

Wellbeing, Opportunity, and Selecting for Disability

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1. Introduction

It would not be an exaggeration, I think, to say that the central issue in the philosophy of disability in recent years has been the question of the *neutrality* of disability—roughly, whether disabilities tend to reduce individual wellbeing (even in the absence of ableism and discrimination), or whether they are instead merely different ways of being that are not in themselves worse for their bearers.³ Philosophers who endorse as well as philosophers who reject the *Neutrality Thesis* take its truth to be critical to the resolution of a range of issues in practical ethics and political philosophy. Stoner, for example, begins his article on the subject:

A central question in the philosophy of disability concerns the implications of disability for well-being. The question is of obvious relevance to several controversies in bioethics; positions concerning the permissibility of prenatal screening for the purposes of positive or negative selection and the appropriate allocation of scarce health-care resources turn, in large part, on whether disabilities are a form of value-neutral diversity (mere difference) or a regrettable, harmed condition (bad difference).⁴

If disabilities tend to reduce wellbeing, then there seems to be a moral reason to prevent or reverse (“cure”) them. If they do not reduce wellbeing, then efforts to prevent or reverse disability might seem to primarily reflect unjust prejudices—and it is those prejudices, rather than the disabilities, that should be eliminated. Although these are natural thoughts to have, I think they are misguided. Given what we already know about the relationship between disability and wellbeing, I believe we can resolve many pressing ethical and political questions without determining the truth of the Neutrality Thesis. In many cases where the precise impact of disability on wellbeing appears to be a critical issue, the more pressing question is instead the impact of disability on opportunity and autonomy.

In this paper, I argue that this is true in the much-discussed case of *selection for disability*: the choice by some prospective parents to seek to conceive disabled children. After briefly defending a relatively weak thesis about the relationship between disability and wellbeing, which I call the *Not-Very-Bad Thesis*, I turn to the existing literature on selection for disability. On the most common analysis, a welfarist one, the permissibility of selecting for disability depends on the truth of the Neutrality Thesis. I will show that this analysis, though, relies on questionable assumptions. I then turn to a second analysis,

³ There is no universally accepted way to talk about disability. One important question concerns the preferability of disability-first (“disabled person”) versus people-first (“person with disability”) language. Though I think compelling arguments can be put forward in favor of each alternative, in this paper I use disability-first language. I am influenced here by Barnes, *The Minority Body*, 5–6.

⁴ It is quite difficult and a matter of controversy how precisely to characterize the Neutrality Thesis. See, e.g., Barnes, *The Minority Body*; and Campbell and Stramondo, “The Complicated Relationship of Disability and Well-Being.” Such details will not matter to my argument, though.

⁵ Stoner, “Ways to Be Worse Off,” 921.

one that focuses on the impact of disability on the opportunities that will be available to the child when she becomes an adult. This analysis is typically taken to show that selection for disability is impermissible. I argue that this conclusion is too hasty. Its proponents seem to regard it as simply obvious that disability constrains future options in a morally unacceptable way. But they do not provide any real argument for that claim, and I will show that we have several reasons to be skeptical of their intuitions. I conclude by discussing several further implications of my argument, and making the case that bioethicists and philosophers of disability need to pay quite a bit more attention to concepts like autonomy and opportunity.

Before turning to the main argument, I should begin with a few words about how I will understand wellbeing and opportunity. According to many philosophers, there is a conceptual relationship between the two. It is plausible to think, for example, that autonomously choosing from a range of opportunities is partly constitutive of wellbeing.⁵ And we might also think that much of what makes an opportunity valuable is the contribution that its realization would make to an individual's wellbeing.⁶ If, then, there are close conceptual relationships between opportunity and wellbeing, that might seem to threaten, or at least lessen, the importance of distinguishing the two as I will seek to do here.

Fortunately, I think that, even if there are close conceptual relationships between wellbeing and opportunity, there is enough daylight between them to make the distinction important. Intuitively, as well as according to most philosophical theories, wellbeing is at least largely dependent on the things an individual does or that happen to her, while opportunities are possibilities, things that an individual is able to do or achieve. This means it will typically be possible for wellbeing and opportunity to vary at least somewhat independently. Even if (for example) limiting an individual's opportunities itself decreases her wellbeing, the extent to which it decreases her wellbeing will typically depend in part on whether those lost opportunities are ones she would have chosen. Similarly, although in many circumstances we can promote an individual's wellbeing by improving her access to opportunities; we are also sometimes able to promote an individual's wellbeing by helping her to make better choices from among the options she already has. And so forth. In this paper, I will try to work from commonsense ideas of wellbeing and opportunity, largely remaining neutral about the philosophical details. So long as the correct theories allow for this kind of space between them, then I think it makes sense to distinguish the impact of disability on wellbeing from the impact of disability on opportunity, and accordingly to ask about their relative significance for a given ethical or political issue.⁷

2. The Not-Very-Bad Thesis

Parallel versions of the Neutrality Thesis are (now) generally accepted for race, gender, and sexual orientation: though being black, a woman, or gay may tend to reduce wellbeing in certain societies, most of us are inclined to say that that reduction in wellbeing is in some normatively important sense attributable to unjust social factors, not to the traits themselves. Is the same true for disability? Before trying to approach this question, it is important to narrow its scope. Disability is, in many respects, a

⁵ See, e.g., Brock, "Preventing Genetically Transmitted Disabilities while Respecting Persons with Disabilities," 70.

⁶ I think this is the best way to understand the Capabilities Approach.

⁷ If one assumes that people are roughly equally good at converting opportunities to wellbeing (as, for example, might be implied by certain models of rational choice used in economics), then it might follow that, although wellbeing and opportunity can come apart in principle and in individual cases, they will in practice not come apart at the policy level or (perhaps) when making future predictions concerning any particular unidentified individual. I deny the antecedent. It seems quite natural to me to think that some people or groups may be systematically better than others at converting opportunity into wellbeing.

heterogeneous category, and its impact on wellbeing is not plausibly uniform.⁸ Infantile Tay-Sachs disease, for example, uncontroversially reduces wellbeing, while many have argued that deafness and achondroplasia (the most common type of dwarfism) do not reduce wellbeing at all. The Neutrality Thesis is most plausible if it is interpreted as referring only to certain disabilities.

