

ADOPTING OBLIGATIONS: DUTIES TO EXISTING CHILDREN

by

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Abstract

This thesis argues that infertile prospective parents have a moral obligation to adopt rather than pursue ARTs (Assisted Reproductive Technology). The first chapter presents the negative argument against the common desire among prospective parents for a genetically related child. After refuting the five most promising reasons for wanting a biological child, I show that the burden of proof lies with defenders of ARTs to justify their use. In the second chapter I make the moral case in favour of adoption. By drawing an analogy to a standard and incontrovertible duty to aid case, I argue that infertile prospective parents have a duty to adopt. The final chapter justifies limiting the scope of my argument to the infertile. I argue that unlike fertile parents, the infertile who elect to pursue ARTs are clearly willing and able to assume additional costs in order to have a child. Consequently, there is a relevant difference between these two groups that justifies focusing on the latter.

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Chapter 1: The Moral Significance of Genetic Relations

This project calls into question the widespread preference for biological children that leads many adults to overlook adoption as a viable path to parenthood. In particular, my discussion focuses on the procreative choices facing infertile prospective parents who are unable to conceive a genetically related child without the use of reproductive technology. My central argument is that there is a moral obligation for infertile prospective parents to adopt a child rather than to pursue Assisted Reproductive Technologies (ARTs).

Before outlining how this project proceeds, I deal with several definitional issues. First, by “prospective parents” I refer to those adults who have already decided to become parents and who intend to realize this goal. This definition will play an important role in establishing constraints on the duty to adopt. Second, I use the term “infertile” unconventionally to apply to all adults electing ARTs in order to have a child: the medically infertile,¹ single adults, same-sex couples, and fertile couples who, for whatever reason, pursue reproductive technology.² Third, “ARTs” refer to the various forms of assisted reproduction presently on offer, the most common of which are *in vitro* fertilization (IVF), Artificial Insemination (AI), surrogate pregnancy, and gamete – sperm

¹ The most commonly used medical definition of infertility is twelve months of contraceptive-free intercourse that does not result in pregnancy.

² In a few sources this group is referred to as the “sub-fertile” in order to clarify that its scope extends beyond the medically infertile. See Eduardo Rivera-Lopez, “The Claim from Adoption Revisited,” *Bioethics* 20 no. 6 (2006): 320 and Thomas S. Petersen, “The Claim from Adoption” *Bioethics* 16, no. 4 (2002): 353. For simplicity’s sake I will use the more familiar term “infertile” to refer to these individuals.

and egg – donation (which may be used in conjunction with the first three methods).³ Finally, I will be using the terms “biological child” and “genetically related child” interchangeably to refer to a child who is genetically related to one or both of his or her parents.

I construct my argument over the course of three chapters. The first chapter makes a negative argument against the common desire among prospective parents for a genetically related child. I consider and refute the five most promising reasons given to justify this preference. Since none of these justifications can successfully ground an interest in having a biological child, I conclude that the burden of proof lies with infertile prospective parents to defend their use of ARTs. This chapter’s argument supports my larger claim for the moral obligation to adopt by establishing that foregoing ARTs in favour of adoption does not detract from the parental experience; the morally significant aspects of parenting do not turn on the presence of a genetic relation.

In the second chapter I present the moral argument for adopting a child instead of pursuing ARTs. Although the first chapter establishes that the common preference for a biological child is not defensible, for my larger claim to succeed I must further show that infertile prospective parents have decisive moral reason to become parents *via* adoption. To make this case, I use Peter Singer’s general argumentative strategy from “Affluence, Famine, and Morality.” By taking a standard case in which the duty to aid is

³ Other techniques are also available but are only slight variations on the principal ARTs that I have mentioned. For example, intracytoplasmic sperm injection (ICSI) is often listed as a distinct ART option but is merely a variant of IVF in which the sperm is injected directly into the egg.

incontrovertible, I argue that there is an analogous duty for infertile prospective parents to aid children in need of adoption.⁴

The third and final chapter justifies the scope of my argument, which is limited to prospective parents unable or unwilling to procreate without the use of reproductive technology. Although it does not follow from my claim that fertile prospective parents are relieved of the moral obligation to adopt, I provide reasons why one might judge the non-compliance of these two groups differently. The crux of this chapter's argument is that unlike fertile prospective parents, the infertile who elect to pursue ARTs are willing and able to assume additional costs in order to become parents. Consequently, there is a relevant difference that justifies my focus on the latter group. The final section of this chapter responds to outstanding objections to my larger claim.

Two Empirical Issues

There are two empirical questions that precede my normative claim, the answers to which determine the need for, and force of, my argument. First, for my argument to succeed it must be established that there are in fact children in need of adoption. Second, my argument supposes that the use of ARTs has a negative impact on adoption rates. If this supposition is wrong, then my argument will be considerably weakened.

Turning first to the need for adoption, liberal estimations of the number of orphaned children, which define orphan as a child between the age of 0-17 who has lost

⁴ Christina Rulli employs the same argumentative strategy in arguing for a more general duty to adopt. See "The Duty to Adopt," (Ph.D. Diss., Yale University, 2011). My project is clearly indebted to her work, which has developed the adoption debate within the philosophical literature. Although our arguments are structurally similar, my claim is concerned with infertile prospective parents in particular as bearers of the duty to adopt.

one or both parents, put the figure at approximately 143 million globally.⁵ However, given that in the context of international adoption this figure has been the subject of significant debate,⁶ I will use a more conservative orphan statistic, which, defining orphan as a child who has lost both parents, places the figure around 16.2 million.⁷ Yet even on this conservative estimate, there is a surfeit of orphans that contrasts sharply with the dearth of adults pursuing adoption – with the average number of annual adoptions at approximately 260,000.⁸ The critical point here is that the number of children in need of adoption clearly, and by a substantial margin, exceeds the number of prospective parents pursuing adoption. Having established that even on conservative estimations millions of children are in need of adoption, I proceed to the next issue.

