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# PERSON-AFFECTING PROCREATIVE BENEFICENCE

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## *abstract*

*A relevant problem in reproductive ethics is the moral evaluation of selection of the possible children that the parents can have. This article discusses one of the main attempts to solve this problem, the principle of Procreative Beneficence proposed by Julian Savulescu to define a strong pro-selection perspective. According to Savulescu, such a principle has an impersonal form and is balanced with a person-affecting principle of harm. The article proposes a new person-affecting interpretation of Procreative Beneficence, distinguishing it from other pro-selection views and exploring its extension beyond selection to other problems of reproductive ethics.*

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## *keywords*

*procreative beneficence, selection, reproductive ethics, future generations, enhancement*

### **1. Ethics and selection**

One of the main issues in reproductive ethics is the problem of the evaluation of selection of the possible children that the reproducers (the parents, a couple, a single person) can have, in a coital or non-coital way of reproduction. The most evident cases of selection are related to pre-conception testing on reproducers' gametes (carrier screening), to post-conception testing (like pre-implantation genetic diagnosis, PGD, connected to in-vitro fertilization, IVF) and to post-implantation screening (like chorionic villus sampling or amniocentesis). Yet, the case of selection may be wider and involve all the cases where the reproducers decide when and whether to have a child: in this wider use, all of us are possible selectors.

The idea of selecting offspring traits – of quality control of offspring – is both appealing and disturbing. It is appealing because of the understandable desire for a normal, healthy child. Avoiding conception or terminating an affected pregnancy rather than living with the burdens of handicapped birth would appear to be a central part of procreative liberty. [...] Yet there is something deeply disturbing about deliberate efforts to assure a healthy birth, at least when certain means are used. The very concept of selection of offspring characteristics or 'quality control' reveal a major discomfort – the idea that children are objects or products chosen on the basis of their qualities, like products in a shop window, valued not for themselves but for the pleasure or satisfaction they will give parents (Robertson 1996, 150).

There are several answers to the moral problem of selection. A first answer considers selection as morally forbidden. This answer is given by several anti-selection views, like those of the Roman Catholic Church or of some secular thinkers (Jonas, Habermas, Sandel)

To appreciate children as gifts – Sandel writes – is to accept them as they come, not as objects of our design or products of our will or instruments of our ambition. Parental love is not contingent on the talents and attributes a child happens to have. We choose our friends and spouses at least partly on the basis of qualities we find attractive. But we do not choose our children. Their qualities are unpredictable, and even the most conscientious parents cannot be held wholly responsible for the kind of children they have (Sandel 2008, 45 f).

A second answer considers selection morally permissible. This answer is given by many pro-selection views which grant the reproducers a moral permission (a liberty or a right) to select. These pro-selection views believe that reproduction is a private matter and therefore that selection is morally permitted; or believe that morality gives reproducers a sort of freedom when they make procreative decisions: a form of procreative liberty or reproductive autonomy (Roberson, Glover, Agar).

We must distinguish positive from negative selection techniques and ask whether the technique is used for therapeutic or nontherapeutic purposes. In each case we must first establish whether the central concerns of procreative liberty are involved, and then whether the use in question harms the interests of others sufficiently to justify restriction. [...] As with other reproductive technologies, procreative liberty would entitle most couples to use—or not use—negative and even positive selection techniques as they choose. The perceived dangers of ‘quality control’ appear to be insufficient to remove these choices from the discretion of persons planning to reproduce (Robertson 1996, 151)

A third answer considers selection morally obligatory. This answer is given by some pro-selection views which assign to the reproducers a moral obligation to select an advantaged child. The main example in this group is the principle of Procreative Beneficence proposed by Julian Savulescu and Guy Kahane, to which I will turn below. Another form is the view that will be proposed in the second part of this essay.

Like other decisions in reproductive ethics, selection affects the identity of the children who will exist: it is an identity-affecting choice. In this way, selection relates to a fundamental problem regarding future generations ethics: the *non-identity* problem, due to the fact that selective actions affect not only the *quality* of life but also the *identity* of future people, and may affect their *quantity* too (selecting for two or more twins instead of one child). Therefore, selection brings with itself the need to distinguish different ways of understanding normative principles applied in reproductive ethics and different kinds of moral obligations and reasons: a person-affecting view, an impersonal view and a trans-personal view.

## 2. The non-identity problem

A person-affecting view states that “an act is right or wrong only if there is or will be a person affected by it” (Glover 1977, 66). According to this view, we have an obligation only toward present or future people who will exist: *actual* people. Traditionally, it states that wrongs require victims: «what is bad must be bad for someone» (Parfit 1984, 363). According to this view, every harm (or benefit) is personal.

