

Procreative Beneficence toward Whom?

SERGIO FILIPPO MAGNI
University of Pavia, Pavia, Italy

This article deals with a discussion of Savulescu's impersonal version of the Principle of Procreative Beneficence and its relationship with a person-affecting Principle of Harm in order to evaluate the cases of selection of which child to have. It aims to show some problems in Savulescu's attempt to arrange the two principles (the conflict between beneficence and harm, the limitation of beneficence to pre-conception selection, the extension of beneficence to different quantity people choice), and to propose an alternative version of Procreative Beneficence (a narrow person-affecting version), in order to avoid these problems.

Keywords: Procreative beneficence, selection, impersonal obligations, person-affecting obligations, possible people.

1. *Beneficence and harm*

Julian Savulescu has stated an important moral principle related to reproductive decisions concerning cases of children's selection, at present related to post-conception testing, like chorionic villus sampling or amniocentesis, or to pre-conception testing, like Pre-implantation Genetic Diagnosis (PGD) and IVF.

This principle is a consequentialist principle, called the Principle of Procreative Beneficence (PB). During the years, it has had different formulations:

Couples (or single reproducers) should select the child, of the possible children they could have, who is expected to have the best life, or at least as good a life as the others, based on the relevant, available information. (Savulescu 2001: 415)

Or, according to a more recent formulation:

If couples (or single reproducers) have decided to have a child, and selection is possible, then they 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. (Savulescu and Kahane 2009: 274)

According to this principle, there is a moral obligation to have the most advantaged child (the best child) of all the possible children that a couple can have. PB is a consequentialist maximizing principle: it states an obligation to have the child with the most 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 and Kahane 2009: 175).

A first example of this principle's application regards a case of selection related to a pre-conception test for asthma:

A couple is having IVF in an attempt to have a child. It produces two embryos. A battery of tests for common diseases is performed. Embryo A has no abnormalities on the tests performed. Embryo B has no abnormalities on the tests performed except its genetic profile reveals it has a predisposition to developing asthma. Which embryo should be implanted? Embryo B has nothing to be said in its favour over A and something against it. Embryo A should (on pain of irrationality) be implanted. (Savulescu 2001: 416)

A second example regards a case of selection related to a pre-conception test during rubella (an example derived from Parfit):

A woman has rubella. If she conceives now, she will have a blind and deaf child. If she waits three months, she will conceive another different but healthy child. She should choose to wait until her rubella is passed. (Savulescu 2001: 417)

The Principle of Procreative Beneficence states an important view in reproduction ethics, which is opposed to several anti-selection views (like that of the Roman Catholic Church or of other secular thinkers, like Sandel): "far from playing God, attempting to control our genetic fate is 'playing human'—trying to improve the odds of doing well in an uncertain world of difficulty, threat and misfortune" (Savulescu 2007: 284).

But PB is also opposed to some pro-selection views (like those of Glover or Agar) which give the couple moral permission, but not a moral obligation, to select. These views *deny* that we ought to select the most advantaged child, because they believe that reproduction is a private matter; or because they think that morality gives parents complete freedom when they make procreative decisions, allowing them to aim at less than the best (Savulescu and Kahane 2009: 175).

Yet, according to Savulescu, there are limits on Procreative Beneficence: the obligation is not an absolute obligation but a *prima facie* (a *pro tanto*) obligation, which has to be balanced with other *prima facie* obligations in order to become an effective, "all-things-considered overriding obligation" (Savulescu and 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 coercion is not.

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 and 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. This requirement was originally related, in Savulescu's early articles, to a principle of Procreative Autonomy: "people should be free to do what others disapprove of or judge wrong, provided the exercise of freedom does not harm others" (Savulescu 2002). Explaining this principle, Savulescu refers directly to Mill's liberalism, according to which an invasion of a person's liberty is justified only when that person threatens to directly and seriously harm another person (Mill's Principle of Harm) (Savulescu and Kahane 2017: 612).

Following such a non-harming restriction, Savulescu admits the couple's free choice to select less than the most 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).

Not surprisingly, there may be a conflict between the two principles, and the solution proposed by Savulescu is to give precedence to the Principle of Harm, as we will see below. The result is "a liberal form of procreative perfectionism", as Glover (2006: 54) defined Savulescu's proposal, or a form of "libertarian consequentialism".

