

# The Wrong of Eugenic Sterilization

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*Abstract:* I defend a novel account of the wrong of subjecting people to non-consensual sterilization (NCS), particularly in the context of the state-sponsored eugenics programmes once prevalent in the United States. What makes the eugenic practice of NCS distinctively wrong, I claim, is its dehumanizing core: the fact that it is tantamount to treating people as nonhuman animals, thereby expressing the degrading social meaning that they have the value of animals. The practice of NCS is *prima facie* seriously wrong partly, but crucially, on these grounds. I consider and reject accounts of the wrong of NCS that make no reference to its animalizing character, such as that it violates victims' (procreative) autonomy, amounts to treating them merely as a means, inflicts psychological harm on them, or constitutes an affront to their human dignity. My discussion suggests that the critical vocabulary of bioethics should be expanded beyond talk of rights-violations, benefits and harms, and equal treatment—and that the language of dehumanization is indispensable to bioethicists.

**Key words:** Sterilization, Eugenics, Procreative autonomy, Dehumanization, Expressivist argument

## **Introduction: The Moral Profile of Eugenic Sterilization**

There is growing public awareness in the United States of state-sponsored eugenics programmes through which tens of thousands of mostly poor, nonwhite, and cognitively disabled people were subjected to non-consensual sterilization (NCS). The age of NCS was inaugurated by the passage of a compulsory sterilization bill in Indiana in 1907, which led 32 states to adopt similar legislation over the next two decades (Lombardo 2011, ix). Regimes of NCS became further entrenched with *Buck v. Bell*, the notorious 1927 Supreme Court decision that found that a Virginia statute allowing the compulsory sterilization of cognitively disabled people did not violate the 14<sup>th</sup> Amendment's Due Process Clause (*Buck v. Bell*, 274 U.S. 200, 47 S. Ct. 584 [1927]). It is estimated that over 60,000 people underwent NCS between 1907 and 1963 (Stern 2016). The majority of those targeted for sterilization were women, who underwent tubal ligation or hysterectomy without their consent; however, many men were sterilized as well. While NCS is less common today, the *Buck vs. Bell* decision has never been overturned in full, and many incarcerated people have been involuntarily sterilized well into the 21<sup>st</sup> century (Fofana 2022).

In the United States, programmes of NCS were animated by the logic of eugenics. Their goal was to prevent those considered genetically defective from procreating, thereby reducing the crime rate, decreasing expenditures on social services, and broadly ensuring a "healthy" gene pool. Thus, in this vein, there were three interlocking justifications given of the practice. First, NCS was taken to be in the interests of the *sterilized parties*, who were deemed unfit to be parents and were harmed by procreating. Second, it was thought to be in the interests of the *would-be children* of the sterilized parties, who were expected to live less-than-decent lives. Third, NCS was seen as in the interests of *society at large*. For one, the state would no longer be obliged to provide support to the children of the sterilized or to absorb the damage done by their

criminal behavior. Such reasoning is encapsulated by Oliver Wendell Holmes's (274 U.S. at 207) final words in the majority opinion in *Buck v. Bell*: "It is better for all the world, if instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind. ... Three generations of imbeciles are enough."

While the practice of NCS once enjoyed widespread acceptance even in progressive circles, today those familiar with this facet of American social reality tend to share the sense that it is a gross violation of human rights. Indeed, perhaps because it is now generally regarded as so clearly unjustified, there has been little sustained reflection on what exactly the nature of the wrong is. The wrong of NCS is mentioned in an offhand way, if at all, and usually as an addendum to debates about other, more salient infringements of procreative autonomy.

Moreover, there seems to be no shortage of credible explanations of why American-style programmes of NCS are wrongful; on the contrary, several readily leap to mind. Programmes of NCS caused their victims not only bodily damage, but, frequently, psychological trauma as well. They constituted egregious violations of their victims' right to bodily autonomy and integrity. They amounted to treating their victims merely as a means to the benefit of others, including society broadly. As these programmes targeted certain social groups—e.g., subordinate racial groups and socioeconomic classes, people with cognitive disabilities—they treated people unequally, and they were frequently predicated on (indeed, perpetuated) racist, classist, and ableist attitudes. In light of this wealth of candidate explanations, why bother discussing the moral profile of eugenic NCS?

All such explanations do identify at least one ground of the wrong of eugenics policies of NCS. My conviction, however, is that these explanations are crucially incomplete even taken

together. For they fail to do justice to the *dehumanizing* element of American-style policies of eugenic sterilization—the way(s) in which these policies symbolically denied the humanity of their victims. My goal in this essay is twofold. First, I aim to shed light on just this element of the policies in question, by characterizing one particular strand of dehumanization that is deeply embedded in them. Second, I will argue that the dehumanizing element, so construed, partly grounds the wrong of eugenic sterilization, profoundly shaping the practice’s moral topography.

Hence, on the view that I defend, the practice of NCS is wrong, in part, because it embodies a dehumanizing social meaning about its victims (and, secondarily, about the social group[s] to which they belong). In particular, the wrong of NCS is partly grounded in the fact that the practice is *animalizing*—tantamount to treating people as nonhuman animals. I elaborate this account of the wrong of NCS in the next section and highlight its main virtues. I then consider explanations of the wrong that make no reference to animalization and find that they are either implausible or that they leave something morally significant out. My discussion therefore functions as a proof of concept for the language of dehumanization, whose critical potential is insufficiently appreciated today. I conclude that talk of dehumanization is indispensable for moral theory and for bioethics in particular. The critical vocabulary of bioethics should therefore be expanded beyond talk of rights-violations, benefits and harms, and equal treatment.

### **The Dehumanizing Core of the Eugenic Practice of NCS**

My immediate goal is to sketch the moral profile of the programmes of state-sanctioned sterilization such as those once prevalent in the United States. Let me begin with some orienting remarks.