Let us, then, set aside disabilities like Tay-Sachs, and focus on disabilities that seem more like deafness and achondroplasia.⁹ Rather than trying to defend the (very strong) Neutrality Thesis for those disabilities, let us try to defend a much weaker conclusion. Concerning disabilities like deafness and achondroplasia, I think the following claims are widely accepted by those on both sides of the neutrality debate:

- (1) The nondisabled tend to significantly underestimate the wellbeing of disabled people. Even if (for example) blindness or paraplegia do tend to reduce wellbeing, they do not reduce it nearly as much as most nondisabled people think.¹⁰
- (2) To the extent that there is a gap in wellbeing between disabled people and their nondisabled counterparts, a significant part of that gap is due to unjust social factors such as discrimination.¹¹
- (3) Lifelong disabilities, or disabilities acquired early in life, tend to have less of a negative impact on wellbeing per unit of time than those acquired later in life, due primarily to ease of adaptation and lack of transition costs.
- (4) These disabilities have a nonuniform impact on wellbeing. They sometimes increase wellbeing and sometimes decrease wellbeing, and they are compatible both with living very good lives and with living very bad lives.¹²

The upshot of these claims is that even most opponents of the Neutrality Thesis recognize that an unfortunately still common view of disability—that most disabilities condemn people to a very low quality of life—is misguided, for a wide range of disabilities.¹⁴

Further, I think the claims above lend quite a bit of support to what we might call (in contrast to the Neutrality Thesis) the Not-Very-Bad Thesis, which asserts that, in an appropriately tolerant and just society, lifelong disabilities of the sort we are considering here would on average have at most a small to

⁸ This point is made by many who discuss the Neutrality Thesis. See, e.g., Campbell and Stramondo, “Disability and Well-Being” and “The Complicated Relationship of Disability and Well-Being”; Bogner, “Is Disability Mere Difference?”; and Andrić and Wündisch, “Is It Bad to Be Disabled?” Note that this does not mean that it is never useful to treat disability as a single category. See, e.g., Barnes, *The Minority Body*.

⁹ Which disabilities, specifically, do I mean? I am not sure. But a good starting point might be disabilities which do not involve significant amounts of pain and do not significantly shorten life. See Schroeder, “Health, Disability, and Well-Being,” Wasserman and Asch, “Understanding the Relationship between Disability and Well-Being.”

¹⁰ See, e.g., Albrecht and Devlieger, “The Disability Paradox”; Ubel et al., “Misimagining the Unimaginable”; Goering, “‘You Say You’re Happy, But ...’”; Brock, “Preventing Genetically Transmitted Disabilities while Respecting Persons with Disabilities,” 73; and Schroeder, “Health, Disability, and Well-Being.” These sources all note the substantial body of research showing that the disabled self-assess their wellbeing at much higher levels than the nondisabled expect. Even if these assessments are clouded by certain distorting factors (such as morally undesirable “adaptive preferences”) and even if there are aspects of wellbeing not directly susceptible to self-assessment, I think these results still convincingly show that the nondisabled underestimate the wellbeing of the disabled.

¹¹ Campbell and Stramondo, “The Complicated Relationship of Disability and Well-Being,” 171; Wasserman and Asch, “Understanding the Relationship between Disability and Well-Being,” 141; Brock, “Preventing Genetically Transmitted Disabilities while Respecting Persons with Disabilities,” 72–73.

¹² See, e.g., Campbell and Stramondo, “Disability and Well-Being.”

¹⁴ See, e.g., Amundson, “Quality of Life, Disability, and Hedonic Psychology,” for a discussion of the “standard view.”

moderate negative impact on individual wellbeing—an (on average) impact that may be noticeable, undesirable, and worth taking certain steps to avoid, but not nearly the sort of thing that (on average) ruins lives or would appropriately be described as devastating or (irony intended) crippling.¹⁵ Though I cannot provide the full argument here, I think that, for a wide range of disabilities and social contexts, we have compelling evidence that the Not-Very-Bad Thesis is true, and so I will take it for granted in what follows.

In asserting the Not-Very-Bad Thesis, I do not mean to reject the Neutrality Thesis. The Not-Very-Bad Thesis, though, is much weaker than the Neutrality Thesis, which yields a pair of dialectical advantages. First, I suspect that many philosophers who reject the Neutrality Thesis would accept the Not-Very-Bad Thesis. Savulescu and Kahane, for example, say, “Similar considerations [to those that apply to deafness] apply to dwarfism. To us this seems at most a mild disability, continuous with different limitations on wellbeing that all of us have ... We doubt that achondroplasia does much to reduce the quality of a person’s life once we subtract the consequences of prejudice.”¹⁷ Second, many of the objections typically leveled at the Neutrality Thesis do not apply to the Not-Very-Bad Thesis. It is compatible with the Not-Very-Bad Thesis, for example, that disabilities often involve losses or harms that cannot be compensated for, that it is rational to avoid and regret disability, that there is a normative asymmetry between disability and nondisability, and that the high self-reported wellbeing of disabled people is in part a consequence of morally undesirable adaptive preferences.¹⁸

The Not-Very-Bad Thesis, then, is much less ambitious than the Neutrality Thesis, and therefore should be much easier for opponents of the Neutrality Thesis to accept. And the Not-Very-Bad Thesis is important. In what follows, I will argue that, so long as the Not-Very-Bad Thesis is true, the permissibility of parental selection for disability does not hinge on the precise impact of disability on wellbeing—in particular, it does not hinge on the truth of the Neutrality Thesis—but instead on the impact that disability has on the opportunities that will be available to the child when she becomes an adult.

3. Selection for Disability: Welfarist Analyses

As before, it would not be helpful to lump all disabilities together. (Absent truly extraordinary circumstances, intentionally seeking to conceive a child with Tay-Sachs is clearly wrong.) The most famous case of selection for disability is that of Sharon Duchesneau and Candace McCullough, a deaf couple who in 2002 sought a sperm donor with hereditary deafness, to increase their chances of conceiving a deaf child. More recently, a number of genetic counselors and fertility clinics have reported

¹⁵ Throughout my argument I focus on averages, ignoring considerations related to the distribution of outcomes and therefore to risk. Even if some disability on average results in only a small loss of wellbeing (or opportunity), it may well be morally relevant to know that that average includes many outcomes in which the disabled child is as well off as her nondisabled counterpart, combined with other outcomes in which she is much, much worse off. It might seem wrong to unnecessarily put a child at risk of such a low level of wellbeing. Considerations like these are absolutely important, and a full treatment of selection for disability would need to engage with them. My only defense for ignoring them is that I can only do so much in one paper, and there is a long and ignoble tradition of (mostly non-consequentialist) ethicists ignoring issues connected to risk. See, e.g., Fried, “What Does Matter?”; Lazar, “Deontological Decision Theory and Agent-Centered Options.” I thank an anonymous referee for pressing me on this point.

¹⁷ Savulescu and Kahane, “Disability: A Welfarist Approach,” 49.

¹⁸ The Not-Very-Bad Thesis also avoids certain more abstract concerns with the Neutrality Thesis, for example that it would be a remarkable coincidence that a wide variety of different functional limitations all end up having the same (non-)impact on wellbeing (Andrić and Wünderlich, “Is It Bad to Be Disabled?” 11–12). To be clear, I am not endorsing all of these objections to the Neutrality Thesis. I mean only to point out that they do not directly apply to the Not-Very-Bad Thesis.

being asked to use preimplantation genetic diagnosis to select for deaf or achondroplastic embryos.¹⁹ Because deafness and achondroplasia are, by a large margin, the disabilities most commonly at issue in real-world cases of selection for disability, I will focus on them here. They are, admittedly, disabilities that are especially friendly to my argument. But since my conclusion will go against the grain, it seems justifiable to start with the easiest cases. If my argument is convincing for achondroplasia and deafness, we can then consider to what other disabilities it might be extended.

