

## ENHANCING EVOLUTION: WHOSE BODY? WHOSE CHOICE?

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**ABSTRACT:** This essay critically engages the work of John Harris and Jürgen Habermas on the issue of genetic engineering. It does so from the standpoint of women's embodied experience of pregnancy and parenting, challenging the choice-chance binary at work in these accounts.

Recently, Caster Semenya was propelled into the international media spotlight when she won the women's World Championship 800-meter race in Berlin. Her instant stardom was not the result of being the fastest runner in the world but, rather, because her competitors "accused" her of being a man and not a woman. The eighteen-year-old reportedly asked the president of Athletics South Africa "Why did you bring me here? . . . No one ever said I was not a girl, but here [in Berlin] I am not" (Slot 2009, 58). While so-called gender tests are being conducted by an assortment of "experts" to determine whether or not Caster Semenya is female, there has been an outcry in the media over a black African girl being subjected to such humiliation. Some have called it racist, others sexist, and many unfair. Evoking the specter of an exotic other, *The New York Times* cited Dr. Maria New, an endocrinologist at Mount Sinai School of Medicine, who compared Semenya to the

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Bantu-speaking people “a group of indigenous South African people, often hermaphrodites, but they do not always have male genitalia” (Clarey and Kolata 2009, B9).

In South Africa, the gender tests have provoked strong emotions. The South African Sports Minister, Rev. Makhenkesi Stofile, “threatened ‘third world war’ should the IAAF ban Semenya” (Smith and Maclean 2009, 1). Winnie Mandela, ex-wife of former President Nelson Mandela, said, “no one had the right to perform tests on ‘our little girl’ and warned South Africa’s news media to be more patriotic ‘without insulting one of our own’. Use the freedom of press we gave you properly, because we can take it from you” (Dixon 2009b, A17). Leonard Chuene, president of Athletics South Africa, reportedly said, “You can’t say somebody’s child is not a girl. You denounce my child as a boy when she’s a girl? If you did that to my child, I’d shoot you” (Dixon 2009a, A1). Chuene maintained, “she has not taken any substance to enhance herself artificially . . . her crime is to be born like that. It is a God-given thing.” South Africa’s team manager echoed this sentiment, saying: “she believes it is a God-given talent and she will exercise it” (Casert and Lucas 2009, D1). And one of Semenya’s neighbors told the *Today Show*, “We are quite sure she is a girl. No doubts—she wears panties” (Porter 2009, A35).

Discussing the gender tests conducted by the gynecologist, endocrinologist, psychologist, internal medicine specialist, and “expert on gender,” bioethicist Alice Dreger said, “genes, hormones and genitals are pretty complicated. . . . There isn’t really one simple way to sort out males and females. Sports require that we do, but biology doesn’t care. Biology does not fit neatly into simple categories, so they do these tests. And part of the reason I’ve criticized the tests is that a lot of times, the officials don’t say specifically how they’re testing and why they’re using that test” (Clarey and Kolata 2009, B13). Dreger claims that the doctors could examine genes, gonads, genitalia, hormone levels, and medical history, “but at the end of the day, they are going to have to make a social decision on what counts as male and female, and they will wrap it up as if it is simply a scientific decision. . . . And the science actually tells us sex is messy.” “Humans like categories neat,” said Dreger, “but nature is a slob” (qtd. in Clarey and Kolata 2009, B13).

Some media reports on Semenya have recalled past incidents of males posing as females to compete as women and the humiliating tests women athletes had to endure to prove their sex. Perhaps given the presumption of Freudian psychoanalysis that female genitalia are merely negative or as lacking something, it should be no surprise that it is so difficult to find hard evidence—so to speak—for womanliness. Now Caster Semenya has been asked to prove she is a female. The burden of proof is on her and her coaches. She has to prove that she does not have enough male characteristics to give

her an unfair advantage when competing against women. Andreas Krieger, a former female shot-putter named Heidi and now a married man, asks “who has the right to be judging someone else’s gender?” *The Times London* reports that Krieger “was born Heidi, but was fed so many steroids by the coaches of the old East Germany sports regime that his body became so masculine that, eventually, after years of soul-searching depression, he decided to have the transformation completed surgically” (Slot 2009, 58). Krieger said that friends and family asked, “What’s happening to you? Are you a man or a woman?” (ibid.).

Krieger’s case not only blurs the boundary between male and female but also between nature and artifice. Was she “naturally masculine” or did drugs make her masculine? Was she naturally inclined to be a transsexual or, as *The Times* suggests, did the little blue pills fed to her by her coaches radically change her? Furthermore, we might ask, was she cheating when she won the European women’s shot put championship in 1986? And if so, was it because she was naturally endowed with more masculinity than the other women or because her coaches doped her or both? In other words, was her cheating natural or man-made? And perhaps more to the point, is her gender—or Castor Semenya’s, or anyone’s—natural or man-made?

Along with strong emotions, the case of Semenya raises philosophical questions over how we draw lines between seeming opposites in order to avoid ambiguities that our culture finds unacceptable, even abject. Here, the categories in question include male and female, nature and artifice, fair and unfair, winning and cheating. Metaphysical questions of how we separate nature from culture—God-given talent from artificial enhancement—bleed into ethical questions of fairness and cheating. With Semenya, gender—or womanliness—becomes a cipher for both the real and the just.

