

RESPONSES AND DIALOGUE

## Vulnerability Ethics, Abortion, and Organ Donation

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### Introduction

In a recent issue of the Cambridge Quarterly of Healthcare Ethics, Emily Carroll and Parker Crutchfield published a paper entitled, “The Duty to Protect, Abortion, and Organ Donation.” They argued that a prohibition on abortion is morally equivalent to a positive mandate for parents to donate organs to their children and that opponents of abortion must be prepared to accept these mandates to remain consistent.

The restrictivists, those with the view that abortion is immoral and ought to be illegal, must then either abandon that position or accept a potentially untenable implication: In this case, that parents have a moral responsibility to donate organs in order to save their children and should be required legally to do so. William Simulket, in a responding paper, argued from a restrictivist perspective that the practical implications of Carroll and Crutchfield’s argument undermine their equivalency.<sup>1</sup>

In this paper, I will instead suggest a fault in the mechanics of their argument. I will contend that Carroll and Crutchfield base their argument on an ethical system that is fundamentally incompatible with it. Whereas Simulket took issue with the fruit of their reasoning, I see a problem at its root. I propose that their use of the ethical framework Robert Goodin puts forth in *Protecting the Vulnerable* as the base of their system is inappropriate; his framework cannot support any reproductive ethic because when taken to its furthest reasonable implication, it does not allow anyone to reproduce.

Goodin’s ethic supports a duty to protect based on vulnerability: one is morally obligated to protect those specifically vulnerable to their actions. His argument is useful to Carroll and Crutchfield since children are certainly vulnerable to the actions of their parents, particularly children still in utero. However, Goodin fails to demonstrate a moral obligation to give life to unconceived, merely hypothetical people. These are not the unborn beings in uteruses but the imagined beings that may come to exist based on reproductive choices. Goodin seems to suggest that while we have certain duties to future generations, we do not owe them life itself. He further implies that these hypothetical people ought to be prioritized under currently living, vulnerable people in the hierarchy of duty.

It would seem, then, that Goodin’s moral couple simply cannot afford to reproduce. Their money, time, and energy must instead be allocated to those vulnerable to the couple’s choices; for example, the malaria-vulnerable child to whom they could ship a mosquito net takes priority over their hypothetical future daughter or son. Therefore, no one can reproduce morally until the present suffering preventable by the choices of the reproducers is gone. Because of this implication, Goodin’s ethic should be discarded from use for Carroll and Crutchfield’s purposes since no argument on the ethics of reproduction can be made in a system that excludes ethical reproduction.

### Carroll and Crutchfield’s comparison

Before getting into the vulnerability of Goodin’s vulnerability model, I will first outline Carroll and Crutchfield’s inconsistency argument, which uses his ethic to compare pregnancy to organ donation. They assume two core premises. First, they presuppose that fetuses are persons. Though this is a contentious idea (on which Carroll and Crutchfield cite a breadth of literature), they point out rightly that the strongest cases in favor of abortion must accept it to best address the opposition.<sup>2</sup> To assert that

an abortion that terminates a person's life can be moral is a stronger claim than when it involves a "potential life" or a "group of cells". Their second premise is that parents have special obligations to their children. This is where they rely on Goodin's vulnerability ethic to build their case.

Goodin's system is built on the idea that duties to protect are born out of vulnerability: When someone is vulnerable to another, the latter has an obligation to protect the former.<sup>3</sup> Carroll and Crutchfield suggest that this idea is based on common sense morality, and it is true that it supports some viscerally obvious goods. When a child is drowning in a shallow pond near where you are standing, you feel a moral obligation to wade in and save the child. Goodin proposes that the obligation arises because the child is vulnerable to you and your choice to save him and that you would be obligated to do the same for anyone vulnerable to your choices and actions in similar circumstances.