Before discussing these cases, two caveats are in order. One common way of justifying these choices focuses on nonidentity: since failing to select for disability would have produced a different child, it becomes unclear how we can say (what many people find intuitively to be the case) that selection for disability wronged or harmed the child conceived. After all, *her* alternative was nonexistence.²⁰ Though this argument may be correct, I will not pursue it here. The nonidentity problem is notoriously hard. Many people, even if they cannot state exactly why, are confident that standard nonidentity cases can involve wrongdoing. Defending selection for disability on the basis of nonidentity is therefore risky, since it could be overturned by a successful resolution of the nonidentity problem. Even setting that aside, an analysis of selection for disability that does not rely on nonidentity is preferable because it is potentially more generalizable, e.g., to cases of gene therapy, or medical interventions in childhood (such as cochlear implants and limb-lengthening surgeries).

My second caveat is this: on many conceptions of morality, selecting for disabilities such as deafness or achondroplasia can sometimes clearly be wrong. If I seek to conceive an achondroplastic child for trivial reasons—to win a bet, say—or because I live in an especially intolerant community and want to inflict suffering on my child, these choices are morally objectionable for obvious reasons. Such choices might also be wrong if special features of the physical or social environment render those disabilities particularly disadvantageous or even dangerous—essentially, local environments in which the Not-Very-Bad Thesis is not true.²¹ The vast majority of real-world cases of selection for disability, however, are not like this. Parents selecting for disability nearly always do so with the aim of conferring some benefit on or sharing something of value with the child. Many Deaf parents, for example, believe that Deaf culture is especially valuable and want to share that with their child. Achondroplastic parents might believe that they will be unable to adequately care for a child who, by age 5, will be taller than they are.²² Further, parents who select for disability typically have good reason to think that they will be able to provide an environment for their child that is more hospitable to disability than the norm. Accordingly, in this paper I will assume that we are looking at realistic cases of selection for disability: cases in which parents are motivated by considerations like those described above, and in which they have no special reason to think that the Not-Very-Bad Thesis, though true in general, would not apply in their local environment.

¹⁹ See Sanghavi, “Wanting Babies Like Themselves, Some Parents Choose Genetic Defects”; and Davis, *Genetic Dilemmas*, ch. 3.

²⁰ See Savulescu, “Deaf Lesbians, ‘Designer Disability,’ and the Future of Medicine,” and Burke, *Quest for a Deaf Child*, for (very different) arguments along these lines.

²¹ Andrić and Wündisch (“Is It Bad to Be Disabled?” 10) correctly point out that the plausibility of the Neutrality Thesis (and, accordingly, the Not-Very-Bad Thesis) depends on factors such as level of technological development. It may be true, for example, that even a fully just preindustrial or postapocalyptic society would be unable to create environments that would be easily navigable to those with certain mobility impairments. Also, notice that in the text I have glossed over the question of what to say when parents have reason to believe that a disabled child would be born into an environment that would *unjustly* disadvantage her in especially significant ways. (The Not-Very-Bad Thesis abstracts away from injustice.) This is a difficult question that I cannot fully answer, but will return to in note 25.

²² See Sanghavi, “Wanting Babies Like Themselves, Some Parents Choose Genetic Defects”; and Davis, *Genetic Dilemmas*, ch. 3. One other justification is common, especially among Deaf parents: the desire to ensure that Deaf culture is preserved. I set this reason aside here, because it strikes me as secondary to the considerations I will discuss. If intentionally conceiving a deaf child somehow violates that child’s rights or entitlements, that seems like a sufficient reason to object to the practice. So, before we can give much weight to arguments based on cultural preservation, it seems that we need to establish that no rights or important moral claims of the child are being violated. See Archard, “Children, Multiculturalism, and Education,” for a helpful discussion of an analogous issue.

With those caveats in mind, what should we say about such choices? The most common response from the public and policymakers, as well as from many bioethicists, has been to reject such choices on the grounds that they harm the children in question, and—though authors are not always clear on this point—most cash this out in terms of the welfare or wellbeing of the child. Murphy, for example, writes, “Yet all things considered, it is better that people hear than not hear, just as it is better that they see, smell, touch, and taste, rather than being without those intrinsically rewarding capacities.”²³ And Glover says,

The deaf child will not hear the car coming. Like blindness, deafness impairs safe navigation through the world. But there is also the loss of a whole dimension of enriching experience: the sounds of rivers and waterfalls, of male and female voices, of laughter, of tractors and birds, of coffee bubbling, of the baby’s first cry, of the whole of music. It is hard not to see deafness too as an obstacle to human flourishing.²⁴

Given welfare-based arguments like these, the Neutrality Thesis seems crucial. If disabilities like deafness and achondroplasia are not neutral traits, then in selecting for disability prospective parents are making a choice that will predictably make their future child worse off, and thus they seem open to moral criticism. If, on the other hand, the Neutrality Thesis is true, then the only respect in which prospective parents might be making their child predictably worse off is that they may be subjecting her to unjust discrimination. In that case, though, the proper response is arguably not to criticize the parents.²⁵ Our priority should instead be to change society, to make it more accepting of disability. Thus, on this way of framing the debate, it appears that we need to know whether the Neutrality Thesis is true.

This framing, however, seems to rely on the assumption that parents have an obligation to maximize their future child’s wellbeing. This, though, seems wrong. Parents of course want their children to live good lives, and they may be willing to make large sacrifices to ensure their children do not experience lives full of suffering. But for children on track to lead at least good lives, many parents take their primary goal to be something else: to help their children to become autonomous adults, able to make important

²³ Murphy, “Choosing Disabilities and Enhancements in Children,” 49.

²⁴ Glover, *Choosing Children*, 23. Glover’s position is a bit unclear, as earlier in the text he explicitly characterizes disability as something that impairs the *capacity* for flourishing. But he then immediately describes disabilities that do not actually limit flourishing as “harmless disabilities” (*Choosing Children*, 9), and he clearly does not believe deafness is typically a “harmless disability.” Further, throughout the chapter he frequently drops the language of “capacity” and describes the problem with deafness and other disabilities in terms of their effect on flourishing itself. So, on balance, it seems to me that his concern with deafness is that, in most cases, it *actually* limits flourishing. For other welfarist arguments, or at least arguments that have important welfarist dimensions, see Savulescu, “Procreative Beneficence: Why We Should Select the Best Children” and “Deaf Lesbians, ‘Designer Disability,’ and the Future of Medicine”; Savulescu and Kahane, “The Moral Obligation to Create Children with the Best Chance of the Best Life”; Harvey, “Reproductive Autonomy Rights and Genetic Disenhancement”; Johnston, “In One’s Own Image”; Shaw, “Deaf by Design”; and Brock, “Preventing Genetically Transmitted Disabilities while Respecting Persons with Disabilities” and “The Non-Identity Problem and Genetic Harms”.