The distinctions between natural and man-made, God-given and artificial, and fairness and cheating are also at the center of debates over genetic enhancements, or what British philosopher John Harris calls “enhancing evolution.” Harris talks of “natural selection versus deliberate selection” or “Darwinian evolution versus enhancement evolution” (2007, 4); German philosopher Jürgen Habermas insists on the moral relevance of the distinction between “grown versus made” (2003, ch. 4); and the American authors of *From Chance to Choice* discuss “normal species functioning” versus enhanced functioning (Buchanan et al. 2000).<sup>1</sup> Many of these philosophers compare genetic enhancement to artificial enhancements used by athletes. For example, speaking of genetic enhancements, Michael Sandel claims: “The real problem with genetically altered athletes is that they corrupt athletic

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<sup>1</sup> Cf. Harris 2007.

competition as a human activity that honors the cultivation and display of natural talents” (2004, n.p.). The irony is that in Semenya’s case, her “natural talents” have made her competitors and officials suspicious of her “unnatural” natural genetic endowments. These folks feel that the nature of Semenya’s God-given body threatens to corrupt fair athletic competition.

A further irony is that the libertarian eugenics advocated by philosophers like Harris could very well lead to a future without a Caster Semenya or a Heidi Krieger. If their talents are the result of so-called abnormal or defective genes, then gene therapy could “correct” them before birth, while embryo selection could ensure that people with their “defects” are never born. Much of the debate over enhancing evolution revolves around giving some people an unfair advantage over others by enhancing nature. In the case of Semenya and Krieger, nature or natural selection has given them what some consider an unfair advantage that deliberate selection could prevent. Alternatively, and equally ironic, given our cultural obsession with sports and celebrity, perhaps genetic enhancement would allow parents to choose to alter their daughter’s genetic code to make her into a gold medal winner. In other words, we could deliberately tinker with genes in order to produce a more muscular, faster woman—perhaps something like a shot-putting Barbie, with all the strength and speed but without the facial hair.

Even a cursory glance through the increasing volumes of philosophical literature, authored primarily by prominent mainstream analytic philosophers (who, gender-testing aside, appear to be almost exclusively male) and written on genetic enhancement grounded in discussions of reproductive choice, will shock feminist readers at the lack of any mention of feminism, any feminists, or women’s subjective experiences of reproduction and reproductive choice. For example, the following book-length studies of reproductive choice based on genetics, including gene therapies, enhancements, and selection, never once mention feminism or any inherent relation between their discussions of reproductive choice and the pro-choice movement, even when they mention abortion: Jonathan Glover, *Choosing Children* (2006); Philip Kitcher, *The Lives to Come* (1996); Michael Sandel, *The Case against Perfection* (2007); Buchanan et al., *From Chance to Choice* (2000); Jürgen Habermas, *The Future of Human Nature* (2003); John Harris, *Enhancing Evolution* (2007); and Francis Fukuyama, *Our Posthuman Future* (2002, which uses the word ‘feminism’ exactly twice). This trend continues in essays and articles written by these same authors and other analytic heavyweights. Unless my preliminary investigation is completely skewed, this is the norm in philosophical discussions of bioethics in genetic enhancement and selection. With a couple of important exceptions, there are few sustained interventions into this discourse by feminist philosophers. The most notable feminist contributors to the

debate are perhaps Mary Briody Mahowald (2000, 2006a, 2006b) and Laura Purdy (1996), both of whom are informed by Rawlsian liberal theory supplemented by feminist standpoint theory, and neither of whom are mentioned in the long list of texts I just cited nor in texts that discuss feminism in general, such as Ronald Green's *Babies by Design* (2007) and John Robertson's *Children of Choice* (1994). As usual, feminists are required to read and engage the mainstream, but they do not read or engage us, even when the topic under consideration is women's reproductive choice, certainly one of the definitive issues in the women's movement and for feminism.

In one way or another, all of the theorists whom I have mentioned so far start with some version of a liberal notion of an autonomous individual who has freedom of choice that must be protected, whether we are talking about the parents' freedom (or lack thereof) in considering genetic engineering or embryo selection or the future persons' freedom (or lack thereof) resulting from such a process. The central question in these debates—from Harris to Habermas to Mahowald and Purdy—is whose freedom is most important and thus who gets to exercise their free choice, and why. Although they have different answers to this question—Harris opts for protecting parents' rights to choose, Habermas for protecting the rights of future persons, and Mahowald and Purdy for guaranteeing women's rights to reproductive choice—all of them assume an autonomous individual operating either within a social situation that also makes them interdependent or on an abstract level preferred by some philosophers to avoid the mess of the real world in favor of moral purity. Even Iris Young, whose essay "Pregnant Embodiment" has become foundational in feminist interpretations of pregnancy, assumes a freely chosen pregnancy as her starting point and never considers the phenomenological or existential crisis that getting to that point may require for many women.<sup>2</sup>

In this essay, I will consider what happens to debates over genetic enhancement when we reject the notion of the autonomous individual and start from the perspective of a feminist phenomenology of women's experience of pregnancy and reproductive choice. In addition, I will begin to explore the language of chance and choice, accident and deliberation, as it operates in this discussion and in larger cultural discourses around pregnancy and reproductive freedom. My analysis will suggest how current debates in bioethics involving reproductive choice through genetic enhancement have an unacknowledged debt to pro-choice rhetoric from the women's movement along with an ignorance of feminist concerns that motivate the very discourse they co-opt. In the end, I will diagnose how the language of choice operates in both

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<sup>2</sup> Cf. Lundquist 2008.

popular discourse and debates over enhancing evolution, either implicitly or explicitly, against a feminist sensibility that complicates any easy discussion of choice, especially when it comes to pregnancy and so-called reproductive freedom.

I briefly engage two positions that can act as guideposts in mapping debates over genetic enhancement: liberal theory for enhancement and Habermasian communitarian theory against enhancement. In the first section, I critically discuss John Harris's arguments in favor of genetic engineering. In the second section, I critically discuss Jürgen Habermas's arguments against genetic engineering. In the third section, I complicate the choice–chance binary as it operates in both of these positions by considering pregnancy and parenting from the standpoint of women's embodied experiences. By complicating the notion of free choice by starting with an ambiguous and fragmented subject, along with challenging oppositions such as grown versus made (chance versus choice, or accident versus deliberate), alternative routes through these bioethical thickets may emerge. The question we end up with is: can we develop a theory of freedom and choice that embraces rather than disavows the ambiguities of women's lived experiences when it comes to reproductive choice? I conclude by returning to Castor Semenza as a lesson in the glorious ambiguities that keep us alive and, even occasionally, well.

