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Moral Qualms, Future Persons, and Embryo Research

Introduction

Many people have moral qualms about embryo research, feeling that embryos must deserve some kind of protection, if not so much as is afforded to persons. This paper will show that these qualms serve to camouflage motives that are really prudential, at the cost of also obscuring the real ethical issues at play in the debate concerning embryo research and therapeutic cloning. This in turn leads to fallacious use of the Actions/Omissions Distinction and ultimately neglects the duties that we have towards future persons.

Moral Qualms

The person experiencing the moral qualm will say something like “Despite the possible benefits, it somehow just seems *wrong* to experiment on embryos. Maybe it is because we should not abuse the reproductive process, or because we were all embryos once. And how can we really say the embryo is not a person? Anyway, whatever the specific reason, embryo research gives many people moral qualms, and it should therefore not be permitted.”

It does seem to be the case that such moral qualms do not often rest on *one* specific reason. They are more commonly the result of an agglomeration of half-reasons and excuses, none of which in itself would be sufficient to prohibit the practice in question. (Somewhat similar is the case of the excuse for not attending a function: give one excuse, whatever it is, and you will be believed: but for each extra one provided, the overall effect is weakened.) Moral qualms are not real moral objections: they are the result of the cumulative effect of a series of moral intuitions which normally bear little resemblance to reality. In the case of embryo experimentation, we are provided with three half-reasons:

1. The sanctity of life argument (“we should not abuse the reproductive process”)
2. The Golden Rule argument (“we were all embryos once”)
3. The argument from doubt (“how can we say the embryo is not a person?”)

The sanctity of life argument is not really what it says it is. It is more an argument about the sanctity of the reproductive process. As Maurizio Mori puts it: “...it is possible that embryos deserve protection, even if they are not persons. On this account the reason justifying our having a moral duty toward the embryo depends on our having a general duty regarding the naturalness of the reproductive process.”¹ One can understand the point: it is a specific expression of the idea that we should not ‘play God’ and interfere with nature. Such arguments are infamously hard to sustain (should we not interfere with

¹ Maurizio Mori, ‘Is the Human Embryo a Person? No’ in Donald Evans (ed.), *Conceiving the Embryo: Ethics, Law and Practice in Human Embryology*, pp. 151-163, p.160.

natural cancer?) but even if we accept that we do have this general duty, it is wrong to express it in terms of embryos deserving protection. In this case, we are not pointing to any specific criterion in the embryo that merits its protection: any embryos that find themselves protected as a result of our policies (if we adopt the conclusions of this argument) are merely lucky to find themselves part of a system which we have decided should not be interfered with. In fact, what is happening here is that we are searching for a reason to protect embryos in order to protect our moral consciences: we could not live with ourselves if we allowed the embryos to be destroyed. Therefore, we claim that they are part of an inviolable system of nature which must be protected. It might be argued that, in this case, we would be protecting embryos for prudential rather than moral reasons. We simply have an (unjustified) intuition that embryos should be protected; we really have no moral reason here, but we want to ease our troubled consciences, so we argue against embryo research.

The Golden Rule argument is more interesting. It has been argued that we can take the standard Rule “we should do to others as we wish them to do to us” and apply it to our problem. R.M. Hare suggests that: “If we are glad that nobody terminated the pregnancy that resulted in *our* birth, then we are enjoined not, *ceteris paribus*, to terminate any pregnancy which will result in the birth of a person having a life like ours.”² Here Hare is

² R.M. Hare, ‘Abortion and the Golden Rule’, in Helga Kuhse & Peter Singer (ed.) *Bioethics: An Anthology*, Blackwell, Oxford, 2000, pp. 58-68, p.61.

talking about abortion, but we can see how the argument applies to embryos as well.

