Prenatal Testing & Selective Abortion: Opposition from Disability-Rights Proponents

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ABSTRACT

This article examines both the morality of prenatal testing, as well as selective abortion on the basis of the results of that testing. First, it explores the permissibility of prenatal testing. It assesses arguments that suggest that the fallibility or unreliability of the tests renders them moot for making decisions pertaining to life and death. It then examines arguments that suggest that the very nature of prenatal testing is such that it provides impermissible or immoral directive counseling. If we test to ensure something is not *wrong* with the fetus, or that everything is *normal*, it implies that a positive test, or a departure what from is perceived to be normal, is necessarily negative. This article suggests that while these arguments are worth taking seriously, ultimately, they do not render the practice of prenatal testing immoral. Second, it examines the practice of selectively aborting a fetus as a result of a potentially disabling condition. While it acknowledges the ever-present ableist assumptions prevalent in society surrounding what constitutes a life worth living, it suggests that the three dominant kinds of arguments opposing selective abortion, fail. First, selective abortion does not constitute a form of eugenics. Second, disability bias is an insufficient justification for denying selective abortion rights. Third, and finally, prospective parents do not assent to raise any child, irrespective of the outcomes of a prenatal test. The article is not a defence of the practice. It makes no judgment as to whether decisions to selectively abort a fetus are sound (indeed, it suggests they most often are not). Instead, it simply argues that selective abortion is not immoral for any of the reasons that have been provided by opponents.

1. Introduction

In what follows, I examine both the morality of prenatal testing, as well as selective abortion on the basis of the results of that testing. As our ability to test for a variety of genetic conditions grows, the necessity of a nuanced assessment of this practice increases. First, I explore the permissibility of prenatal testing. I assess arguments that suggest that the fallibility or unreliability of the tests renders

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them moot for making decisions pertaining to life and death. Second, I examine arguments that suggest that the very nature of prenatal testing is such that it provides impermissible or immoral directive counselling. If we test to ensure something is not *wrong* with the fetus, or that everything is *normal*, it implies that a positive test, or a departure from what is perceived to be normal, is necessarily negative. I suggest that while these arguments are worth taking seriously, ultimately, they do not render the practice of prenatal testing immoral.

Next, I examine the practice of selectively aborting a fetus as a result of a potentially disabling condition. I argue that opposition to selective abortion amounts to one of three related kinds of arguments. I suggest that they become increasingly powerful objections as we move from the first through the third, but that ultimately, none of these concerns are sufficient to justify an outright prohibition of the practice of selective abortion. First, the opposition might attempt to suggest that selective abortion is an unacceptable form of eugenics. I argue that given the motivations behind physicians and would-be parents when deciding to abort a disabled fetus, the practice cannot rightly be considered eugenical. Second, I suggest that opposition emerges of the kind that suggests that selective abortion harms existing people with disabilities. I argue this is not the case because expressivist arguments are underdetermining, and non-expressivist arguments are question-begging. Third and finally, I suggest that selective abortion might be thought of as a failure to satisfy one's parental duties. I argue that while more difficult to address than the previous two arguments, this too is untrue. I suggest that selective abortion is not a failure of parental duties because arguments of this kind fail to properly defend the originating of parental duties at the time of the decision to procreate.

While I acknowledge the ever-present ableist assumptions prevalent in society surrounding what constitutes a life worth living, and that while often based upon misguided, incorrect, or ableist assumptions, I argue that selective abortion is not morally impermissible for reasons articulated in the arguments examined below. To be clear, what follows is not a defence of the practice. I make no such judgments as to whether decisions to selectively abort a fetus are sound (indeed, I suspect they most often are not). Instead, I simply suggest that selective abortion is not immoral for any of the reasons that have been provided by opponents.