In deciding what we are to do, the only consideration which is morally relevant [...] is how others would be affected. If we cannot envisage effects on certain people which would ensue from our acts, then we have no moral material to work on and we can do as we like (Narveson 1967, 63)

According to a person-affecting view, there is an *asymmetry* between the obligations related to reproduction: we do not benefit a child if we bring her into life, but if her life is not worth-living we harm a child by generating her. “If, therefore, it is our duty to prevent suffering and relieve it, it is also our duty not to bring children into the world if we know that they would suffer or that we would inflict suffering upon them” (Narveson, 1967, 71).

On the other hand, an impersonal view states that an act can be right or wrong even if there is, or will be, no person affected by it, but she could have been, if we had acted otherwise.

According to this view, we have an obligation even toward *potential* (or ‘merely possible’) people: people who will not exist but whose existence depends on us (Hare 1988, 68). In this case, we have a different kind of harm (or benefit): an impersonal harm, a harm without a victim, which makes the world a worse place.

We should do what is in the best interests of those concerned. [...] Such a principle can take different forms. We need only look at a single difference. The principle can take what I call an “impersonal” form: for example, it can run

1) We should do what most reduces misery and increases happiness.

It can instead take a “person-affecting” form: for example

2) We should do what harms people the least and benefits them most.

When we can only affect actual people, those who do or will exist, the difference between these forms of the principle makes, in practice, no difference. But when can affect who exist, it can make a great difference (Parfit 1976, 109).

An impersonal view implies three requirements: 1) a *comparability* requirement: that a life of actual or future people can be compared with the life of potential people (Parfit 1984); 2) a *substitutability* requirement: that actual, future and potential people may be replaceable with each other (Singer 1979); 3) a *compensability* requirement: that a harm made to actual or future people may be compensated for with a benefit made to potential people and vice-versa.

Thirdly, a trans-personal (or wide person-affecting) view states that an act is right or wrong only if there is or will be a person affected by it, but her harm or benefit is defined by comparing her condition with that of a potential person who would have lived in her place if we had acted otherwise (Parfit 1984, 395). If the potential person had had a better condition, there is a harm made to the first person, if the potential person had had a worse condition, there is a benefit. In this case, we are facing a trans-personal harm (or benefit).

I propose interpreting the principle [of harm] so that ‘harm to others’ includes ‘transpersonal harms’: that is, where one course of action brings about a world where those who exist are worse off than would have been the different people who would have existed on the alternative course. The harm principle needs this adaptation to cope with some of the genetic choices (Glover 2006, 74).

According to impersonal or trans-personal views, there is a *symmetry* between the obligations related to reproduction: if we harm a child by bringing her into a life not worth living, in the same way we benefit a child if we bring her into a worth-living life. Therefore, there is a moral obligation not only not to generate children if they would suffer, but also to generate children if they would be happy.

The consequences of symmetry are problematic. Roughly, symmetry “would require unlimited procreation”, avoiding contraception or forbidding chastity (Hare 1976, 163) and thus the obligation to generate extra happy children whenever possible (to make happy people) and to increase the quantity of future people.

According to the ‘impersonal’ principle [...] [a childless couple] should do what most increases happiness. One of the most effective ways of increasing the quality of happiness is to increase the number of people. So the couple ought to have children; their failure to do so is [...] morally wrong (Parfit 1976, 109).

### 3. Savulescu's Procreative Beneficence

The Principle of Procreative Beneficence (PB) proposed by Savulescu states:

(PB): If reproducers have decided to have a child, and selection is possible, they have a relevant moral reason to [should] 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 (Savulescu & Kahane 2009, 274).

PB is a consequentialist and maximizing principle: it states an obligation to have the child with the greatest well-being (a life with memory, intelligence, empathy, etc.); and it is a comparative principle: it compares the well-being of the possible children the parents could have (Savulescu & Kahane 2009, 175).

This theory is based on the concept of well-being as a viable way to assess the value of a life, but it is not necessarily related to a definite view about well-being, and thus it is compatible with different conceptions of well-being:

A common objection to PB is that there is no such thing as a better or best life. It is hard to defend such a claim. What constitutes a good life is a difficult philosophical question. According to hedonistic theories, it consists of having pleasant experiences and being happy. According to desire fulfilment theories, what matters is having our preferences fulfilled. According to objective good theories, certain activities are intrinsically good – developing deep personal relationships and talents, gaining knowledge, and so on. PB is neutral with respect to such philosophical disputes about the nature of the good life. But although there is this philosophical disagreement, there is considerable consensus about the particular traits or states that make life better or worse, a consensus that would rule out many procreative choices as grossly unreasonable (Savulescu & Kahane 2009, 279).