The second empirical question is whether the development of ARTs has negatively impacted adoption rates. One might assume, *ex ante*, that the answer would be affirmative: as new reproductive technology becomes available, more people who would previously have been unable to create a child can now do so. Presumably, were ARTs not available, at least some of these people would have adopted a child.

In recent years, however, some scholars have argued that the assumption that there is a trade-off between adoption and the use of ARTs is false. In their article

⁵ UNAID, UNICEF, and USAID, *Children on the Brink 2004* (New York: USAID, 2004), 7. This report uses data gathered from 93 countries.

⁶ Critics of international adoption, such as UNICEF, argue that statistics on the number of children eligible for adoption ought only to consider children who have lost both parents. Advocates of adoption, in turn, reject the entire use of single/dual loss-of- parent measurements, arguing that a more pertinent definition of orphan includes children who have been separated from their biological parents for maltreatment or abandonment and who therefore lack parents in the relevant respect. For more on this debate see Elizabeth Bartholet, "International Adoption: The Human Rights Position," *Global Policy* 1 No.1, (2010): 95.

⁷ UNAID, UNICEF, and USAID, *Children on the Brink 2004*, 29.

⁸ United Nations, *Guidelines for Improving Data on Child Adoption* (New York: Department of Economic and Social Affairs Popular Division, 2010), 1.

“Trading-Off Reproductive Technology and Adoption” Glenn Cohen and Daniel Chen share the results of their study, which found that subsidizing reproductive technologies in the United States did not appear have a negative impact on adoption rates. The authors argue that this outcome is due to failed IVF attempts confirming one’s desire to have a child, thereby leading couples to pursue adoption.⁹ Other scholars have similarly argued that ARTs have adoption-promoting effects. The use of ARTs in recent decades has, to some extent, normalized unconventional family structures, which has in turn helped to challenge formerly rigid adoption policies.¹⁰

Yet, even if we assume these findings are completely accurate, there is still good reason to take seriously the worry that there is trade-off between the use of adoption and ARTs. The fact that *failed* attempts at IVF may lead couples to eventually pursue adoption suggests cause for concern. Assuming that reproductive technology will continue to improve over time, so too may the success rates of assisted reproduction. If some adults pursue adoption only after failed medical treatments, then as failure rates decrease one would expect to see fewer adults adopting.

Additionally, empirical evidence, which I will further discuss in chapter one, consistently shows that the overwhelming majority of infertile adults turn to medical treatment before entertaining adoption, though many will never consider adoption at all. The demonstrated high- and low-ranked preferences for ARTs and adoption respectively suggest, at least theoretically, that a change in priorities could result in a greater number of adoptions.

⁹ Glenn Cohen and Daniel L. Chen, “Trading-Off Reproductive Technology and Adoption: Does Subsidizing IVF Decrease Adoption Rates and Should It Matter,” *Minnesota Law Review* 95 (2010-2011): 575.

¹⁰ Susan Appleton, “Adoption in the Age of Reproductive Technology,” *University of Chicago Legal Forum* (2004): 443-444.

In sum, I take there to be justified concern that ARTs could negatively impact adoption rates. Having outlined the structure of this thesis, I now turn to my argument for the moral obligation to adopt a child rather than to pursue ARTs.

The Moral Significance of Genetic Relations

The primary task of this chapter is to make the negative argument against the common preference for a genetically related child. I thus develop, and then refute, the most convincing case in favour of pursuing ARTs. To make the strongest case possible, I consider the five most promising arguments that infertile prospective parents provide for their use of reproductive technology over adoption.¹¹ Having demonstrated that these arguments are unsuccessful, I conclude that the burden of proof lies with defenders of ARTs to justify their pursuit. With an absence of evidence to successfully ground the use of assisted reproductive technologies, my project proceeds on the assumption that the choice to use ARTs rather than to adopt cannot be justified.

This chapter begins by briefly turning to the empirical evidence on procreative preferences among infertile adults. I then consider to the five following justificatory strategies for desiring a genetically related child: (1) that knowledge of one's biological relatives is a basic good from which both child and parent benefit; (2) that a genetic tie brings greater psychological unity, which allows for increased parental empathy; (3) that physical similarity between the parent-child relationship provides a more satisfying parental experience; (4) that a genetically related child allows one to leave a legacy; (5) that the experience of pregnancy is unique and valuable. I show that these reasons are

¹¹ Many of these reasons have already been discussed in a somewhat broader context by Christina Rulli. See "The Duty to Adopt," 132-175.

mistaken; the most significant features of the parental experience do not arise from a genetic relationship.

Preferences and Satisfaction

The scant empirical research on the ranking of procreative options reveals that most adults unable to conceive naturally turn first, and often only, to medical treatment.^{12,13}

One American study found that among women who seek medical treatment for infertility, only 15% attempt adoption.¹⁴ A Dutch study found that only 5% of infertile couples pursuing medical help ultimately adopt a child. Even the majority of adoptive parents state that they had initially considered adoption a last resort (after ARTs), which they did not anticipate pursuing.¹⁵ Furthermore, statistics show that 93% of couples that unsuccessfully attempted IVF said that if another medical procedure were available they would try it in order to have a biological child.¹⁶

One might think that the widely held, unequivocal preference for ARTs illustrated by these findings suggests, at least presumptively, that infertile prospective parents have good reason to pursue ARTs. Yet, despite infertile adults' *ex ante* preference for reproductive technology, research also reveals a high degree of satisfaction among adoptive parents. A comprehensive meta-review of the literature comparing adoptive and biological parental experiences shows that overall, no differences were found in self-

¹² For a summary of this data see Susan Frelich Appleton, "Adoption in the Age of Reproductive Technology," *University of Chicago Legal Forum* (2004): 426-428.