²⁵ I say “arguably” because this issue is a complex one. It would clearly be wrong for parents to *completely* set aside unjust social factors when making decisions concerning their children. In some cases, parents do have an obligation to shield their children from the harms brought about by injustice. Nevertheless, it also seems to me that other times it is morally permissible or obligatory for parents not to fully shield their children from the effects of injustice. Sometimes it is appropriate for us to stand up to injustice, even if that comes at some cost to our wellbeing, or our child’s. (Savulescu and Kahane make this point in the context of selection for disability, “The Moral Obligation to Create Children with the Best Chance of the Best Life,” 290n.) This is a complicated issue, and I have no general principle to offer. But, intuitively, it seems to me that it would be wrong for parents in the US today to take steps to have a boy over a girl, a light-skinned child over a dark-skinned child, or a straight child over a gay child, even if it was shown that the latter in each pair was likely to experience somewhat less wellbeing as a result of injustice. If the Neutrality Thesis is true, then disability is relevantly similar to gender, race, and sexual orientation.

choices for themselves and direct their own lives. This view has been defended explicitly.²⁶ It also coheres with the dominant view in the philosophy of education, which says that the proper aim of education is not to lead children to a particular belief or value system, but instead to equip them to think independently and to reach their own conclusions about important matters.²⁷ If this view of the proper aim of parenting is attractive, then it is not obvious that the truth of the Neutrality Thesis is critical. If parents' primary obligation is to help their children become autonomous adults, then even if disability results in a small to moderate loss of wellbeing overall, that is not enough to conclude that doing so is wrong, because autonomy—not wellbeing—is the dominant aim here.

It may still seem, though, that parents ought to promote their child's wellbeing if doing so does not compromise autonomy and can be done at a relatively small cost. In other words, it may seem that parents have a *prima facie* obligation to maximize their child's wellbeing.²⁸ For this to tell against selection for disability, though, it would need to be supplemented by the claim that there is typically no benefit to selecting for disability that is sufficient to morally counterbalance a potential loss of wellbeing to the child. This claim is questionable. We are considering cases in which parents select for disability with the aim of sharing something of value with their child, or conferring some benefit on their child. To forego selecting for disability, then, would amount to a significant cost to the parents and/or the child. Is that cost significant enough to justify imposing what may be (consistent with the Not-Very-Bad Thesis) a small to moderate loss of wellbeing on the child? Commonsense morality gives parents fairly wide latitude to make choices that may result in some loss of wellbeing for their children. Parents can enjoy a weekly night out at the movies, even if their children would be somewhat better off with their parents at home or with that money used in other ways. Parents can choose jobs—e.g., involving low wages, evening and weekend shifts, overseas deployments, or frequent relocations—that are not best for their children. Parents need not pull their children from a good public school to send them to an admittedly better religious school if that religion is at odds with the parents' values. It seems to me that if parents may permissibly make career and educational choices, and may take steps to promote their own romantic relationships—even if these come at some cost to their child's wellbeing—then it does not seem plausible to think that a parent who selects for disability in order to foster a stronger bond with her child, or to introduce her child into what she regards as a valuable community, does anything wrong, simply because that choice may come at some cost to the child's wellbeing. At the very least, the claim that it does requires much more argument, including a nuanced investigation of costs and benefits, that the existing literature does not provide.

4. Selection for Disability: Opportunity-Based Analyses

The upshot of the previous section is that the permissibility of selecting for disabilities like deafness and achondroplasia does not clearly depend on the precise impact of those traits on wellbeing. Even if the Neutrality Thesis is false and these disabilities do on average result in small to moderate losses of

²⁶ See especially Schapiro, "What Is a Child?" Cf. Lotz, "Feinberg, Mills, and the Child's Right to an Open Future"; Chen, "The Right to Self-Development."

²⁷ See, e.g., the discussion in Ebels-Duggan, "Educating for Autonomy." Of course, this view is not universally held among philosophers of education. But even those who argue for what Ebels-Duggan calls a more "old-fashioned" approach, according to which parents aim to foster a particular value system in their children, often do not reject the ideal of autonomy promotion. Burt ("The Proper Scope of Parental Authority"), for example, argues only that the "old-fashioned" approach is permissible—not that it is required.

²⁸ This sort of view is explicitly defended by Savulescu and Kahane, "The Moral Obligation to Create Children with the Best Chance of the Best Life." They do not state what would count as sufficient to counterbalance the "significant" obligation to maximize the wellbeing of one's child. Although they do mention some of the costs that might weigh against maximizing welfare (such as the financial cost of IVF and impacts on third parties) and briefly discuss selection for deafness, they never consider reasons of the sort I discuss here. It is thus unclear what they would say about selecting for deafness or achondroplasia.

wellbeing, that need not make selecting for them impermissible in realistic cases. So should we conclude that such selection is permissible? Not necessarily. If, as suggested above, we accept that parents have an obligation to promote the development of their children into autonomous adults, then we should ask whether disability might hinder that process. If it does, that could make selecting for disability *prima facie* wrong. Note that this point cuts both ways. Even if, in a particular case, selection for disability would increase the wellbeing of the resulting child (because, for example, the child's parents will be able to offer better physical or emotional care) that does not suffice to justify selection for disability. We still need to consider the impact on autonomy.

This may seem like an odd direction to take the argument. Disabilities like deafness and achondroplasia do not have any cognitive impact on autonomous decision-making, so what is the problem supposed to be? If we focus not on autonomy itself but on the reasons we find autonomy valuable, I think we can see a potential concern. Millum argues:

Suppose we are agreed that children have a right to the resources necessary to develop into autonomous agents ... If so, one might argue, the justification for allotting children the resources necessary to develop these capacities is that being able to exercise the rights in question is valuable ... [Children] ought also to be given the opportunity to exercise those rights in a meaningful way.²⁹

Millum concludes from this that parents have an obligation not just to help their children become autonomous individuals, but also to seek to ensure that they are left with a “sufficiently valuable set” of options to choose from. This seems right. It would be perverse (or at least inexplicable) for parents to work hard to help their children become autonomous choosers, but to not care at all about what options their children will eventually have to choose from. (This is plausibly why many of us criticize parents who encourage their children to focus narrowly on one pursuit—whether it be sports, acting, or music. We worry that the resulting adult will find herself prepared only for a narrow range of careers and life plans.) Feinberg famously expresses this idea by saying that children have the “right to an open future.”³⁰ Given that disabilities like deafness and achondroplasia do prevent people from pursuing certain activities, careers, and life plans, it seems worthwhile to ask whether selecting for such disabilities might be wrong, in virtue of closing the child off from those opportunities.