My focus is on the practice of involuntary or *non-consensual* sterilization (NCS): intentionally disabling or destroying someone's reproductive capacity without her voluntary, informed consent. Notably, this category is broader than what is picked out by such terms as "forced sterilization" and "coerced sterilization", which are, in fact, too narrow for our purposes. For although some of those who were sterilized against their will were indeed coerced, others were deceived, manipulated, or simply not informed of the procedure before it was pursued. Thus, it is more accurate to draw the borders of the phenomenon in terms of (the absence of) consent.

The practices of NCS that I have in mind are also informed by *eugenics*: the policy of striving to improve the genetic composition of human beings by encouraging allegedly genetically sound individuals to procreate as well as by preventing allegedly genetically defective individuals from procreating. As the Holmes passage evinces, the poor, nonwhite, and/or cognitively disabled victims of NCS in the United States were frequently regarded by their white elite counterparts as radically defective in their human capacities and, hence, as posing a threat to the rest of humankind (or to proxies for it—civilization writ large, and its vanguards, the white race). They were standardly subjected to NCS on the grounds that they were cognitively deficient, lacking in basic self-control (especially with regard to sexuality), and the like, their supposed hereditary limitations taken to explain even their proneness to poverty, addiction, and other such "vices" (see, e.g., Davenport 1911, 260). Accordingly, victims of NCS were seen as dangerous to society in virtue of their alleged genetic defects, which they were in danger of transmitting to their offspring—leading, in turn, to pervasive social regression. The only solution to the supposed problem, according to the logic of eugenics, was to extinguish

these lower orders of human beings from existence and to thereby preserve the genetic purity thought to be embodied by civilization-building white elites (see, e.g., Laughlin 2009, 478).

Finally, while I intend to say something general about why programmes of eugenic sterilization are *prima facie* seriously wrong, I propose examining the practices of NCS in the United States in particular. Although it might strike some readers as parochial, narrowing the discussion to the American context is advisable because the practice of NCS in the United States is a representative example of the phenomenon of interest—so much so, in fact, that it shaped the programmes of involuntary sterilization in Nazi Germany, for instance (see, e.g., Kühn 1994, 85, 101–102).

#### Clarifying the Animalization Thesis

I defend a kind of *expressive wrong account* of the practice of NCS so characterized. At the most general level, my claim is that the practice of NCS expresses a degrading social message about its victims and that it is wrong partly, but crucially, on those grounds. To accurately represent the nature of the wrong, we must first clearly grasp the content of that degrading social message.

The idea of an expressive or communicative wrong is, of course, familiar enough in bioethics. In particular, there are well-known expressivist objections to certain procreative decisions or policies that affect the existence of people with disabilities, such as the use of prenatal genetic testing to select embryos without congenital disabilities or to differentially abort disabled fetuses (Disabled Peoples International 2000; Saxton 2000). It has been alleged, for instance, that these decisions or policies express the degrading social message that disabled people should not exist, that it is better not to live at all than to live with a disability, or that (the

lives of) disabled people have less value than (the lives of) non-disabled people. (For critiques, see, e.g., Edwards 2004; McMahan 2005; Glover 2006, 32–6; and Wilkinson 2010, 148–85.)

My account has an obvious affinity with these expressivist arguments. Most importantly, like these arguments, it is similarly sensitive to the fact that human actions and practices have a special kind of social or interpersonal significance, in that they can express meaningful evaluative claims about the people affected by them. But it differs from them in insisting that the social meaning expressed by standard NCS can only be captured using the language of dehumanization.<sup>1</sup> I define *dehumanization* as treating or regarding a person as other than human.<sup>2</sup> There are at least two species of dehumanization, in this sense: *objectification* (treating or regarding people as mere things) and *animalization* (treating or regarding people as nonhuman animals). In my view, NCS expresses (at least) one core dehumanizing social meaning: that the victim lacks the value of a person and has, instead, the value of a nonhuman animal. NCS expresses that social meaning because it consists of animalizing its victims. The wrong of NCS can only be captured by taking this social meaning into account. In other words:

*Animalization Thesis:* The eugenic practice of subjecting people to NCS is both (1) *animalizing*—i.e., tantamount to treating them as nonhuman animals, thereby expressing the degrading social meaning that they have the value of animals rather than of people, and (2) *prima facie* seriously wrong partly in virtue of its animalizing character.

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<sup>1</sup> To be sure, the language of dehumanization is not univocal. Different theorists of dehumanization use the term in significantly different ways. For instance, some use the term to designate regarding a person as subhuman (Smith 2011) or both human and subhuman (Smith 2016; Smith 2021); regarding a person as nonhuman or less than human in evaluative terms (Kronfeldner 2018); or treating someone as a mere object (Mackinnon 1987; Cudd 2006).

<sup>2</sup> To regard someone as nonhuman is to hold an attitude toward her, whereas to treat someone as nonhuman is to perform an intentional action toward her. These two can come apart: people can be treated as nonhuman without also being regarded as such, whereas people can be regarded as nonhuman yet treated as human. I mostly restrict my attention to *treating* people as animals, as this phenomenon more significantly shapes the moral profile of NCS.

Let's unpack this thesis. First of all, what is it, in general terms, to treat someone as an animal?

To treat someone as an animal is to act toward her in a way that it is appropriate or fitting to act toward animals, in light of how they differ from human beings and the kind of value that is proper to each. Standardly, the animalization of people takes the form of acting toward them with disregard for one or more of their characteristically human capacities, such as their capacity for valuation and choice.<sup>3</sup> Examples of animalization include radically paternalistic interventions into a person's life, modifying a person's behavior through Pavlovian conditioning, and treating a person with uncompromised capacities as if they weren't morally responsible for their conduct.

It is true that in ordinary language the expression "treating someone as an animal" is shorthand for "treating someone as if she lacked moral status" or "treating someone without moral consideration." Since objects lack moral status and may permissibly be treated without moral consideration, this fact of popular usage may lead us to believe that animalization and objectification are one and the same. I would resist so conflating these two notions, however.