Based on this system, Carroll and Crutchfield propose that parents have special obligations to their children since children are uniquely vulnerable to their parents. Certainly, this is true in most cases. Typically, a child relies on his or her parents, either biological or adoptive, for every necessity. It seems equally true of the relationship between pregnant person and fetus-in-utero. Carroll and Crutchfield argue that as far as a parental duty to protect, there is no material difference between fetus and infant, and so parents have a moral obligation to keep both alive.

With these two premises underfoot, they propose their insightful central comparison: The same vulnerability-based obligations apply to the parent whose child could be saved if they donated an organ. It is a compelling comparison; if the mother is required to "donate" her uterus for its use during pregnancy in order to save the life of the child, both parents ought to be similarly compelled to donate a liver or kidney since the consequences are medically comparable. Carroll and Crutchfield take it even further, arguing that because the strong anti-abortion argument forbids it even when the mother's life is at risk, parents ought to be compelled to donate even vital organs. They argue that "if the mother's interests in her own survival are not heavy enough to outweigh the fetus's interests and the duty to protect guards, then either parent's similar interests in keeping their lung or heart are also insufficiently heavy."<sup>4</sup> Thus, an anti-abortion advocate must either abandon their position or accept mandated organ donation.<sup>5</sup>

### The use of Goodin's vulnerability ethic

Having presented a strong case for the comparison between government-compelled pregnancy and organ donation, Carroll and Crutchfield must then support their use of Goodin's vulnerability-based duty to protect as its foundation. In this section, I will recount Goodin's system, as well as Carroll and Crutchfield's means of adopting it.

Goodin's ethical project is to find a way to deal with more suffering than any one agent can possibly handle and create a consistent and reasonable way to prioritize the goods we owe to others. He proposes two possible solutions, both justifications for a proposed "duty to protect:" a voluntarist account and a vulnerability-based account. For example, a husband should remain faithful to his wife by either account. By the first, it is because he promised voluntarily to do so. By the second, it is because she is uniquely vulnerable to his actions and to stray would cause her great distress and harm his marriage.

Goodin spends most of his book arguing in favor of the vulnerability ethic and against the voluntarist ethic.<sup>6</sup> He starts from the "limited resources" problem; faced with inadequate resources to remit everyone's vulnerabilities, people intuitively acknowledge special responsibilities toward families, friends, compatriots, and so on. If the moral man knows he has only enough money to feed his children, he will walk by the strange beggar without giving him anything. Goodin argues that these special obligations do not derive from our voluntary commitment to our closest familiars, but rather from their specific vulnerability to us. If that man does not feed his children, it is unlikely that anyone else will step in, whereas someone else might feed the beggar. His children are therefore more vulnerable to his financial choices than the beggar. Analyzing the special responsibilities intuitively attached to business relationships, professional roles, families, and friends, Goodin is sure that each is best attributed to a special kind of vulnerability.

Goodin's ethic is extremely effective on one side of the abortion debate. If the fetus is granted the status of personhood, there is no person more vulnerable. He or she owes every second of continued existence to the choices of his or her mother. This vulnerability is not limited to the mother's passive choice not to abort; in order to keep the pregnancy progressing safely, the mother must, in many cases, make significant, sometimes difficult behavioral alterations.<sup>7</sup> But if, as Goodin suggests, we owe the most to those most vulnerable to us, these can be easily required. Furthermore, it makes no difference if the pregnancy is intentional or even whether it results from a consensual, voluntary sexual act. It is not consent that imposes special obligations on a pregnant mother, it is the vulnerable life attached to her.

This is the system that Carroll and Crutchfield use to support their comparison of pregnancy and organ donation. Children remain vulnerable to their parents during and after the pregnancy,<sup>8</sup> so if mothers are required to donate the use of their bodies to save their children by remaining pregnant, parents must make the same submission of the rest of their organs in similarly life-threatening circumstances.

