From Fae to Schroeder: The Ethics of Allocating High Technology

by Robert M. Veatch

The implant of an artificial heart into the chest of William Schroeder came days after surgeons transplanted a baboon heart into Baby Fae. The juxtaposition cries out for an ethical comparison. Some may argue that both are immoral tampering with nature or the irresponsible use of resources. Others may affirm both as heroic but required efforts to preserve human life wherever possible. I am inclined to look for the differences and have tentatively concluded that, especially if one approaches the problem from the standpoint of Judeo-Christian ethics, one procedure is far more likely to be justified than the other.

In analyzing Baby Fae's surgery, four different arguments have been heard. Each might account for a difference between the two cases. First, Baby Fae's case involved a xenograft, an inter-species transplant. It is conceivable that intermixing two distinct species could be seen as violating some moral law of nature, making the Fae procedure morally worse. I am not inclined, however, to find the difference here.

Second, since Baby Fae's surgery involved a xenograft, an animal had to be sacrificed. Some advocates of animal rights might find a critical difference here. Such a criticism, however, calls into question any use of animals for human purposes. If any sacrifice of an animal is ever justified, it would surely be one where an identifiable human being stands a chance to be saved from the sacrifice of only one animal. I am not inclined to find the difference here.

Third, some have argued that Baby Fae could not consent to the experiment attempted on her while William Schroeder could. The parental permission to operate has been questioned. There is some public doubt that the parents had adequate information about the alternatives. After a recent visit to Loma Linda, including conversations with people involved in the review process, I have no reason to suspect that consent was inadequate. In fact, I suspect it was of far higher quality than the consent for most surgical procedures, whether innovative or routine. We shall have to await the public release of the review of the Office for the Protection from Research Risks, which is part of the National Institutes of Health, before reaching any more firm conclusion. In any case, I assume that adequate consent based on the duty to communicate what the parents would reasonably want to know would be a minimal necessary condition for ethically acceptable surgery.

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Some have gone on to argue that even if the parents did have adequate information, they did not have the right to volunteer their child for a procedure so experimental that it could be said that it was undertaken for the knowledge gained rather than for the benefit of the patient. I am inclined to reject this basis for a moral difference as well. We are increasingly coming to the conclusions that parents, in making medical decisions for their wards, must attempt to approximate the ward's interests. A parental decision that the xenograft best served their child's interests does not strike me as totally unreasonable. We are increasingly coming to the conclusion that society should not insist that the parents have made the most reasonable choice. Their choice should be tolerated according to this view, provided it is a choice within the realm of reason.[1] Although the most reasonable parental decision might have been against the surgery on the grounds it did not serve the baby's interests, I am not persuaded that the parental decision was so unreasonable that it should have been overridden. Thus three unconvincing aruments support Schroeder's implant over Fae's transplant.

Even if the animal rights issues and consent problems are solved, is it unethical to spend hundreds of dollars on exotic, high technology care when others in our society are doing without the basics of medical care?

That brings us to the fourth argument raised by the two transplant cases: the argument about the ethics of resource allocation. This I take to be the most critical moral problem. A number of people have suggested that even if the animal rights issues and consent problems are solved, it is unethical to spend hundreds of thousands of dollars on exotic, high technology care when others in our society are doing without the basics of preventive care, maternal and child health services and other basic medical needs. This argument is usually offered against experimental transplant surgery without regard to any differences between Fae and Schroeder. It is that argument that deserves further attention.

Such arguments rest fundamentally on a cost-benefit reasoning that is insensitive to basic questions of social justice and, therefore, incompatible with the Judeo-Christian tradition. The observation that appears to drive the critics of expensive, high technology medical interventions is that more good could be done if the resources currently invested in the Baby Faes and William Schroeders of the world were spent on primary care. Assuming that is true, however, it does not follow that care should be so diverted. The hidden moral premise is that net utility in aggregate should be maximized as a matter of social policy even when aggregating utility masks any consideration of the distribution of benefits and harms. While that may be good act utilitarianism, it violates the moral insights of the Judeo-Christian tradition.

I have just completed a book analyzing the meaning of justice within that tradition. The arguments cannot even be summarized here. My conclusion, however, is that tradition clearly and consistently favors an egalitarian principle of justice over a principle that attempts to maximize aggregate net utility. Although the application of this to health care is complex, a case can be made that the egalitarian principle of justice in the Judeo-Christian tradition requires that, whenever possible, an individual be given an opportunity for health equal to that of any other individual. That probably means that there are enough resources for both primary prevention and high technology. If a choice must be made, however, the resources should go to the least well off. According to egalitarian justice, primary care would get priority only if those who did not get it would be worse off than those needing, but not receiving, the high technology interventions. What would that mean for the the Fae and Schroeder cases?