An example of PB's application regards a case of selection related to a pre-conception test of a woman during rubella. PB states the moral obligation to postpone the conception of the child in order not to have a deaf or a blind child (Savulescu 2001, 417; Savulescu & Kahane 2017, 592). Yet, according to Savulescu, there are limits to Procreative Beneficence. The obligation is not an absolute obligation but a *pro tanto* obligation, which needs to be balanced with other *prima facie* obligations in order to become an "all-things-considered overriding obligation" (Savulescu & Kahane 2017, 594). For this reason, Savulescu states that, in PB, 'should' means 'have good reasons to' or 'is morally required', and it is different from 'must'. It implies that persuasion is justified but not coercion:

PB is not an absolute obligation. It is the claim that there is a *significant moral reason* to choose the better child. The principle states not what people invariably must do but what they have significant moral reason to do (Savulescu & Kahane 2009, 278).

In particular, it has to be balanced with another fundamental principle: the principle of harm, that states a moral obligation not to harm others against their will. Following such a non-harming restriction, Savulescu admits the couple's free choice to select a less advantaged child: "there are strong philosophical grounds to hold that procreative liberty should extend to people selecting less than the best child" (Savulescu 2014, 178).

Moreover, Savulescu considers PB compatible only with an impersonal or a trans-personal (wide person-affecting) interpretation: «like competing principles of procreative ethics, PB is compatible with different accounts of reasons to select future children. It can take either

a wide person-affecting form or an impersonal form» (Savulescu-Kahene 2009, 227). On the other hand, the Principle of Harm is intended as intrinsically related to a person-affecting restriction: «harm is personal in nature» (Savulescu 2014, 178).

There may be a conflict between this impersonal (or trans-personal) principle of procreative beneficence and a person-affecting principle of harm, and the solution proposed by Savulescu is to give precedence to the principle of harm:

In general, proscriptions against person-affecting harm should be much stronger than those against impersonal harms. We should not significantly harm individuals now to bring about a better world, where the betterness is impersonal. Impersonal reasons then could be rather weak when pitted against personal reasons. Requirements of PB [...] are reasons but should not require major person-affecting harms (Savulescu 2014, 178).

To clarify, Savulescu refers to Parfit's example of the Two Medical Programmes, one for the treatment of a rare disease, the other for the prevention of such a disease, in order to refuse Parfit's No Difference View between the two programmes and to state the priority of person-affecting reasons over impersonal reasons:

There are two rare conditions, *J* and *K*, which cannot be detected without special tests. If a pregnant woman has condition *J*, this will cause the child she is carrying to have a certain handicap. A simple treatment would prevent this effect. If a woman has condition *K* when she conceives a child, this will cause the child to have the same particular handicap. Condition *K* cannot be treated, but always disappears within two months. Suppose next that we have planned two medical programmes, but there are funds for only one; so one must be cancelled. Parfit supports the No Difference View: he believes that each programme is right and there are equally strong reasons to pursue each. This I believe is wrong [...]. In the case of *Treatment*, there is person-affecting harm. If you fail to treat, a future person is made worse off than he or she would otherwise have been. In *Prevention*, the harm is impersonal - the world is worse for having more suffering than it could have contained, but no person is worse off than he or she would otherwise have been (Savulescu 2014, 176-7).

This person-affecting restriction reduces the revolutionary impact of Procreative Beneficence and diminishes its radicality, permitting a general agreement with common-sense morality: "although PB is often presented as a radical view, it is really just an extension of widely accepted existing practices and an application of common-sense ethical ideas" (Savulescu & Kahane 2017, 598). For this reason, deaf or dwarf people should be acknowledged to be free to deliberately select children with deafness or dwarfism.

Therefore, Savulescu's proposal regarding selection is a complex and hybrid position, which admits both impersonal and personal reasons for actions, and states an order of priority among them (2014, 177). The result is "a liberal form of procreative perfectionism" (Glover 2006, 54), which is not immune from problems and which has had different critics.

Some scholars have refused Savulescu's position from an anti-selection point of view, which does not consider selection of the best child as a morally permissible act (because of problems related to selection procedures, De Melo-Martin 2004 and 2016, or related to identifying what the best life is, Parker 2007). Others have refused Savulescu's position from a liberal pro-selection point of view, which does not consider selection of the best child as a moral obligation but only as a moral permission, not correlated to any duty of beneficence (see

Herisonne-Kelly 2006, Bennett 2009, Sparrow 2014). Others have refused Savulescu's position from anti-consequentialist points of view (see Stoller 2008, Hotke 2012).