### The problem with Goodin's vulnerability ethic

Having outlined Goodin's ethic and Carroll and Crutchfield's use of it, I will now show that the two are incompatible. The problem is that Goodin's ethic excludes the possibility of moral reproduction. This implication will disqualify him from use for arguments on the ethics of abortion.

The problem with Carroll and Crutchfield using Goodin's vulnerability ethic as the foundation of their comparison is that the special parental obligations only apply to *existing* children, beginning at conception at the earliest. Goodin does not suggest any special obligations toward individuals that do not yet exist, that is, the hypothetical children that a couple may imagine having before they reproduce. This becomes a crippling factor to Goodin's argument since he explicates appropriate moral hierarchies of special obligations to protect. For any given person, there are millions of individuals suffering and vulnerable to his or her choices. Any money, time, or energy one might hypothetically dedicate to his or her not-yet-conceived child could be spent protecting those already existing vulnerable people. Goodin does not account for any special obligations to hypothetical individuals, so they necessarily fall to the bottom of the hierarchy.

At this point, one might object that perhaps special obligations to hypothetical people are implied somewhere in Goodin's ethic and therefore do have some place in his moral hierarchy. If this were the case, they would be found in the chapter entitled, "The Extended Implications of Vulnerability," since he dedicates a section there to discussing obligations to "future generations". He even opens the door to the question himself. He claims that because we can affect future generations that cannot affect us, they are vulnerable to our actions, and we therefore do have special obligations to provide for them. His question is what characterizes those obligations: What do we owe to future generations and why?<sup>9</sup>

Critically, his answer does not include "life." He seems to take for granted that people will always reproduce, neglecting the moral status of the act within his ethic, and focuses instead on the material vulnerabilities of future generations and what we are obligated to do to protect their health and wealth.<sup>10</sup> But, of course, there are many currently living whose health and wealth need protecting, who are vulnerable to illness and poverty.

If we do not owe future people life under Goodin's vulnerability ethic, then procreating becomes a choice that we simply cannot afford, given all of the other special obligations that he suggests we have toward one another. Instead of choosing to create a new life and dedicate to it a large share of resources, we must direct those resources toward alleviating existing suffering. We cannot do both; Goodin acknowledges limited resources, argues in favor of a moral hierarchy of obligations, and does not claim that we have any obligation to create new lives. Our obligations lie with the already existing people, not those we might wish to create.

Goodin's system therefore does not allow for any moral procreation, while there is still suffering remediable by the procreators,<sup>11</sup> and remediable suffering abounds for the foreseeable future. Thus, his vulnerability ethic should be disqualified from use to create ethics of abortion and procreation: Because

pregnancy is a pre-requisite for abortion, one cannot start from a framework where no one ought to get pregnant and then make any ethical statement on abortions.<sup>12</sup> Carroll and Crutchfield must look elsewhere to support their organ donation analogy.

### Objections

The first objection one might make to my argument is that Goodin accepted procreation as a given because it is just that: an inevitable part of humanity that cannot be policed. One might say that it is ridiculous to suggest that everyone simply stop procreating in order to actualize some broader moral system, and it must therefore have been an implied condition of Goodin's ethic. While the premise does seem outlandish, this objection fails simply because the policy has already been implemented in modern society. The People's Republic of China famously instituted the "one child policy,"<sup>13</sup> controlling procreation at a federal level. China is a massive country that enjoys global trade and diplomacy, and when it instituted the one child policy, though it received some backlash,<sup>14</sup> the rest of the world did not take action against it as a massive human rights issue. Its trade partners and allies continued their economic and diplomatic relationships without skipping a beat. If the number of children can be legally restricted<sup>15</sup> to one under these conditions, we cannot preclude a world where it could be restricted to zero.