2. The Morality of Prenatal Testing

2.1 Objection 1: Reliability & Fallibility

Let us begin with an examination of noninvasive prenatal testing. Noninvasive prenatal testing requires only a maternal blood sample and through this sample, pieces of the fetal DNA can be detected and tested (Nuffield Council on Bioethics 2017; Kaposy 2020). A good deal of concern is raised about both the positive predictive value, as well as the false positivity rate associated with these tests. Of course, tests for some genetic syndromes, such as trisomy 21 (or Down syndrome), are thought to have very high positive predictive values. Down syndrome is detected in almost 91% of instances that are considered high-risk and in 82% of instances that are considered low-risk cases (Bianci 2019: 29). Nonetheless, sceptics still cite high false positive rates of over 10% (Dar et al. 2014: 523.e1). That said, tests for other conditions, such as Turner syndrome, a condition that affects only females, and causes a variety of medical and development problems, has a positive predictive rate of only approximately 26% (Bianci, 2019, p. 31). The number of false positives in tests for Turner Syndrome are approximately three-times that of true positives (Bianci 2019: 31).

When we factor the fallibility of these tests with the high rates of selective abortion as a result of this false information, critics of prenatal testing cite real concern. With reference to Down syndrome, for example, studies reveal a very high selective termination rate. The rate for selective abortion due to a positive test for Down syndrome is thought to be between 60% and 90% – a startlingly high number (Mansfield et al. 1999: 12; Natoli et al. 2012: 142–153).

These data seem to suggest a level of unreliability that one ought to deem unacceptable if the goal is to make an informed choice. High rates of false positives, as well as low positive predictive values, make one question the rationality of concluding that these tests have value. Some opponents to prenatal testing use these data to suggest that prenatal testing is far too unreliable to be a practice that ought to be offered to would-be mothers, and indeed, that given the willingness of people to act on these data to selectively terminate a pregnancy, that it may very well be unethical to permit such tests to take place at all (or at least, to offer them in the manner they are being offered).

I believe that it is necessary to concede the first point, concerning the irrationality of taking these tests at face value, but not the second point, about them being unethical to offer as a result of their unreliability. If the reliability of these tests is as bad as studies seem to suggest, then it may very well be irrational to treat them as definitive.

That said, simply because they may be unreliable does not imply that their existence is unethical. Take the following counter-example to demonstrate this point. Sadly, a quick search of the internet will result in many websites discussing whether prospective parents should abort fetuses that would be born with what is perceived to be an undesirable astrological sign. Beyond my cursory internet sleuthing, this phenomenon has been explored more systematically. In Japan, once every 60 years, abortion rates increase and birth rates decrease. This last happened in 1966, and is presumed to happen again in 2026. In Japan, it is deemed to be a bad omen for female babies to be born in the year of the elder fire-horse – the Hinoe-Uma (Kaku 1975: 111). Indeed, in 1966 in Japan, the birth rate dropped from 18.6 per 1000 people to 13.7 (Kaku 1975: 111). More concretely, over 400,000 fewer babies were born in 1966 than in the preceding and following years (Kaku 1975: 111). There were approximately 43 abortions per 1000 births in 1966, whereas from 1963 to 1969, this rate was significantly lower, at 30.6 per 1000 (Kaku 1975: 111). To be clear, some prospective parents utilize the zodiac almanac to determine whether a fetus should be born or not. Particular zodiac signs are thought to predetermine personality traits that might be seen to be more or less desirable.

Of course, the reliability of the zodiac almanac ought to be questioned. Indeed, it is a remarkably unreliable means of determining personality and disposition (Snyder 1974: 577–580). The zodiac almanac is a far less accurate means of determining personality traits than any noninvasive prenatal test is for determining particular conditions or syndromes. Nonetheless, we do not think the existence of astrological signs and the advice offered as a result of them, is unethical. I think we rightly conclude that those who take them seriously are ill-informed, and rely upon mere superstition to guide their actions. Perhaps it is irresponsible, or just plain silly, to base any decision on the basis of an astrological sign, but nonetheless, we permit people to do so. We permit people to make reproductive choices on the basis of incomplete, incor-

rect, or what most might consider to be even foolish, information. The existence of the zodiac almanac, just like prenatal testing, is not unethical; it is simply unreliable.

2.2 Objection 2: Implicit Value Judgments

Relatedly though, is the claim that when we predetermine what tests ought to be done – what conditions are so bad that we ought to screen for them – we implicitly make value judgements about those disabilities. Thus, the argument suggests that the mere presence of these tests implies negative value judgements that cause real harm and stigma. Indeed, there is a concern (that is especially strong amongst feminist disability scholars) that the mere presence of tests for a condition might be sufficient to impart value, and thus, pressure a would-be mother to terminate a pregnancy (Saxton 2006: 108).