¹³ This point is equally true of fertile adults, very few of who choose to adopt rather than to procreate. Chapter three will address the relationship between these two groups.

¹⁴ Allen P. Fisher, "Still Not Quite as Good as Having Your Own? Toward a Sociology of Adoption," *Annual Review of Sociology* 29 (2003): 338.

¹⁵ Frank van Balen, et al, "Choices and Motivations of Infertile Couples," *Patient Ed & Counseling* 31, no. 1(1997): 22.

¹⁶ Beth Cooper-Hilbert, *Infertility and Involuntary Childlessness* (New York: W.W. Norton 1998), 152 -53.

reports of parental wellbeing (measured in terms of depression, happiness, health, and self-esteem). On some measures, adoptive parents actually had slightly greater satisfaction with parenthood than biological parents.¹⁷

Comparing *ex ante* and *ex post* attitudes thus indicates that we lack reason to believe that ARTs are genuinely preferable to adoption (or to believe the inverse). The conflicting nature of self-reports of preferences and attitudes toward adoption and reproductive technology provides neither reliable nor decisive information for judging reproductive options. We must therefore turn to the normative arguments to examine the reasons given to justify people's preferences for ARTs.

1. Biological Ties and Identity Formation

I begin by examining the claim that knowledge of one's biological relatives is important for identity formation. In his article "Family History" David Velleman argues that conception by gamete donation is immoral because the parties involved in the procedure create a child whose biological ties have been antecedently severed. These prospective parents act on their own interest in biological ties by creating a child for whom that same interest will be profoundly frustrated.¹⁸ Velleman's argument is premised on the view that knowledge of one's biological ties is a basic good for children and valuable for

¹⁷ Karen M. O'Brien and Kathy P. Zamostny, "Understanding Adoptive Families: An Integrated Review of Empirical Research and Future Directions for Counseling Psychology," *The Counseling Psychologist* 31, no. 6 (2003): 687. Acknowledging the limitations of existing research, the authors of the study are careful to note that since adoptive parents tend to be older and more financially secure, they may possess financial, social, and emotional resources that help to protect against strong negative outcomes. However, even if adoptive parents do possess more resources as a result of their age and financial situation, the same can be said of most adults who elect ARTs. Consider two basic facts: (1) female factor infertility increases with age; (2) ARTs are expensive. The resources that purportedly protect against negative outcomes in adoptive families are likely also available to adults pursuing ARTs.

¹⁸ David Velleman, "Family History," *Philosophical Papers* 34, no.3 (2005): 374.

parents. For children, a literal family resemblance is useful for self-cultivation; it provides a paradigm from which the child can shape his or herself. This resemblance is similarly valuable to parents since it helps them to understand the nature of their child; it supplies parents with information about “how far the child can hope to reach, and in which directions.”¹⁹ Velleman’s argument thus implies that both parents and children of adoptive families miss out on valuable knowledge that facilitates and enriches the childrearing experience.²⁰ For the purposes of my project, it is important to investigate whether this claim is in fact true.

Before addressing the question of whether knowledge of one’s biological relatives is a basic good, it is worth pointing out a broader problem with Velleman’s argument. Even if we grant that this knowledge is a basic good, it does not follow from this view that adopted children (or those born of donor conception) are necessarily disadvantaged by lack of this good. Open adoption (or access to information about gamete donors) provides children an opportunity to learn about or to meet biological relatives. It is simply not true that the biological ties of such children have inevitably been severed. Velleman’s argument from family resemblances opposes the practice of *anonymous* gamete donation, but not donor conception *per se*. To criticize the practice more generally, Velleman owes us an account of how extensive acquaintance with one’s biological relatives ought to be in order to provide a child with sufficient knowledge from which to construct his or her identity.²¹

¹⁹ *Ibid.*, 370.

²⁰ To be fair, Velleman is at pains to point out his argument does not disparage adoptive families. He specifies that because adoptive parents are not responsible for severing the child’s adoptive ties, adoption is morally preferable option to donor conception.

²¹ Interestingly, Sally Haslanger notes that empirical evidence suggests that an ongoing relationship with an adopted child’s birthparents is usually *not* desired. In response to

Nevertheless, we have reason to doubt Velleman's empirical claim that acquaintance with one's biological relatives is a basic good that is important for one's identity formation. As Sally Haslanger notes, the fact that most people rely on biological ties for self-knowledge and identity formation is not an argument for the practice; it must be shown that acquaintance with one's biological ties is either necessary or good for identity formation.²²

It seems fairly evident, however, that acquaintance with one's biological ties is not critical for healthy identity formation. Many adoptees lead good lives as judged by any ordinary standards and have no apparent problem forming an identity.²³ Although biological relatives *can* constitute a good resource for developing self-knowledge, the biological tie itself is not necessarily doing any of the work. It is at least as likely that the proximity to, or closeness with, the biological relative inclines us to use him or her as a mirror to help guide our evolving self-concept. As Haslanger states, if the crucial point is simply to have an effective mirror to help one develop a self-concept, then there are many plausible candidates for this role. Most of us develop our self-understanding by relying on friends, characters in film and literature, public figures, etc., not merely by relying on biological relatives.²⁴

Moreover, the concept of family resemblance on which Velleman relies need not be limited to biological relatives. According to Charlotte Witt, contrary to its colloquial

Velleman's statistic that 50% of adoptees search for the birth families at some point in their lives, Haslanger points out that recent long-term studies suggest that in most cases, even when a good relationship is established with a birthmother, the adoptee's primary relationship remains with their adoptive mother. Sally Haslanger, "Family, Ancestry and Self," in *Adoption and Culture* 2, no. 1 (2009): 17.