As I will understand it in this essay, animalization is distinct from objectification, where the latter consists of treating someone as it is appropriate or fitting to treat mere objects. In acknowledging the existence of animalization, we need not think that animals lack moral status altogether, making it permissible to treat them as things. We need not even think that animals have *lower* moral status than people, that they occupy a lower position than human beings on a hierarchy of moral considerability. We need only suppose, sensibly, that it is appropriate to treat animals in certain ways in which it is *prima facie* wrong to treat people (*qua* people). The point

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<sup>3</sup> In making this claim, we need not think that nonhuman animals are incapable of valuation and choice, of course. We need only think—plausibly enough—that human beings by nature have capacities for valuation and choice that differ from those of animals, and that the differences in question make it appropriate to treat people and animals differently in certain respects.



bears emphasizing: nothing in the bare concept of animalization commits those who deploy it to affirming that people morally matter more than nonhuman animals—only that the former have a different value or status than the latter which makes different forms of treatment appropriate.<sup>4</sup>

### How Victims of NCS are Treated as Animals

The animalizing treatment of people is analogous to the fitting treatment of animals. Animals are, of course, multifarious and stand in quite different relations to the human world, vastly complicating the question of how they are to be treated. And I would prefer not to address the question of what kind of moral status or value animals have. But it is possible, nevertheless, to pinpoint some very general platitudes about the appropriate treatment of animals which so resonate with common sense that adherents of different moral theories find them compelling.

As a general matter, it's appropriate for us to exercise unilateral control over animals for their benefit, even without their knowledge and against their will. In particular, it is generally permissible to invade the bodies of animals either (a) for their own well-being (as in, e.g., typical veterinary interventions), or (b) when they threaten the well-being of others who themselves pose no threat (as when, e.g., we forcibly tranquilize dangerous animals to prevent harm to others).

This point is clearest as applied to companion animals. But it holds of wild animals, too, although in this case we may have somewhat stronger reasons not to intervene in their lives. And one particularly salient form of control that we appropriately exercise over animals is that of forcibly constraining their reproductive activities to prevent harm to them or to other parties.

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<sup>4</sup> But for it to be possible to wrongly degrade people by treating them as animals, wouldn't animals have to have lower moral status than people? Not at all. For people are wrongly degraded when they are treated in a way that evinces disregard for some morally relevant property of theirs. That property doesn't also have to give them higher moral status than those who lack it, however. That's one reason that it is wrong for students to treat a professor as just a fellow student in certain ways—even though professors don't have higher moral status than their students.

It is commonly believed that, other things being equal, it's appropriate to sterilize animals against their will, on either of two grounds: when it would benefit them greatly or when it would prevent them from producing offspring they cannot care for and who therefore would likely lead less-than-decent lives. Sometimes other things are *not* equal, of course: sterilizing animals may bring with it the risk of adverse side-effects, for those sterilized or for others, for instance, which may make it wrong to sterilize them. Moreover, I'm not claiming that it is appropriate to sterilize animals for *any* reason—mere human convenience, say. Thus, I do not condone every aspect of our current practice of sterilizing companion animals. My point is only that it is generally permissible to sterilize an animal paternalistically or to prevent harm to future offspring of theirs, whereas there is a far higher justificatory bar for sterilizing people against their will on these grounds.<sup>5</sup> Although it is not entirely uncontroversial, I take this claim for granted in this essay. (Animal ethicists who hold that it is permissible to sterilize animals for some such reasons include Boonin 2003; Abbate 2018; and Sandøe, Corr, and Palmer 2016, 164; cf. Palmer, Corr, and Sandøe 2012.)

To subject a person to NCS, either for her own good or for the good of future offspring, thus conveys the social message that she has the value of a nonhuman animal. When she is sterilized without her consent, that act expresses the degrading idea that she is the kind of creature toward whom a radically paternalistic or managerial stance is unproblematic, indeed fitting, to the extent that her reproductive system may be invaded and destroyed against her will for various ends. An act of NCS therefore constitutes a powerful symbolic denial of the very

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<sup>5</sup> Thus, my point is *not* that it is appropriate to subject animals to NCS generally, and I don't endorse this thesis. Rather, I claim that it's appropriate to subject animals to NCS *for the specific reasons mentioned above*. These reasons are analogous to some of the reasons historically offered for sterilizing certain people against their will.

humanity of its victims, and that dimension of it, I claim, is part of what makes it *prima facie* seriously wrong. The eugenic practice of NCS inherits this dehumanizing expressive content.

Indeed, my claim about the animalizing expressive content of eugenic sterilization seems to dovetail with the rhetoric used by some of the architects of the American programme of NCS, who sometimes explicitly compared it to the sterilization of animals. According to Harry Laughlin, among the most important figures in the propagation of eugenic ideas, “[t]he unprotected females of the socially unfit classes bear, in human society, a place comparable to that of the females of mongrel strains of domestic animals” in that “the cutting off of their supply [of defective offspring] is largely effected through the... unsexing of the female” (Laughlin 2009, 484). Similarly, John R. Haynes, whose advocacy was indispensable to the expansion of NCS in California, once remarked that “it is as foolish to permit human defectives to reproduce themselves as to permit defective domestic animals to beget offspring” (Haynes 1918, 62). More generally, eugenic discourse is typically peppered with comparisons between eugenics programmes and standard means of controlling the breeding of animals, such as in the following passage written by Charles Davenport, another founder of the American eugenics movement:

The experience of animal and plant breeders who have been able by appropriate crosses to increase the vigor and productivity of their stock and crops should lead us to see that proper matings are the greatest means of permanently improving the human race—of saving it from imbecility, poverty, disease and immorality. (Davenport 1911, 260)

I hasten to clarify, though, that treatment may still be animalizing even if its agent doesn't hold an animalizing view of his victims or employ such rhetoric in characterizing them. I make this

point because it may be tempting to deny that the practice of NCS carries the social meaning previously identified, on the grounds that some of its practitioners, in fact, regarded the victims as fully human, or because not all victims saw their own sterilization in a dehumanizing light. But the expressive content of an act of NCS is not wholly a function of the attitudes of the agent perpetrating it, nor can it simply be read off the attitudes of its recipient. In this respect, it more closely resembles the meaning of a linguistic expression. It is well known that, say, a racial slur can express a degrading social meaning even if the speaker does not intend to degrade anyone and the audience—perhaps including members of the relevant racial group—happens not to take offense. The analogous point holds here. The expressive content of NCS is, in this respect, partly an objective matter, stemming from the character of the action itself along with the broader expressive background, only some of which is culturally specific and in principle variable.

