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Liberal or Conservative? Genetic Rhetoric, Disability, and Human Species Modification

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Abstract: A certain political rhetoric is implicit and sometimes explicit in the advocacy of human genetic modification (indicating here both the enhancement and the prevention of disability). The main claim is that it belongs to a liberal tradition. From a perspective supplied by the history and philosophy of science rather than by ethics, the content of that claim is examined to see if such a self-description is justified. The techniques are analyzed by which apparently liberal arguments get to be presented as “reasonable” in a juridical sense that draws on theories of law and rhetoric.

Keywords: disability; history of medicine; genetics; rhetoric; rights; bioethics; eugenics

1. Introduction

Claims to (and accusations of) “liberalism” or “conservatism” abound in the literature on human genetic modification (HGM). They are usually taken at face value. But does this supposed match between certain attitudes towards HGM and certain political traditions hold good? The question requires critical analysis. This article probes one strand of political rhetoric, the one used by its advocates. I start by setting out their claim to be part of a liberal tradition battling a conservative opposition. I go on to argue that in our attempts to establish stable, knowledge-based grounds for debating HGM, it is the philosophy and history of science that is prior, rather than some notional discipline of ethics which is in fact a contingent outcome of that history. Using this as my perspective, I then examine the *content* of the political rhetoric to see if the advocates’ claim to be liberals is justified. Finally, I analyze the rhetorical *techniques* by which that claim presents itself as “reasonable,” in the legal sense that enters into policy and decision-making.

2. Liberalism, Conservatism, and Rhetoric: Preliminary Definitions

In what follows, “rhetoric” is not *in itself* a negative term automatically indicating insincerity, nor does it simply indicate some neutral art of persuasion. As will become clear later, there can be a “good” or “bad” rhetoric that is inseparable from the intrinsic soundness of an argument and from its ethical aspects. As for the terms “liberalism” and “conservatism,” their usage to describe general political theories can often be complex and contradictory. The situation is even more problematic when they are deployed around specific issues and the disputants are using them as labels for their own or an opponent’s position. Assumptions about the general political alignment of the arguments for and against HGM permeate the public arena but are not always made explicit, so they need testing out. What part do they play in the presentation of the case? Should decisions about HGM be influenced by the kind of opinionated caucusing that political concepts such as this encourage? These questions are crucial at a moment when policy-makers and judiciaries in many countries are making fateful decisions.

When I use the terms liberal and conservative, I am not talking about political allegiances in a party-political sense. On the contrary, it is well-known that the drive towards biological

modification of the human species cuts across the left-right divide. In relatively recent history Marxists (Trotsky), Fascists (Hitler), Liberals (Russell), Social Democrats (Keynes), and Conservatives (Churchill), all endorsed eugenics at some point. Rather, I mean allegiance to the broader schools of thought which have permeated the public arena in Europe and North America for the last two and a half centuries, and which have impinged on lawmaking. As schools of political thought, liberalism and conservatism are the great twenty-first century survivors. Having dropped the capital letters of party affiliation, and setting aside any “neo-” prefixes for the moment, we could define conservatism as the attempt to preserve what is best about existing values and beliefs against a potentially dangerous tide of unnecessary innovation, and liberalism as a knight on the white charger of progress, overthrowing oppressive state systems that stifle the prospects for an optimistic future.

One might immediately assume, then, that the urge to free HGM from the constraints of existing law in order to benefit humankind belongs to the liberal tradition, and that a wish to restrain this urge and to ban the accompanying practices belongs to the conservative one. However, readers who are also researchers of any kind will recognize that the very departure-point of research is a refusal to take starting assumptions for granted.

3. Varieties of Liberalism in the Advocacy of Human Genetic Modification

Leading advocates of HGM use the binary labels explicitly. They see and present themselves as crusading liberals, and label the opposition “bio-conservatives” ([1], p. 39). Arguing for a new, “liberal eugenics,” and insisting that one can use this loaded noun without fear as long as one explains what is meant, they contrast it with the old, shamefully coercive kind. The new eugenics of HGM (“modification” here includes both the enhancement and the prevention of disability) will be pluralistic, based on choice, and will combine evidence-based science with promoting the welfare of individuals (“procreative beneficence”) while also respecting their rights. On this view, liberalism is non-coercive by definition, and coercion implicitly associated with the conservative urge to ban things.