2. *A hybrid position*

Like many other decisions in reproductive ethics, selection changes the identity of the children who will exist: "in selecting a more advantaged child we are also bringing a different person into existence" (Savulescu 2009: 277).

In this way, selection is related to a well-known problem regarding future generation ethics: the *non-identity* problem, due to the fact that our actions can change the identity of future people. Therefore, selection brings with itself the need to distinguish different ways of understanding normative principles applied in reproduction ethics: a person-affecting view and an impersonal view.

On the one hand, in Savulescu, the Principle of Harm is intended as intrinsically related to a person-affecting restriction (in a narrow sense, as we will see later): "harm is personal in nature" (Savulescu 2014: 178).

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 actual or future people who will exist. As Narveson (1967: 63) writes: "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". Wrongs require victims: "what is bad must be bad for someone" (Parfit 1984: 363).

According to this person-affecting view, we do not benefit a child if we bring him/her into life, but if his/her being alive is not worth living we harm a child by procreating him. “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, in Savulescu, the Principle of Procreative Beneficence explicitly denies a person-affecting restriction: it is *impersonal*. According to such a view, an act is right or wrong even if there is or will be no person affected by it, but he/she could have existed if we had chosen otherwise. According to this view, we have an obligation even toward ‘merely possible people’, people who will not exist but whose existence depends on us; and a harm made to actual or possible people may be compensated for with a benefit made to merely possible people and vice-versa (Hare 1988: 68; Kamm 2013: 291).

In this impersonal interpretation of PB, we have a different kind of harm: an impersonal harm, a harm without a victim, which makes the world a worse place. As Savulescu states: “It is bad that blind and deaf children are born when sighted and hearing children could have been born in their place” (Savulescu 2001: 423).

Therefore, in Savulescu’s view the conflict between Procreative Beneficence and Harm becomes a conflict between an impersonal Principle of Procreative Beneficence and a person-affecting Principle of Harm. And Savulescu solves the conflict by stating the priority of a person-affecting harm on an impersonal beneficence:

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)

Therefore, Savulescu’s proposal regarding selection is a hybrid position, which admits both impersonal and personal moral reasons for actions (and therefore impersonal and personal moral obligations) and states an order of priority among them (for other hybrid positions in future generation ethics see Mulgan 2006: 82 ff): “In my view, there are both person-affecting reasons and impersonal reasons. However, person-affecting reasons are stronger than impersonal reasons, even though the latter are reasons for action” (2014: 177). But, when “there are no competing person affecting reasons, then PB should decide the day” (Savulescu and Kahane 2017: 612).

In order to clarify this position, Savulescu refers to Parfit’s example of the Two Medical Programmes (one for the treatment of a disease, the other for the prevention of a disease) in order to refuse Parfit’s solution and to state the priority of person-affecting reasons over impersonal reasons: “personal harms are much worse than impersonal ones” (Savulescu 2014: 177).

In this example, there are two medical programmes to detect two rare diseases, *J* and *K*, in women. If a pregnant woman has disease *J*, this will cause the child to have a certain handicap, but a simple treatment would prevent this effect. If a non-pregnant woman has disease *K* but decides to conceive a child, this will cause the child to have the same handicap; disease *K* cannot be treated, but it can be prevented, because it always disappears within two months. Unfortunately, there are funds for only one programme. Parfit supports the No Difference View between the two programmes: he believes that each programme is equally right because they have the same consequences in terms of handicapped people. On the contrary, according to Savulescu, there is a difference between the two programmes:

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 limitation reduces the revolutionary impact of Procreative Beneficence and diminishes its radicality, permitting a general agreement with common-sense morality. As Savulescu underlines: “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 and Kahane 2017: 598).

For this reason, as we have seen, deaf or dwarf people should be allowed to be free to deliberately select children with deafness or dwarfism:

What if a couple has in vitro fertilisation and preimplantation genetic diagnosis and they select a deaf embryo? Have they harmed that child? Is that child worse off than it would otherwise have been (that is, if they had selected a different embryo)? No—another (different) child would have existed. The deaf child is harmed by being selected to exist only if his or her life is so bad it is not worth living. Deafness is not that bad (Savulescu 2002: 772).