### 1. ALL THE FREEDOM WITHOUT THE MESS: JOHN HARRIS'S *ENHANCING EVOLUTION*

In *Enhancing Evolution: The Ethical Case for Making Better People*, John Harris claims to make an ethical case for “interventions in the *natural lottery of life* and in the course of evolution” (2007, 31; emphasis added). Throughout the book, he presents a case for making what he calls “better people” using genetic enhancements as a way to “avoid the risk of the *genetic roulette* that is sexual reproduction and opt for a tried and tested genome of proven virtue” (ibid., 127; emphasis added). Harris prefers neat categories and moral abstractions that avoid the mess of life, particularly its risks. Harris is not a gambler and hopes that through genetic enhancement we can avoid the lotteries and roulettes of life. For Harris, whereas natural evolution is a game of chance, deliberate evolution is a game of mastery. Moreover, for Harris, mastery is not only better than chance but also the basis for responsibility: “I am master of my fate if I can choose, not only if I do choose. . . . We cannot escape that burden by declining the recognition of our mastery of our fate or by choosing not to make decisions rather than making them in a particular way” (ibid., 118).

Harris defines ‘better’ as “better able to do things” (2007, 2), and, although he concludes that we have an ethical obligation to make ourselves better, he never considers whether or not genetic enhancement will or can make ethically or morally better people. Like most liberal theorists, Harris values individual freedom and choice over what we might call ethical concerns about making people better rather than making better people. Indeed, his analysis turns on a slippage between making people better in the sense of treating diseases and illnesses through genetic “correction” or what in this debate is called negative eugenics and making better people through enhancements or positive eugenics. Making people better easily slides into making better people; and his criteria for better is defined in terms of better able to compete physically and intellectually, which may even be at odds with what we might consider ethically or morally better people. Against other theorists (such as Sandel, Kass, and Habermas), Harris argues that there is no clear delineation between manipulating genes for therapy (negative eugenics) and for enhancement (positive eugenics).

Harris insists that he is considering all and only morally relevant considerations, which in effect means that he excludes and/or discounts historical, social, and political factors as accidental to any discussion of whether or not enhancing evolution is moral, even morally obligatory. Racism, sexism, homophobia, and other forms of discrimination that not only could, but very likely would, affect so-called freedom of choice in genetic enhancement are considered “contingent” harms that have no bearing on the ethics of enhancement itself. For example, in his discussion of the moral neutrality of gender, in passing he dismisses the whole history of women’s oppression, saying: “Men and women have existed since humans have and although there have been severe power imbalances between the two genders for most of human history, the damage that this has caused is contingent, not a necessary part of maleness or femaleness” (2007, 157–58). He argues that since it is not morally better to be a male or a female, it is not morally better to create a male or a female; in other words, gender is morally neutral. He insists that if it isn’t wrong to *wish* for a girl child, then it wouldn’t be wrong to *select* for a girl child (ibid., 145). What, then, are we to make of the parenthetical remark with which he concludes his argument? “The choice of phenotypical traits such as hair, eye and skin color, physique, stature, and gender are examples of what I call morally neutral choices in the sense that it is not in most circumstances better or worse, morally speaking, to be black, white, tall, short, male, or female, brown-haired or blond (*despite what gentlemen allegedly prefer*)” (ibid., 7; emphasis added).

The remark with which he ends this passage is symptomatic of the blindness of liberal theory to social and political factors that cannot but affect the

morals, freedom, and choice that they hold dear. His humor is born out of sexist stereotypes that not only affect our conceptions of gender and sexual difference, but also our supposedly free and autonomous choices. All of our choices are made within the realm of contingency that Harris evacuates from morality. The liberal morals that he endorses, then, are empty insofar as they are based on purely abstract notions of freedom.

While the moral neutrality that Harris assumes in terms of gender is out of step with real moral problems in the social and political world in which we actually live, his insistence on the moral neutrality of race is even more jarring, given the ongoing and systematic racism in this country. Again, when we look at his metaphors and examples, Harris's text betrays him. For example, he un-self-consciously uses the metaphor "a whiter shade of pale" when talking about the relative merits of one proposal over another, even when those proposals would most likely have racist implications in the actual world if not in his ideal world (2007, 113). In addition, at one point he gives an example of genetically engineering people with darker skin to protect against the sun's rays without considering the politics of darkness and lightness that his metaphor recalls (*ibid.*, 92). His claims to moral neutrality become more strikingly problematic when we substitute race for gender or for disability (which is the issue he uses most often). Consider his claim that if it isn't wrong to wish for a girl child, it isn't wrong to select for one. Now, consider the political situation that might lead black women or black couples to wish for a white child. Of course it is not morally wrong to be black or to be white, but within our culture being white usually has a distinct advantage, and giving our children the advantage and a competitive edge is what it is all about for Harris. As Camisha Russell points out in her essay in this volume, black women do choose whiter babies, and white women sue if they mistakenly are inseminated with black sperm. So even if race and gender are morally neutral, they are not politically neutral. And until they are, we cannot so easily separate ethics or morals from politics. Moral norms are political, something Harris and other liberal theorists disavow even while their own language betrays them.