²² Ibid., 21.

²³ Ibid., 13.

²⁴ Ibid., 14.

usage, the term family resemblance could be used to identify likeness between non-biological family members.²⁵ While the dominant understanding of the concept emphasizes genetic traits, the gene is only one vehicle for the transmission of traits. Another vehicle could be a parent teaching their child to have a certain characteristic, like moodiness, thriftiness, or a whacky sense of humour.²⁶ Since adopted children will often resemble custodial parents in these respects, it is difficult to see why adequate self-knowledge cannot be gained in adoptive families. Most of us share the attribute of those with whom we spend time, whether we develop their mannerisms, turns of phrase, interests, etc.,

Finally, the putative benefits of a biological family resemblance to the parental experience that Velleman cites elicit concern. He states that knowledge of a child's biological relatives helps parents answer questions such as "how far can the child hope to reach?" and "what can it be helped to become?"²⁷ Yet, drawing on knowledge of biological relatives to answer questions about a child's future seems suspect at best and harmful at worst. Many would agree that the most important cues for raising a child should come from the child's own demonstrated affinities and interests rather than from those of other family members. To look to relatives to answer such questions as "how far can a child hope to reach?" could potentially limit the child's future. In a family of underachievers, for example, turning to biological relatives as a source of information for what a child can hope to achieve would not inspire a hopeful vision.

²⁵ Charlotte Witt, "Family Resemblances: Adoption, Personal Identity, and Genetic Essentialism," in *Adoption Matters*, ed. Sally Haslanger and Charlotte Witt (Ithica: Cornell University Press, 2005), 141.

²⁶ *Ibid.*, 143.

²⁷ Velleman, "Family History", 370.

Moreover, this view of childrearing fails to reflect the reality that so many parents want to “help their child become” something different from other family members. For example, parents from an uneducated family may want their child to achieve academic success. Without further clarification, Velleman’s notion that biological family resemblances act as valuable signposts for parents could serve as an argument against the importance of knowing one’s biological relatives rather than as an argument in favour of it.

In sum, Velleman’s claim that a biological family resemblance presents a unique benefit to both parent and child does not succeed. As noted, other non-biological relationships are equally capable of providing relevant knowledge for a child’s development.

2. Psychological Unity

The next candidate reason under discussion appeals to the alleged benefits of psychological similarities between genetically related parents and children. Philosophers Brenda Almond and Michael Tooley have articulated versions of this view.²⁸ While neither philosopher goes so far as to attribute psychological similarity to genes alone, genetics nevertheless play the chief role in accounting for these similarities. Almond asserts that genetic links can result in shared psychological traits between kin, such as attitudes, appraisals, interests, common qualities of character, etc.²⁹ In an argument

²⁸ This discussion of Tooley and Almond is drawn from Mianna Lotz, “Overstating the Biological: geneticism and essentialism in social cloning and social sex selection,” in *The Sorting Society: The Ethics of Genetic Screening and Therapy*, ed. Loane Skene and Janna Thompson (Cambridge: Cambridge University Press, 2008), 133-146.

²⁹ Although Almond does not provide concrete examples of psychological similarities, based on the information provided one assumes she has in mind character traits such as being a generous person, an introvert, an optimist, etc. Brenda Almond, “Family Relationships and

supporting human cloning, Tooley claims that the parent of a cloned child will be well-situated to understand the child's perspective. Although he acknowledges the substantial role of environmental factors, Tooley argues that shared genes gives rise to psychological similarities that will make for a happier childhood and for a more rewarding parental experience as a result of the child being better understood.³⁰ While Velleman claims that a more general biological family resemblance provides child and parent with knowledge valuable for self-cultivation and identity formation, Tooley and Almond are concerned with the potential for psychological similarity to imbue the parent-child relationship with increased empathy and understanding.

In a discerning response to Tooley and Almond's claims, Mianna Lotz criticizes the empirical and normative assumptions in their arguments. First, the empirical suggestion that cloning would secure parent-child similarity is misguided. Tooley and Almond believe that the relevant psychological traits are those that contribute to a person's "point of view," which would allow parents to better understand and empathize with their children. It has not been established, however, that genes are the basis of all of our psychological traits, least of all to those traits relevant to the kind of parental understanding that Almond and Tooley have in mind; moreover, even if it were shown that these traits have a genetic origin, this discovery would not support the assumption that possession of these genetic traits could guarantee or predict the expression of that

Reproductive Technology," in *Having and Raising Children*, ed. Uma Narayan and Julian J. Bartkowiak (University Park, The Pennsylvania State University Press, 1999), 104.

³⁰ Michael Tooley, "The Moral Status of the Cloning of Humans," *Monash Bioethics Review* 18 (1999): 42.

trait.³¹ The interactionist nature of genes is too complicated to support such an assumption. Lotz states:

The vast majority of traits and conditions are polygenic, and genetic expression is multifactorial and dependent upon a complex interplay of the relevant genetic, proteome, and socio-environmental conditions, all of which interactions play a decisive role in determining whether and which genes are expressed.³²

Although in the future it may be shown that some psychological traits have a genetic basis, identifying the gene would not guarantee its expression; there are too many complicating socio-environmental factors. A genetic basis, therefore, would not ensure any psychic similarity between parent and child.

One possible response to Lotz's objection might point to the benefits of *believing* that psychological similarity has genetic origins regardless of whether or not this belief is true. Having a genetically similar child is valuable because of the meaning we ascribe to the relationship. The beliefs and expectations we hold about the benefits that arise from shared genetic material, such as a psychological similarity, create the value in having genetically related children. There is indeed some truth to this sort of argument. Given that we live in a society that emphasizes genetic ties, having a parental experience that conforms to this dominant preference can itself produce satisfaction.

