

Phil 108, May 1, 2008
Shiffrin: Is it wrong to have children?

Wrongful life suits:

Wrongful life suit: a lawsuit brought by a child (typically a congenitally disabled child) who seeks damages for burdens he suffers that result from his creation.

Two common beliefs about such suits, which Shiffrin challenges:

1. Only those whose lives are *not worth living overall* may bring suit. *Assumption:* If the child's life is overall worth living, it has no valid complaint about choices or effects without which it would not have existed.
2. Suits may be brought *only for negligence, recklessness, or maliciousness* in procreation. Mere voluntariness in procreation is not sufficient.

Does the child have a complaint if it has a life worth living?

Note that "has a complaint" has different readings.

- *Stronger:* We *wrong* the child, and act impermissibly, by creating it.
- *Weaker:* We are *morally responsible* for the harm to the child that results from creating it: that is, we are morally required to provide compensation for the harm, or help in dealing with it.

The assumption is supported by:

Rescue: In order to save someone's life, a rescuer must break his arm. The rescuer does so, without his consent. It seems that the person has no complaint.

First explanation: If one benefits overall, then one does not harm, even if there is no consent. The person has no complaint because the rescuer does not harm him. To benefit is just to increase one's welfare overall; to harm is simply to decrease it.

- Someone can be left at a lower level of well-being by a benefit when someone else is left at a higher level of well-being by a harm. So why should harming and benefiting be asymmetric? Why is failing to save someone from harm is usually worse than failing to benefit?
- Seems counterintuitive. Someone who is moved up the welfare scale can still be harmed if, e.g., her thumb is broken.

Alternative, *noncomparative* view of harm and benefit: harms given by a list of evils like broken limbs, disabilities, episodes of pain, death; benefits given by a set of goods like material enhancement, sensual pleasure, goal-fulfillment. This view implies that when someone's arm is broken in the course of his life being saved, he is in fact harmed.

Second explanation: If one benefits overall, then the beneficiary has no complaint against one for harms that are necessary for providing the benefit, even if there is no consent.

Problem: Wealthy drops cubes of gold on the islanders, without their consent. There is no other way to deliver this benefit. Unlucky is harmed by a falling cube, but agrees that he is better off overall.

- Wealthy, unlike the rescuer, seems to owe Unlucky an apology. This suggests that Wealthy acts wrongly.
- Or, at least, Wealthy seems to be responsible for the harm he causes.

Shiffrin's explanation: If one saves someone from a *greater harm*, then the person one saves has no complaint against one for harms that are necessary to saving him, even if there is no consent. By contrast, *benefiting*, without saving someone from a greater harm, does not immunize one from complaint.

- Rescuer saves the person from a greater harm.

- Wealthy's gold cubes do not.
- Procreation also does not save the child from a greater harm. If the child had not existed, it would not have suffered a greater harm.
- In fact, procreation is, in one way, worse than Wealthy. No one will be worse off if the procreation does not take place. But Unlucky will be worse off (albeit not harmed) if the cubes are not dropped.

Does every child have a complaint against its parents?

Must parents, doctors have acted negligently, recklessly, or maliciously, in order for the child to have a complaint?

Shiffrin: No, voluntariness is sufficient for complaint. For example, Unlucky still has a complaint against Wealthy, even if Wealthy is not negligent, reckless, or malicious.

Must the child have a congenital disease for it to have a complaint?

Shiffrin: No, existence unavoidably brings other harms. "By being caused to exist as persons, children are forced to assume moral agency, to face various demanding and sometimes wrenching moral questions, and to discharge taxing moral duties. They must endure the fairly substantial amount of pain, suffering, difficulty, significant disappointment, distress, and significant loss that occur within the typical life. They must face and undergo the fear and harm of death. Finally, they must bear the results of imposed risks that their lives may go terribly wrong in a variety of ways."

Equivocal View: Procreation "is not a morally straightforward activity, but one that ineliminably involves serious moral hazards."

Implications:

- In theory, all children have basis to *sue* their parents. But in practice few children will want to, and it would be reasonable for the courts to recognize only the most egregious cases.
- In *adoption*, the biological relationship should not be privileged over the adoptive relationship. After all, the biological parents did, but the adoptive parents did not, impose the burdens of existence on their children.
- In *genetic donation*, a strong argument that donors should not be anonymous and freed from obligations for support.
 - "The person (partly) causally responsible for the child's burdens has a duty of responsibility to that child that should not be waivable by a parent."
 - "The fact that the donor might not provide genetic material if he were susceptible to liability or support requirements, and hence the child might not have otherwise come into existence, is not, as we have seen, a sufficient reason to disclaim responsibility to the child for burdens imposed by creation."
 - Shouldn't the same apply to parents who give their children up for adoption in the traditional way? In principle, but "it may facilitate adoptions that promote the child's best interests to waive support requirements; if biological parents remain susceptible for support payments, this may deter unfit parents from relinquishing custody; but in genetic donation, liability may only deter creation in the first place, which will not harm the nonexistent, potential child."