Another objection could be made by comparing future parents with others who have a duty to protect, even without a specific protectee. Carroll and Crutchfield use the example of a ship captain, who has a duty to protect their passengers, even before they are on board. They call these protectees "people yet to be identified."<sup>16</sup> While it is true that captains have an abstract duty to protect any passengers that will board their ship in the future and that this sets a precedent for a duty to protect unidentified future individuals, the example fails because the ship captain took on her position voluntarily. A voluntarist duty to protect lies outside the realm of Carroll and Crutchfield's vulnerability-based argument and, even if they did shift to voluntarism, the comparison could only apply to voluntary (consenting) procreation.

A third objection could be that we owe a new generation to the currently existing ones in order to alleviate the suffering that would arise from the population getting too old to maintain sound infrastructure and an active global economy. If no new people are created to keep the world running, it is easy to see how the currently living generations could suffer as a result. To present a damaging objection, one would have to reasonably qualify the suffering this might cause, accounting for the tools and infrastructure that would remain in place even should there be no more young people. Furthermore, this argument prioritizes future needs over current needs. The burden of proof for this prioritization would be on those who try to use Goodin's work since he does not suggest it in his proposed hierarchies.<sup>17</sup>

An opponent of my argument could also pursue a variation of the third objection whereby a new generation is owed not to the currently living, but to itself. Humanity is not a monolith; it is inevitable that some individuals would still procreate, even if Goodin's ethic were to be widely accepted. Since this is the case, they could argue that we owe an "accidental" next generation a sufficient population to make the world livable,<sup>18</sup> the same way we owe them the rest of the protections that Goodin suggests.<sup>19</sup>

This argument has similar merit to the last since it is certainly conceivable that future "accidental" people could be vulnerable to suffering caused by their generation being inordinately small. The "accidental" generation would face enormous pressure, not only to survive as a severely atrophied workforce but also to maintain current standards of living for their elders. The weaknesses of this objection are also the same as the last: One must identify the suffering to which a future generation would be vulnerable and show that Goodin's system could allow those vulnerabilities to be prioritized over current ones. This time, though, the objector would have to justify not only prioritizing future vulnerabilities over current ones but also future, hypothetical people over existing people. Neither is consistent with Goodin's explicit hierarchies.<sup>20</sup>

Having considered whether we owe life to future individuals and whether we owe a critical mass of population to future generations, I put forth a final possible objection: We have a procreative obligation to ourselves and each other based on the good of parenthood. To match Goodin's model, this could be

expressed in terms of vulnerability. One could argue that on an individual level, we are vulnerable to a type of loneliness or social suffering specific to the yearning childless. If this is the case, we owe a duty of protection to ourselves and one another to alleviate that suffering by procreating.

As with the previous objection, one would first have to demonstrate the existence of this kind of suffering to substantiate the obligation. This seems doable. Here, there is no need to speak empirically on a spectrum of suffering caused by various kinds of infrastructural weaknesses. There is ample research to suggest that those who desire to become parents and cannot are, in fact, suffering.<sup>21</sup> Because its main premise is empirically demonstrable and it has no unbearable implication of forced procreation, this objection provides the most salient complication. While Goodin does not speak much on a vulnerability-based duty to oneself, one could easily frame procreating as protecting a partner, friend, or even stranger with a desire to procreate. This could allow or even require individuals with a desire to procreate to seek out similarly inclined others and do so.

To use this objection to access Goodin, Carroll and Crutchfield would have to satisfy two conditions. First, they would have to show that the suffering specific to those denied their procreative desires cannot be alleviated without creating more vulnerability. If the suffering *can* be alleviated thus, say by taking on caregiving roles like teacher, nurse, etc., then the would-be parents could be protected in a way that does not create new vulnerable people and even protects currently vulnerable people.

Second, they would have to show that the suffering of those who desire to become parents but cannot is comparable to the worst of the other sufferings happening globally. Goodin would concede that an obligation to protect a spouse outweighs an obligation to protect a stranger,<sup>22</sup> but only insofar as the spouse is uniquely vulnerable to his or her partner's choices. The extent of the vulnerability also matters within his moral hierarchy;<sup>23</sup> Goodin's moral husband should still save a drowning child rather than attend to his wife who has a foot cramp. Therefore, Carroll and Crutchfield would have to prove somehow that the emotional or spiritual suffering to which those denied procreation are vulnerable is on par with the starvation, exposure, disease, and so forth of those they could afford to help by remaining childless. This second is harder to show and may present a serious issue for Carroll and Crutchfield, but if they managed it, this objection could provide them a way to stay with Goodin.