In any case, as I have pointed out, historically NCS was unequally applied, as it was largely black, indigenous, Latina, and cognitively disabled people who were targeted for sterilization, not non-disabled, affluent white people. And these populations were targeted *in order to* prevent more such people from coming into existence, on the grounds that they were genetically defective in their characteristically human intellectual and volitional capacities. This systematic, differential character of the practice of NCS adds a new layer to the wrong inflicted. That is, in virtue of its eugenic character, NCS doesn't just convey the social message that the victim herself lacks the value of a person. Crucially, it also conveys the social message that *the group to which the victim belongs* lacks that specific value. In this way, the practice of NCS inflicts the subsidiary wrong of dehumanization even on those who weren't sterilized against their will—designating them, in social terms, as animals who are appropriately treated as such. (For an analogous point about the expressive content of rape, see Hampton 1999, 135.)

I have been looking at the moral profile of programmes of eugenic NCS. But the fact that NCS is animalizing, and *prima facie* seriously wrong at least partly for that reason, also has implications for the moral valence of programmes of sterilization duly shorn of the nakedly discriminatory aspects of the American variety. For we can easily imagine different and less obviously unjustifiable practices of NCS, and it would be odd if my proposal had nothing to say about these. Imagine, for example, a practice of NCS whereby people are selected for sterilization through a fair process—say, a lottery system—or, alternatively, they are permitted to conceive a certain number of children and sterilized only when they reach their allotment. Suppose, too, that within the practice of NCS people are sterilized to stem the tide of overpopulation, either for the sake of economic modernization or to slow the pace of climate change and improve the life prospects for future generations. They are not subjected to NCS on the basis of shoddy empirical claims about the supposed genetic defects of their demographic.

If my argument is correct, then even this non-discriminatory practice of NCS is *prima facie* seriously wrong, expressing the dehumanizing social message that the people so sterilized have the value of animals. In light of that feature of the practice, there is a high justificatory bar that must be cleared for it to be permissible. So, even supposing the state does have a legitimate interest in regulating procreation in order to (say) reduce harm to future generations, my view suggests, plausibly, that other, less invasive measures should be attempted first—e.g., promising stipends to those who volunteer for sterilization. NCS morally ought to be, at best, a last resort.

#### Virtues of the Animalization Thesis

The Animalization Thesis has four virtues that are worth highlighting. First, my account implies that the moral valence of a given practice of NCS does *not* depend on whether the victims of it

want or intend to procreate, whether procreation contributes to their well-being, or whether they experience suffering in the wake of sterilization. This is the correct result. Sterilizing a person against her will is wrong even when her aims and interests are not thereby frustrated.

Second, my account explains why NCS is experienced by its victims not just as wrongful but also as deeply degrading. Because these victims have been treated as animals rather than as human beings, it is intelligible for them to feel degradation. My view also predicts that the stigma of NCS would be particularly acute for people who are already the targets of animalizing or otherwise dehumanizing stereotypes, such as nonwhite and cognitively disabled people.

These two virtues are shared with other expressivist accounts of the wrong of NCS. Sarah Conly (2016, 47–48), for example, contends that my being differentially deprived of the capacity to procreate expresses “a statement about my worth, and about my children’s worth”: that “our worth is very little,” even that “our nonexistence is to be preferred to our existence.” One worry about Conley’s view, however, is that it leaves it unclear why NCS *as such*—rather than unequally applied, eugenics-informed NCS—is wrongful. A programme of NCS that is applied to people in a fair, nondiscriminatory fashion does not obviously express the degrading message that they and their children lack sufficient value. But even setting that worry aside, my account differs importantly from views such as Conley’s, revealing another virtue of the former.

For, third, my account of the wrong of NCS also provides a more fine-grained analysis of the degrading social message of NCS. Plenty of wrongful practices—such as employment or housing discrimination—express the social message that the people whom they adversely affect have very little value. Yet we would probably agree that there’s something significantly different about NCS. Should we then claim that NCS expresses the social message that its victims have *even less value* than the victims of employment or housing discrimination? This explanation is

far too coarse-grained, and not of the right character. To identify the wrong of NCS, I submit, we need a qualitative notion, not a quantitative one. That is precisely what my proposal provides.

Finally, fourth, my account suggests a plausible, albeit partial, explanation of the wrong of other exercises of unilateral control over a person's procreative capacity against her will. For there are other ways of depriving someone of procreative capacity, certainly, such as non-consensual abortion and non-consensual contraception. We can also exercise unilateral control over her procreative capacity by making her exercise it—say, by forcing her to procreate (or to gestate) against her will, or by withdrawing contraception without her knowledge. Although these practices may be wrong for various reasons, the Animalization Thesis promises to identify an additional stratum of moral significance: when pursued for the person's benefit or the benefit of others, subjecting her to any of these constitutes treating her as a nonhuman animal, as it is normally appropriate to treat animals in these ways on the grounds in question. Hence, these other practices express a degrading social message about the people whose procreative capacities they co-opt, which, in turn, renders them *prima facie* seriously wrong.

### **Animalization as a Ground of the Wrong of Eugenic NCS**

So far, my argument has sought to establish that the eugenic practice of NCS amounts to animalizing the sterilized parties, thereby expressing the degrading social message that they have the value of animals, not of human beings. But I have not yet made the case that the practice is wrong partly *because* it is animalizing. That is the task of this section. I will examine four accounts of the moral profile of NCS that seek to fully explain the wrong without adverting to the practice's animalizing character. I will argue that my view is superior, and that these rival views are either implausible or less plausible than my own. It follows that the wrong of NCS is at

least partly grounded in its animalizing character. The fact that NCS is animalizing is therefore necessary, albeit insufficient, for explaining the wrong.