Josef Kovacs objects:

...[It is argued that] since I am happy that I was not killed as an embryo, I must hold the same to be valid for everybody else. So, I cannot wish the killing of any present or future embryos...[But] in reality the killing of the embryo would be bad for the embryo only if it had some kind of consciousness, desires, wishes, etc. The embryo, however, lacks all these characteristics. We simply did not exist mentally, psychologically, in our embryonal period, so we could not have suffered then at all.³

It might be objected that Kovacs misses the point: It is true that the embryo *now* does not have any projects, but in destroying it we deprive it of the chance of having any *future* projects. But this objection does not work. Kovacs' point is that the Golden Rule argument appeals to our moral sentiments because it is indeed a terrible thing for *us* to imagine our non-existence. But the point is that this is terrible for us because we *currently* have, and have had, projects and interests. Only once an entity has projects and interests can it be harmed by their loss. An embryo does not even have the capacity for having conscious interests. While it may be true that it is in the interests of the embryo to continue to survive, this is only true of the embryo as an organism, as the simple fact is that whatever person might arise from the embryo in the future has not yet done so. Another problem with the argument is that it is equally true of contraception: had our

³ József Kovács, 'The Idea of Brain-birth in Connection with the Moral Status of the Embryo and the Foetus', in Donald Evans (ed.), *Conceiving the Embryo*, pp. 221-245, p.241-2.

parents used contraception on the day we were conceived, we would not now be, but this is not regarded as sufficient grounds to outlaw condoms.⁴ Once again, we have here an example of an argument that appeals to prudence rather than to morality: it would be bad for *us* to have been destroyed as embryos, so we should not destroy other embryos (despite the fact that they lack everything that makes us us). Of course, the Golden Rule itself is guilty of an appeal to prudence rather than morality: that is why Kant so detested the mischaracterization of his Categorical Imperative as a form of the Rule.

The argument from doubt concerns us once more with the issue of the personhood of the embryo. The argument runs like this: “Wherever there are reasonable doubts about the personal status of the early embryo, moral principles, ... require that the human embryo from conception be treated as a person.”⁵ This argument is often presented as an analogy: if I am hunting with a rifle, and I see something move in the trees but am unsure whether it is a deer or a person, I am obliged not to shoot until I establish that it is in fact a deer: better safe than sorry.

This is clearly a prudential, rather than a moral argument: no one is suggesting that we should shoot if it is a person in the trees. Rather, it is prudent to wait until the essential fact is known. Clearly, this argument works in the case of the hunter, but does it work in

⁴ *ibid.*

⁵ Norman Ford, ‘Ethics, science and embryos: weighing the evidence’ [letter] *The Tablet* 13 January 1990, p.46, from Knut W. Ruyter, ‘Embryos as Moral Subjects and Limits of Responsibility’, in Donald Evans (ed.), *Conceiving the Embryo*, pp. 173-192, p.182.

the case of the embryo? Sadly, no. As Alex Mauron states, “The tutorist argument conflates empirical ignorance with conceptual uncertainty...to do so conflates plausibility of opinion with probability of fact.”⁶ While the hunter should not shoot until he is sure that the target is not a person, the same does not apply to the embryo. For the hunter, whether or not the target is a person can be resolved; but we cannot do the same for the embryo, as we have no empirical method of establishing its personhood. Knut W. Ruyter agrees: “the doubt does not concern facts, but reveals an ontological uncertainty as to the status of the embryo as a person.”⁷ The real analogy would be with a hunter who has an animal rights activist beside him in the woods, whispering in his ear: “yes, it is a deer, but deer are people too!” No amount of waiting for the deer to emerge will tell us whether it is a person – but we can certainly agree that the chances are against it. The argument from doubt assumes that it is at least quite likely that the embryo is a person, when all our evidence is to the contrary. For a third time, we are presented with an argument that appeals to prudence rather than morality in determining our course of action.

In summation, it is clear that these three qualm-generating arguments fail on their own terms. The sanctity of life argument attempts to assuage our consciences by imbuing the system of reproduction with a mystical aura and in so doing grant the embryo special status; the Golden Rule argument attempts to appeal to prudence by saying that we are like embryos, when in fact we have nothing relevant in common with them; and the

⁶ Alex Mauron, ‘The Human Embryo and the Relativity of Biological Individuality’, in Donald Evans (ed.), *Conceiving the Embryo*, pp.55-74, p.65-6.