### Implications

If they cannot support these objections or come up with another better one, Carroll and Crutchfield are left without the use of Goodin's vulnerability-based ethic as the foundation for their argument. They must default to a voluntarist duty to protect, the alternative they discuss. They leave the voluntarist angle open for use because, though they try to discredit it as an alternative, they fail to provide convincing reasons why it is not appropriate for a reproductive ethic. Carroll and Crutchfield only point out that a voluntarist foundation can set limits on the circumstances for permissible abortions, but that the organ donation they propose as an analog to pregnancy is only similarly limited, not gone altogether.

It does seem that the organ donation analog will still succeed up to a point on a voluntarist foundation. However, the shift from vulnerability to voluntarist ethics carries with it heavy practical implications beyond that point. These are too dense to cover sufficiently in this paper but warrant further examination if, in fact, Goodin's vulnerability ethics are to be disqualified on the grounds I have proposed. A first step would be to delineate the abortions permissible under a voluntarist paradigm, which would include pregnancies resulting from rape and other non-voluntary sexual actions, for reasons I will now discuss.

A woman who conceived as a result of rape did not voluntarily consent to the pregnancy, or the act resulting in the pregnancy. If we must default to voluntarist ethics on the question of abortion, rape should be grounds for moral termination since the mother never consented to be a mother, or even to any action that could result in her becoming a mother. This limitation alone introduces a host of practical issues. To start, rape can take years to prove legally. By the time a case is processed, the pregnancy could have already progressed to full term and the choice to terminate been rendered irrelevant. The voluntarist foundation in these cases presents more abstract legal issues as well; if "innocent until proven guilty" applies to a man accused of rape, would the law also apply the same principle to the woman

pregnant as a result, deeming her “innocent of procreative sex” and therefore eligible for abortion? If a woman is to be believed in a legal sense and granted an abortion on that basis but the rape allegation is thrown out after, could she be held retroactively responsible for a crime? The judicial consequences progress quickly beyond the reasonable.

## Conclusion

In this paper, I examined a fundamental incompatibility between a recent argument made by Emily Carroll and Parker Crutchfield and the ethical framework they used to underpin it. Their argument suggests that if women are required to carry their pregnancies to term to preserve the lives of their children, parents ought to be required to donate their organs for the same reason. That reason, in both cases, is a duty to protect their vulnerable children. Carroll and Crutchfield establish the duty to protect based on the ethics of Robert Goodin, who suggests that duties to protect should be assigned based on vulnerability, not voluntarism. Carroll and Crutchfield move from here to suggest that if bodily autonomy does not negate it for pregnant mothers, it must not in general. Parents therefore must donate their organs whenever it will save their children’s lives in order to maintain a consistent ethical standard.

I argued that there is a hidden implication in Goodin’s ethic that disqualifies it from use by Carroll and Crutchfield. When taken to its reasonable conclusion, Goodin’s ethic does not allow moral procreation at all. Excluding moral procreation makes Goodin’s vulnerability-based ethic inappropriate for building sexual and reproductive ethics. In order to address the issue, I suggested one possible solution for Carroll and Crutchfield. They might argue, staying consistent with Goodin, that the duty to protect is actually to those vulnerable to the unique suffering that comes from yearning to procreate and being unable to. In order to protect one’s self and another from that suffering, procreation is a duty that could be argued to outweigh the duty to alleviate other kinds of suffering.