3. *Some problems*

Savulescu’s theory of selection has had different kinds of 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-Martín 2004 and 2016, or related to identifying what a 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 2008, Sparrow 2014). Others have refused Savulescu’s position from anti-consequentialist points of view (see Stoller 2008, Hotke 2012).

Here, I will focus on some problems related to the hybrid aspect of the theory. “If our reasons—Savulescu writes—to have the best chil-

dren (and best future environment) are relatively weak, they are easily overridden by person-affecting reasons” (2014: 178; Savulescu and Kahane 2017: 612). But, how rigid is this priority of a person-affecting harm over an impersonal beneficence? Does this hierarchical priority of person-affecting reasons over impersonal reasons need to be affirmed in every case of personal harm? How should we evaluate a selection in cases where the foetus shows severe handicap (but his life is however worth living)? In these cases, can beneficence have a stronger influence than harm when the severity of the handicap is relevantly high? Namely, how should we decide in borderline cases? There is a need for further specification of the theory and, probably, to set some limitations on the prevalence of the person-affecting principle of harm.

Secondly, it is better to distinguish the moral evaluation of the two different kinds of selection: in pregnancy (correlated to post-conception testing) and before pregnancy (correlated to pre-conception testing). Despite Savulescu’s comprehensive treatment of the moral evaluation of selection, Procreative Beneficence becomes an all-considered moral obligation only in the case of pre-conception testing (PDG), but not in the case of post-conception testing (chorionic villus sampling or amniocentesis), because of the priority given to person-affecting harm. Given that a foetus should not be harmed, as in Savulescu’s refusal of the No Difference View in the Two Medical Programmes example, selection against the foetus in a case of pregnancy causes a personal harm to the foetus (killing him/her) and therefore should be avoided. In such a case impersonal reasons are always weaker than personal reasons.

More in general, due to the priority given to the Principle of Harm, in every case of pregnancy the Principle of Procreative Beneficence does not result to be, *de facto*, effective, and it cannot be used as a means to address other reproductive issues, for example the moral question of abortion. A severe limitation for a principle that claims to be a guiding principle in reproductive ethics. On the contrary, following an impersonal maximizing consequentialist view in a case of abortion and an impersonal conception of harm, Hare has compared the quality of the probable life of the foetus with that of a possible future child, and on this basis has admitted some cases of abortion:

If the present foetus is going to be miserably handicapped if it grows into an adult, perhaps because the mother had rubella, but there is every reason to suppose that the next child will be completely normal and as happy as most people, there would be reason to abort this foetus and proceed to bring to birth the next child, in that that next child will be much gladder to be alive than will this one. (Hare 1993: 157–8)

Because of the prevalence of the person-affecting Principle of Harm, this pro-abortion argument based on an impersonal conception of harm is precluded to Savulescu.

Thirdly, as an impersonal maximization principle of well-being, PB should be extended to *different quantity* people choice, even in the case of selection. A maximizing conception of beneficence requires that less

quality should be compensated with more quantity: two less good is better than one good. So, in a case of Pre-implantation Genetic Diagnosis, impersonal maximizing Procreative Beneficence requires 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. Similarly, in a case of post-conception testing on two asthmatic twin embryos it requires that we should select in favour of the two asthmatic embryos rather than in favour of one future healthy child.

This extension from quality to quantity complicates the matter, because it implies other problems: the moral obligation to increase the number of healthy children, namely to procreate as many children as possible (up to Parfit's Repugnant Conclusion on the increasing population), and the necessity to distinguish a Total from an Average version of the Principle of Beneficence to try to avoid this problem. That is, it brings with it all the puzzles of future generation ethics (see also Bennett 2014).

Indeed, Savulescu explicitly limits the Principle of Procreative Beneficence to *same quantity* people choice: "it is a claim only about same number choice: about selection of one child out of those possible. It is not meant to offer guidance in choices between, e.g. one versus several children of differing endowments" (2009: 274). But this limitation seems to be an *ad hoc* manoeuvre, just in order to avoid these problems. If PB is a consequentialist maximizing principle, as Savulescu states, it is implausible to exclude *a priori* any extension to *different quantity* people choice, if the principle purports to remain a maximizing principle.