While such beliefs about the genetic tie may plausibly yield benefits, as a form of argument it does not succeed. In general, we find it problematic to give weight to false beliefs, especially to those that may generate harm. False ideas about genetics contribute to the perception that adoptive parents have an inferior parental experience, which in turn has implications for children in need of adoptive families. In cases of mistaken belief that

³¹ Lotz, "Overstating the Biological: geneticism and essentialism in social cloning and social sex selection," 135.

³² Ibid.

may generate harm, the desirable course of action is to correct false beliefs (perhaps by improving the public's understanding of genetics) rather than to capitulate to them.

Another response to Lotz's argument might assert that because psychological similarities are valuable to both the parent and child, a prospective parent will want to maximize his or her chances of having child with whom there is increased psychological unity. Even if we acknowledge that most psychological traits arise from environmental causes, a prospective parent may nevertheless prefer to have a genetically related child on the off chance that a genetic tie could generate further psychological similarities.³³

We have good reason to doubt the normative view that these similarities would be beneficial to the parent or child. The identifiable benefit to the child is a sense of being understood by his or her parent, which in turn provides the parent with a more rewarding parenting experience. It has yet to be shown, however, that psychological similarity is either a necessary or sufficient condition for this understanding.³⁴ If other relationships are indicators, many people are able to show this sort of empathy and appreciation to friends, coworkers, acquaintances etc., with whom one shares limited psychological similarities. While it is possible that a parent's perception of psychological similarity might make him or her more accepting of a particular trait, it is also possible that this perception is indicative of a view that children ought to follow in his or her parents' footsteps.³⁵ Like Velleman's claim about family resemblance, there is a danger that parents may place too much emphasis on alleged similarities in ways that infringe on a child's individuality.

³³ Ibid., 136.

³⁴ Ibid.

³⁵ Ibid., 137

3. Physical Similarity

A similar, though less promising, reason for preferring a biological child is to have a child that physically looks like me. The crux of this reason is not that resemblance benefits the child, but that it serves the parent's interest in standing in a particular kind of "looks like" relation to his or her offspring.³⁶ To some extent, this reason has already been addressed, since much of the preceding discussion on psychological similarity is relevant to the reason in question. Genes that determine physical appearances are similarly complex and interactionist. There is no guarantee that parents will have a genetically related child that physically resembles them.

Should any moral weight be given to a prospective parent's preference for a child that physically resembles him or her? Christina Rulli makes a number of useful points that cast doubt on the legitimacy of this interest.³⁷ First, the narcissistic nature of this reason makes it difficult to justify. If the preference is read as an innocent curiosity to see oneself physically reflected in one's offspring, then the desire assumes a trivial status, which, alone, does not provide a strong enough reason to have a genetic child. Yet, if we interpret this reason as a strong preference, it becomes excessively narcissistic. The parent is valuing physical appearance beyond its appropriate worth, and the preference takes on a negative moral value.

Second, Rulli constructs a thought experiment to demonstrate why this desire is not as simple as it appears on face value. Suppose it were possible for prospective parents to adopt a child with a stronger physical resemblance than a potential genetic child of theirs would possess. Rulli claims, rightly to my mind, that most prospective parents

³⁶ Rulli, "The Duty to Adopt," 145

³⁷ *Ibid.*, 145-146.

would still choose the genetic child. This choice illustrates that it is not the physical similarity *per se* that is being valued. Rather, the genetic tie itself is valued irrespective of whether or not it gives rise to similarities.³⁸

It is also useful to note here that in cases of biological procreation, it does not seem likely that parents hoping for a physical family resemblance would have a lesser parental experience were their child to bear minimal physical resemblance to them. To explain this point, it is useful to introduce Frances Kamm's distinction between "caring about" and "caring to have."³⁹ Preferring to have someone with certain traits (caring about) is consistent with knowing that one will care about someone just as much whether or not she possesses those traits (caring to have). The idea is that parental love does not turn on specific traits; love is for a *particular* person. If a parent had hoped for an athletic child but instead has a bookish child, one would not think that the parent loved his or her child any less nor that the parental experience is a disappointment.

This distinction also applies to cases of adoption. If prospective parents have an idea about the sorts of traits they would like their child to have, but will love the child regardless of whether or not they possess these traits, then having an adopted child should not be any different. A lack of physical resemblance should not be so powerful that parental love or a fulfilling parental experience is contingent upon its presence. As Rulli notes, the most criticism-worthy parents are those who hold rigidly to expectations about a child and who consequently experience disappointment when their expectations are not

³⁸ Ibid., 149.

³⁹ Frances Kamm, "What Is And Is Not Wrong With Enhancement?" Presented at the DeCamp Bioethics Seminar, Princeton University December (2007), 29.

met.⁴⁰ Parenting requires a flexibility of expectations that make a strong desire for physical family resemblance a poor reason for preferring a biological child.

A final interesting feature of arguments in favour of physical or psychological similarity is that they also appear to support reproductive cloning. If I desire the benefits of having a child with whom I share physical and psychological traits (granting a strong genetic determinism for the sake of argument) these benefits would be even greater if the child were my clone. For some, such as Tooley, reproductive cloning constitutes an acceptable means of procreation. However, this implication will present a problem for those who are partial to ARTs but inclined to object to human cloning. Indeed, opponents of reproductive cloning should be prepared to articulate a relevant difference between cloning-to-produce-children and other forms of assisted reproduction designed to provide parents with a genetically related child.