A number of philosophers and bioethicists have brought Feinberg's “right to an open future” to bear on selection for disability and related issues. Most of them discuss the case of deafness, and nearly all quickly conclude that selecting for deafness does unjustly curtail the options that will later be available to the child. This passage from Dena Davis is representative:

If deafness is considered a disability, one that substantially narrows a child's career, marriage, and cultural options in the future, then deliberately creating a deaf child counts as a moral harm. If Deafness is considered a culture ... then deliberately creating a Deaf child who will have only very limited options to move outside of that culture, also counts as a moral harm. A decision ...

²⁹ Millum, “The Foundation of the Child's Right to an Open Future,” 531. For similar views, see Archard, *Children, Family, and the State*, 31–33; Raz, *The Morality of Freedom*, ch. 14; Brock, “Preventing Genetically Transmitted Disabilities while Respecting Persons with Disabilities,” 70; and Stramondo, “Disabled by Design.”

³⁰ Feinberg, “The Child's Right to an Open Future.” Feinberg's argument runs rather differently than the argument I have presented here. Following Millum, though, I do not find Feinberg's original justification especially compelling and so will set it aside.

that confines her forever to a narrow group of people and a limited choice of careers, so violates the child's right to an open future that no genetic counseling team should acquiesce to it.³¹

There are several reasons, however, to think that this argument moves too quickly.

First, many of its advocates move from the claim that deafness constricts opportunity to the conclusion that it violates the child's autonomy rights. This seems to imply that a parent's obligation is to maximize her child's future opportunities, or at least that parents have no good reasons to fail to maximize in this case. But, as with wellbeing, that is not a reasonable standard here. Parents do nothing wrong, for example, when they decline to get their young children intensive instruction in a second language or musical instrument, or when they set limits on how many extracurricular activities their older children can pursue, even if additional classes or activities might open up further career options and would require only that parents sacrifice one of their hobbies. In light of the real costs of maximization, it seems more plausible to say that parents have a weaker obligation: to ensure that their children grow up with a sufficient collection of opportunities available to them.³² Because these authors, however, say very little about how the standard for sufficiency is to be drawn, it is hard to evaluate whether deafness, even if it does curtail opportunity, leaves someone short of that standard.³³

Second, while all of these authors cite some of the career and life opportunities that are closed to the deaf, they spend very little time discussing the opportunities that are open both to the deaf and the hearing, or discussing the opportunities that are open only to the deaf. Instead, they simply assert that the experiences precluded by deafness "significantly outnumber" those promoted by deafness, that "the range of occupations [open to the deaf] will always be inherently limited," or that "Deaf culture may have its compensations, but they cannot entirely make up" for the losses associated with deafness.³⁴ And when authors do describe the options (they believe are) closed to the deaf, they often make mistakes. Here is a particularly egregious example, from a major philosophy journal: "Consider, for instance, the opportunities that are foreclosed to someone who is intentionally born deaf: no driving, limited participation in sports, no piloting, no membership of [sic] the armed forces, no capacity to enjoy music,

³¹ Davis, "Genetic Dilemmas and the Child's Right to an Open Future," 14. Cf. Schmidt, "The Parental Obligation to Expand a Child's Range of Open Futures When Making Genetic Trait Selections for Their Child"; Nunes, "Deafness, Genetics, and Dysgenics"; Hladek, "Cochlear Implants, the Deaf Culture, and Ethics"; Camporesi, "Choosing Deafness with Preimplantation Genetic Diagnosis"; Johnston, "In One's Own Image"; and Levy, "Deafness, Culture, and Choice." In a later work, Davis (*Genetic Dilemmas*, ch. 3) makes similar claims about deafness, though expresses some ambivalence when it comes to achondroplasia (cf. Glover, *Choosing Children*, 10). The only authors I know who have explicitly questioned whether deafness violates the child's right to an open future are Anstey ("Are Attempts to Have Impaired Children Justifiable?" 288n8), who addresses the issue in a single footnote, and Burke (*Quest for a Deaf Child*, 91–97). Burke offers a criticism of the existing literature that is similar to mine, however she ultimately goes in a different direction—first (in commenting on a passage from Anita Silvers) questioning whether additional options are really valuable, and then, by appealing to nonidentity, arguing that a proponent of the open future argument must "explain why a truncated future is worse than no future at all" (97). In contrast to Burke, I will not question whether more options really are valuable, and for the reasons noted above I will not appeal to nonidentity effects. Stramondo ("Disabled by Design") also argues in a Feinbergian spirit that certain disabilities do not unjustly constrain a child's opportunities. I comment on his view in note 48.

³² The appropriate satisfactory level could, of course, be context sensitive, and in particular sensitive to the marginal cost to parents to improve their child's opportunities.

³³ Camporesi ("Choosing Deafness with Preimplantation Genetic Diagnosis," 92) is more explicit than most, saying, "Of course, I am aware that an important problem of threshold is looming in the background here." Two sentences later, however, she simply asserts, "Nevertheless, I believe the deafness case is not a borderline case." Stramondo ("Disabled by Design") largely appeals to intuition in reaching the conclusion that achondroplasia does not unduly constrict opportunity. As I explain below, this does not seem to me to be an issue on which we ought to be content relying on broad, unspecified intuitions.

³⁴ Schmidt, "The Parental Obligation to Expand a Child's Range of Open Futures When Making Genetic Trait Selections for Their Child," 195; Davis, "Genetic Dilemmas and the Child's Right to an Open Future," 13; Levy, "Deafness, Culture, and Choice," 284.

and so on.”³⁵ Given the general lack of understanding among the nondisabled about what life with disabilities is like, the failure to more clearly lay out what options are in fact open to the deaf (as well as to accurately characterize the options that are closed to the deaf) strikes me as a serious omission.

Finally, and most importantly, on many popular theories of wellbeing (e.g., hedonism or preference satisfaction) comparisons of wellbeing are relatively straightforward, at least theoretically. Even if it is difficult or impossible to collect the necessary empirical data, I at least know what it means to say that a person’s wellbeing has increased or decreased. Option sets, on the other hand, are heterogeneous. Except in the unusual case in which one set of options is a proper subset of another, it is not obvious what it means to say that a person’s options have increased or gotten better.³⁶ Disability typically opens up some options and closes others. We should have at least a rough understanding of what it means to say that one option set is better than another before we confidently make such comparisons.

To sum up, then, we have many bioethicists saying that deafness unacceptably constrains a child’s future options, but (1) they never explain how to compare option sets (and it is not obvious how to do so); (2) they never explain what counts as a minimally acceptable option set; and (3) they do not describe in detail what options are available to the deaf—and when they try, they sometimes make straightforward factual mistakes.

5. Evaluating Option Sets

Deafness and achondroplasia do not affect most of the options available to people (or at least would not in a less discriminatory world).³⁷ Both they and their nondisabled counterparts can be bankers, lawyers, teachers, chefs, painters, electricians, chemists, gardeners, politicians, and actors. They can raise families (or not), travel the world, appreciate great art, and cultivate close personal relationships. Some options, of course, are closed off. Someone who is achondroplastic is unlikely to do well as a professional basketball player, and someone who is deaf is unlikely to be a successful opera singer or movie sound editor. Other options, though, are opened up. Deaf individuals may be better able to concentrate in noisy environments, their visual orientation may improve spatial reasoning skills and peripheral vision, their use of a visual language may promote valuable forms of personal intimacy, and they may find it easier to fully immerse

³⁵ Harvey, “Reproductive Autonomy Rights and Genetic Disenhancement,” 129. In case it needs to be said: every claim in the quote is false. The claim that the deaf have no capacity to enjoy music is repeated in the Glover quote in section 3, above. For a commentary on these errors, see Burke, *Quest for a Deaf Child*, 94–95.