Advocates differ among themselves on two counts. The first disagreement is over how far coercion might be needed to achieve liberal effects. Not all liberals are against coercion. The kind of liberal eugenics mentioned above gives parents *laissez-faire* to make use of it—or not. Some fellow-liberals criticize this. Because liberalism means maximizing the individual’s autonomy, they say, the state has a duty to extend this capacity for autonomy to future individuals. This can be achieved by genetic enhancement. The liberal state exists only to prevent core evils, but that still entails providing certain primary social goods; therefore, genetic enhancement must be bracketed among the latter, being as it were a “natural” good. Just as the state should ensure that all children have an education in order to overcome the evil of ignorance and to help their autonomy to flourish, so too it has a “moral obligation” to encourage parents to choose enhancement/termination, for the sake of future generations; to permit parents *not* to do so if they feel disinclined is not liberal or eugenic at all but “a betrayal of liberal philosophy” ([2], p. 24).

Framed in the style of a strict logic, the argument runs that “it is morally incoherent for liberals to reserve decisions about education for the public sphere, but leave genetic enhancements like general cognitive functioning to parental fancy.” Consequently a “state-sponsored programme” ([2], p. 24) of eugenics is recommended, to produce the best children possible (where best means, specifically, “not having blindness, paraplegia, or Down’s syndrome”) ([2], p. 14). Since liberals across the board do not rule out coercion in the areas where the state *is* required to be involved, it therefore has to “correct for parental unwillingness” ([2], p. 24) to follow a future-oriented liberal path. This kind of liberal says that arguing for “mandatory” and “compulsory” interventions should “be interpreted only in the sense of moral and not legal obligation” ([2], p. 15). Here, the line between a coercive and a non-coercive liberalism becomes very fine indeed, since it is not clear how the state, even a liberal one, can make something compulsory unless by means of law.

The second disagreement among advocates is about the range of characteristics which genetic techniques might be capable of influencing. Biologists in particular are often skeptical about altering

DNA sequences to enhance intelligence, for example. But their reservations are for the most part only about their technical capacity for doing so (too far down the road, they say). Some advocates thus oppose the practice of enhancement for intelligence, but simultaneously advocate the practice of termination for lack of it. Others have responded to this apparent contradiction by asserting that (a) there are not two practices (termination and enhancement) but one and (b) we should call this one practice eugenics [3]. This seems to me reasonable. It shows that those advocates who are embarrassed by their colleagues' wilder ambitions remain implicated in the mentality behind the latter, at a more general level.

4. Alternative Liberalisms

Differences notwithstanding, it seems so far that the starting-point of advocates is from *within* a more or less classic liberalism, as a long-standing political tradition that can be variously interpreted. In fact, it is only classic from their own, utilitarian standpoint. And possibly not even then. John Stuart Mill, one of utilitarianism's founding fathers, placed avoidance of harm or potential harm above all else—which could be construed as a conservative position. Moreover, there is a different kind of liberalism derived from Kant rather than from the utilitarians, in which individual aspiration and happiness are central but depend at the same time on the fact that we share our lives with others. This necessitates treating our fellow human beings as ends, not as means. On the HGM issue, this might not entail a means to some future bio-utopia via eliminative genetic intervention, and thus not on the side of advocacy.

In this second version of liberalism, the happiness principle is something different from that which appears to constitute the first and which has been criticized as the idea that "life is more worth living the less trouble it takes" ([4], p. xi). In the second version, if people with diverse natural limitations can lead flourishing lives and pursue happiness then it is not clear why they should be eliminated in advance. To speak only of the existing preventative technology, people with cystic fibrosis are now living to an age when Einstein, Shakespeare, and almost anyone else you can name had already completed their main contributions to human advancement, while people with Down's syndrome are distinguished, in the very same stereotyping medical context that questions their existence, by a laid-back capacity for happiness. *Natural* diversity is a good, in this second type of liberalism, even if it conflicts with the equal good of a *moral* diversity that brings with it the right to choose.

5. Varieties of Conservatism

So have we got things the right way round when we go along with the self-identification of advocates as the liberals battling for their rights against a conservative resistance? Opponents of HGM need not allow themselves to be typecast or self-identify as such. Some may not mind anyway, because they will be arguing from the basis of a traditional conservative politics [5]. Similarly, some may draw an analogy between conserving human diversity and conserving environmental diversity (for example, by protecting the multiplicity of wheat strains from agribusiness) [6]. Other opponents, though (and among them the present author), may feel uneasy about the conservative label, because they are the sort who on political issues unconnected with HGM—or even as opponents of it—would tend to think of themselves as liberals or radicals, seeking social change through social action against established authority. Identifying with a political tradition is thus less comfortable for opponents of HGM because it comprises people who otherwise might not be in bed together.

