This CQ department is dedicated to bringing noted bioethicists together in order to debate some of the most perplexing contemporary bioethics issues. You are encouraged to contact "The Great Debates" department editor, D. Micah Hester (hesterdm@uams.ed), UAMS/Humanities, 4301 W. Markham St., #646, Little Rock, AR 72205, with any suggestions for debate topics and interlocutors you would like to see published herein.

The Great Debates

D. MICAH HESTER

The first of "The Great Debates" in *CQ* occurred more than 3 years ago when John Harris and Julian Savulescu engaged in conversation concerning stem cells, embryos, research, and reproduction (*CQ* 13(1):68–95). The format was simple and yet somewhat novel: Get noted scholars in the field to speak directly to each other through the pages of a journal about a topic that matters to them. Have them engage each other's ideas by reducing mediating factors—reading some article in a journal, then writing some response to another journal, then awaiting some letter to an editor or later paper presentation at a professional conference. Simply put, find thoughtful, well-respected people who want to put their arguments forward in conjunction with those who might disagree or simply might want differing emphases.

This next installment of "The Great Debates" (admittedly there is possible hyperbole in this title, but the quality of the exchanges is pretty darn high) begins with an argument by Mary B. Mahowald about the validity of the "expressivist argument" in the discussion of disability rights. The argument trades, in part, on a point explained by Adrienne Asch,[1] whereas the expressivist claim itself has been criticized elsewhere by James Nelson.[2] So, naturally, it would seem that these people should engage in direct written discussion, and each (as well as David Wasserman) has agreed to do just that. What follows, then, is a series of arguments and responses beginning with Mahowald's as the stimulus, followed in turn by responses from Nelson, Asch/Wasserman, and then final clarification to those responses by Nelson and Asch/Wasserman, again. We hope you find this to be a fruitful debate between respected colleagues who wish, like all of us, to reach better conceptual clarity for the sake of our moral attitudes and behaviors.

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Notes

1. Asch in Parens E, Asch A, editors. *Prenatal Testing and Disability Rights*. Washington, D.C.: Georgetown University Press; 2000:13.
2. Cf. Nelson in note 1, Parens, Asch 2000.

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Prenatal Testing for Selection against Disabilities

MARY B. MAHOWALD

Disability rights advocates sometimes claim that prenatal tests to select against disabilities discriminate against people with disabilities.[1] The "expressivist argument" that supports this position has been challenged on grounds of the difference between fetuses and born persons.[2] In this essay, I explain why the expressivist argument is valid despite the questionableness of its conclusion, and why the distinction between fetuses and born persons fails to provide an adequate counterargument to the expressivist conclusion. I also consider a compelling argument for prenatal testing to select against disabilities and propose a reformulation of this argument that, I think, supports prenatal testing for disabilities while avoiding discrimination against people born with disabilities.

The Argument

As I understand it, the expressivist argument is as follows:

> Prenatal tests to select against disabling traits express discrimination toward people born with disabilities.
>
> Discrimination toward people with disabilities is unjust.
>
> Therefore, prenatal tests to select against disabling traits are unjust.

The above conclusion necessarily follows from the premises if the subjects of the premises are universal.[3] As articulated by its supporters, this is apparently how the argument is meant to be understood. If the subject of the second premise is universal, the argument would also be valid if the subjects of the first premise and the conclusion were both particular.

In neither premise of the expressivist argument does the term "discrimination" encompass the positive meaning it conveys when the term or its cognates refer to attitudes or practices that reflect an ability to discern or distinguish between morally neutral attributes (e.g., discriminating tastes in wine or music). As used here, the term "discriminatory" adds a moral element to the discernment by which some groups of people are distinguished from others, and it is this element that supports the prescriptive claim of the second premise. The rationale for this claim is that justice demands that people with disabilities be recognized and treated as having the same value as those who are currently able. On this construal of justice, with which most people agree, the second premise is true even when individual decisions, policies, or social practice suggest otherwise.

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