³⁶ A number of political philosophers and economists have recognized the difficulty in comparing or ranking option sets. (Though see Garnett, “Value Neutrality and the Ranking of Opportunity Sets,” for a more optimistic view.) Some despair of finding any ranking, except in the rare case in which one set of options is a proper subset of another (Taylor, *Community, Anarchy and Liberty*, 150–52; cf. Wolff and De-Shalit, *Disadvantage*, who, despite offering a practical proposal, nevertheless acknowledge that there is no “metaphysically true” solution). Pattanaik and Xu (“On Ranking Opportunity Sets in Terms of Freedom of Choice”) suggest that we compare option sets simply by counting their elements—though recognize that the proposal is subject to serious objections. Chakraborty (“On the Possibility of a Weighting System for Functionings”), Van Parijs (*Real Freedom for All*), and Wolff and De-Shalit (*Disadvantage*) each propose (in very different ways) comparing option sets based on social preferences. This seems to me to be a troubling starting point when discussing traits known to be subject to bias and stigma. (Of course, refinements of such approaches might sidestep that problem.) These approaches also prioritize the judgments of society at large over the judgments of the individuals in question. This is sensible for political questions, but it does not seem like the right way to tackle distinctively ethical problems like the permissibility of parental selection for disability, where we might think that the preferences of the particular individuals involved should carry the day. Overall, then, while this literature may well turn out to be relevant to selection for disability, it does not offer any clear solution. Accordingly, I will comment on it only in footnotes.

³⁷ It is difficult to distinguish the options that are closed off to the disabled due to unjust discrimination from those that are closed off due (in some intuitive sense) to their disability. A comprehensive assessment of selection for disability would need to engage with this question and also with the issue I discuss in note 25[double-check number in layout stage]. (See Stramondo, “Disabled by Design,” for one proposal.) For now, though, I will rely on uncontroversial cases—e.g., that the deaf should have the option of being lawyers, but that society need not go out of its way to enable the deaf to have careers as opera singers.

themselves in the Deaf community.³⁸ Dwarfism may yield benefits such as easier access to small spaces, lower caloric needs, and freedom from social norms connected to gender.³⁹

Let us call the collection of significant opportunities—including major activities, careers, and life plans—open to a person her *option set*. To evaluate whether it is permissible for parents to select for deafness or achondroplasia, we need some way of determining, for any given child, which option sets are the ones that it is morally acceptable to leave for her, and which are unacceptably restricted. Put another way, we need to know what sort of option set a particular child is entitled to. Before looking at two ways we might do this, we can say a few things about how such an account must go.

First, it seems obvious that, even if we had some way of measuring the number of distinct options available to someone, that would not be sufficient to assess the value of her option set. In addition to quantity, the quality of options matters. All else equal, the chance to work in a job with good working conditions is more valuable than the chance to work in a job with lousy conditions. Further, it seems that the value of an option set depends to some extent on the diversity of options it contains. It is better to give your child the option set {professional baseball pitcher, professional jazz musician, corporate lawyer, research scientist} than to give him the option set {professional baseball pitcher, professional baseball outfielder, professional baseball catcher, professional baseball shortstop}. Quantity, quality, and diversity of options therefore all affect the value of an option set.⁴⁰

How, then, can we compare the value of different option sets? Though I am not aware of anyone in this debate who has explicitly answered the question, the literature implicitly offers two proposals. First, several authors say things like this: “How is someone who has grown up with deafness going to feel when he or she learns that his or her deafness had actually been ‘avoidable’?”⁴¹ This suggests that we evaluate option sets according to the preferences of the child in question: one option set is superior to another if the child would, when she is an adult, prefer having the former set to the latter.

Though this proposal seems—and may ultimately be—reasonable, it faces a number of serious problems. The biggest is that decisions made in childhood can have a decisive effect on adult preferences.⁴² (An adult who had an arts-heavy childhood may prefer option sets that include many artistic outlets; but the very same person, given a sports-heavy upbringing, would have grown up to prefer sports-focused option sets.) It is not clear how a preference-based proposal should handle such cases, and this may be relevant when it comes to disability. It is true that very few hearing people would prefer to have been born deaf. Though several authors assert that deaf children will likewise wish that their parents had given them the ability to hear, they provide no evidence for that claim—such as, for example, survey data

³⁸ See Bauman and Murray, “Deaf Gain”; Burke, “Armchairs and Stares.” To stave off one common objection: although it may be possible for a hearing child to be fully a part of the Deaf community, in practice this may be unlikely for a variety of reasons. So deaf parents who want their children to be full members of the Deaf community may have good reason to hope their children will be deaf.

³⁹ See Barnes and Stramondo, “Elizabeth Barnes and Joseph Stramondo on Disability,” beginning around 53:30.

⁴⁰ For similar conclusions, see Lotz, “Feinberg, Mills, and the Child’s Right to an Open Future,” 347; Goering, “‘You Say You’re Happy, But ...,’” 130; Raz, *The Morality of Freedom*, 375; and Garnett, “Value Neutrality and the Ranking of Opportunity Sets.” Pattanaik and Xu (“On Ranking Opportunity Sets in Terms of Freedom of Choice”) acknowledge that their proposal fails because it does not account for diversity. The inclusion of diversity has an important consequence: the value of an option set will not be a function of the value of the individual options within that set. Instead, option sets must be evaluated holistically. This rules out proposals that might initially seem appealing, for example to say that an option set is assigned the value of its most valuable member, or is assigned the value of the option most likely to be selected.

⁴¹ Johnston, “In One’s Own Image,” 435; cf. Buchanan et al., *From Chance to Choice*, 282; Schmidt, “The Parental Obligation to Expand a Child’s Range of Open Futures When Making Genetic Trait Selections for Their Child”; Darby, “The Child’s Right to an Open Future.”

⁴² See Archard (*Children, Family, and the State*, 50–53) for similar observations concerning a related issue. As Archard notes, we could try to avoid this problem by asking what the child herself *right now* would prefer, given adult powers of reasoning, but it is unclear what this means. Preference-based accounts also potentially raise issues connected to transformative experiences. If disability is identity constituting, as many have argued, then we might wonder whether a disabled person can rationally prefer to have been a different person.

showing that children deaf from birth usually regret their deafness. And since nearly all cases of selection for disability involve disabled parents, the proper survey data should look at the views of deaf children with deaf parents. Given how many deaf individuals express pride and in other ways show that they value their deafness, it is by no means clear that parents who select for deafness are making decisions that their children will come to regret. Further, these expressions come from people living in a society that is in many respects unjust toward the disabled. It seems reasonable to suppose that many deaf individuals who do regret their deafness might feel differently if they had grown up in a more just society.⁴³ At least arguably, it is this latter, hypothetical preference that is relevant to assessing the permissibility of selection for deafness. (On all these points, similar things can be said about achondroplasia.)