Ethical justifications offered by opponents of HGM do not always bear much relation to each other. Some people argue that preservation of status quo carries its own benefits to humanity—among them, maintaining the wealth of human experience; preserving the possibilities for an unconditional ethics of compassion; protecting against stigmatization under a future genetic class system (since medical breakthroughs are never evenly distributed) [7]. Others argue that mere mortals should not alter what God has created. Still others argue that something could go biologically and irrecoverably wrong on a species-wide scale [8]. Point 6 of the Nuremberg Code on research ethics requires that the

degree of risk to be taken should never exceed that determined by the humanitarian importance of the problem to be solved by the experiment ([9], p. 1448). Why contravene it by trading the big risks of HGM against the extremely small number of live births that cannot yet be prevented by screening? This position partly mirrors that of advocates who are conservative about enhancement while liberal about prevention.

Granted that at least some opponents of HGM would wish to avoid the charge of conservatism, this would have to involve (among other things) engaging the advocates on their own grounds, i.e., on consequentialist grounds. For example, is it more reasonable or less to be anti-risk than to imagine you can create a future in which human beings are physically and mentally perfect and have a homogeneous morality? Is it more reasonable or less to acknowledge the messy diversity of human experience than to enhance for the benefit of an unknowable future certain characteristics that are imposed merely by the social anxieties of a particular moment in history? To pose consequentialist questions is to occupy territory liberal utilitarianism defends as its own.

The degrees of incompatibility nevertheless seem to be greater among HGM's opponents than among its advocates. However, it is probably a vain task to try and straighten out confusions. Actual decisions, political and legal, are taken not on the basis of logical clarity (in that case we would not need a judicial system at all) but on intuition or at best a balance of probabilities, and so a certain underlying acceptance of confusion is unavoidable—which is why there is a positive as well as negative role for rhetoric, as defined above. All I am asserting is that the public perception exists of a liberal-conservative binary in which it is HGM's opponents who are the conservatives and its advocates the liberals. If so, the perception is worth examining, with particular emphasis on the advocacy side, since it is the advocates who successfully present themselves in the public arena as the representatives of coherence and dispassionate rationality.

6. Rhetoric and the Ideological Content of Liberal Eugenics: Historical Components

Before finally looking at legal theory and rhetorical techniques, in this section we shall be looking at the actual content of the ideas the rhetoric employs. Key thinkers in philosophy (Stephen Toulmin) and legal theory (Chaim Perelman) alike have suggested that rhetoric, rather than strict logic, is the only framework within which any fruitful discussion of ethical questions and of law itself can take place. Toulmin's seminal work on the nature of ethical arguments argues that the rational has to be separated from the reasonable, in the juridical sense of that term ([10], p. 195). Rhetoric seems to imply relativism. If any view can prevail simply through the presentation skills, what can be said for its truth-content? Answers to ethical questions are not reached by aiming at impossibly absolute and rational truths. One can, however, make a reasonable case, and according to Toulmin one useful tool for doing so is to contextualize one's evidence within history and the philosophy of knowledge. Only if the attempt to find truths of some stability is combined with knowledge of historical change and of one's position within it does it become possible to avoid the swamps of skeptical ignorance and pessimism. To ignore the contextual histories of philosophy and of scientific knowledge when discussing HGM and disability is thus like attempting a Darwinian account of biological taxonomy without mentioning or acknowledging the existence of preceding species.

There is historical evidence to challenge the HGM movement's claim to be part of liberalism. On the rare occasions when history surfaces in these debates, its job is usually to be ransacked for parallels with the present. A common example is comparing today's "designer babies" agenda with Nazi race betterment theorists. Is the parallel apt, or is it just name-calling? It may be, it may not be. Such references crop up merely as a way of justifying or refuting some contemporary stance. I am not talking about that kind of history. I mean history as the pile of stuff you and I are actually standing on at the moment—the kind of stuff which, were it kicked away, we would all immediately topple into the void. Without awareness of how we got where we are and thus of who we even are, we could not act at all, and certainly not with foresight. We ourselves, at this instant, are historical agents. History is *both* an objective, external referent *and* where we are now, the subjective standpoint.

