of judgement. These differences are real differences that divide us on the moral aspects of particular issues.

I may disagree with the decision of the Catholic woman or couple in the first example. I may also agree with Harris that screening for

a fatal genetic disease (such as cystic fibrosis) is a good thing. However, people will differ as to what counts as the morally significant aspects of a case (p123).¹⁰ The insistence that to determine right and wrong such differences need to be endorsed by criteria (eg, a general definition of harm) external to the viewpoints in question distorts what these differences amount to and the kinds of considerations that they represent. The absence of such criteria does not deny us the possibility of making meaningful moral judgements to decide between right and wrong. Nor does it invite the possibility of relativism in morality.

There are important conceptual limits to what we understand as taking a moral position or making a moral judgment (p106).¹¹ At the same time, we should not lose sight of the variety of moral perspectives expressed within those conceptual limits. Within the context of reproductive decision-making, the pursuit of a singular, general definition of harm prevents us from attaining a clear view of these varied perspectives and the possibilities they open up as part of our ethical inquiry.

CONCLUSIONS

My aim in this paper has not been to suggest that ethical reflection on reproductive decisions is not relevant, but rather to suggest that we should be sensitive to what that reflection amounts to and the kinds of questions it leads us to ask. Moreover, I would not want to argue that we should banish generality from ethical debate. Rather, I have tried to show that what is general in ethics has to do with the variety of moral perspectives one may encounter when discussing moral questions. This variety should not be written off in the attempt to define the content of particular moral issues. Different perspectives may define the content of a particular moral question in different ways (p57–84).^{12iv} A careful consideration of this variety will enable a clearer understanding of moral argument and judgement.

Within this context, appeals are frequently made to the "interests" of society as a relevant consideration. These appeals are made to highlight the issue of our moral responsibility to society and the kind of society that we wish to live in, in the future. The trouble is that this kind of appeal, too, represents an unhelpful generality. It is unhelpful because it frequently blinds us to important differences in moral viewpoints that divide us as moral agents. These differences in moral viewpoints are often an integral component of the seriousness with which moral positions are expressed, again, whether we are inclined to accept them or not.^v

At the practical level, it could be suggested that the kind of argument presented in this paper leaves little in the way of any ethical guidance on the new reproductive technologies. Clearly, there is a requirement for legal and ethical guidelines/frameworks in these matters precisely because of the issues that they raise. However, if these guidelines and frameworks provide no scope for the careful consideration of particular cases, then I do believe that this is unhelpful. The question of how we should respond to the possibilities of the new reproductive technologies can only really be seriously considered through a detailed examination of particular cases. This demands careful thought and consideration as to how precisely to address a case in such a way that is appropriate and relevant to the particular issues that it raises. This may not always be the most practical approach, but in terms of our ethical inquiry, it is certainly the

^{iv}In his discussion of what makes existence valuable, Harris does acknowledge this point. However, his urge to theorise these matters takes precedence. See Harris, 1985 (p16).⁶

^v"Nor can it be said that "society could not go on" if people insisted on pressing sectional interests. That is how society does go on." See Rhees, 1969 (p91–6).¹³

most concrete. It allows us to attain a clearer understanding of the variety of moral perspectives on reproductive decision-making rather than explaining them away on the basis of a general conception of harm.

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