The conclusion I draw, then, is that it is not clear how a preference-based approach to evaluating option sets would rank the option sets associated with deafness and achondroplasia relative to the option sets associated with hearing and being of taller stature. We need a more detailed account of the preference-based approach (e.g., one that describes what to do in cases in which preferences are affected by disability status) as well as additional empirical data (e.g., data on the preferences of disabled people raised by disabled parents concerning their disability status in a hypothetical just society). If, after all that, it turns out that the option sets associated with disability are inferior in the relevant sense to the option sets associated with nondisability, that still would not establish the impermissibility of selecting for disability. We would also need some way of assessing whether those option sets are nevertheless adequate—above the minimum that parents owe to their children. Until at least some of that work has been done, it seems to me that we should not confidently assert that such an analysis will condemn parental selection for deafness or achondroplasia.

Let us turn, then, to the second (implicit) proposal the literature offers for evaluating option sets. Chen says, “Being exposed to a variety of activities and experiences ... increases the chances of a person finding out what type of self-development she will value,” and that “[h]uman capacities can be grouped into a manageable number of categories.” He suggests that Gardner’s Multiple Intelligences theory offers a good initial taxonomy: “musical, bodily-kinesthetic, logical-mathematical, linguistic, spatial, interpersonal, intrapersonal, and naturalist.”⁴⁴ In the same spirit, Moller says:

We care about [certain goods] ... only insofar as we care about attaining *enough* of the goods in some broader category... We may care a great deal that our children have the experience of learning an instrument or delving deeply into literature. But it would not be a tragedy if someone remained cheerfully ignorant of the clarinet or Faulkner because they spent their time mastering the piano and Kafka instead.⁴⁵

Finally, Nussbaum’s Capabilities Approach similarly identifies a range of capabilities that she argues are distinct components of human flourishing.⁴⁶ Working from proposals like these, we might say that adequate option sets are those that preserve for the child a sufficient number of options of sufficient value in each distinct category of human good or flourishing.

⁴³ As an anonymous referee pointed out to me, there are two potential factors at work here. First, a just society would change what opportunities are available to the disabled. But, second, it might also change what preferences disabled people have across a fixed collection of opportunities.

⁴⁴ Chen, “The Right to Self-Development,” 451–52; cf. Murphy, “Choosing Disabilities and Enhancements in Children.”

⁴⁵ Moller, “Wealth, Disability, and Happiness,” 198. See also Wasserman and Asch, “Understanding the Relationship between Disability and Well-Being,” 150–51; and Andrić and Wündisch, “Is It Bad to Be Disabled?” 14–15.

⁴⁶ Nussbaum, *Frontiers of Justice*. S. Matthew Liao (*The Right to Be Loved*, ch. 2) also proposes a view of this sort, according to which children have a right to “the fundamental conditions for pursuing a good life,” which in turn is a life spent pursuing valuable activities that “are important to human beings qua human beings’ life as a whole.” Though he enumerates several of these activities (42), he does not provide enough information to assess whether deafness or achondroplasia would prevent an individual from pursuing any of these valuable activities.

What does this approach say about deafness and achondroplasia? Achondroplasia clearly does not limit one's ability to partake in many examples of each good on Chen's or Nussbaum's lists. Deafness, though, might seem to fall short, in virtue of closing off one broad category of human good listed by Chen: music. But we might wonder why the appropriate category is "music" rather than something broader like "art." (Would we say that a child was deprived of an adequate education if she was given extensive exposure to and training in painting, dance, sculpture, and poetry—but not music?) And, further, there are some types of music that are open to the deaf. (Untuned percussive music is an obvious example.) To make the case, then, that deafness falls short by this standard, we would need to argue, first, that the appropriate category is "music," and, second, that the range of musical experiences accessible to the deaf is insufficiently valuable. These claims may be true—I myself find it hard to know how to go about deciding between a relatively coarse or fine-grained account here—but in any case arguments are clearly needed, arguments that are not present in the existing literature.⁴⁷

We have, then, two broad proposals from the literature: to value option sets according to the child's future preferences, or to value option sets based on whether they make accessible valuable options in each of several categories of human good. Surprisingly, as spelled out thus far, neither of these proposals gives us clear grounds even for saying that the option sets associated with deafness or achondroplasia are inferior to the option sets associated with hearing or being of taller stature. They therefore obviously cannot justify saying that these option sets fall below the standard for what parents owe to their children. It may still be true that these disabilities unacceptably constrain a child's future options. I have offered no argument to the contrary. But, if that is true, we do not yet have a satisfactory account of why it is true.

I suspect that most of the bioethicists who have written on disability and opportunity have not tried to work out a detailed way of comparing option sets because they regard it as simply obvious that being deaf limits a child's future options in ways that are far more significant than any advantages it may bring. I have no objection, in general, to appeals to intuition or obviousness in philosophy. But, given the long history of misunderstanding disability and its effects, illustrated in this very literature, this does not seem like a good place to be satisfied that what seems intuitive or obvious to the majority must be correct.⁴⁸

6. Generalizing the Argument (or: A *Reductio*?)

So far, I have been discussing a narrow topic: the permissibility of selection for deafness and achondroplasia. I have argued that so long as the Not-Very-Bad Thesis is true (and I think we have good

⁴⁷ Earlier I noted that comparisons of wellbeing are, at least theoretically, relatively straightforward on hedonistic or preference-satisfaction theories. Many of the concerns I have described here—e.g., about how coarsely to define different categories of opportunity—do come up for objective list theories of wellbeing. (Indeed, Moller ("Wealth, Disability, and Happiness") and Wasserman and Asch ("Understanding the Relationship between Disability and Well-Being") are discussing wellbeing rather than opportunity.) Though I do not think they necessarily must be resolved in the same way—the variety of opportunities we ought to preserve for someone need not be the same as the variety that must be realized for a good life—this does mean that comparisons of wellbeing on objective list views may not be straightforward. If this is right, then the kinds of considerations I point to here should undermine confident assertions concerning wellbeing and disability. Such a conclusion would be consonant with the overall message of this paper: we do not know enough to conclude that selection for disability is impermissible, as many have assumed.