I outlined the implications of disqualifying the vulnerability model, the most significant of which is the ethical legitimization of abortions in cases of rape and the associated necessary changes to law. My argument does not discredit the result of Carroll and Crutchfield’s research; under a voluntarist model, organ donation would still be required of any parents-by-choice. Furthermore, my argument does not legitimize abortion in general, but rather only suggests that Carroll and Crutchfield may have to adopt a voluntarist model and that therefore abortion could be justified in cases of rape within their framework.

**Competing interest.** The author declares no competing interests.

## Notes

1. Simkulet W. Restrictivism, abortion, and organ donation. *Cambridge Quarterly of Healthcare Ethics* 2022;31(3):348–54.
2. Carroll E, Crutchfield P. The duty to protect, abortion, and organ donation. *Cambridge Quarterly Healthcare Ethics* 2022;31(3):334.
3. Goodin RE. *Protecting the Vulnerable: A Reanalysis of Our Social Responsibilities*. Chicago, IL: University of Chicago Press; 1985.
4. Carroll, Crutchfield, 2022;340.
5. Carroll and Crutchfield detail some exceptions to the rule, both in their original paper and in their response to Simkulet. These are beyond the scope of this paper, which is chiefly focused on their use of Goodin’s vulnerability ethic.
6. Analysis of Goodin’s arguments against voluntarism is beyond the scope of this paper since its relative merits and weaknesses are irrelevant if the alternative is entirely disqualified.
7. Corbin JM. Women’s perceptions and management of a pregnancy complicated by chronic illness. *Health Care for Women International* 1987;8(5–6):317–37. See also Pinfold V et al. Anti-psychotic

- medication decision making during pregnancy: A co-produced research study. *Mental Health Review Journal* 2019;24(2):69–84.
8. There are notable exceptions, as with adoption or safehaven situations, but these are already discussed at length in the discourse between Carroll and Crutchfield and Simulket.
  9. Goodin, 1985;169–79.
  10. Goodin, 1985;169–79.
  11. He even includes a section on special obligations to protect the environment (179–186), implying that any hypothetical offspring will have to wait until not only human suffering has been eradicated, but also for measures to protect the global environment.
  12. Though evaluation of Goodin’s system for general use in ethics is beyond the scope of this paper, I would venture to say that this implication may present a broader issue for his framework and would warrant further discussion. Though his arguments for and applications of vulnerability-based ethics are sound and largely intuitive, an implication like this would make his ethic difficult for some to stomach in general, not just when it comes to the question of abortion.
  13. Kane P, Choi CY. China’s one child family policy. *BMJ* 1999;319(7215):992–4.
  14. Wu QL, Liu X, Yuan EJ. Debating the two-child policy on Sina Weibo: A study of social media as symbolic space in China. *Journal of Broadcasting & Electronic Media* 2021;65(5):699–723.
  15. Though the policy was enforced by economic means (preferential employment opportunities, imposing sanctions, etc.), forced abortions and sterilizations were also federally sanctioned and regularly performed. See Pletcher K. “One-child policy.” *Encyclopedia Britannica*. 2023; available at <https://www.britannica.com/topic/one-child-policy>.
  16. Carroll, Crutchfield, 2022;3.
  17. Goodin, 1985;16–28.
  18. By the same token, we may owe them the conscientiousness not to overpopulate the world and make it unliveable by reason of overcrowding.
  19. Goodin, 1985;169–79.
  20. Goodin, 1985;16–28.
  21. Salih Joelsson L, Tydén T, Wanggren K, Georgakis MK, Stern J, Berglund A, et al. Anxiety and depression symptoms among sub-fertile women, women pregnant after infertility treatment, and naturally pregnant women. *European Psychiatry* 2017;45:212–9. See also Fisher JR, Hammarberg K. Psychological and social aspects of infertility in men: An overview of the evidence and implications for psychologically informed clinical care and future research. *Asian Journal of Andrology* 2012;14(1):121–9.
  22. Goodin, 1985;18, 72.
  23. Goodin, 1985;33–5.