4. Leaving A Legacy

I turn now to another related reason to prefer a biological child. It is common to think of genetically related children as providing an opportunity to leave a legacy or to immortalize one's self. The idea is that an individual's genes will be passed on to future generations, and thus a small part of them will live on. Recent cases of posthumous reproduction – where women have been inseminated with the sperm of a deceased husband – attest to the deeply held conviction that biological procreation provides an avenue through which one leaves part of him or herself behind.⁴¹

First, it is worth pointing out that although one may choose to have a child in hopes of continuing a legacy, there is no guarantee the *child* can or will also procreate. If

⁴⁰ Rulli, "The Duty to Adopt," 153.

⁴¹ Rulli, "The Duty to Adopt," 159.

having a biological child is a means of transcending one's mortality, then it should be acknowledged that one's immortality might be terminated after one generation. While it is true that not procreating leaves zero chance of leaving a legacy, a clearer understanding of the transmission of genes from one generation to the next challenges the notion of a genetic legacy. In biological procreation, our children share 50% of our genes. Our grandchildren will share 25% of our genes, and so on.⁴² Thus, after a few generations the percentage of our genes in our descendants is negligible.

Fortunately, for those prospective parents seeking to leave a legacy after their death, it is unlikely that the gene is the vehicle through which the most valuable aspects of one's tradition is passed on. Rulli argues that familial and cultural legacies are transmitted *via* knowledge, values, and customs rather than by DNA.⁴³ When one feels the desire, or even obligation, to continue a familial or cultural line, then the child acts as a bearer of particular customs, beliefs, languages, etc. Crucially, adopted children are equally strong candidates for this role.⁴⁴ To argue otherwise is to assume an implausible genetic determinism. It appears that the important part of an individual's legacy is not his or her DNA but rather the reflection of that individual's social and moral commitments.

A useful question to ask those prospective parents citing this reason is whether they would prefer to have a biological child who abandoned the values with which he or she was raised over an adopted child who internalized the values so important to these prospective parent. My point is not that the optimal child is one who follows in their parents' footsteps. Rather, my point is that prospective parents who do cite *this* particular

⁴² Neil Levy and Mianna Lotz, "Reproductive Cloning and a (Kind of) Genetic Fallacy," *Bioethics* 19, no. 3 (2005): 242.

⁴³ Rulli, "The Duty to Adopt," 160.

⁴⁴ *Ibid.*

reason likely hope to pass on something greater than their DNA to future generations and adopted children are equally qualified for this task.

I will acknowledge that some ethic and religious groups who place a high value on heritability will have difficulty accepting this response. Members of such groups may be unwilling to let go of their intuitive belief that the strength and survival of their tradition depends on the presence of genetically related future generations. Although this claim assumes a view of genes as transmitters of culture that I have already rejected, it is worth noting another response to my interlocutor. Defenders of this view should consider that adoption within their cultural group is a possibility. For instance, an Aboriginal couple in Canada unable to conceive without reproductive technology could adopt an Aboriginal child. If my interlocutor's primary concern is with the continuation of a religion, culture, or ethnicity, then it should not matter what particular family line contributes to this goal. An adopted child from within this group would meet the genetic criteria that defenders of this view value.

In short, the idea that a genetically related child presents an opportunity to pass on a legacy appears mistaken. Upon examination, it seems that personal, familial, and cultural legacies are not transmitted by genes, but rather by knowledge, values and customs. Adopted children, therefore, are equally qualified to act as bearers of a legacy as genetically related children.

5. The Pregnancy Experience

A final plausible reason for preferring a biological child is the desire to experience pregnancy. Indeed, pregnancy is a unique experience during which a woman has the opportunity to gestate another human life inside her body. The desire to experience this

profound part of procreation can be very strong and is consequently often thought not to require explanation. This reason is of course only relevant to a subset of ARTs, such as *in vitro* fertilization and artificial insemination, where the prospective genetic mother would also be the gestational mother.

Yet there are a number of problems with citing the desire to experience pregnancy as a justification for the pursuit of ARTs in order to have a biological child. First, one should bear in mind that the cost of reproductive technology is extremely high while the success rates are surprisingly low. The third chapter will discuss the empirical data on ARTs in more detail, but the reader should consider here that the average cost of IVF, one of most commonly used ARTs, is \$56,000 per live birth in the U.S.⁴⁵ and the average success rate is around 22%.⁴⁶ Awareness of the associated medical risks, some of which can be life threatening, should raise further skepticism about the use of ARTs.⁴⁷ Ironically, some of the complications that arise from these procedures can actually cause female infertility (which is relevant in cases where assisted reproduction was initially pursued because of male-factor infertility).⁴⁸ Thus, even if we grant that there is legitimacy to the desire to experience pregnancy, pursuing this desire when it entails such high costs, serious medical risks, and low chances of success, is open to rational

⁴⁵ Katz, Nachtigall, and Jonathon, "The Economic Impact of the Assisted Reproductive Technology," *Nature Cell Biology & Nature Medicine* 4 Supplement (2004): 30.

⁴⁶ De Mouzon et al. "World Collaborative Report on Assisted Reproductive Technology," *Human Reproduction* 24, no. 9 (2002): 2310.

⁴⁷ Inmaculada De Melo-Martin, "Ethics and Uncertainty: In Vitro Fertilization and Risks to Women's Health," *Risk: Health, Safety & Environment* 9 (1998): 207-210. These risks include hormone related cancer, internal organ damage, ovarian hyperstimulation syndrome, ectopic pregnancies, etc.

