FREEDOM AT THE BEGINNING AND END OF LIFE: CONSTRAINED AND ENHANCED IN HEALTHCARE STRUCTURES – SELECTED SESSION

Topic: Freedom at the Beginning and End of Life: Constrained and Enhanced in Healthcare Structures
Convener: Daniel J. Daly, Boston College
Moderator: Shaun Slusarski, Boston College
Presenters: Emma McDonald, Boston College
Daniel J. Daly, Boston College
Respondent: Daniel K. Finn, St. John's University (Collegeville, Minnesota)

In her paper, "Freedom and Constraint in Transnational Surrogacy and Gamete Donation," Emma McDonald connected the Catholic social tradition and sociological analysis to evaluate transnational surrogacy arrangements. More specifically, she described incentives and constraints shaping couples' choices to use compensated surrogates in other countries, evaluating these choices with a criterion of justice and with reference to the duty of the family to contribute to the common good.

McDonald first illustrated how cultural ideals related to the nuclear family contribute to shaping couples and individuals' family formation aspirations and their entrance into the reproductive marketplace. McDonald explained how various factors shape which means of childbearing are available to families and which of these choices are easily accessible and attractive. She argued that families' agential decisions in turn shape the continued structures and cultures of the fertility industry, often in ways that continue established "repro-flows" facilitated by clinics and legal restrictions, but occasionally in ways that transform the industry. Although the global reproductive marketplace supports family formation, especially for couples who fall outside the normative ideal of the nuclear, heterosexual family, McDonald argued that in the case of transnational commercial surrogacy specifically, reproductive markets rely on and perpetuate global inequalities. She contended that although the relative affordability of donated gametes and commercial surrogacy services abroad is made possible by pre-existing structures of global inequality. Instead of counteracting global inequalities, the global reproductive marketplace takes on social and economic stratifications already present in the global economy, furthering the structures of "stratified reproduction" already operating in local contexts.

Explaining how surrogacy clinics often take advantage of the financial desperation of working-class women to recruit surrogates, who often lack access to education and possess limited economic resources, McDonald emphasized the vulnerability of surrogates as agents: they lack power and knowledge that would allow them to negotiate with clinic physicians and commissioning parents to negotiate and ensure transparency. She thus concluded that Western reproductive travelers should avoid commercial surrogacy in countries in which weak regulations and poverty fuel the industry.

Daniel J. Daly's paper, "The Constrained Moral Agency of the Dying: The Contribution of Structural Analysis to Catholic End of Life Ethics," began by demonstrating that the existence or absence of palliative care has a profound effect on the agency of patients, surrogates, and providers. Daly argued that end of life ethics,

and the entirety of medical ethics, for that matter, is often done in a way that is blind to the structural enablements and constraints that lead to ethical quandaries. The field has undertheorized the role of social structures in enabling and constraining the moral agency of patients and caregivers regarding end of life treatment and care. Moral freedom at all stages of life is situated in a socio-structural context. Although other subdisciplines of Catholic ethics have begun to appreciate this reality, end of life ethics has yet to develop a robust structural vision.

After defining palliative care, Daly turned to Leo Tolstoy's masterpiece, *The Death of Ivan Ilyich*, to provide some narrative insight into the benefits of what we now call palliative care. He then drew on the critical realist account of a social structure, which he described in five propositions.

Daly then argued that palliative care is a virtuous structure which benefits the whole person—her integral good, health, relationships, spirituality, psychological status, and happiness. That is, palliative care, as a structure, contains relations among social positions that are designed to promote the patient's integral good. Citing recent research, Daly claimed that the US healthcare system does not contain a structure that enables all seriously ill and dying patients access to palliative care. He concluded the paper with three recommendations.

Daniel K. Finn responded to each paper. He invited McDonald to reflect on the possibilities of "fair trade" surrogacy. In responding, McDonald emphasized the importance of international regulation and the work of Catholic organizations, among others, to combat injustices related to global inequalities more broadly to support vulnerable families with few options for dignified, fairly compensated labor.

Finn's response to Daly centered on structural change, which he argued, happens when persons who are disadvantaged "rise up." He asked Daly to consider who are the disadvantaged in the issue of palliative care, and what are their possibilities to effect social change. Daly noted that the disadvantaged in this scenario were seriously ill and dying patients who lacked the capacity to change structures. Social change, then, will need to emerge from physicians, hospital administrators, and patient advocates.

In a wide ranging discussion several related topics emerged: the role of healthcare providers in shaping structures and cultures of healthcare both at the beginning and end of life; how justice could bridge the gap between Catholic sexual and social ethics; whether noncooperation in surrogacy arrangements ultimately improves the lives of potential surrogates; and, how race influences which patients avail themselves of palliative care at the end of life and what can be done to close the palliative care gap between Black and white patients.

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