⁷ Knut W. Ruyter, *op cit.*, p.182.

argument from doubt is just that: we have doubts about the moral status of the embryo, so let's protect them at all costs, despite the fact that it is empirically impossible to establish their personhood. All these arguments constitute straws that moral conservatives grasp at to prop up their opposition to embryo experimentation. And not only do their moral qualms blind them to the inadequacy of their arguments, they blind them to the real harm that will be done to real people in the future by their reticence today. Why do they not have moral qualms about the millions of people in the future who may suffer unduly from genetic diseases which could have been cured sooner but for their misplaced qualms today? The answer may lie in a common fallacy.

Acting, Omitting and Embryos

A popular tool in the dissection of moral argument is the supposed Actions/Omissions Distinction (AOD). The basis of this is that it is better not to act (with resulting harm) than to act and do (direct) harm. A classic example of this is the Train example. Imagine that you find yourself in the control room of a train station. Through the window you can see that five people are tied to the railway line, and a train is coming in thirty seconds. You could pull the lever that will save them by diverting the train onto another line, but this will kill the two workmen working on that line. So what do you do? Supporters of the AOD argue that you should not intervene, because if you do, you are actively causing the deaths of the workmen. This is not a good argument. Certainly it is *easier* to pretend that you are not there, and thus do nothing; and it is true that it takes some courage to pull the

lever. But omission is also an action. The important action in cases like this is a mental one: it is the choice between a situation in which two people die, and one in which five people die. This may sound coldly utilitarian, but it is the real moral structure of the situation. Professor Rebecca S. Dresser of the (U.S.) President's Council on Bioethics states that:

I find it hard to reconcile the special respect view with a policy that allows embryos to be created purely as a research tool. I also recognize that some individuals also assign a higher moral status to the early embryo. I do not want to endorse a practice that many people believe is wrong in the absence of compelling reasons to do so.⁸

Quite correctly, Dresser sees a contradiction between the Council's avowed "special respect" for the embryo and their other conclusion that research should perhaps be permitted under certain circumstances; as explained above, such a position is untenable. But the conclusion that Dresser draws is equally misguided. Because moral conservatives accord the embryo equal status to ourselves, Dresser supports a moratorium on the research, because she does "not want to endorse a practice that many people believe is wrong". She seems to be unaware that supporting a moratorium is also a practice that many people believe is wrong. Dresser has committed the fallacy of the AOD: she believes that it is always better to do nothing than to act in the face of doubt. Not doing embryo research is also an action, morally equivalent to letting the five people die in the

⁸ The President's Council on Bioethics, *Human Cloning and Human Dignity: An Ethical Inquiry*, Washington D.C., July 2002, p.251.

Train example. Just as it is easier to do nothing and let the five people die and the workmen live, so moral conservatives prefer to ease their consciences by doing nothing now and letting embryos survive, regardless of what will happen in the future. And just as inaction provides moral distance from the consequences of intervening in the Train example, the future-aspect of the benefits of embryo research provides moral distance from the consequences of not doing the research now. Fundamentally, the Train example is very similar morally to the question of whether to allow embryo experimentation and therapeutic cloning: the difference is that in this case, the five people on the tracks will not die for several years. The failure of the AOD shows that inaction now is the wrong thing to do in terms of the suffering of future persons: omitting to conduct embryo research *now* logically entails the action of condemning future people to a great deal of suffering. (Note that my argument works even if we agree that embryos deserve some protection, which I deny. Killing the two workmen is much more ethically problematic than conducting research on embryos.) Were moral conservatives like Dresser to fully consider and face up to the consequences of their (in)actions, their response to the problem would be very different, but their moral qualms make this impossible.