### Imposition of Harm

First of all, let's consider the *harm-imposition account*—the view that committing NCS is wrong if and only if, and because, it unduly causes the victim harm (or unduly imposes on her the risk of harm). For instance, victims of NCS who later learn of the procedure may experience a range of hurtful symptoms, such as anxiety and depression, feelings of degradation and helplessness, and emotional distress over their newfound infertility. Certainly, NCS does also cause its victims bodily damage, which might lead to pain and discomfort, and may in some cases prevent them from experiencing pregnancy and child-rearing. So, it may be thought that the wrong of NCS lies entirely or largely in the fact that it causes its victims some combination of these harms.

It seems undeniable that NCS is typically harmful in these ways and that its harmfulness is morally significant. But I doubt that such talk of harm quite captures the core wrong of NCS.

To see that, imagine a person, Maria, who is sterilized without her knowledge during a necessary Cesarean section. She never learns of her sterilization. Suppose, too, that she already has a large family, including three children whom she loves dearly. So, she never becomes depressed, nor does she feel degraded or helpless. She feels no more pain and discomfort than if she had just had a normal delivery. And although she is deprived of the power to conceive more children, she is satisfied with the family that she has and intends not to procreate anymore. (We can even stipulate that conceiving more children would itself be bad for her and her family.) From the inside, in other words, her life seems to go on just as it did before her sterilization.



At first glance, the harm-imposition account seems committed to the incredible claim that it was not wrong to sterilize Maria against her will. After all, her sterilization caused her none of the harms typically associated with NCS. So, how could it be wrong? But clearly it *is* wrong to subject Maria to NCS, whether she is harmed in these ways or not. The problem here is obvious: the view assumes, implausibly, that a person is wronged by  $\phi$ -ing only if she either experiences  $\phi$ -ing directly or else experiences the effects of  $\phi$ -ing. This experientialist assumption is dubious, a dikailogical version of the spurious proverb that what a person doesn't know can't hurt her.

A proponent of the harm-imposition account may reply that NCS is wrong in virtue of imposing on Maria a significant *risk* of such harms, even if she never experiences them. It is sheer happenstance that she came away from her sterilization without suffering any harm. Now, to answer this objection, we might contrive cases in which the sterilization of a person is arranged so carefully that it is unlikely to ever be discovered by them. Imagine, for instance, that Sylvia, a nun who lives in a cloister in a remote rural village, is sterilized without her consent while under general anesthesia during an emergency appendectomy, and that her care team removes all evidence of the procedure from her chart. The harm-imposition account seems committed to the implausible thought that non-consensually sterilizing Sylvia is permissible.

But, in fact, a more forceful challenge to this version of the harm-imposition account is available. Again, the view claims that NCS is wrong in virtue of causing the victim suffering. Surely, though, this puts the cart before the horse. Suppose that Sylvia does discover that she was sterilized against her will and feels the sting of degradation. Feeling the sting of degradation is not like feeling the sting of a wasp—except in one's psyche, as it were. In feeling degraded, rather, Sylvia is responding to an objective property of her sterilization—to what it *means* to be sterilized in this way. But if so, there must *already* be something wrong with NCS, apart from

the suffering caused (or risked), to which that suffering is a response. The harm-imposition account, then, does not succeed in identifying a non-derivative ground of the wrong of NCS.

So, there is a lacuna in the harm-imposition account, which my own account easily fills. The fact that an act of NCS causes its victims bodily damage or (if applicable) psychological suffering plausibly helps explain why it is wrong. But it cannot constitute a full explanation.

### Sheer Instrumentalization

Another rival explanation can be found in the *sheer instrumentalization account*—the view that NCS is wrong if and only if, and because, it amounts to treating the patient merely as a means. In the United States, for instance, it is fair to say that certain poor, nonwhite, and cognitively disabled people were treated primarily as tools for reducing alleged harm to future offspring (by not bringing them into existence) as well as to society broadly. On this view, the wrong of NCS lies in the fact that it consists of treating the victims merely as means to others' ends in this way.

The sheer instrumentalization account does seem to capture one wrong-making feature of NCS, as it involved, in effect, using people's procreative capacities—against their will—so as to prevent harm to future offspring and to society. And, indeed, people subjected to NCS in the United States (and/or their parents/guardians) were often lied to, not informed, or manipulated into consenting to the procedure, which arguably deepens the instrumentalization in play here. In light of these considerations, it's plausible that the fact that the victims of NCS were treated merely as a means *partly* explains the wrong done to them. Yet this possibility is consistent with the dehumanization account, which purports only to identify one core ground of the wrong, not a complete explanation of it. What's more, it seems dubious that the wrong of NCS is *fully* explained by its instrumentalizing character, as per the sheer instrumentalization account.

Rather, non-consensually depriving someone of procreative capacity is morally special. The wrong involved is not just equivalent to the wrong of depriving her of any other capacity. It is qualitatively different, from a moral point of view, from other ways of non-consensually depriving others of their capacities—even if she doesn't value procreation or values the relevant activities more so. That's not to say that the former is generally more morally wrongful or morally bad, on balance, than the latter. I remain agnostic on this question. In any case, if this claim is correct, then the sheer instrumentalization account loses plausibility points by assimilating the wrong of NCS to that of a variety of other instrumentalizing medical treatments.

Why think that non-consensually depriving someone of procreative capacity is morally special *as such*, though? Why is doing so qualitatively different, in moral terms, than, say, depriving a person of the capacity to run marathons—particularly if she does not care especially about procreation, intend to procreate, or, at the very least, stand to benefit from procreating? To begin answering these questions, we might observe that human procreation *itself* seems to be a distinctive activity. It is distinctive in that it differs, in key respects, both from other potentially valuable activities and from the reproductive activities of nonhuman animals. Let me explain.