Elsewhere, I have focused on some problems related to the hybrid aspect of the theory: the possible conflict between an impersonal procreative beneficence and a personal harm, the risk of limiting beneficence to pre-implantation selection, the necessary extension of maximising beneficence to different quantity people choice (see Magni 2019). There, I have proposed another view of selection (and more generally of reproductive ethics) which can avoid Savulescu's perfectionist complex solution without renouncing a principle of beneficence: person-affecting Procreative Beneficence (PaPB).

A person-affecting form of Procreative Beneficence aims to diminish the suffering and to increase the well-being of all present or future *existing* people affected by the action, not taking into consideration potential people.

According to such a person-affecting view, in the case of selection, Procreative Beneficence states that:

*1. A person-affecting form of Procreative Beneficence*

(PaPB): If reproducers have decided to have a child, and selection is possible, they should not select a child, of the possible children they could have, whose life can be expected, in light of the relevant available information, to be *for her* not worth living (Magni 2019, 78).

The consequences of such a person-affecting principle of Procreative Beneficence in part are similar to Savulescu's hybrid position. Since all that is not morally prohibited is morally permissible, PaPB allows several selective actions to be morally permitted (for example, to select in favour of a deaf child instead of a hearing child), but not other selective actions (for example, to select in favour of an anencephalic child). According to this person-affecting version of Procreative Beneficence, reproducers are free to select the best or someone less than the best, but they are not free to select the worst, when the worst means having a life not worth living.

In part, the consequences are different from Savulescu's: PaPB does not need to refer to any separate principle of harm and states no moral obligation for the reproducers to select the best of the possible children, but only a moral permission. In the example of rubella, such a view does not tell the woman that she *should* wait three months, but that she *could* (not taking into consideration other prudential or moral person-affecting reasons for waiting, which may be decisive). Analogously, in the case of the Two Medical Programmes, like Savulescu's hybrid position, PaPB states that Parfit's solution is wrong and that Treatment ought to be preferred to Prevention, but only on the basis of person-affecting beneficence and without referring to a separate principle of harm.

Parfit imagines the case of a mother, Ruth, who has a genetic disease and wants to have a child:

Ruth's Choice. [...] Her congenital disease kills only males. If Ruth pays for the new technique of in vitro fertilization, she would be certain to have a daughter whom this disease would not kill. She decides to save this expense and takes a risk. Unluckily, she has a son, whose inherited disease will kill him at about the age of 40 (Parfit 1984, 375).

Differently from Parfit's impersonal view, which considers Ruth's action morally wrong because it makes the world a worse place, PaPB states that Ruth's action is morally permissible: her son would not have existed otherwise and his life, despite short, remains a life worth living. There is no harm made to him.



Such person-affecting PB is a pro-selection view which is opposed to anti-selection views which do not permit selection. Moreover, it is stronger than other pro-selection views, such as those that stress reproductive liberty or procreative autonomy, because it is a consequentialist principle that does not allow any kind of choice (i.e., a selection in favour of a child with a life not worth living) and states that some choices are not only morally permissible but morally obligatory.

Analogously, it is also different from other pro-selection perspectives based on beneficence, with which it ought not to be confused. Following the list proposed by Savulescu and Kahane: the Minimal Threshold View, the Prevention of Harm View, and the Satisficing View (Savulescu & Kahane 2009, 289).

The Minimal Threshold View states:

If couples (or single reproducers) have decided to have a child, and selection is possible, then they have a significant moral reason to [should] select one of the possible children they could have who is expected to have a life worth living over any that does not; they have no significant moral reason to choose one such possible child over any other (Savulescu & Kahane 2009, 280).

This view is a comparative principle and states an obligation to select one of the possible children who are over the threshold. Thus, it conceives the obligation to procreate as an impersonal obligation. On the contrary, PaPB is not a comparative principle and states only a permission to select. It does not imply any obligation to procreate: it is morally permitted not to have any child.

Secondly, it is different from the Prevention of Harm View:

If reproducers have decided to have a child, and selection is possible, then they have a significant moral reason to [should] select one of the possible children they could have who is expected to experience least suffering or limited opportunity or serious loss of happiness or good compared to the others (Savulescu & Kahane 2009, 281).

This is a comparative view which states that we should avoid the worst among different possibilities. Instead, PaPB is not a comparative view: it aims to avoid having children with a life not worth living irrespective of other possibilities.