Chris Kaposy offers an argument with particular attention on people with cognitive disabilities. His argument proceeds in the following manner:

1. Widespread bias against people with cognitive disabilities exists in our culture.
2. If widespread bias exists, it must affect prenatal decision-making on a population level.
3. Therefore, on a population level, anti-cognitive-disability bias must affect prenatal decision-making. (Kaposy 2020: 700)

I grant Kaposy this argument, but suggest the jump that is made from acknowledging bias exists with reference to prenatal decision-making, to concluding that prenatal testing ought not to exist, is not present. To be clear, Kaposy respects reproductive autonomy and does not arrive at this strong conclusion pertaining to an outright prohibition of prenatal testing. That said, he does endorse a weaker conclusion that perhaps prenatal testing ought not to be provided through public funding, or that, more generally, we ought not to incentivize such tests, and, indeed, we ought to disincentivize them. Even with this weaker conclusion, I suggest the jump from the presence of bias, to the limiting of prenatal testing has not been demonstrated.

More pointedly, what moral imperative emerges as a result of the conclusion that "anti-cognitive-disability bias must affect prenatal decision-mak-

ing" (Kaposy 2020: 700)? Kaposy suggests that the imperative is one pertaining to the limiting of prenatal testing. I suggest that the only moral obligation that emerges from the acknowledgement of harmful bias being present in the world, is one to address the nature of that harmful bias. Certainly, the presence of anti-disability bias should warrant serious attention to enact a wide variety of social policies to promote the social-basis of self-respect.[1] What has not been established by this argument alone, is that this bias is perpetuated through the presence of prenatal testing, and thus its limiting is not straight-forwardly a moral imperative. Others however, claim that this bias manifests itself in particularly harmful ways when considering selective abortion.

3. The Morality of Selective Abortion

3.1 Objection 1: Selective Abortion is a Form of Eugenics

Thus, let us transition to a more explicit discussion of the practice of selective abortion on the basis of disability. First, many opponents of selective abortion suggest that its practice constitutes some variant of eugenics. While the arguments vary, a concern about eugenics and how selective abortion might involve either an implicit, or sometimes even explicit, desire to rid the world of people with disabilities, pervades much of the literature.

Michael Sandel has, helpfully, distinguished between an 'old eugenics', and a 'new eugenics'. Old eugenics was a movement, largely aspirational in nature by those endorsing it, to alter the genetic makeup of society in a manner that was thought to improve it. 'Eugenics', which means 'well born', "was coined in 1883 by Sir Francis Galton, a cousin of Charles Darwin" (Sandel 2007: 63). Galton sought to produce a particular race of individuals who were seen to be gifted in relevant ways through a series of judiciously selected marriages over several consecutive generations (Sandel 2007: 63). The most obvious manner in which this idea spiraled out of control was in Nazi Germany, when it found a proponent in Adolf Hitler. He endorsed mass sterilization, and ultimately, the termination of entire populations on the basis of race, ethnicity, sexuality, and disability. Thus, when one invokes a notion of eugenics in modern bioethics, it

[1] The phrase 'the social basis of self-respect' is adapted from (Rawls 1971).

draws on a remarkably dark history, and condemns an action in some of the strongest terms imaginable.

But the new eugenics that has emerged suggests that Nazi programs misrepresented the aims of such practices and ultimately, as some might purport, "gave eugenics a bad name" (Sandel 2007: 68). Indeed, the so-called 'liberal eugenics' of today suggests that the primary problem with old eugenics was an undue burden on those who were perceived to be weak and poor. Conversely, with an equitable distribution of the benefits of genetic improvement, new eugenics might not only be permissible but be morally required (Buchanan et al. 2000).[2]

That said, there remains to be strong opposition to selective abortion on the grounds that it constitutes an unacceptable form of eugenics, irrespective of how it is categorized. Care is made to not overstate this point, however. Ruth Hubbard is explicit when she states she is "not drawing an analogy between what the Nazis did and what we and others in many industrialized countries are doing now" (Hubbard 2006: 99). She does continue, however, to state that "a similar eugenic ideology underlies what happened then and the technologies now being developed" (Hubbard 2006: 99). Indeed, she suggests that at present, scientists and physicians are involved in shaping the future composition of society in an even more aggressive manner, only now, they provide what she calls 'the tools', while pregnant women must make choices as to whether to avail themselves of the tools or not (Hubbard 2006: 99). She concedes that while no one is forced to do anything, the choices are often constrained in unacceptable ways.