This kind of history does not make speculative parallels, it traces organic developments from past into present. It is not an interesting add-on to HGM but an essential part of the latter's existence. Among other things, it contributes facts. Second-order facts maybe, by comparison with the (almost) first-order facts of, say, biology. But also second-order by comparison, say, with the sixth- or seventh-order "facts" of diagnostic classification—if not in physical conditions, then in psychology's account of modification targets such as cognitive impairment or moral deficit ("intellectual disability," "autism," etc.). Such labeled categories are the expression and the very product of passing social anxieties: unstable and constantly changing in the long historical term, but established in the medium term as ontological absolutes that last just long enough to get pasted speculatively on to biological entities and then employed in the bioethics debate. Two generations from now they will have been replaced by quite different categories and labels with quite different diagnostic characteristics (this was always the case, as the historical record shows).

History, however much more open to interpretation than biology is, has more evidence-based solidity than psychological diagnosis. For one thing, it demonstrates that the roots of HGM advocacy lie in a strand of Christian thought. Utilitarianism, the advocates' core position, arose directly out of an equivalent eighteenth-century religious doctrine in which "the fitness of things is their fitness to produce happiness" and to avoid suffering ([11], p. 479). And just as human beings' happiness was willed by God, so their suffering was no longer something merely to be endured as it had previously been in medieval doctrines. It had a direct cause, the Devil. Despite the usual picture of Western history as the gradual triumph of reason over religion, the Devil was becoming more, not less, important at this point, not so much among the general populace as in the proto-scientific elite of the Royal Society. He was the source of disorder in both the natural and the social world; a common speculation was that he had his semen inserted in women who would go on to bear anomalous children of various kinds. Intrinsic to religious utilitarianism, then, was the requirement to seek and root out this core evil and its disordering consequences ([12], p. 267).

A direct historical connection runs from this consequentialist religious ethics—the culture into which the founder of modern utilitarianism, Jeremy Bentham, was born—through to nineteenth-century eugenics and thence into present-day bioethics. It is a concrete line in the history of our culture and of its motivations, and is easily traceable. The fact that the happiness principle at some point relocated from a religious sphere willed by God to a juridical and socially self-sustaining one—i.e., that it has become secular—does not *by itself* or *self-evidently* make present-day utilitarianism, at least in the form espoused by liberal eugenicists, a superior ethical principle. Moreover, one could also say that its secularism is just the surface covering of a doctrine that discarded the Bible only to reconsecrate itself within modernity, in the process known to anthropology as "sacralization."

Similarly, enhancement has roots in the Christian idea of perfection [13]. As Michelangelo's paintings in the Sistine Chapel illustrate, human life at the Day of Judgment was the restoration of a renewed and perfect body; this would have to include bodies which down here had, say, muscular dystrophy. And as for the perfect soul or mind, the perfection that medieval theologians envisaged in a few isolated individuals as sainthood later became the idea that God had predetermined the nature of a whole group of people ('the elect') whose inner perfection destined them for heaven. Over time, this then gradually turned into an ambition for the species as a whole, with reason now admitted alongside faith as part of an earthly "preparation" for everlasting glory. Our modern theories of education and of psychological development and developmental disability sprang directly from this tradition, muscling out any overt mention of faith entirely. The idea of cognitive enhancement is its next logical step.

Many other concepts involved in the HGM debates have similar roots. A line runs from Christianity's distrust of the body to today's transhumanists, who identify as eugenic liberals battling the "bioconservatives," and who want us to disengage from the body so that our cognitive selves can become pure software. The word "transhuman" was first coined by Dante to describe people's bodiless state at death as they arrived face to face with God [14]. Behind the conjoined notions of cure/elimination and enhancement, therefore, stand overarching ideas of redemption and eternal life.

These are more than metaphors, more even than mere historical parallels: they are the continuous warp and weft of our culture, of its mentality and motivations. While the history of the natural sciences displays an epistemic break between ancient and modern, the history of ideas about human nature (and with that a large part of the mind sciences) does not; on any reading of the philosophy of science, it cannot [15].

Even the idea itself of liberalism, which grew up intertwined with utilitarianism, emerged from those same building blocks of Western culture. We owe modern democracy's founding principle of tolerance to John Locke and his influence on the rise of religious toleration by the state. Although he was against coercion, he did not mean by this that we could all just hold whatever belief we like. He meant that, because coercion risks rebellion, it would be better to let people follow their own paths—that way, we would all eventually arrive by our own intellectual bootstraps at the one true and paramount belief. For Locke, this belief was the Anglican God and the life everlasting. Now the core belief is the idea of liberalism itself (the means having replaced the end). Locke is prototypically modern in another, connected sense, since he can also be found anticipating the call for pre-natal techniques to detect intellectual disability (which was still colored, in his time, by notions of religious deficit) ([16], p. 571).