Even on his own terms, there is a fundamental inconsistency in Harris's argument. On the one hand, he rejects appeals to some inherent value in humanity or human nature that we have an obligation to preserve (*à la* the positions of Sandel and Kass); on the other hand, his case for liberal freedom of choice is based on his endorsement of freedom as an essential part of humanity or human nature and, therefore, a basic fundamental right (*à la* Dworkin). Harris does not effectively get around the fact that this basic fundamental right is *either* groundless or a matter of consensus and is therefore "up for grabs" so to speak, *or* it is grounded in a notion of nature

that he otherwise rejects. In other words, he argues for the freedom of choice in reproduction and genetic enhancement using terms that he has already rejected in favor of better people and a new species beyond humanity or human nature. As an analytic philosopher, he cannot have it both ways.

Harris embraces a new species beyond humanity. He says: “This new phase of evolution in which Darwinian evolution, by natural selection, will be replaced by a deliberately chosen process of selection, the results of which, instead of having to wait the millions of years over which Darwinian evolutionary change has taken place, *will be seen and felt almost immediately*. This new process of evolutionary change will replace natural selection with deliberate selection, Darwinian evolution with ‘enhancement evolution’ ” (Harris 2007, 3–4; emphasis added). But why, then, are we to believe that this new species will cling to old human conceptions of freedom and choice? Won’t our very conceptions of ourselves as free, autonomous individuals also evolve? Perhaps this new species of *Übermensch* will not see life or evolution in terms of chance versus choice.

If Harris is right that, instead of having to wait millions of years, changes in our species will be immediate, then our sense of time, history, and the concept of evolution itself will be radically changed. Our quest for speed and immediacy will affect us on a genetic level that will hasten evolution to the point that perhaps it will no longer be considered evolution. Certainly, if we develop the ability to genetically create human beings in laboratories without women gestating them or giving birth to them, combined with new forms of birth control that do away with menstruation altogether, we may also do away with what Julia Kristeva describes as the monumental and cyclical time of women’s experience, along with the sensitivity and creativity of mothers that makes them, as Kristeva suggests, our only safeguard against producing human beings in laboratories (2002, 402), and do away with what Iris Young describes as the “temporality of movement, growth, and change” of pregnancy, and the “timelessness” of labor and birth may disappear (1990, 167). Indeed, what Harris imagines in terms of enhancing both evolution and freedom of choice over chance values linear time, with its clear-cut cause and effect, over other experiences of temporality. In addition, Harris buys into the assumption that faster is better, a notion that, as Penelope Deutscher points out in this volume, has been with us since at least the nineteenth century.

Even if, as Harris imagines, genetic engineering can design new human beings—or a new species beyond the human—in the time it takes to surgically alter embryos—mere nanoseconds compared with the time of Darwinian evolution—he does not consider that for the present, at least, women are still

required to gestate babies for nine months and give birth to them through labor that can last days in clock time that seem timeless when experienced by the women going through it. Harris's movement, between the immediacy of evolutionary changes and his fantasy that these changes may lead to immortality as we design people who can live without disease forever, collapses the time of life or lived time into the timelessness of the nanosecond or instant—the now of the genetic intervention—and the timelessness of eternal life. What disappears from this fantasy is the time of our lives, the time of contingencies that necessarily interrupt any neat linear cause-and-effect sense of time. Harris's dream of instant immortality condenses the time of evolution and the evolution of time into the now of instant gratification demanded by consumers in a digital age where the global marketplace is open and operating 24/7 and where goods and services can be delivered nearly instantaneously. This instantaneous time of immediacy resists critical thinking by rendering reflection an inefficient waste of time in a culture that prefers to "just do it" rather than to think about it.

Speeding up evolution may give us better people in the sense that they will score higher on IQ tests, jump higher, run faster, and conform to normalized standards of beauty. But as our science fiction fantasies also imagine, smarter stronger people or beings are not necessarily morally better or more altruistic, compassionate people. Indeed, the value that Harris places on speed, efficiency, and control in evolution seems at odds with a notion of ethics as the good life, a prerequisite for which is thoughtfulness and taking one's time. We could say that the temporality of ethics is at odds with the instantaneous time of enhanced evolution imagined by Harris. As I will argue later, what Derrida (2001) calls "hyperbolic ethics" can operate as a counterbalance to the tendency of contemporary culture to act without thinking and to turn morality into regulations and rules for management.

Given that the topic of this volume is "evolution and sex," or "the sex of evolution," I will conclude my remarks on Harris by pointing out that, like the majority of philosophers writing on genetic enhancement as reproductive choice, he considers neither the position of women in our society, which is still patriarchal, nor the phenomenology of choice involved in reproductive decisions, especially those faced by women who still carry fetuses to term and still have primary responsibility for raising the resulting children. Just to give you one example of what I consider his blindness to real women's concerns, he repeatedly mentions the case of a generic woman whose child would benefit if she delayed conception, which obligates her to wait to get pregnant. In light of the fact that the medical establishment encourages women not to wait to conceive and considers women over thirty to be at greater risk for various fetal defects, and the growing number of women using extremely invasive

technologies in order to conceive precisely because they have waited, his repetition of this particular example seems out of touch with women's actual experiences.