Opponents of selective abortion on the grounds of it representing a eugenical practice suggest that would-be mothers are pressured by society and its expectations to both test for particular features, as well as to abort if thought to be at risk of birthing a child with those conditions or syndromes. Opponents suggest that if a would-be mother *fails* to perform a particular test, or *fails* to abort a child in the presence of a positive test, that society can reproach her for having brought about physical and social pain for a human being (Hubbard 2006: 99).

That said, surely the harmful bias motivating such conclusions does not arise from testing itself. A prohibition of testing does little to eliminate bias. These harmful attitudes have existed long before the introduction of genetic

[2] Indeed, many transhumanists believe this assertion to be true.

testing, and sadly, will persist even if these tests were prohibited. Instead, attention and energy ought to be spent on the underlying ableist assumptions motivating these conclusions about selective abortion.

As discussed above, opponents also suggest that would-be parents have a remarkably tenuous basis for making such decisions (Hubbard 2006: 101). Indeed, given the lack of reliability of prenatal testing, and given the overwhelming bias against people with disabilities, many would-be parents have no choice at all. Hubbard concludes that "decisions about what kind of baby to bear inevitably are bedeviled by overt and unspoken judgments about which lives are 'worth living'" (Hubbard 2006: 102).

I concede that when selective abortion is considered on the basis of a potential disability, the judgment does involve an assessment of whether the fetus' life is worth living. It often involves biased or incomplete information, that is blatantly ableist. Much information provided to prospective parents is given by people with little knowledge of what the experience of disability entails. How could such information not be incomplete? Simply put, it is. People are being asked to make decisions pertaining to the life or death of a fetus without having a full picture of what constitutes the life of a person with a disability. People make these decisions often. Forcing people to make important decisions with a lack of access to proper information is unacceptable. That said, while as troubling as this all is, to suggest it is a form of eugenics would be incorrect.

While I have no doubt that the decisions being made about testing and selective abortion are being done on the basis of many ableist assumptions of the value of disabled lives, I do have considerable doubt that the would-be parents making these decisions are thinking about the genetic make-up of society, or the kinds of people we should aspire to bring into the society, beyond the quality of life of their child, as well as the impact of their child on their own lives. Again, we can and should concede that judgments of this nature will often be made with, at best, incomplete information, and more likely, ableist information. That said, this amounts to parents making false assumptions about the kind of experiences their child may or may not have, as well as the impact that child will have on their life. Many, if not all, prospective parents do not think about the composition of society, and their obligation or desire to shape its future direction in a particular manner. Of course, prospective parents are not, and might not possibly ever be, immune to ableist assumptions that are harmful to people with disabilities. It is important to concede that many parents might make unjustified decisions that result in the termination of a pregnancy because of negative social views of the

value of a life lived with a disability. To be clear, such a thing is undesirable. The undesirability of the act is not what is under question however. Instead, the claim is that selective abortion is immoral because it is, or approximates, eugenical practices. The fact that a parent might be incorrectly influenced by social values does not imply that their choices, however informed by society they may be, are eugenical. Strictly speaking, when parents choose to engage in selective abortion, as constrained as that choice may be by virtue of biased information, they are not engaging in a eugenical practice because their aim is not that of a eugenicist – they do not seek to alter future generations or the genetic composition of society.

That said, the logical retort to this argument is to suggest that while parents are not engaged in a eugenical practice, the directive counseling being provided by scientists and physicians, does constitute a eugenical practice. Again, however, I think we would be hard-pressed to provide evidence to demonstrate that scientists and physicians are engaging in a genetic cleansing, or a eugenical prioritizing practice. Scientists and physicians, many of whom likely have little experience with people with disabilities in intimate ways, are also likely basing their counseling on ableist assumptions and information. That said, the ableist information they provide, while misguided, is in an attempt to avoid what they perceive to be harm to a future child, and what might be classified as inconvenience to parents. I merely state that, while their assumptions are based upon perhaps false information about the welfare promotion of the would-be child and parents, there is no reason to believe this welfare promotion is designed to cross generations and shape the genetic composition of future people.