Future Persons and Consequences

The reason that people like Dresser do not have moral qualms about the suffering of those who might be cured by the products of embryo research involves the fine distinction between actual future persons and potential future persons. I suspect that the

reason people oppose therapeutic cloning and embryo experimentation in general is because they lack the moral imagination that would allow them to fully consider the consequences of their actions. For their troubled consciences, it is easier to fight for the simple moral principle of preserving the ‘people’ represented by currently-existing embryos, rather than consider the faceless few (millions) who will die in the future because of their moral qualms. (I am assuming that embryo experimentation will yield important results eventually.) Despite the relative facelessness (and indeed featurelessness) of embryos, moral conservatives today could not live with themselves if they sanctioned embryo research, as their fight *now* helps embryos *now* (except it doesn’t really, as “protecting” embryos normally means that they will simply be frozen indefinitely or destroyed rather than used for research⁹). They believe that this is preferable to sacrificing embryos that they *know* exist now in order to benefit people who will be sick or dying in the future. The moral distance between them and these future persons overcomes any qualms about condemning these future people to early deaths and suffering.

The point is that there are two different types of “future person” here. The first is the embryo, which exists now, but will not develop into a person unless implanted; this is a *potential* future person. The second person belongs to one of three categories: he is suffering from a genetic disease now and hoping for a cure; he is healthy now but will suffer from a genetic disease later; or he does not yet exist and will suffer from a genetic disease at some point in his future life. In all of these categories, he will die an early

⁹ AUTHOR

death because a disease which could have been cured but for the lack of embryo research nowadays. This is an *actual* future person. (I use the word ‘future’ for two reasons: firstly, genetic therapies are most likely to benefit those not yet born, as they will exist further in the future. Secondly, there are probably more people alive now who will suffer from a genetic disease in the future than there are currently suffering from a genetic disease. Future has a twin sense here: those not yet born, and thus not yet diseased, and thus who are already alive, but will have a disease in the future.) For the conservative, the important difference is that in the case of the embryo, we can point at a specific organism now (assuming we have a microscope), and thus establish its primacy. This is clearly wrong. Just because I don’t know any Africans does not mean that they are less important than Europeans. As Derek Parfit says:

Remoteness in time has, in itself, no more significance than remoteness in space. Suppose that I shoot some arrow into a distant wood, where it wounds some person. If I should have known that there might have been someone in this wood, I am guilty of gross negligence. Because this person is far away, I cannot identify the person whom I harm. But this is no excuse. Nor is it any excuse that this person is far away. We should make the same claims about effects on people who are temporally remote.¹⁰

Conservatives draw a moral line because of physical and temporal proximity, whereas the correct distinction is that, in the case of the actual future person, embryo experimentation today represents a future alleviation of human suffering. From the embryo’s point of

¹⁰ Derek Parfit, *Reasons and Persons*, Oxford University Press, 1987, p.357.

view, there is no benefit, but equally it does not suffer. Embryo experimentation should be permitted because it will almost certainly lessen future human suffering for many millions of people, without causing any human suffering now.

The moral myopia of those opposed to embryo research reflects the widespread tendency in Western society to favour treating existing patients rather than preventing future patients from needing treatment at all:

Preventive care typically reduces morbidity and premature mortality for unknown, “statistical lives,” whereas critical interventions concentrate on known, “identifiable lives.” Many societies have historically been more likely to favour identified persons and to allocate resources for critical care, even if evidence exists that preventive care is more effective and efficient.¹¹

Our current problem is a specific instance of this trend: even though they are not patients in any normal sense at all, some people would still favour “saving the lives” of embryos over preventing genetic illness for millions of people in the future. Moral conservatives will reply that any useful benefits of embryo research are many years away, and could anyway be achieved by using adult stem cells. The latter point is not correct; as already stated, it is likely that the two sources will have to be used together to yield maximum benefit: “most researchers believe that both cells will be required because both have

¹¹ Tom L. Beauchamp and James F. Childress, *Principles of Biomedical Ethics* (third edition), Oxford University Press, 1989, p.252.