⁴⁸ *Ibid.*, 209.

criticism; prospective parents fail to respond to important reasons that advise against the use of ARTs.⁴⁹

Second, Rulli notes that prospective parents may cite purported benefits of pregnancy, such as a gestational bond between mother and child and the predictable expectancy period leading up to the birth that enables parental preparation. However, both of these two potential advantages have counterparts in adoption. Studies show that mother-child attachment in infant adoption also occurs readily and that there is no qualitative difference in the bonding that takes place.⁵⁰ Similarly, although adoptive parents will not experience the traditional nine-month expectancy period, they will nevertheless experience a waiting period of their own, which will also allow for psychological preparation. With knowledge of their child's background circumstances, culture, or place of origin, they too can speculate about or imagine a future with their child.⁵¹ Despite the potential unpredictability of the time frame for adoption, studies also show that prospective adoptive parents adjust very well to the preparation period and experience fewer problems related to pregnancy, self-image, and depression than biological parents.⁵²

The corollary of these arguments is that the most convincing case that can be made for the use of ARTs in order to experience pregnancy is based upon a desire to experience gestation for its own sake. Can this residual desire act as a justifying reason

⁴⁹ I've only discussed facts related to ARTs, but the experience of pregnancy itself is often idealized. Many women overlook pregnancy-related illnesses, complications, and a surprisingly high rate of post-partum depression (20%). See Rulli, "The Duty to Adopt," 172.

⁵⁰ Singer et al., "Mother-infant attachment in adoptive families," *Child Development* 56 (1985): 1543-1551.

⁵¹ Rulli, "The Duty to Adopt", 171.

⁵² Levy-Schiff et al., "Psychological Adjustment of Adoptive Parents-to-be," *American Journal of Orthopsychiatry* 60 (1990): 258-267.

for using ARTs instead of adopting? It seems unlikely. When the choice is between creating and adopting a child, a justifying reason to pursue ARTs must outweigh the strong case in favour of adopting a child. In other words, those who wish to defend the gestational experience as justifying the use of ARTs commit themselves to the view that sacrificing pregnancy is of comparable moral worth to the harm that could be prevented by adopting a child. However, when the desire to experience pregnancy is uncoupled from its purported benefits, which I have shown have counterparts in adoption, the moral weight of this desire is significantly reduced and would unlikely succeed in defeating the duty to adopt.

In sum, although pregnancy is undoubtedly a unique human experience, a realistic assessment of childbearing demonstrates that it is a weaker reason than most assume. Acting on the desire to experience pregnancy is open to rational criticism when the cost of achieving this experience is high and when other avenues to parenthood are present, such as adoption. Moreover, when we identify what is valuable about the experience of pregnancy, it seems that many of these benefits do not actually depend on the gestational bond itself and are thus also available to adoptive parents. Insofar as the experience of pregnancy carries force, it is seriously mitigated by these considerations.

Conclusion

This chapter has considered and rejected five reasons that prospective parents cite for preferring a genetically child to an adopted child. Although there are other reasons that one might give to ground this preference, I have attempted to respond to the most promising justifications. Other reasons are either easily defeated or restate a different

version of a reason already addressed.⁵³ In particular, this chapter showed that most procreative reasons rely on assumptions about identity formation and genetic determinism that do not withstand scrutiny. When we identify what is valuable about the parental experience, it becomes clear that having a genetic relation to the child is neither a necessary nor sufficient condition for a fulfilling parental experience.

However, I have granted that pregnancy is a unique human experience for which there is no substitute. To the extent that the pregnancy experience itself is unique and valuable, an interest in gestating a child may have some force, though it is unlikely to succeed as a justifying reason. I argued that many of the benefits of gestation have equivalents in adoption and that the desire to experience pregnancy comes at a high cost. Given that other promising reasons in favour of having a genetically related child do not succeed, it seems that one remaining weak reason to pursue ARTs can be acknowledged without threatening my argument. It still appears that, ultimately, infertile prospective parents fail to justify their preference for a genetically related child and hence for ARTs.

⁵³ For example, another reason might be that a biological child is the affirmation of a couple's mutual love and acceptance. See Levy and Lotz, "Reproductive Cloning," 236. This reason again assumes a strong genetic determinism and valorization of genetic ties that has already been thoroughly criticized. Just as adopted children are qualified candidates to carry on a family legacy, so too they are qualified candidates to embody the love between two adults. See Rulli, "The Duty to Adopt," 160.

Chapter 2: Adoption as a Duty to Aid

While the preceding chapter argued that prospective parents cannot justify their interest in having genetically related children, I have not yet made the moral case for adoption. As it stands, I have merely shown that raising an adopted child does not differ in any morally significant ways from having a biological child. Without further argument, however, infertile prospective parents may assume that since their interest in parenthood would be *equally* satisfied through adoption or assisted reproduction, they are free to choose either. For my larger claim to succeed I must show that infertile prospective parents have decisive moral reason to adopt rather than to pursue ARTs. The goal of this chapter is thus to present the moral argument in favour of adoption, which, absent other considerations, provides decisive reason for infertile prospective parents to adopt a child instead.

I proceed by first explaining why parental care is a unique, essential good that orphaned children lack. The second section presents the crux of the chapter's argument. Drawing on Peter Singer's duty to aid argument from "Affluence, Famine, and Morality," I argue that infertile prospective parents have a duty to adopt orphaned children. After carefully explaining the analogy between a standard duty to aid case and the duty to adopt a child, the third section discusses the chief respect in which my analogy differs

from Singer's. By showing that the duty to adopt is actually closer to the *shallow pond* example, my analogy avoids the strongest objection to Singer's argument. In the final section I respond to four criticisms that attempt to make morally relevant distinctions between the analogous cases. The chapter concludes that if we take the duty to aid seriously, then the moral obligation to adopt orphaned children cannot be rejected, since all attempts to undermine the duty appear unsuccessful.