Simply put, to suggest selective abortion is a form of eugenics is to either i) misapply the concept of eugenics; or ii) attribute intentions to physicians or would-be parents that we have no reason to believe to be true.

2.2 Objection 2: Selective Abortion is Harmful to Existing People with Disabilities

Relatedly, many opponents of selective abortion suggest that the act is harmful to people with disabilities. Of course, they are not suggesting the harm is being done to a disabled fetus, because if the fetus had moral status, it would make the question of selective abortion a moot one. Instead, opponents suggest that by virtue of aborting a fetus with disability *x*, one causes harm to people already living with disability *x*, or perhaps even to people with disabilities more generally.

What Kaposy calls the 'expressivist objection', or the view that the termination of fetuses with disabilities expresses a negative or offensive message about people living with disabilities, is one example of this kind of argument (Kaposy 2018: 107). That said, many have suggested, and I think rightly, that the practice of selective abortion cannot be rightly said to express a particular enough message to cause real harm (Kittay & Kittay 2000; Nelson 2000). Thus, we ought not to take expressivist objections to be damning in any way precisely because they fail to articulate the wrong that has occurred.

In light of this, Kaposy presents a non-expressivist argument. He argues:

1. Bias against people with Down syndrome is a factor explaining the high rate of termination after a prenatal diagnosis of Down syndrome.
2. People living with Down syndrome are harmed by these attitudes of bias, for example through exclusion from informal social relationships.
3. Selective termination for Down syndrome does not itself cause bias, but is a consequence of bias.
4. Even though the high rates of selective termination are a consequence of bias, rather than a cause, one can raise objection to these high rates because we are justified in objecting to actions motivated by harmful bias. (Kaposy 2018: 107)

In response, I concede points one through three, while denying the final claim made in point four, that "we are justified in objecting to actions motivated by harmful bias". I suggest that Kaposy begs the question in point four. I argue that in order for point four to have the normative force required, it must read more like the following claim: we are justified in objecting to *morally impermissible* actions motivated by harmful bias. Importantly, not all actions motivated by harmful bias are objectionable – it is only those that constitute a moral wrong that are objectionable.

Take the following example to demonstrate this point. Imagine an individual exhibiting a harmful bias towards Canadian philosophers (as both Kaposy and I are). This bias manifests itself in a deeply rooted desire to prove those philosophers wrong. Thus, this individual painstakingly mulls over every word written, in an attempt to disprove those philosophers. In so doing, this individual

provides invaluable feedback that immeasurably improves the work being criticized. While we might be reluctant to praise this individual, given their harmful bias, it seems that we are not justified in objecting to their action. Indeed, they engaged in something most of us hope many of us would do more of, but they did so for the wrong reason. Of course, a Kantian might suggest they acted merely in accordance to, or in conformity of, duty (Kant 2005: 59). Indeed, the conformance of this individual's action to duty is merely an accident, and one motivated by harmful bias, no less. That said, they appear to not have committed a morally objectionable act, despite it being motivated by harmful bias.

In short, simply because one acts out of a harmful bias, does not imply that the act itself is objectionable. Acting out of bias may very well be impermissible. Importantly, this is not the claim being made. For Kaposy's argument to work, the act must be objectionable, and not the bias being displayed that prompts such an act. While true that most acts motivated by harmful bias are themselves, harmful and thus objectionable, it is not true that *all* acts are. Kaposy must smuggle the notion of moral impermissibility into his fourth point for his case to stand, but this assumes the very point he intends to demonstrate. Thus, non-expressivist arguments of this variety fail.