## 2. ETHICS OF THE SPECIES AND THE MORAL COMMUNITY: JÜRGEN HABERMAS'S *THE FUTURE OF HUMAN NATURE*

Although in his discussion of genetic enhancement, Jürgen Habermas presents a radically altered notion of the autonomous free individual, and strongly disagrees with Harris's conclusions, he too ignores feminism and women's experiences of reproductive choice. He systematically, if not self-consciously, however, alternates between using masculine and feminine pronouns when discussing human beings in general. And he quotes Hannah Arendt on her concept of natality. In this regard, at least, his style signals a feminist sensibility. Yet this style also yields unsettling moments for a feminist reader when his use of the feminine pronoun in the place of the abstract human person displays the awkwardness of that move. In other words, there are moments in Habermas's text that indicate how "she" does not occupy the privileged position he so diligently assumes for her. For example, when describing human freedom and agency, he says,

it is the person *herself* who is behind her intention, initiatives, and aspirations. . . . The capacity of being oneself requires that the person be at home, so to speak, in her own body . . . it compels us to differentiate between actions we ascribe to ourselves and actions we ascribe to others. But bodily existence enables the person to distinguish between these perspectives only on the condition that she identifies with her body. And for the person to feel one with her body, it seems that this body has to be experienced as something natural. . . . The person, irrespective of her finiteness, knows herself to be the irreducible origin of her own actions and aspirations. (Habermas 2003, 57–58)

From a feminist perspective, to be generous, Habermas could be describing an ideal situation but certainly not the *actual* situation of women in relation to their own bodies. Otherwise, why are eating disorders and cosmetic interventions more common in women and girls than in men and boys? Think too of the pregnant body, never mentioned but always lurking behind these abstract discussions of reproductive choice. Can the pregnant woman identify with her body as her own and feel one with it in the way that Habermas describes? Various feminists and women philosophers have said no. For example, Kristeva suggests that the pregnant subject is emblematic of the split or fragmented subjectivity of all speaking beings and signals the life of speaking beings on the threshold of nature and culture: "a woman as mother would

be, instead, a strange fold that changes culture into nature, speaking into biology. Although it concerns every woman's body, the heterogeneity that cannot be subsumed in the signifier nevertheless explodes violently with pregnancy (the threshold of culture and nature) and the child's arrival" (1987, 259). And Young has powerfully articulated what she takes to be a phenomenology of the pregnant body as "doubled" and "split": "She experiences her body as herself and not herself. Its inner movements belong to another being, yet they are not other, because her boundaries shift . . . the lived pregnant body . . . challenges [the] implicit assumptions of a unified subject" (1990, 160–61). Going beyond Kristeva, Young argues that what she calls the porosity and openness of pregnant embodiment could be an ethical model for all relationships.

Unlike Harris, Habermas is not oblivious to this type of ethical concern, namely, the relationality of all human individuals. In fact, he begins *The Future of Human Nature* by warning of the shortcomings of Rawls's political liberalism, founded as it is on an individualism that separates justice from morality, or at least from ethics understood in the classical sense of "the right way to live" (Habermas 2003, 2–3). Habermas argues that such theories "may be very good at explaining how to ground and apply moral norms; but they still are unable to answer the question of why we should be moral *at all*" (ibid., 4). This problem is implicit if not explicit in my earlier engagement with Harris, who can give reasons for genetic enhancement based on individual freedom only by excising from his discussion any broader questions about meaning and justice. Harris can defend the morality of his position only by discounting ethical concerns. We might say that his moral reasoning is possible only by forsaking the ethical altogether.

Habermas turns to Kierkegaard for an alternative conception of freedom that entails very different notions of the individual and of ethics from those assumed in liberal discourse. Interpreting Kierkegaard, Habermas says,

[the ethically resolute life] demands that I gather myself and detach myself from the dependencies of an overwhelming environment, jolting myself to the awareness of my individuality and freedom. Once I am emancipated from a self-induced objectification, I also gain distance from myself as an individual. . . . In the social dimension, such a person can assume responsibility for his or her own actions and can enter into binding commitments with others. In the temporal dimension, concern for oneself makes one conscious of the historicity of an existence that is realized in the simultaneously interpenetrating horizons of future and past. (2003, 6)

Habermas grounds this interpretation of Kierkegaard on a passage from *Either/Or* in which Kierkegaard seemingly—we might say—deconstructs the distinction between essential and accidental upon which analytic morality is based. Here is the passage quoted by Habermas:

Everything that is posited in his freedom belongs to him essentially, however accidental it may seem to be . . . this distinction is not a product of his arbitrariness so that he might seem to have absolute power to make himself into what it pleased him to be. . . . To be sure, the ethical individual dares to employ the expression that he is his own editor, but he is also fully aware that he is responsible, responsible for himself personally . . . responsible to the order of things in which he lives, responsible to God. (2003, 7)

Habermas's immediate focus in reading this passage is on God and on Kierkegaard's criticisms of the corruption of Christianity he witnessed in his society. Eventually, however, his discussion leads him to Kierkegaard's rejection of "an ego-centered consciousness" and the power of reason or will to accept responsibility only by avoiding it, that is to say, by disavowing its dependence on an Other as the ground of freedom (Habermas 2003, 9). I am sympathetic to Habermas's secular interpretation of this Other as language and meaning rather than a Christian God. I agree with him when he says "the logos of language embodies the power of the intersubjective, which precedes and grounds the subjectivity of speakers. . . . The logos of language escapes our control, and yet we are the ones, the subjects capable of speech and action, who reach an understanding with one another in this medium" (*ibid.*, 10–11). What is missing from his account, and ultimately from what he takes away from Kierkegaard, however, is the element of nonmeaning that resists understanding—that is the heart of language and communication. Again, I agree when Habermas says that "[n]o one possesses exclusive rights over the common medium of the communicative practices we must intersubjectively share. . . . How speakers and hearers make use of their communicative freedom to take yes- or no-positions is not a matter of their subjective discretion. For they are free only in virtue of the binding force of the justifiable claims they raise toward one another" (*ibid.*, 10). Where I disagree is in the assumption that claims can be justified and adjudicated using reason alone and/or once and for all.

Habermas argues that Kierkegaardian ethics "runs up against its limits . . . as soon as questions of a 'species ethics' arise. As soon as the ethical self-understanding of language-using agents is at stake *in its entirety*, philosophy can no longer avoid taking a substantive position" (2003, 11). What Habermas is arguing is that in light of advances in biology and biotechnologies, neither the liberal position nor the existentialist position can maintain their commitment to a "pluralism of worldviews" (*ibid.*, 11). Later, I will return to the passage from Kierkegaard to explain why I think that the existentialist path, with its difficulties and despair, gives us greater hope for an ethics than either liberal theory or Habermas's "species ethics." For now, let's continue with Habermas's line of thought.