7. Rhetoric and the Ideology of Liberal Eugenics: Ethical and Psychiatric Components

Using the history of ideas and philosophy of science to furnish “reasonable,” contextualized evidence for ethical decision-making, as Toulmin suggests, it then becomes possible to distinguish between what is historically constant or permanent and what is historically contingent, including the present contingency ([10], p. 211). In the particular case of HGM, it becomes possible to look behind the rhetoric of HGM for the elements of conservatism in its *current* manifestation.

When, today, advocates of HGM phrase their arguments in terms of an insistence on philosophical clarity and therefore certainty, this is among other things the adoption of a literary style. It so happens that utilitarianism tends to assimilate the idea of a particular kind of logic—a train of *propositions*—with the idea of a train of *consequences*, which is not necessarily the same thing. This is not an argument against utilitarianism in general, merely that its style is susceptible to superficial imitation (just read any political journalist). In liberal eugenics, the claim to philosophical substance comes partly by stylistic association. Less still does this surface clarity mean it has a methodological affinity with the hard sciences. Nevertheless, it is a claim of bioethics in general that “ethical reasoning [,] if pursued thoroughly, is similar to the scientific method, in that it leads to a logical conclusion” [17]. A general climate has arisen in which people on policy-making bodies need to guard against the subliminal thought that turning ethics into an expert, professional, rule-governed discipline means it is capable of rules resembling the laws of gravity, the pressure and volume of gases, or evolution.

Both the claim to certainty on the grounds of logical clarity and the bureaucratic implication of an equivalent specialist expertise between the biologist and the “ethicist” are questionable. What bioethical expertise of this type seems to indicate instead, for want of any such certainty, is a drive for *moral* absolutism. In addition to the historical roots discussed above, it is moral absolutism rather than coercion as such (coercion as we have seen is politically blind) that marks the specifically conservative essence of advocacy for HGM—or rather, “neo”-conservative, inasmuch as the only possible ethically absolute commands are those issued in the name of the public interest, to which any individual moral principles must be subordinated [18].

One example is the call for “moral bio-enhancement,” in which a “science of morality” based on politically directed genetic engineering will lead to, as it were, “correct” outcomes [19]. Note the bifurcation: having throughout the history of philosophy been synonymous with the word “ethical,” the word “moral”—following the promotion of ethics into a sphere of objective specialist expertise for ethicists—has now come to describe the subjective behavior of individuals who are subordinate to that expertise. The idea of enhancement presupposes a prior agreement about what constitutes this individually “moral” behavior. It may be objected that in citing the proposal for a genetically bred

science of ethics/morality I am exaggerating the role of untypical *provocateurs* on the advocacy side: mainstream advocacy of HGM is more sensible than that and risks being unfairly targeted. But such an objection is misleading. Some sort of moral absolutism lies behind the genetic enhancement/elimination enterprise in general; it holds true not just for the outliers but also for people who advocate only some parts of it. Cautious moderates will often say they would favor enhancement for getting rid of diseases but would draw the line at intelligence (on the grounds, for example, of the “culture-dependent value we attribute to our cognitive dispositions,” or simply because it smacks of the old eugenics), without invoking in this context the relevance of prenatal technologies that have been routinely practiced for the last quarter of a century ([20], p. 178).

This latter point leads us to the question, what counts as disease? This will be important for looking at what may lie behind that moral absolutism. Single gene mutations, diseases that arrive incidentally, physical disabilities, “cognitive impairments,” and “moral deficiencies” each affect the debate in radically different ways that require discrete approaches. To give just one example, if the supreme criterion of the happiness principle is the *autonomy* of the individual, then the supposed restriction of autonomy that results from physical impairment is of a different kind and (on the advocates’ own terms) of a lesser degree than a restriction resulting from “cognitive” impairment—and vice-versa: the *suffering* of the individual in the latter case is hardly equivalent to that of a physical impairment involving pain. How can you suffer from a lack of understanding if you do not understand that you lack understanding? It is possible, albeit not certain, that you will have greater well-being than others.