2.3 Objection 3: Selective Abortion is a Failure to Satisfy One's Duties

The final kind of objection focuses on the nature of parental obligation. So-called 'assentist' accounts of parental obligation emphasize people's assent, or agreement, to the responsibilities associated with parenting.[3] Assentist perspectives suggest that those who are attempting to conceive of a child "ought to assume a strong responsibility for the well-being of their prospective child already when they *decide* to reproduce" (Vehmas 2002: 468). According to Simo Vehmas, it is plausible to suggest that parental assent brings about responsibilities to the fetus by virtue of the decision to procreate (Vehmas 2002: 475). Importantly, the "intention to have children creates simultaneously obligations

[3] Until this point, the arguments contained within have all come from what might be called a gender 'neutral' perspective. I am grateful to an anonymous reviewer who brought this to my attention. Of course, the assentist view could apply not only to selective abortion, but to any decision to voluntarily terminate a pregnancy. The agency of the mother is, I would argue, a paramount consideration in any debate about selective abortion, or abortion more generally. For more on feminist perspectives about disability and abortion, see, for example, the following: Asch & Geller 1996; Garland-Thomson 2005; McKinney 2016.

pertaining to that intention" (Vehmas 2002: 475). This position suggests that any conscious decision to procreate brings about conscious assent to assume all obligations as a parent, including those one might not have anticipated, or perhaps, even desired (Vehmas 2002: 475). More pointedly, proponents of this position suggest that simply because one's prospective child is found to be disabled, or to have a high likelihood of being disabled, one has assented to care for that child. In other words, there is "a duty of caring for any kind of child" (Vehmas 2002: 463) – one is automatically committed to the project of parenthood (Vehmas 2002: 468).

In order to avoid any attempts at a reductio ad absurdum, some concessions to this are often granted. For example, if a prospective child's life is one that is genuinely not worth living, or if parents cannot honestly provide their child and themselves an adequate level of well-being, then perhaps a selective abortion can be performed (Vehmas 2002: 481).

Again, we must be careful here to acknowledge that bias plays a damaging role in this assessment, as we have seen previously. Given the termination rates of fetuses with Down syndrome, for example, it is relatively safe to assume a perception of people with Down syndrome as living inferior quality lives, and indeed, in some instances, a conclusion that their lives are not worth living at all. While this perception is real, it is far from based in reality. Vehmas suggests, and I think rightly, that the "great majority of individuals with this condition have lives that are far from not worth living" (Vehmas 2002: 479). Indeed, Kaposy describes his son, Aaron, who has Down syndrome, as being "very much like most other children who do not have a disability" (Kaposy 2018: x). While not an individual with Down's syndrome, Eva Kittay's daughter, Sesha, for example, has been described both as a person with "significant cognitive and physical disabilities" (Kittay 2019: xix), as well as someone with the ability to light up a room with her smile, to provide warm kisses, to embrace quickly, to enjoy the sensuous feeling of water, and to have a profound and abiding appreciation of music (Kittay 2019: 6). These descriptions hardly seem like those of people whose lives are not worth living. That many people with disabilities who live enriching and fulfilling lives are assumed not to, is not something I can or will argue against. Thus, the assentist view is softened with such concessions.

That said, the question at hand is not whether people with disabilities live valuable lives, but whether the assentist view is correct. I argue it is not. Foundational to this view is the claim that parental responsibility begins at the

decision to reproduce. I argue that this has not been established. I argue this for two reasons.

First, and perhaps less powerfully, the assentist view, if correct, would imply an unreasonable set of obligations. A prohibition of testing and selective abortion would not serve to mitigate any of the unjustified and harmful biases against people with disabilities. Instead, a prohibition from the perspective of an assentist imposes a duty beyond what can normally be expected of a future parent, with little or no benefit to the disability community. If a choice to try to conceive results in prospective parents automatically committing themselves to the project of parenthood (Vehmas 2002: 468), then it also suggests that parental responsibility begins prior to one having a child, and even prior to conception. This conclusion would result in an unjustified denial of autonomy or agency on behalf of women capable of reproducing. Strictly speaking, such a view suggests that if one decides to attempt to reproduce, then one has the responsibility to reproduce. But surely one commits no wrong if one decides to reproduce, fails to conceive of a child, and discovers that the costs of these attempts are too great, and quits. In short, the assentist view appears to commit one to have a child, by virtue of one making the choice to *attempt* to have a child. Indeed, assentists suggest that a future child's interests and fate come under a prospective parent's care, and this includes the future existence of that child. But surely one can revoke this assent at any time. The assentist view does not appear to permit this – once one decides to conceive, one appears to be forced to conceive. Surely this is incorrect. Thus, by extension, if one decides to conceive, successfully does so, but ultimately perceives the cost to be too great (as a result of a child being disabled), and terminates the pregnancy, then this is permissible.