4. *Person-affecting procreative beneficence*

As proposed by Savulescu, the Principle of Procreative Beneficence is impersonal, but it could have different interpretations. Savulescu recognizes two different ways of interpreting it:

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. According to the wide person-affecting version, our reason to select the child with better prospects is that that child will benefit more than the other would by being caused to exist. According to the impersonal version, our reason is that selecting the most advantaged child would make the outcome better, even if it is not better for the child created. It is possible to support PB on either view (Savulescu and Kahane 2009: 277).

The two interpretations have the same consequences in terms of moral consideration of selection, and Savulescu opposes these versions of PB against the perspective contrary to selection (the Anti-Selection view) and other pro-selection perspectives (the Procreative Autonomy view, the Minimal Threshold view, the Satisficing view and the Prevention of Harm view) (Savulescu and Kahane 2009: 289).

But there is another possible view of selection (and more generally of reproductive ethics) which can avoid the problems seen above (the conflict between an impersonal beneficence and a personal harm, the limitation of beneficence to pre-conception selection, the extension of beneficence to different quantity people choice) without renouncing a maximization principle: a narrow person-affecting view of Procreative Beneficence, which aims to maximize the well-being of all the present or future *existing* persons affected by the action.

According to such a narrow person-affecting view (Parfit 1984: 395), in the case of selection Procreative Beneficence states that (following Savulescu's formulations):

Couples (or single reproducers) should *not select* the child, of the possible children they could have, who is expected to have a life which is *for him/her* not worth living (in terms of lack of well-being), based on the relevant, available information.

Or, in the other formulation:

If couples (or single reproducers) have decided to have a child, and selection is possible, then they have a significant moral reason not to 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 him/her* not worth living (in terms of lack of well-being).

Such a principle refers to both kinds of selection: selection in pregnancy (correlated to post-conception testing) and before pregnancy (correlated to pre-conception testing), because it exclusively considers the well-being of the child who will exist. Secondly, it avoids the conflict between impersonal beneficence and person-affecting harm because, in the case of selection, it does not need to make recourse to an obligation not to harm others in order to agree with common-sense morality. Thirdly, it avoids the problem of increasing the quantity of happy people, because for the person-affecting restriction there is no obligation to procreate the highest number of happy children.

The consequences of such a narrow person-affecting principle of Procreative Beneficence are, in part, different from Savulescu's view: there is no moral obligation for the couple to select the best of the possible children, but only moral permission. In the example of rubella, such a view does not say to the woman that she *should* wait three months, but that she *could* (not taking into consideration other prudential or moral reasons for waiting, which may be decisive).

In part, the consequences are similar to Savulescu's view: both allow several selective actions to be morally permitted (for example, to select in favour of an asthmatic child or a dwarf child), but not other selective actions (for example, to select in favour of an anencephalic child (Savulescu-Kahane 2017: 597)). According to this narrow person-affecting version of Procreative Beneficence, parents are free to select the best or someone less than the best, but they are not free to select

the worst, because such a version of PB remains a consequentialist maximizing view.

A narrow person-affecting Procreative Beneficence is a pro-selection view that is opposed to anti-selection views which do not permit selection, but it is less strong than an impersonal (or wide person-affecting) PB, because—some extreme cases apart—it does not consider selection as a moral obligation but only as moral permission.

Yet, it is stronger than other pro-selection views, such as Procreative Autonomy, because it does not allow a selection in favour of the worst and, when it is extended beyond selection and beyond reproductive choice, it transforms a negative duty (the obligation not to select) into a positive duty: the obligation to produce the best possible life for the child selected, maximizing his/her well-being (genetic enhancement included), because it remains a consequentialist maximizing principle of beneficence. According to such a personal PB, for example, we have an obligation to make a foetus immune to dangerous viruses through genetic intervention, when it is possible and safe.

Differently from Procreative Autonomy and like impersonal Procreative Beneficence, such a view “is not indifferent to the choice between a child who will have a fulfilling life and one who will live a brief life of misery and torment” (Savulescu and Khane 2009: 279).

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