Given that Habermas is walking the line between communitarian ethics and liberalism, perhaps we should not be surprised that the next philosopher he quotes at length is Ronald Dworkin. In “Playing God: Genes, Clones, and Luck,” Dworkin argues against genetic enhancement, not in terms of specific moral norms or reasons that might be broken but, rather, in terms of breaking the very possibility of morality itself (2000, 427–52). Dworkin concludes that the structure of morality

depends, crucially, on a fundamental distinction between what we are responsible for doing or deciding, individually or collectively, and what is given to us, as a background against which we act or decide, but which we are powerless to change. . . . That crucial boundary between chance and choice is the spine of our ethics and our morality. . . . The popularity of the term ‘genetic lottery’ itself shows the centrality of our conviction that what we most basically *are* is a matter of chance not choice. (2000, 443–45)

Habermas agrees with Dworkin that the possibility of morality is at stake in genetic enhancement. He argues that our self-understanding as moral beings is intimately and inherently linked to what he calls “the anthropological background of an ethics of the species,” by which he seems to mean an ethics that is based on recognizing ourselves and each other as “responsible authors of our own life history” and of equal dignity with others of our species (Habermas 2003, 29). At this point, we might wonder how he can invoke the anthropology that grounds species ethics in relation to reproduction without considering the work of feminists, particularly Simone de Beauvoir, whose anthropology of reproduction and “the second sex” transformed the way that we conceive of sexual difference. From the perspective of anthropology, human reproduction, as Beauvoir argues, is governed by various cultural taboos placed on women’s bodies, particularly pregnant bodies: “the body of the woman is one of the essential elements in her situation in the world. But that body is not enough to define her as woman. . . . It is not merely [as] a body, but rather [as] *a body subject to taboos*” (1949, 36–37; emphasis added). We cannot ignore that women give birth and men don’t and the ways in which this biological fact has been interpreted and interpolated in human practices of reproduction.

In addition to the absence of any account of sexual difference as it relates to the reproduction of the human species upon which Habermas grounds his species ethics, there is little in his text to justify what some might consider the speciesism of his approach and his return to an outdated humanism. Habermas and other philosophers (for example, Kass) contributing to debates over genetic enhancement appeal to the uniqueness of human beings among other species as a reason for preserving them over all others. The argument from

uniqueness, however, can be applied to any animal or plant species as a reason to preserve them from extinction. Moreover, while the human species may be uniquely rational and moral (at least from our own perspective), as a species we are also capable of irrationality and immorality that is more deadly and dangerous to ourselves and to other species than any other species on the planet. I have argued elsewhere that the conceptual distinction between human beings and other beings fundamental to the history of philosophy does not hold up under philosophical scrutiny (Oliver 2009).

For Habermas, the combination of responsibility and dignity definitive of our species is the foundation of the moral community and of the possibility of ethics, without regard for sexual difference or differential relations to procreation and the reproduction of the species. Habermas maintains that questions of genetic enhancement of embryos is not a question of the moral norms of one culture or group versus another's; rather, he argues that the questions of identity raised by this technology touch on "those intuitive self-descriptions that guide our own identification *as human beings*—that is, our self-understanding as member of the species" (2003, 39). If, as Harris suggests, enhancing evolution may give rise to another species of beings beyond the human, then it may also give rise to another species of morality or ethics beyond the human, and perhaps beyond good and evil altogether. This is what worries Habermas. The risk of no longer being able to even identify evil, let alone prevent it, is too high.

Habermas suggests that there is a necessary relationship between contingency and ethics that will be lost with genetic enhancements. If we are made and not grown, as he says, we will not be able to claim our freedom in Kierkegaard's sense of making our lot our own. Rather, according to Habermas, the future people created through genetic engineering will have been determined by their parents. He argues that this generational and irrevocable decision making on behalf of future persons limits their freedom. He distinguishes negative eugenics (correcting a defect or preventing a disease) from positive eugenics (enhancing intelligence or athletic abilities) by invoking a notion of counterfactual consent that he claims is available in the first and lacking in the second. In other words, presumably future generations would have consented to genetic manipulation of their embryos to prevent a disease, but they could not consent to an enhancement, particularly one that made them a different person, such that the absent person never existed and therefore can neither consent nor refuse. For Habermas, the freedom of choice of future generations is at stake, along with the ethics of the species, which is based on our freedom to make our own way in a world full of contingencies. The presumption, which is consistent with liberalism, is that if we are not free to make our own choices, then we are not responsible.

But this sentiment seems to miss the point of Kierkegaard's refusal of the distinction between the essential and the accidental in the face of responsibility. Recall the passage from *Either/Or* quoted by Habermas that begins, "Everything that is posited in his freedom belongs to him essentially, however accidental it may seem to be" (2003, 7). Kierkegaard suggests that whether our existence is essential or accidental, determined or arbitrary, we are responsible, not only to ourselves and to future generations, but to all others and to the environment that sustains us. Kierkegaard's notion of radical responsibility that results from the refusal of the opposition between the necessary and the contingent challenges both Harris's and Habermas's worldviews. From this Kierkegaardian perspective, we cannot evacuate what Harris chooses to call contingent aspects of our existence and identities, such as race and gender; neither can we claim, *à la* Habermas (or Dworkin), that ethics and freedom are the result of contingency and randomness of our birth. For we are always both grown and made, and we must take responsibility nonetheless. Yet I do appreciate the paradoxical element of the Habermasian–Dworkinian position that the ability to decide and choose our own genetics reduces rather than enhances freedom of choice, while our powerlessness in the face of the contingency of a life out of our control increases it.