Adapting a point of Matthew Liao's (2016, 658), I claim that exercising the capacity to procreate consists of creating a new individual using a core aspect of our identity—our genetic material—that is thereby transmitted to that individual, shaping her own identity in turn. In this respect, human procreation doesn't importantly differ from animal reproduction, of course: animals also pass on their genes to their genetic offspring, shaping the identity of the latter. What distinguishes these activities, rather, is human procreation's power to enable the procreating individuals to *transcend* the boundaries of their lives in a distinctive way. This disparity between

the two activities rests, in turn, on a further human-animal difference: unlike animals, people characteristically have the capacity to regard their lives as unfolding narratives, life-stories.

So, when a parent procreates, not only is there a sense in which a core aspect of her identity is projected into the future, the parent also thereby creates a new individual with a life-story that is an offshoot of—and that is often entangled with—her own life-story. In this sense, human procreation enables people to transcend the boundaries of their own lives, at the individual level—by linking their life-story with that of a new individual, through the creation of that individual. But procreation enables people to transcend the boundaries of their lives at the collective level, too. By procreating, people contribute to the reproduction of human society generally, which, in effect, thereby extends the unfolding narrative of humanity as a whole. (This feature of human beings is what Marx [1988], following Feuerbach, calls “species-being”.) Because they by nature lack the capacity to regard their lives as unfolding narratives (indeed, to think of their lives as temporally extended wholes), animals are, I submit, incapable of so transcending their lives at the individual or collective level through their reproductive activities.

Thus, human procreation turns out to be importantly unlike animal procreation, and, in light of these differences, our procreative capacity differs crucially from other human capacities. Furthermore, this point sheds some light on why depriving a person of procreative capacity is morally special. Depriving someone of procreative capacity consists of treating her in a way that ignores her capacity for this characteristically human self-transcendence—in short, as an animal.

It follows that the wrong of NCS cannot be fully grounded in its instrumentalizing character alone. A full account of why it is wrong is incomplete without reference to its animalizing character. Suppose, though, that victims of NCS were treated merely as a means to the ends of others and that this fact partly explains why the practice is wrong. Well, that is just

grist for my mill. For the basic idea underlying my view is that those subjected to NCS were treated as other than or less than human, which helps explain the wrong done to them. But to treat a person merely as a means *is*, in effect, to treat them as an instrument or tool, whose value is fully grounded in its capacity to facilitate the realization of human ends. So, victims of NCS were treated as mere objects—hence, as other than or less than human. The instrumentalizing character of NCS is easily folded into a broader account that centers on dehumanization.

In short, the sheer instrumentalization account is incomplete: the wrong of NCS is not fully grounded in the practice’s instrumentalizing character. And if we try to weaken it, by insisting that the instrumentalizing character of NCS only partly grounds the wrong, the result is not only *compatible* with a dehumanization-centered account but actually *resonates* with it.

### Violation of Autonomy

According to the *autonomy-violation account*, committing NCS is wrong if and only if, and because, it constitutes a violation of the victim’s right to procreate (or, more broadly, their right to determine whether or not they procreate). It is, of course, a matter of controversy whether there is a distinctive right to procreate, rather than just a right to found a family or to parent children. (For skepticism about its existence, see Pearson 2007; Quigley 2010; and Earl 2022.) But let us assume that there is, in fact, such a (presumptive) right. Let’s also suppose that it is, at least, a *negative* right—that is, a right against arbitrary interference with one’s choice to procreate with a willing partner. What might the ground(s) of this putative right be?

On John Robertson’s (1994, 24; cf. 30) version of the view, the right to procreate is grounded in a general liberty interest in exercising control over whether or not one procreates, which, he claims, is central “to personal identity, to dignity, and to the meaning of one’s life.”

Accordingly, he thinks, “being deprived of the ability to reproduce prevents one from an experience that is central to individual identity and meaning in life.” Indeed, unjustified violation of the supposed right, he claims, “is experienced as a great loss, even if one has already had children or will have little or no rearing role with them” (cf. Overall 2012, 19–22, 29–30).

Robertson’s view has implausible implications, as has been pointed out (Quigley 2010, 407–408). It implies that the moral valence of NCS depends significantly on the victim’s attitudes to procreation, particularly on the extent to which she finds it meaningful or identity-constituting. But there is considerable variation in attitudes toward procreation, and while Robertson’s claim fits some individuals, others may be indifferent to procreating, deriving no meaning from it. So, Robertson seems committed to the claim that it is wrong to deprive a person of procreative capacity *only if* she values procreation and would experience the deprivation as a loss, and that it would be permissible to sterilize her against her will if only she felt otherwise. That is false: it is wrong to sterilize a person against her will regardless of her feelings about procreation.

Robertson might respond that the right to procreate is grounded in the value of *having control* over whether one procreates or not, which people find meaningful and identity-constituting. But, again, someone may not care about such control, yet it is still wrong to subject her to NCS. So, Robertson’s view makes the moral valence of NCS objectionably hostage to the victim’s attitudes toward (control over) procreation. The proponent of the autonomy-violation account need not take this route, however. I foresee at least two promising alternatives.

First, the right to procreate might be grounded in *our fundamental interest in bodily autonomy/integrity* (Dworkin 1993, 166–168). Depending on how the account is filled out, there are different ways of spelling out the nature of the autonomy-violation(s) involved in NCS. NCS

might be thought to violate this fundamental interest in a number of ways: it is non-consensual in and of itself, for one, but it also constitutes an invasion of the victim's body and permanently limits her procreative options. Now I agree that NCS is a violation of our fundamental interest in bodily autonomy/integrity, and it is *prima facie* seriously wrong at least partly on these grounds. But do the autonomy-violating features of the practice *fully* explain the wrong of NCS?

Even as applied to discrete acts of NCS (rather than to a eugenic practice thereof), the suggestion founders. It is coarse-grained in the same way as the sheer instrumentalization account. Just as the latter assimilated the wrong of NCS to the wrong of all other instrumentalizing acts and practices, so too does the former lump the wrong of NCS in with the wrong of *any* old instance of subjecting a person to a medical procedure without her voluntary, informed consent in order to permanently prevent her from pursuing some activity. But, again, this misses the fact that depriving someone's procreative capacity is morally special, not just on a par with depriving her of any other capacity, such as the capacity to engage in physical exertion for long periods of time. Hence, this brand of the autonomy-violation account is insufficiently sensitive to NCS's status as a distinctive sort of infringement of bodily autonomy/integrity.