The existence of specific differences like this is sometimes rhetorically useful to advocates too. In public discussions of the issue, they can meet objections to their targeting of one group with answers drawn from another. Ask, for example, if being autistic actually rules out being happy, and the counter-question that immediately follows—from the neutral chair of a public discussion as well as from an advocate—often boils down to something like, So don’t you want to eradicate malaria? The sideways step is a characteristic of “bad” rhetoric. In this instance, it leads to “disease” (its definition presupposed) being simply the sum *unspecified* aggregate of all things that are HGM’s target groups. An itemized catalogue of all the necessary differentiations, therefore, will not suffice as an answer the question about what counts as disease. The moral absolutism behind HGM involves first having an unstated, consensual drive to get rid of something, *then* defining it as disease. In this sense, the motivation referred to above can be described as a phobia. If this seems a step too far, it should be noted that key authorities in anthropology, social psychology, and psychiatry have viewed the fear of contamination as the main reason for the formation or the very conceptualization of social out-groups (among whom the disabled can be counted) [21–23].

It has been argued, by critical biologists as well as sociologists, that there are practical, “neo”-liberal motivations too [24]. For example the person who heads up the UK’s largest private pre-natal screening company and supplies to its National Health Service was also the inventor of amniocentesis, the very first form of pre-natal testing. However, this is to argue the point too narrowly. In this case, the private interest came after the initial event, which was publicly funded. The point is rather that the public, rhetorical justification for this invention was the fiscal costs of social support (medicalized as “care”). And support is related to a society’s willingness to include people in everyday life and social institutions (schools, housing, employment, etc.). In other words, cost-benefit calculations are skewed, i.e., costs are exaggerated, by the prior existence of social segregation. Phobia *creates* an expense that has to be eliminated by elimination of the phobia’s targets. Thus, a neo-liberal economic motivation—supplemented now by CRISPR and startup software companies for cheap marketable gene editing—fits easily with the neo-conservatism of moral absolutes, with its intellectual roots in conceptions of evil.

I have already mentioned liberalism’s emphasis on the importance of the state in preventing core evils. The phobia tracks a historical constant in this respect. Are cystic fibrosis and trisomy 21 core evils? And if not, what would be the difference between fifteenth-century Aztec priests hurling people off the

top of pyramids and twenty-first century biotechnicians testing embryos with a view to termination? There are certainly some differences. There is a difference between living humans and those whose lives are simply potential. There is a difference between believing that the person is evil and believing that their condition is evil (“love the sinner, hate the sin,” as Christian objectors to gay rights put it). And there is a difference between (priestly) coercion and (parental) choice or consent. The latter is perhaps not so evident in practice: parental choice of termination is an upshot of the technologies that have led to its availability in the first place; moreover, placing consent forms silently before expectant parents for the expected signature is institutionalized coercion (“soft eugenics”). In principle, though, there is a clear contrast. However, there is no essential difference between ourselves and the Aztecs in terms of the ultimate motivations for elimination in the first place, which are characteristic of all forms of discrimination and stigmatization; reasons are presupposed by an underlying and supremely conservative instinct of protection against contamination. The historical constant is that *someone is threatening us*. The historical contingency is *who exactly*. The movement for HGM could be considered the modern projection of this phobic human trait.

Furthermore, this movement is conservative precisely as a system of thought, i.e., in the sense that it is dogmatic. Not only is it *like* religious dogmas, it is (as we have seen) the *offspring* of certain particular dogmas of precise times and places, and it carries their specific hereditary traits. Moreover, dogma in general rejects the very possibility of acknowledging criticism, let alone particular criticisms, and this necessitates ignoring all evidence coming from what it is actually like to have such characteristics yourself, or to know or live with someone who has them (on which there is an extensive literature). The refusal to entertain disconfirmatory evidence is again a characteristically phobic symptom.

Finally, an underlying moral absolutism also helps to explain why liberalism’s coercive tendencies in respect of HGM are as vital to it as they are to the protective banning strategies of some of its avowedly conservative opponents. The difference between the two in respect of coercion is secondary, the instinct the same in both. It is just that, rather than banning practices that ban people’s existence, it bans people’s existence.

In none of the above instances can the self-styled liberal stance on HGM justifiably claim to be heir to the vision of a progressive, rational Enlightenment. They demonstrate that both historically and in terms of the philosophy of science, liberal eugenics occupies the same level as religion, intuitionist ethics, or gut feeling.

8. Rhetoric as a Mode of Delivery

Why then does the public arena sometimes convey the impression that things are otherwise? That HGM-inclined bioethics, love it or loathe it, has some unavoidable, modernizing intellectual force about it, resistance to which casts opponents in the role of King Canute? The content of the rhetoric having been examined above, we now need to see how it is delivered.