⁴⁸ This, of course, is an observation made by many who work on disability. See, e.g., Barnes, "Valuing Disability, Causing Disability," 104. Stramondo argues that disabilities such as achondroplasia typically do not result in unacceptable restrictions on opportunity, and thus that selection for such disabilities should be permitted. Though I agree with much of what Stramondo says, his argument ultimately relies on intuition in determining what counts as an acceptable versus unacceptable range of options. This, I think, is a problem. First, Stramondo's intuitions clearly diverge from those of many other philosophers and bioethicists. Though I suspect Stramondo would say it is not true that deafness "severely diminishes the scope and quality [of] a future child's opportunity range," many others (quoted earlier) vehemently disagree. It is valuable to have a systematic way of thinking about such questions and adjudicating such disputes. Second, Stramondo himself admits that the examples he considers are extreme and "probably too easy." A more systematic method will be needed to address the harder cases that lie in the middle.

reason to think it is), the permissibility of selecting for those traits does not depend on their precise impact on wellbeing, and therefore does not depend on the truth of the Neutrality Thesis. It instead depends on the impact those traits have on opportunity. Contrary to the existing literature, though, I have argued that we do not know enough about how to compare or assess option sets to confidently say whether being deaf or achondroplastic unacceptably constrains a child's options.

I think that this argument can straightforwardly be generalized along two dimensions. First, it applies to many other disabilities. Lifelong blindness and paraplegia, for example, are also disabilities whose impacts on wellbeing in a just society, even if negative, would I suspect be small to moderate. If that is true, the permissibility of selecting for such traits would, again, hinge on their impact on opportunity. Of course, this does not mean that the permissibility of selection for blindness would stand or fall with the permissibility of selection for deafness. It could be true that deafness does not significantly constrain options, while blindness does. But it does mean that, as in the cases of deafness and achondroplasia, more argument and detailed consideration is needed to determine the permissibility of selecting for these traits.

The second dimension along which the argument can be generalized is, I think, more important—and may also seem to suggest an objection to it. Because my argument has not relied on nonidentity, it seems potentially to apply to many other parental choices concerning disability. For example, parents of deaf children are frequently encouraged (and pressured) to have their children fitted with cochlear implants. Parents of achondroplastic children similarly may be encouraged to consent to limb-lengthening surgeries. Many deaf and achondroplastic parents reject these recommendations. The argument here potentially offers a new way of justifying parents' choices to decline disability-reversing treatments.

That extension of the argument may seem attractive, since many people believe that parents should have the right to decline these treatments.⁴⁹ But consider the following case: suppose that, once we have worked out how to evaluate option sets, it turns out that the option sets associated with deafness do count as sufficiently valuable. If so, then the above argument suggests that parental selection for deafness would be permissible, as would declining a cochlear implant for one's child. So far, so good. But would that not also make it permissible for parents to actively *cause* deafness in their child, for example by surgically severing the auditory nerve? After all, if being deaf is not significantly worse for the child in terms of wellbeing, and if being deaf also does not unacceptably constrain the child's future options, then how is severing the auditory nerve any different from a parent's decision, say, to move to a new city, which will provide her child with a different range of opportunities that are perhaps somewhat inferior, but nevertheless adequate? Intuitively, though, moving to a new city seems clearly permissible, while it seems obviously impermissible for a parent to sever her child's auditory nerve. Indeed, this result has been used as a *reductio* of other views of disability.⁵⁰

Let me begin with what I think this objection has right: it *is* much more counterintuitive to say that it is permissible for parents to sever their child's auditory nerve than it is to say that parents may decline a cochlear implant or may aim to conceive a child who will be deaf. So if (assuming that the options available to the deaf count as sufficiently valuable) the argument directly implies the permissibility of severing the auditory nerve, then that would count as an objection to it. There is, however, a lot more going on in this case. Severing the auditory nerve involves active intervention on an already-existing person, and in some intuitive sense it involves altering the course of an individual's natural development. As decades of work from deontologists have made clear, many people have the intuition that actively bringing about some outcome can often be morally worse than passively allowing that same outcome to occur. (Killing someone, for example, can be worse than allowing her to die.) And many think that direct action on another person can be harder to justify than an action that indirectly has the same result. (It may be permissible for me to deflect a bullet away from me toward you, but not to use you as a human shield.)

⁴⁹ See Stramondo ("Disabled by Design") for an argument that relies on deference to parental authority.

⁵⁰ See, e.g., Kahane and Savulescu, "Disability and Mere Difference"; and McMahan, "Causing Disabled People to Exist and Causing People to Be Disabled."

Relatedly, many of us also have a strong moral bias toward the status quo: changing a causal process already in motion requires stronger moral justification than leaving it in place.

Whether or not these intuitions are veridical, I think they provide a compelling response to this concern. First, suppose that the intuitions highlight a real moral distinction. If “doing” really is more morally fraught than “allowing” (and so forth), then that would explain why severing the auditory nerve may be impermissible, while declining a cochlear implant is permissible. Thus, there is no objection. Second, suppose the intuitions are mistaken—perhaps they are a relic of our evolutionary past that does not reliably track anything of moral importance. Even if that is true, the intuitions can still explain why we *think* that severing the auditory nerve is worse than declining a cochlear implant, or why it *seems* more objectionable. In other words, on the assumption that these intuitions are false, it may well be an implication of my argument that actively causing disability can sometimes be permissible. But the counterintuitiveness of that conclusion can be traced to the counterintuitiveness of denying the doing/allowing distinction; it has nothing in particular to do with the argument I have offered here, and so is not a serious objection to it.

7. Conclusion

Briefly, here are the conclusions I draw from this discussion. The permissibility of selecting for many disabilities—including, but not limited to, deafness and achondroplasia—does not depend on the precise impact of those traits on wellbeing. So long as the Not-Very-Bad Thesis is true (and I think we have good reason to think it is), the permissibility of selecting for a disability hinges on the effect it would have on the opportunities that will be available to the child when she becomes an adult. The existing literature has assumed that disabilities like deafness and achondroplasia do significantly constrain opportunity, but it has not backed that up with much argument. Indeed, it is not even clear what it means to compare option sets in the relevant sense. This argument generalizes beyond selection for disability to a range of other cases, including parental choices to decline disability-reversing treatments.

More broadly, I hope I have shown that concepts like autonomy and opportunity are important to discussions about disability—in some cases, more important than wellbeing. Unfortunately, however, we do not have a good philosophical framework for making comparisons involving opportunity. So, alongside the very sophisticated discussion about the relationship between disability and wellbeing that has been a focal point of philosophers of disability and bioethicists, I think we need to have a parallel discussion about the relationship between disability and opportunity—one that moves beyond a reliance on intuition and thinks through the relationship in a careful and systematic way.⁵¹

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⁵¹ This failing is representative of broader concerns in ethics. Consequentialism (whether you find its answers plausible or not) usually offers clear verdicts in cases involving uncertainty, statistical (versus identifiable) lives, people who are not normally functioning adults, and so forth. But, as a number of philosophers have pointed out, deontological concepts and principles do not so easily generalize from the “trolley problems” that are often their source. (See Fried, “What Does Matter?” and Lazar, “Deontological Decision Theory and Agent-Centered Options.”) So perhaps it is not surprising that, when it comes to disability, discussions concerning wellbeing (a characteristically consequentialist concern) are much more fully developed than discussions concerning opportunity and autonomy (characteristically deontological concerns).

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