Second, the right to procreate may be grounded in *the value of procreation for procreators*, not in their valuing it. But this view would imply, counterintuitively, that anyone for whom procreation would be disvaluable—someone who would be a bad parent, say, or whose well-being would be compromised by procreation—lacked a right to procreate. Subjecting her to NCS might still be wrong, but not because it violates her right to procreate. So, we would need a different account of the wrong in such cases. A proponent of this line of thought could insist that whenever procreation would be disvaluable for someone, sterilizing that person against her will is wrong because it infringes her bodily autonomy or integrity. But, again, that answer fails to

register the distinctive harm of non-consensually depriving a person of her procreative capacity. My account, on the other hand, is simpler: it need not rely on this sort of bifurcated story, as it provides a unified explanation of the wrong of NCS across both kinds of cases.

I have been assuming that there is a right to procreate. Yet I take it to be a further virtue of my account that it need not appeal to any supposed right in explaining the wrong of NCS. For it is very implausible that people have a right to procreate *ad infinitum*; rather, if there is such a right, there seems to be some threshold beyond which one no longer retains it. But subjecting a person to NCS seems wrong *regardless of* whether she has reached that threshold or, indeed, of whether she has any intention of parenting the resulting offspring. It is wrong to involuntarily sterilize a father of seven children, for instance, who is determined to procreate and expects other people to raise his children in his stead. It sounds odd, though, to say that this is because his right to procreate has thereby been violated. Just because we have a right not to have our reproductive capacity destroyed against our will does not entail that we have a right to infinite use of that capacity. My account again seems superior in offering a simple, unified explanation of why NCS is wrong whether or not the victim in question already has had a sufficient number of children.

### Affront to Human Dignity

I consider one final counterproposal. Per the *dignitarian account*, NCS is wrong if and only if, and because, it is an affront to human dignity, in that it embodies disregard for the special value or normative status shared by all human beings in virtue of our common humanity. On this view, our human dignity is affronted, paradigmatically, when others unjustifiably damage or destroy one or more of our characteristically human capacities—in this case, our procreative capacity.



(For prominent examples of views of this kind, albeit ones that do not directly discuss eugenic NCS, see Killmister 2009; Foster 2011; Kirchhoffer 2019; and Barclay 2019.)

The dignitarian account appears intuitively plausible. Indeed, the Animalization Thesis is perfectly consistent with the idea that NCS constitutes an affront to its victims' human dignity. Unlike the Animalization Thesis, however, the dignitarian account does not frame the ground of the wrong in contrastive terms: the wrong-making feature is the affront to the victims' human dignity, not the fact that they were treated as nonhuman animals. This feature of the dignitarian account may make it seem more parsimonious than the Animalization Thesis and thus more attractive, as we can seemingly explain the wrong of NCS without appeal to this contrastive element. What does it add to the explanation, we may wonder, to claim that not only has the humanity of the victims been denied or violated but that they are treated as animals as well? In response to this question, I want to make two points in defence of the Animalization Thesis and the dehumanization-centered framework that I have been advocating in this essay.

First, as a matter of general psychological fact, we do tend to care about what the actions of others express about us, particularly the status that those actions appear to assign us in social space. We don't just care about how others' actions affect our human interests or capacities. For example, we tend to care about not only how we ourselves are treated but how we are treated *in comparison with* how others are treated, and what this differential treatment says about us and them. This attitude is reflected in our tendency to resent being treated as the moral (and, in some cases, social) inferiors of people whom we regard as our equals. Moreover, we seem to care about maintaining this standing (in relation to others) *for its own sake*, apart from whatever material harm might accrue to us. There's a distinctive insult that we feel when subjected to discriminatory—or, indeed, dehumanizing—treatment from others, and it's natural to frame our

objection to that treatment in essentially contrastive terms. That's one reason for our objecting to unequal treatment, such as the disproportionate targeting of black and brown people for brutality at the hands of police, or the use of women as objects for the gratification of male sexual desire. And one thing that we care about is that we are treated as human beings, not things or animals.

Second, the Animalization Thesis enjoys the additional advantage of respecting our intuitions about the relative moral badness of different forms of dehumanizing treatment.

Consider the following pair of cases:

*Covert Injection 1:* During a routine surgical procedure, you inject me with a drug without my consent, in order to study its effects on my body as part of your medical research. You do so only to benefit others who, like me, are struggling with depression. As a result, my depression worsens.

*Covert Injection 2:* During a routine surgical procedure, you inject me with a drug without my consent, simply in order to improve my mood. You do so only to benefit me, as you know that I am struggling with depression. As a result, my depression worsens.

In both cases, you act wrongly. But my intuition is that your action in Covert Injection 1 is *morally worse*, other things being equal, than your action in Covert Injection 2. Why is that?

With the Animalization Thesis in hand, we have a ready explanation. In the first case, your action is instrumentalizing: you are treating me merely as a tool or means for the benefit of others. You are treating me as an object, in other words, and your action is a pure case of objectification, not animalization. By contrast, in Covert Injection 2, you treat me less as an

object and more as an animal, since it is appropriate to invade the bodies of animals in order to benefit them. Your action in Covert Injection 1 is, thus, morally worse—again, other things being equal—because it is morally worse to treat people as objects than to treat them as animals. This difference also helps explain why it is morally worse to sterilize a person without her consent for one’s own benefit (say, because it will advance one’s medical research) than to sterilize her for her own benefit (because, say, parenting will reduce her well-being). The first act amounts to objectification as well. The second act, though, does not: it is pure animalization.

These points suggest that the concept of animalization does important explanatory work, over and above whatever work may be done by the idea of an affront to human dignity. In fact, an advantage of my dehumanization-centered framework is that it gives further content to the idea of a violation of human dignity, and it allows us to more finely differentiate various kinds of dignity-violations. So, it brings with it the benefits of the dignitarian account—and then some.