We have already touched on the fact that the techniques of argument on the HGM side, and often it must be said in bioethics generally, tend to present not as the more reasonable argument (“good” rhetoric in Toulmin’s sense) but as a consequentialist logic. This form of argumentation has failed to deal with a prior and necessary question: not whether the logical claims of ethics are *justifiable*, but whether logic is an *appropriate* or even *possible* way of framing ethical debates in the first place.

Many philosophers have avoided such a suggestion. Aristotle, the very starting-point for Western concepts of logic, employed it to explain ethical actions but not to justify the notion that there can be certain, ethical propositions. Statements with an ethical resonance appear in his work in the guise of reasonable, generally accepted opinions: that is, they are stable enough to survive the process of debate, and the point at issue is merely the effectiveness of the various debating methods used. And if Aristotle is old hat, try an equally seminal figure, Ludwig Wittgenstein, whose whole driving force was ethical but who had to insist bluntly: “There can be no ethical propositions” ([25], Section 6:42). One problem for HGM-oriented bioethicists, then, is that their claim to membership of the philosophy

club on the grounds of their logical approach to their topic would not have been recognized by some of its most senior members. Moreover, those philosophers of the past who did endorse the logical validity of ethical propositions tended to do so precisely because the starting-point of their philosophy was identical to that of an incontrovertible religion—whereas today people who often make similarly logic-based claims for the validity of their own ethical propositions do so precisely on the grounds of a utilitarianism that is apparently atheistic.

However, if logic is not an appropriate framework for debate, and no clear, permanent truths are to be reached in this way, HGM issues can be decided not by evidence of any kind but simply by whoever shouts loudest. What is to stop you from winning an argument not because your argument is clearer but because your feelings are more forcibly expressed? I am not denying the ethical status of our feelings and intuitions—far from it—but that would be a different discussion. The vast majority of ethical and political issues we come across in our daily lives may not be susceptible to logic, but that does not mean they are insusceptible to discussion of what is and is not reasonable in a more everyday sense, like that used in the courtroom.

These lower-level, “reasonable” truths, while not being logical in the strict sense, may nevertheless be reliable for practical purposes, and here rhetoric will inevitably play a part. Rhetoric implies acceptance of a degree of relativism in the relationship between opposing arguments, but as theories of law already recognize, relativism does not have to mean chaos [26]. Aside from what counts as *effective* rhetoric, there remains the possibility that rhetoric can be good or bad—not just in the sense of the writer’s skills but in the sense of its relationship to reasonable truths that interrelate with the values inherent in the ethical discussion behind it. What is good rhetoric in this latter sense is hard to pinpoint—but one thing it can do is spot bad rhetoric and reclassify it as deception.

9. “Bad” Rhetoric and Human Rights

One deception, identified by legal theorist Guy Haarscher, will allow us finally to connect up the techniques of HGM rhetoric with its ideological content, and with its attitudes to disability. He calls this trick “the wolf in sheep’s clothing.” There are two distinct ways, he says, of trying to evade the constraints upon the individual within a system based on human rights. In the first, religious or totalitarian notions of power make a frontal attack on the fortress of liberal values such as rights, autonomy, choice, etc. In the second, by contrast, “in order to be at least heard...the [dogmatic] ‘enemy’ uses the language of liberal democratic values” with no intention of respecting them, thereby taking the fortress from within [27].

This can, as we shall see shortly, be applied to the HGM debates and the notion of the rights of future generations. Inherent in rights, says Haarscher, is a “systemic” (i.e., intra-systemic) conflict, since one person’s rights are the restriction of another’s—unlike the conflicts between a human right and some norm external to that system. The classic rights theory of John Rawls allows a “priority rule” in which one right can be superior to another, at least in principle ([28], p. 40). But because the moral value of a right is the very core of the politico-legal system, limiting one right in favor of another presents difficulties in practice.

Haarscher’s illustration of this is the current tactic by religious groups to claim in the courts a right not to be offended. The wolf’s tactic is to conceal his true nature, in this case the dogmatic norms of Christianity or Islam, by “translating” the debate into something that occurs between two conflicting rights of equivalent normative value. In other words, the religious person’s assumption of a right not to be offended is thus potentially elevated to legal status by being pitched against a right to free speech. The speaker pretends to begin from the same (rights-based) political premise as his audience, thereby creating the illusion of a systemic conflict between the right to religious liberty and the right to freedom of expression. He may lose his case, but equally he may win. The lesson from this rhetorical trick, applicable to the HGM debate too, is to make sure you can distinguish between real, systemic conflicts of rights and bogus ones.