### 3. REPRODUCTIVE FREEDOM AND THE DIFFICULTY OF CHOICE: A FEMINIST CHALLENGE TO THE CHOICE–CHANCE DISTINCTION

What escapes both Harris and Habermas in their discussions of freedom and choice is the complexity of women's choices within patriarchal cultures and institutions that view them both as passive containers for future persons, on the one hand, and as corrupting forces responsible for any harm that comes to their fetuses and babies, on the other. In order to account for women's various experiences of choice and nonchoice in reproduction, we need to move away from both Harris's liberal theory and Habermas's communicative action theory insofar as both start with an autonomous individual who is the author or owner of her own body. As feminist philosophy, particularly feminist standpoint theory, feminist phenomenology, and feminist psychoanalytic theories, makes clear, women's bodies, actions, and choices are more complicated than these discourses allow.<sup>3</sup> We need conceptions of freedom and

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<sup>3</sup> See especially work by Young (2005), Weiss (2008), Bartky (1990), Purdy (1996), Mahowald (2000, 2006a, 2006b), Kristeva (1982, 1987), Irigaray (1985, 1993), Willett (1995), and Oliver (1995, 1997, 1998).

choice that allow for the ambiguities inherent in many women's bodily experience of pregnancy. I will not rehearse all of this important feminist work here, work that has been ignored in mainstream debates on reproductive choice in genetic enhancement. Rather, I hope to extend insights gleaned from this literature to further complicate the notion of choice assumed in these debates.

As we have seen, Kristeva and Young have used an analysis of pregnancy to challenge the autonomous unified subject assumed by philosophy.<sup>4</sup> In addition, in various ways, both use pregnant embodiment and the mother-child relationship to challenge the subject-object distinction fundamental to phenomenology and post-phenomenological philosophies. For example, Young argues that a phenomenology of "the lived pregnant body both develops and partially criticizes the phenomenology of bodily existence . . . it continues the radical undermining of Cartesianism that these thinkers inaugurated, but it also challenges their implicit assumptions of a unified subject and sharp distinction between transcendence and immanence" (1990, 160-61). Young and others have forcefully articulated how pregnant embodiment not only challenges traditional and contemporary theories of subjectivity but also transforms them in ways that facilitate formulating an ethics of difference radically open to otherness, even otherness within.<sup>5</sup>

In addition, to thinking about how the pregnant body—still essential to reproductive choice—complicates notions of authorship, ownership, and unity of bodies and agents, the notion of free choice is troubled by the experience of pregnancy. In what sense do women choose pregnancy? First, we must consider all of the social pressures on women around their reproductive choices. Second, we must acknowledge that even when women do choose pregnancy, the fact of pregnancy is not within their control. Deciding to get pregnant is not like many other decisions we make that—if all goes as planned—lead directly to the desired consequence. Unlike deciding to go to the store or choosing a particular outfit, or more significant decisions such as what university to attend, how much to donate to charity, or whether to take in foster children, the decision to get pregnant is really a decision to *try* to get pregnant. Even doctors implanting embryos cannot guarantee that they will attach themselves and lead to a successful pregnancy. Indeed, IVF statistics indicate that the majority do not and that unplanned multiple births can result (think of Nadya Suleman, the so-called "Octomom").

Furthermore, we must consider that for many women getting pregnant is not chosen and is "an accident." Critically engaging Young's phenomenology

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<sup>4</sup> See also Willett (1995) and Oliver (1997).

<sup>5</sup> Cf. Oliver 1995, 1997, 1998.

of chosen pregnancy, feminist philosopher Caroline Lundquist develops a phenomenology of “rejected and denied” pregnancies that complicates the notion of choice. She argues that reproductive choice is not like other types of choices since there is always an element of passivity that cannot be controlled by subjective agency. In addition, she points out that even when unwanted pregnancies become “chosen,” we should not underestimate “the socially overdetermined, potentially heart-wrenching process by which an unwanted pregnancy comes to be positively accepted” (Lundquist 2008, 151).

It is telling that in our culture we refer to an unplanned pregnancy as an “accidental” pregnancy. What does it mean to think of pregnancy as an accident, especially when the sex that “caused” it was chosen, if not also planned? The very association between pregnancy and accident points to the contingency of reproductive choices. We must also consider all of the women who try to get pregnant but do not succeed. Do they have the freedom of choice about reproduction imagined in mainstream debates over enhancement? Or is the choice imagined in these debates a science fiction fantasy in which human beings master the universe, for better or worse?

The anxiety over reproductive choice, the accidental nature of conception, and the anxiety of not choosing fills the tabloids with stories of actresses and career women who put off having families and are now desperately racing against their “biological clocks” to have babies, women who suffer from what Sylvia Ann Hewlett called “Baby Hunger.” Turning the pro-choice rhetoric on its head, Hewlett argues that, for career women, not having babies becomes “a creeping nonchoice” and “unwanted choices,” where they “accidentally” have given up their right to choose by ignoring their biological clocks, which leaves them desperate and unhappy (Hewlett 2002, 21, 26, 84, 254, 262). Again, the language of pro-choice is co-opted for seemingly feminist arguments, only now in favor of renewed family values. Within liberal theory, how can we account for what one of Hewlett’s research subjects calls “a creeping nonchoice”? How can we even make sense of the phrase ‘unwanted choices’? In order to do so, we not only need to complicate our conception of choice but also our conception of desire. Perhaps psychoanalysis is better equipped to deal with choosing what we do not want and nonchoice than liberalism.