Thirdly, it is different from the Satisficing View:

If reproducers have decided to have a child, and selection is possible, then they have a significant moral reason to [should] select one of the possible children they could have who is expected to have a good enough life over any that does not; they have no significant moral reason to choose one such possible child over any other (Savulescu & Kahane 2009, 280).

This is another comparative and impersonal view that states that we should select a child with a sufficient level of well-being, while PaPB only aims to avoid a life not worth living. According to PaPB, reproducers are morally allowed not to have children at all: it is morally permitted not to select any child.

However, it shares with all these views the problem of identifying a level of well-being that defines a life not worth living, and the assumption that such an identification, despite being vague and coarse grain, is viable and it may be applied in the evaluation of some dramatic cases. As an example, the life of an anencephalic child, of a child affected by Tay-Sachs disease or Lesch-Nyhan syndrome, and so on.



Lesch–Nyhan syndrome [is] a rare genetic disorder found only in males. The body produces too much uric acid. Consequences include impaired kidney function, blood in the urine, deposits of uric acid crystals in the urine and under the skin, kidney stones, muscle weakness, arthritis, painful swelling in the joints, difficulty in swallowing and eating, vomiting. It involves mental retardation and speech impairment. Associated with it are muscular spasms and involuntary writhing, as well as violent flinging of arms and legs. There is irritability and compulsive aggression (often later regretted) towards others: kicking or head-butting them, spitting or vomiting on them. There is also compulsive self-harm: head banging, biting their own lips or fingers, poking their own eyes, or putting their fingers in the wheelchair spokes. [...] Without treatment, children with the disorder have a life expectation of less than 5 years. [...] Having never known anyone with this condition, I am reluctant to say that it is incompatible with having a life worth living. But it must carry a serious risk of a life not worth living (Glover 2006, 59 f).

Regarding selection, person-affecting Procreative Beneficence affirms a negative obligation (the obligation not to select) and is equivalent to a principle of non-maleficence, but it implies positive obligations when it is extended beyond selection to the cases of modification of the characteristic of the children: the obligation to benefit the future children. That is, the obligation to increase the quality of life of the child selected and to modify her characteristics in order to avoid possible diseases or to enhance physical and cognitive capabilities, because it remains a consequentialist principle of beneficence. Moreover, like Savulescu's procreative beneficence, this obligation may be a *prima facie* obligation and may be compatible with other moral requirements (for example the requirement to respect autonomy in the case of other reproductive issues, like abortion).

#### 4. Beyond selection

According to such person-affecting PB, we have a moral obligation to make a foetus immune to dangerous viruses through biomedical intervention (vax), when it is possible and safe, because otherwise we would harm the child giving her a worse life than she could have had. Analogously we have a moral obligation to reduce the disability of a foetus whenever is possible, in order to benefit the person who will exist. In the same way, according to PaPB selecting a handicapped child instead of a different non-handicapped child is morally permitted, but reducing the quality of life of a possible child, using drugs or modifying the genome of an embryo, in order to have a deaf instead of a hearing child, is not morally permitted. Such a 'Bladerunner scenario' of intentional diminishment is not morally permitted (Robertson 1994, 170).

Frances Kamm has imagined a case of a mother who can affect the IQ level of her child during pregnancy:

suppose we compare (1) a case in which someone does something that affects her foetus in a way that results in her child having a 140 rather than a 160 IQ (e.g., she smokes during pregnancy) with (2) a case in which someone does something that creates a 140 IQ child rather than a different 160 IQ child (e.g., she smokes prior to pregnancy) (Kamm 2013, 317).

Differently from Kamm's solution which considers the two cases morally equivalent, according to PaPB the first case is morally wrong because it causes a person-affecting harm, while the second case is morally permitted, because the child would not have existed otherwise and it does not cause any person-affecting harm.

Finally, as a person-affecting consequentialist principle, PaPB can be easily extended to

*different quantity* people choice. Yet, person-affecting procreative beneficence does not imply the obligation to generate happy new children: it aims at making people happy, not at making happy people.

In this way, it avoids the problems of an impersonal maximizing conception of beneficence extended to different quantity choices. In a case of post-conception testing on two asthmatic twin embryos, it does not require that we should select in favour of the two asthmatic embryos rather than in favour of one healthy child. In a case of IVF, it does not require that we should implant the highest number of healthy embryos in order to have the highest number of future healthy children and the greatest quantity of well-being. According to a person-affecting form of beneficence less quality of life cannot be compensated with more quantity of people.

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