Of course, rights theory itself has its own doctrinal traditions, of which it is a product. In medieval law, a “right” (*jus*) was a mutual relationship between parties [29]. In the seventeenth century, Locke started to apply the term one-sidedly. It now pointed to one individual against the world, and to his possession of a subjective capability by explicit analogy with his possession of private property. This new theory of rights was premised precisely on categorizing a new type of human subject incapable of exercising them (at the core of which stand people with intellectual and psychiatric disabilities).

The mutuality tradition, which emphasizes not “freedom to” but “freedom from” (that is, freedom from oppression by the powerful) is still around, too—at its clearest in the UN Declaration on Human Rights, usually cited as the normative point for a contemporary concept of rights. However, its basic principle is often contradicted by the fact that the freedoms enshrined in quasi-proprietorial “rights” have expanded so far as to mirror neo-liberal values such as freedom of competition. This (a) opens up the game to any rights claim that wants to enter, while (b) ensuring in advance that the strongest player will win. In the HGM debates, one can scarcely move for the number of things that are claimed as particular rights and that might therefore seem to conflict within a general rights system of the latter sort: the embryo’s right to a life of autonomy, the embryo’s right to come to term, a woman’s right to choose, future generations’ rights, laboratory animals’ rights, parents’ rights, disabled people’s rights, and the rights of biotechnicians who want to practise HGM and receive ethical endorsement for it. “Rights” rhetoric of this competitive kind allows the biotechnicians, and liberal eugenics generally, to create a legal terrain where they may lose, but where equally they may turn out to be strong enough to win. In fact, many of the things on that list are not rights at all. Certainly by the UN criteria, you cannot oppress animals, or enslave what is only notionally human—the liberal eugenicist’s “future generations” any more than the conservative Catholic’s fetuses.

In any case, like the religious litigants in Haarscher’s example, liberal eugenicists translate dogma into the language of rights, and morally absolute conceptions of evil into a rational and non-aggressive secularism, only as long as this serves a purpose. When the purpose shows signs of failing, the dogmatic wolf sheds his liberal clothing. Rights and choice suddenly do not matter after all. We stumble across that other ingredient of liberalism which no serious liberal would in fact deny, namely that certain situations call for legal enforcement by the state and its courts, overriding certain particular rights judged to be inferior and (to say the same thing in different words) possessed by particular people judged to be weaker. The usual liberal context in which conflict in general is played out is democracy, but there comes a point where liberal eugenicists like Persson and Savulescu baulk at the prospect of a future decided by people who would fail to qualify for Mensa. They want to be, themselves, the sole deciders. That is the point at which Rawlsian liberalism’s principle of “superior rights” is invoked on behalf of future generations—on the basis of a belief system that remains (a) dogmatic; (b) rooted in a conservative historical tradition; and (c) phobic and therefore itself the major pathology, one that needs to be recognized and addressed.

10. Conclusions

If the advocates’ claim to be operating in the sphere of rights is bogus, are their claims to liberalism in general bogus? The question is impossible to answer, or perhaps irrelevant. It does not help that the very concepts of liberalism and conservatism and therefore the distinction between them, when taken apart over a specific issue like HGM or any other, reveal themselves to be flimsy. Nevertheless, the idea that these political traditions constitute stable entities has a deep presence in our political culture. It is one of Francis Bacon’s “idols of the tribe” and leads politically to unreflective caucusing. The question should be rephrased. How does a fear of contamination, dogmatic and with tough historical roots, get to present itself to the public arena as liberal, progressive, and secular?

Legal theory itself has long recognized that when members of the judiciary make decisions on society’s behalf, while they may appear to be responding to the content of the arguments, they are human like the rest of us and so may simply be reacting to the practical skills with which an argument is presented. Law, on this view, is itself a branch of rhetoric [30]. But that still begs the question

as to what kind of ideological content exactly lies *underneath* the rhetoric. In Haarscher's words (echoing Perelman): "The law depends partly on irreducible feelings (a preference for liberty, or for solidarity, etc.), an immersion in a cultural tradition that we are not able to completely objectivize, some presently unfalsifiable predictions and hypotheses concerning the future, etc. This is one of the reasons why, in democracy, we need at a certain point to decide, that is, to vote" ([27], p. 1232). What, then, is the tipping point in the balance of the "irreducible feelings" swaying the minds of policymakers, decision-makers, and voters? Is it a general notion that one ought to be supporting something modern, progressive, and enlightened? If so, that something is not human genetic modification, and the decision should therefore not be in its favor.

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