many limitations.”¹² And regarding the point about having to wait many years for the cures for some of our most devastating diseases, this may be true, but does not constitute a moral point in favour of opponents of the research; quite the opposite. Let us grant for a moment that it will take ten years for the first successful therapy to reach the general public. For each day that opponents of embryo research succeed in their attempts to prohibit it, this date will move one day further into the future. Given that “as many as 3000 Americans die every day from diseases that, in the future, might be treatable with cells and tissues derived from stem cells” one might hope that the conservatives would think more about real people who might be saved rather than small bundles of cells.¹³ In a world where abortion is widely accepted, it seems somewhat ridiculous to put the health of future people at risk for the sake of a few cells which, at best, might be termed potential persons. Of course, for those who believe that persons originate at conception, IVF is even worse than abortion, as it frequently results in the creation of embryos which are never implanted. If this sacrificial moral feature of IVF is acceptable (and it clearly is to most people) then why should we not conduct embryo research in general? (Another point is that IVF differs from abortion in that in the latter, conception was normally unintended, whereas in IVF the majority of embryos which are deliberately created will be destroyed.)

¹² Orive, G. *et al.*, “Controversies over stem cell research”, *Trends in Biotechnology*, 2003, 21:3, pp. 109–112, p.110.

¹³ *Ibid.*

Choosing between alleviating the suffering and prolonging the lives of x number of living people rather than letting y number of potential people come into being seems a difficult choice. But when we consider that choosing to help the x -group also entails helping all future people in similar positions (z), it is clear that x and z are more important than y . We want to help x – this is clear. We also want to let y live, but to do this at the cost of the future suffering of z – a group of people who will definitely someday exist – would be wrong. This argument would fail if y – the embryos – were people with interests to whom harm could be done. But they are not.

To summarize the argument: embryo experimentation causes no human suffering and will probably yield massive benefits for actual future people. The prohibition of embryo experimentation does not reduce any human suffering and vastly increases the suffering of future generations. Thus embryo experimentation and therapeutic cloning are not just permissible, but obligatory.

Conclusion

Bonnie Steinbeck quotes George C. Annas' thought-provoking story:

George Annas appeals to common moral intuition with the following story. If a fire broke out in a fertility lab and there was only time to save a two-month-old baby there in a bassinet or a rack

with seven embryos, most would save the baby without hesitation. Yet carrying out the test-tube rack instead could have saved seven people, if indeed each embryo was a person.¹⁴

The reason that most people would save the baby is that potential involves *risk*. If we can save one actual person or seven potential people, we must save the actual one, because we know that he is a person. The embryos might all fail to implant. How would we feel then if we had left the baby to burn? Annas' example also illustrates why embryo experimentation must be allowed to continue; we could be saving the lives of millions of people afflicted by genetic disease in the future if we 'sacrifice' a few thousand embryos now. While these future people are not actual in the sense of the baby in the lab, we know *for sure* that there will be many people in the future with these diseases (some of them already alive today). We do not know for sure that *any* given embryo would ever become a person. Thus, even if the numbers were different from those in Annas' example, (say, one future person saved against 50 embryos sacrificed) we should do as we would there. Even naturally conceived embryos have only a 1 in 3 chance of actually becoming a person (due to natural failure rates), and "spare" embryos and those created by therapeutic cloning have even less chance, as they are never even intended to be implanted. Why then not use them to benefit real people?

We have seen that, at least with regard to embryo research, moral qualms result from a vague agglomeration of moral intuitions which have no logic behind them. These qualms

¹⁴ Bonnie Steinbock, *Life Before Birth: The Moral and Legal Status of Embryos and Fetuses*, Oxford University Press, March 1996, p.215.

lead some people to advocate the 'safe' approach of forbidding embryo research, without realising that such an omission is also an action that will have very bad consequences for future people. Overall, moral qualms and misuse of the Acts/Omissions Distinction result in a collective failure of moral imagination that neglects the consequences to future persons of prohibiting embryo research.