Perhaps there are hybrid views that avoid some of the snares that I have identified. It may be that the wrong of NCS is due to its constituting a violation of a person’s right to procreate and her right to bodily integrity, along with its involving instrumentalization and (in typical cases) causing psychological suffering of various sorts, thereby affronting the victim’s human dignity by depriving her of core human capacities. Or perhaps the wrong of NCS is grounded in some disjunctive list of such considerations, with different grounds potentially explaining the wrongness of NCS in different cases. My discussion has not foreclosed these other possibilities.

While not ruling these alternatives out, my arguments do suggest that the Animalization Thesis has quite a few plausibility points in its favor, and that any such gerrymandered account should not automatically command our assent. For my proposal appears to single out one salient ground of the core wrong of NCS, while respecting the intuition that sterilizing someone against

her will is different, in morally significant respects, from other forms of non-consensual medical treatment. Notably, it makes good sense of how NCS might seem—both to the victims themselves and to third parties—to constitute a peculiar assault on the victims’ human dignity. The practice threatens the human dignity of its victims because it symbolically denies their humanity—by affirming that, in evaluative terms, they are not people at all but animals. For these reasons and more, the Animalization Thesis is an especially strong contender.

### **Conclusion: Expanding the Critical Vocabulary of Bioethics**

My case for the Animalization Thesis is complete. I have offered a characterization of the eugenic practice of NCS that is oriented to highlighting a significant yet insufficiently appreciated kernel of the practice’s dehumanizing core. On my view, such a practice is tantamount to treating the victims (and the social groups to which they belong) as nonhuman animals, thereby expressing the degrading social message that they have the value of animals. And it is *prima facie* seriously wrong partly in virtue of the fact that it is animalizing in this way. I have examined other accounts that purport to fully explain the nature of the wrong done—such as that NCS violates victims’ (procreative) autonomy, amounts to treating them merely as a means, or imposes bodily/psychological harms on them—and have found these views wanting.

Nevertheless, it bears emphasis that even if my defence of the Animalization Thesis is sound, my discussion leaves many important questions open. While I have not claimed that NCS is always wrong, all things considered, neither have I pointed out the (quite rare) circumstances under which (non-eugenic) NCS might be permissible. As I have sought to motivate an account of one feature of the practice that makes it *prima facie* wrong rather than to articulate a full theory of the ethics of NCS, such an undertaking is beyond the scope of this essay.

Importantly, I have also not addressed the thorny question of whether it is generally permissible to sterilize severely, permanently cognitively disabled people, given that they are unable to give consent and that it may seem appropriate to take a radically managerial stance toward them. To some extent, of course, the answer depends on whether there is some basis on which all human beings, regardless of cognitive sophistication, should enjoy the protections of high moral status. (For the view that severely, permanently cognitively disabled people lack such status, see, e.g., McMahan 2002, 203–232; Singer 2011, 160–163. For a rebuttal of this view, see Kittay 2005.) The question thus raises familiar, broader issues about the grounds of moral status and the moral (in)significance of our humanity—murkier waters than I can navigate here. But even if we grant that severely, permanently cognitively disabled people do have such status, it may still be unclear how their interest in bodily integrity should be weighed against other interests of theirs. There are, I suspect, no easy answers to these questions.

For now, let me simply say that the Animalization Thesis does not entail that subjecting them to NCS is morally unproblematic, and it even renders intelligible the idea that involuntarily sterilizing them violates their human dignity. Indeed, assuming (I think correctly) that severely cognitively disabled people have high moral status, one implication of my view is that it is *prima facie* seriously wrong to sterilize them, even if they have no significant procreative interests. (For defences of involuntarily sterilizing such populations, see Tännsjö 2006; Diekema and Fost 2010.) By no means, then, is my argument meant to be the last word on the topic. Instead, I hope that it is taken as the first word in what should be a far more robust debate in bioethics.

I want to close by highlighting two methodological points adumbrated by my discussion.

First, to capture the wrong of certain morally objectionable practices, bioethicists must be alive not only to their symbolic dimension but, more particularly, to the specific content of the

dehumanizing messages conveyed thereby. We can see this point by reflecting on other acts that are unrelated to animalization. In 2017 Simon Bramhall, then a Birmingham-based surgeon, confessed to having branded his initials on the livers of two transplant patients using an argon beam coagulator (BBC 2022). He was charged with common assault for his misdeeds, which led to his name being stricken from the medical register. Branding his initials into his patients' organs was non-consensual as well as medically inappropriate, and it evidently caused one of his victims emotional harm. Still, I doubt that these descriptions—or the subsequent charge of assault—quite capture what is so repugnant in Bramhall's actions. Rather, what he did was straightforwardly dehumanizing. Branding one's initials into something is a classic mark of ownership: he was treating his patients' bodies as if they were his own property, works of art that he had created. He is thereby symbolically denying his patient's humanity.

Second, in a similar vein, bioethics also needs a far more nuanced lexicon to faithfully represent the expressive content of wrongful medical practices. Bioethicists need not and should not settle only for talk of rights-violations, benefits and harms, or equal treatment—tools that are too blunt for our critical purposes. Reflection on the wrong of NCS suggest the need for a scalpel, not for a knife. Thus, my discussion may be read as an argument for the fruitfulness of the language of dehumanization, which stands to enrich the critical vocabulary that allows us to identify the wrong of such practices. It suggests, furthermore, that the concept of animalization in particular functions as an indispensable critical tool—and that more effort should be devoted to theorizing it as well as to applying it to other wrongful acts or practices in medicine.

Just because the power of the symbolic is familiar to us doesn't imply that it is unmysterious. Indeed, it can seem puzzling that the dehumanizing social messages embodied by medical treatment can so affect its moral profile, to some extent independently of the bodily

harm caused. While not presuming to wave this worry away, I hope to have shown that the dehumanizing expressive content of medical treatment is morally significant, and that if we misdescribe that dimension of NCS, we won't be able to pinpoint the ground of the wrong done.<sup>6</sup>

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