That said, the more pressing concern is one pertaining to the originating of assent and moral responsibility. In short, I suggest that assent, and thus, responsibility, occurs when one decides to move forward with a pregnancy, and not after one decides to conceive. Vehmas invokes an example that I believe helps to illuminate the distinction I aim to draw. He suggests that prospective parents are "duty-bound to avoid situations and habits (e.g. smoking or drinking) that they believe might endanger the health of their offspring" (Vehmas 2002: 468). I suspect most of us agree with this statement in most circumstances, and that is why it is such a powerful example. That said, the reason we have duties to avoid situations or habits that might endanger the health of our offspring is because we have a duty to prevent avoidable harm to the would-be child. I think the reason the example Vehmas provides is so compelling is not

because a prospective parent has responsibilities by virtue of attempting to conceive of a child, but that a would-be parent has responsibilities by virtue of deciding to give birth to a child. In short, the distinction here is between choosing to conceive, and choosing to give birth. The assentist view prescribes responsibilities when people choose to conceive a child, when they ought to assign them when people choose to give birth.

Take the following example to attempt to highlight this distinction. Imagine a woman attempts to conceive a child, successfully does so, but immediately regrets her decision. The reason she has for this regret is unknown, but it is immediate and certain. She decides to schedule an abortion at the earliest available time, which happens to be a week later. During this time, she is stressed, has trouble sleeping, and has difficulty coping. She decides to take medication to calm herself which might otherwise be harmful to the fetus. Perhaps she also obtains a prescription for medical marijuana to help her sleep and calm her nerves. She even indulges one night, and has more drinks than anyone should reasonably have. All these actions could be said to be harmful to the development of the fetus. That said, I argue that she has committed no wrong. Her duties to the fetus stopped when she decided she did not intend to give birth to a child. This example seems to demonstrate that moral responsibilities to the fetus begin when one decides to give birth, and not when one decides to conceive. Thus, it would appear to be the case that it is false that prospective parents assent to the duties associated with parenthood upon a decision to conceive. In other words, parents are under no obligation to care for a prospective child until they decide it is a child they wish to give birth to. This, of course, permits or maybe even invites, biased decision-making, and what I might consider to be irrational selective abortions. Nonetheless, parental responsibility does not originate when assentists suggest, and thus, their argument cannot be given to suggest the immorality of selective abortion.

4. Conclusion

Therefore, this article sought to engage in a critical examination of the practice of prenatal testing and selective abortion. It examined five related arguments. First, I explored the claim that due to the high false positives associated with many noninvasive genetic tests, as well as their low positive predictive rate, it is immoral to offer or to offer in the manner we do, genetic testing. I suggested this was not the case and suggested that an ill-informed, or under-informed decision,

in most cases, does not constitute an immoral decision. Second, I examined the claim that genetic testing just does, devalue people with disabilities as a result of the implicit judgments made when prescribing value to tests for particular conditions or syndromes. I suggested this is not true, and that the only straightforward moral imperative that emerges as a result of the presence of anti-disability bias, is one to address that bias. Third, I explored the claim that selective abortion constitutes an unacceptable form of eugenics. I argued that while selective abortion may very well rely upon misinformation, or biased information about the quality of life of a person with a disability, it nonetheless, does not constitute a form of eugenics. Fourth, I explored whether selective abortion causes harm to people with disabilities. I suggested that both the expressivist, as well as non-expressivist arguments, fail to adequately establish this point. Fifth and finally, I assessed assentist views that suggest prospective parents have a moral obligation to care for a fetus once they decide to conceive it. I dismissed this claim by suggesting moral responsibility does not exist once one has decided to conceive a child, but instead, exists once one has decided to birth a child.

To be clear, neither this article, nor the arguments made within it, should be construed as an endorsement of either prenatal testing or selective abortion. Instead, it is simply an examination of the process and the arguments made from a disability rights perspective. I suggest that the arguments I have explored are insufficient to demonstrate the impermissibility of either practice.

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