It might be argued that both Baby Fae and William Schroeder were inevitably dying without surgery and that therefore they each stood in the highest possible priority for medical interventions under an egalitarian principle of justice. However, that argument is wrong on two grounds. First, I have argued that the Judeo-Christian egalitarian justice principle requires an equal opportunity for health, not equal health status. It is possible (although I do not have enough information to say for sure) that Schroeder (or at least some other adult potential artificial heart patients) has had considerably greater opportunity to avoid cardiac problems than Fae. This requires an examination of the beer drinking problem in the Schroeder case.

In comparing Fae and Schroeder, there is no question that Fae's well-being, viewed over a lifetime, is substantially lower than Schroeder's. As such, Baby Fae has a greater claim of egalitarian justice for the heart surgery.

It is well known that one of Schroeder's first requests, after his endotracheal tube was removed, was for a Coors beer. I see two fascinating ethical problems with that request. First, it is absolutely startling that a competent adult would feel obliged to ask another person for permission to have a beer. Had he asked about the medical consequences of drinking beer, it would have been a different matter. He did not do that, however; he asked for permission. It is testimony to the oppression of the typical patient that he not only asks someone for permission to drink a beer, but follows with blind obedience the orders of that person. I can never recommend consuming beer, but I am horrified that neither patient nor physician, nor anyone else, comprehended the offensiveness of that conversation.

While that is a more serious problem in medical ethics than it appears, it is not the primary point of relevance to the principle of justice. It may be that Schroeder's peculiarly urgent desire for a beer has bearing on whether he has had an opportunity to be healthy in life. There were reports that Schroeder led a life that exacerbated his cardiac problems. If a patient needs medical care because he has voluntarily chosen to undergo health risks, then he has had an opportunity to be healthy. We do not have enough information to say whether this was the case with Schroeder. If it is the case, however, his squandering of the opportunity to be healthy surely affects his claim for scarce medical resources.[2]

There is a second way in which Schroeder has had opportunities for health beyond those of Baby Fae. On this point, I am much more sure of the facts. Schroeder was 52 years old at the time of the surgery. Most of that time he had reasonably good health. He suffers from diabetes, but until fairly recently it has not been debilitating. Baby Fae, on the the other hand, lived only a few days before her surgery. From that standpoint, Schroeder had considerably greater opportunity for health than Baby Fae did.

The issue at stake is complex. Does the egalitarian principle of justice require equal opportunity for health at any given moment in time? If it does, Schroeder and Fae may have an equal claim, but then, so would a 100-year-old who is dying of heart failure. They are all equally sick. If, on the other hand, the egalitarian principle of justice requires opportunities for equal well-being over a lifetime, then Schroeder is considerably up on Fae. This form of the equality principle leads to the policy conclusion that priorities should be arranged in inverse proportion to age.[3] Only this interpretation explains our intuition that if a 90-year-old and a 30-year-old could both gain five years of life from a hemodialysis machine, we would be inclined to give the machine to the 30-year-old.

I conlude that there are potentially two critical differences between Fae and Schroeder when it comes to the ethics of

resource allocation based on an egalitarian Judeo-Christian principle of justice. First, insofar as Schroeder's need for a heart is the result of voluntary lifestyle choices over which he had control, his priority is lower. It is not clear to me whether this is relevant in the present cases. If health risks are truly voluntary, however, they should be taken into account in allocating resources. Second, Schroeder has lived many good years while Fae has not. Each is presently among the worst off medically in our society and deserves priority over those who could gain marginal benefits from primary health care interventions even if those interventions would yield greater net aggregate utility. In comparing Fae and Schroeder, however, there is no question that Fae's well-being, viewed over a lifetime, is substantially lower than Schroeder's. As such, Baby Fae has a greater claim of egalitarian justice for the heart surgery.

Endnotes

1. President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. *Deciding to Forego Life-Sustaining Treatment: Ethical, Medical, and Legal Issues in Treatment Decisions.* Washington, D.C.: U.S. Government Printing Office, 1983, p. 212; Veatch, Robert M. "Limits of Guardian Treatment Refusal: A Reasonableness Standard." *American Journal of Law and Medicine* 9 (4, Winter, 1984):427-468.

2. Veatch, Robert M. "Voluntary Risks to Health: The Ethical Issues." *Journal of the American Medical Association* 243 (Jan. 4, 1980):50-55.

3. Daniels, Norman. "Am I My Parents' Keeper?" *Midwest Studies in Philosophy* 7 (1982):517-540; Childress, James. "Ensuring Care, Respect, and Fairness for the Elderly." *Hastings Center Report* 14 (5, 1984):27-31.