Mainstream discussions of genetic enhancement both display and disavow anxiety over the accidental and uncontrollable aspects of reproductive choice and pregnancy. They not only assume a clear-cut opposition between deliberate and accidental, but they also assume that through genetic engineering we can master the accidental elements of existence through tinkering with genetic code. Certainly, if the misplaced arrogance of medical science has taught us anything, it is that even in the best of circumstances, we cannot

control life, which is full of accidents. And the imagined control over reproduction suggested in these debates seems far removed from actual practices that still require implantation in women's wombs and all of the uncontrollable and unexpected consequences that follow, not to mention the unpredictability of genetic combinations and the profound influence of nurturing on the resulting children. Some philosophers such as Harris are reassured that genetic engineering can eliminate these contingencies from reproduction, while others such as Dworkin and Habermas argue that contingencies are necessary for moral decision making and responsibility, suggesting perhaps *à la* Levinas's notion of paternal election that we choose our children precisely because we cannot control them. For them, our responsibility follows from the certainty of our own authorship of our decisions and action in the face of the contingencies of life. In either case, these philosophers put too much stake in the freedom of human will and the authorship of choice, particularly when it comes to reproduction.

As the opening voiceover of Abigail Breslin (Anna) tells us in the recent Hollywood film *My Sister's Keeper* (2009), most babies are "accidents," the result of drinking too much and lack of birth control; the only people who plan to have babies, she says, are those who cannot. In the film, Anna, the eleven-year-old who is suing her parents for medical emancipation, is genetically engineered specifically as a match for her older sister who needs a kidney transplant. Anna is, as she says, a "designer baby" and unlike most babies, she is not an accident. In this dramatic weeper, the accidental nature of life and of reproduction cannot be redeemed through the determination of the human will or freedom of choice, in spite of desperate and forceful attempts by the girls' mother played by Cameron Diaz or the fact that Anna wins her lawsuit and the right to choose the medical fate of her own body. At the end of the film, Anna's voiceover tells us that she thought she was brought into the world to save her sister, but that was not possible. She muses that she doesn't know why she lives and her sister dies. Accidents happen even in the world of genetic engineering—it is noteworthy in this context that the Greek *symptoma* means both symptom and accident. One lesson of this film, then, is that genetic engineering and medical manipulation cannot stop the symptom or accident from asserting itself.

In conclusion, given that throughout the history of patriarchal cultures, in various ways, women have been defined in terms of their reproductive function, issues of reproductive freedom cannot be separated from the ways in which choices about pregnancy and childbirth are circumscribed by social and political institutions and traditions. In spite of their conservative endings, recent Hollywood films reveal how women's choices around pregnancy are particularly vexed for many reasons, not the least of which is that from the

standpoint of biology, pregnancy is never something that can be controlled or mastered by the woman herself or by her doctors or by genetic engineers. Liberal notions of freedom and choice cannot describe, or do justice to, women's experiences of pregnancy and the choices they make around issues of reproduction. These choices are neither a matter of mastery nor of autonomous authorship. In a sense, the scripts have already been written, and although women do have choices and must make decisions, they do so within a social context that makes them particularly difficult, even in the best of circumstances.

The philosophical literature on reproductive choice around genetic enhancement is further evidence of ambivalence toward women's role in the procreation of the species. Within these discourses, women's experiences are ignored and reproductive choice and the rhetoric of pro-choice is put in the service of abstract persons in a gender-neutral world. In spite of the fact that women have been reduced to their reproductive function and thereby, to various degrees, excluded from the political realm, they are evacuated from these philosopher's discussions of reproductive choice! Indeed, rather than reinforce liberal notions of freedom of choice, on multiple fronts, pregnant embodiment challenges the very notion of the autonomous individual with free will that founds debates over enhancing evolution, which is perhaps why so few philosophers engaged in these debates ever mention feminism or the subjective experiences of pregnant women.

Perhaps these philosophies disavow women's role in reproduction at the same time that they fantasize about going beyond the human species because of long-standing anxieties about the relationship between women and the continuation of the species. I will leave you with a different fantasy, that of Julia Kristeva, who suggests that because each mother-child relation is singular and unique, mothers might represent "our only safeguard against the wholesale automation of human beings" (2002, 402). Insofar as geneticists still require women to gestate and give birth to babies, and insofar as childcare cannot be automated or performed by machines, women continue to carry the burden—or labor of love—of introducing children to language and sociality. Yet this very special innovation—what Kristeva calls "genius"—is not valued as such by our culture, a culture that reduces mothers to fetal containers or venues for embryo implantation. Only by valuing the genius of women and mothers in relation to future persons—or as Kristeva insists, in relation to the continuation of the species—can we talk about reproductive freedom that values women's experience and choices, with all of its ambiguities.

Indeed, if Kristeva's analysis of pregnancy and maternity implies an ethics, it is an ethics of ambiguity that would be founded on exploring and

acknowledging the ambiguities not only of our identities and experiences but also of our desires and aims.<sup>6</sup> Only by embracing ambiguity—or at least acknowledging that we cannot master it—can we hope to avoid the violence that results from the abjection of ambiguity in favor of neat categories that exclude the messiness of life at the cost, in this case, of women’s experience, if not, at the extreme, their lives. Pregnant embodiment and women’s experience of reproductive choice challenge the basic assumptions of liberal discourses around which debates over genetic enhancement revolve. Both John Harris’s moral imperative to enhance and Jürgen Habermas’s species ethics disavow women’s experiences and the ambiguities of life. If we start from these ambiguities and ground an ethics there, rather than on abstract moral norms or some notion of humanity as a species, then our ethics comes out of, instead of against, the contingencies of life as we actually live it. And our responsibility is no less because we cannot control those contingencies or because we are masters of ourselves or of others. Rather, our responsibility is the result of a call from the other/Other who/that does not meet our expectations and falls neatly into one category or another. In this sense, we are all like Caster Semenya because, as Alice Dreger says, “nature is a slob,” and in order to live together we need to learn to enjoy the mess.

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<sup>6</sup> Cf. Oliver 2001, 2004, 2007.

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