1. Parenting as an Essential Good

Although in the introduction I established that there are currently millions of orphans in institutional care, it is important to understand why adoption in particular presents the best hope for rescuing these children. My interlocutor may point out that an approach that seeks to improve institutional care for orphans would distribute the duty to aid more equally.

Such a response, however, fails to appreciate that parental care constitutes an essential good for which there is no proxy. Since, for children, parenting is a basic need, the absence of this essential good puts a child in an absolute state of harm. These children are harmed not because they are worse-off than they might have otherwise been, but because they fall below a basic standard of wellbeing. Children growing up without parental care are at serious risk of developing physical, psychological, and cognitive problems. Although the harms of growing up in institutional care are self-evident to many, I will briefly summarize the findings of the most comprehensive meta-analysis to date on the subject. Van IJzendoorn and Juffer recount that children who spend the first few years of their life in institutional care often show delayed and stunted growth in

height, weight, and head circumference.⁵⁴ Stunted physical growth likely results from neglect and malnutrition, which can have long-term effects such as brain damage and impaired cognitive development.⁵⁵ The lack of a constant caregiver often leaves children with emotional problems, the most common of which is difficulty forming healthy and stable attachments to others.⁵⁶ Orphans in institutional care also lag behind adopted and non-adopted (i.e. those raised by their biological family) children in both cognitive development and school achievement.⁵⁷

While statistics paint a bleak picture of the life chances of orphaned children who remain in institutional care, the authors nevertheless conclude that adoption constitutes a curative social intervention. Comparisons of adopted children with those left behind in orphanages, and evidence of the remarkable ability of children to “catch-up” to their non-adopted counterparts once adopted, testify to the transformative potential of adoption. The empirical evidence shows that former deficiencies in physical growth, attachment, and cognition are often compensated for once children find themselves in a stable, loving home with parental care.⁵⁸

One might nevertheless object that the problems that children in institutional care suffer arise because of the current state of institutional care; if such infrastructure were improved, so might the welfare of orphaned children. However, this objection fails to appreciate the problem of the child’s emotional welfare, and in particular, the importance

⁵⁴ Marinus H. van IJzendoorn and Femmie Juffer, “The Emanuel Miller Memorial Lecture 2006: Adoption as Intervention. Meta-analytic Evidence for Massive Catch-up and Plasticity in Physical, Socio-emotional, and Cognitive Development,” *Journal of Child Psychology and Psychiatry* 47, no. 12 (2006): 1228-45.

⁵⁵ *Ibid.*, 1229

⁵⁶ *Ibid.*, 1234.

⁵⁷ *Ibid.*, 1235.

⁵⁸ *Ibid.*, 1237.

of attachment. As Rulli points out, children need constant attention, stimulation, familiar caregivers, and a sense of stability and permanence – things that even the best institutions are unlikely to be able to provide.⁵⁹ Moreover, even if some of these improvements were possible, they would not occur immediately, with the corollary that the welfare of millions of children would still be at risk as they remain in our current institutions. At present adoption provides the best way to meet the needs of orphaned children.

Having discussed why orphans are specifically in need of adoption as a form of aid, I will proceed to the normative argument for the duty to aid orphaned children.

2. The Duty to Aid

To see the analogy between adoption and a standard duty to aid case, consider Peter Singer's shallow pond argument from "Famine, Affluence, and Morality."⁶⁰ Singer argues that if one walks past a shallow pond and sees a child drowning in it, one has a moral obligation to save that child. Although rescuing the child will impose a cost on the rescuer since it will muddy her clothes, it would be wrong not to aid the drowning child. The argument begins from two basic assumptions: (1) pain and suffering are bad and ought to be minimized; and (2) if we can prevent something bad from happening without sacrificing anything of comparable moral importance, then we ought, morally, to do it.⁶¹

Given these two assumptions, Singer claims that morality similarly requires us to give to charity in order to save lives. Singer notes that the extent to which one is obligated to donate to charity can be determined by a strong or moderate principle of preventing bad occurrences. The strong version of this principle requires one to prevent

⁵⁹ Rulli, "The Duty to Adopt", 68.

⁶⁰ Peter Singer, "Affluence, Famine, and Morality," *Philosophy and Public Affairs* 1, no. 3 (1972): 229-243.

⁶¹ *Ibid.*, 231.

bad occurrences from happening unless, in doing so, one had to sacrifice something of *comparable* moral significance. Anticipating that such a principle would require reducing oneself to the level of marginal utility, Singer proposes a more moderate version of the principle: one should prevent bad occurrences unless, in doing so, one had to sacrifice *anything* of moral significance.⁶² Even on this moderate version of the principle, Singer believes that people would be morally required to give away enough money that consumer society would potentially disappear, since money previously spent on trivialities would be redirected to charities.⁶³ The result of his argument is that the traditional moral boundaries between duty and charity cannot be sustained.

The strategy that Singer deploys is to construct a scenario to which most people, regardless of their ethical stripe, would agree generates an uncontroversial duty to aid. To deny that one has a moral obligation to save the drowning child would be monstrous. Singer then draws an analogy between the shallow pond case, in which there is an unequivocal strong duty to aid, and a second case in which the presence of a strong duty to aid is contentious. He argues that the analogy succeeds because the two aforementioned assumptions that prompt the strong duty to save the drowning child are also identifiable in the donation case; affluent adults are therefore similarly morally obligated to give money to charity in order to save lives. Hence, if one accepts the duty to aid the drowning child, which appears incontrovertible, then one ought also to accept the duty to donate to charity. While many would object that there are morally relevant differences that support a distinction between the two scenarios – differences that could

⁶² Ibid., 241.

⁶³ Ibid.

relieve the agent of the duty to donate – Singer believes such arguments to be mistaken. I will return to these objections in section four.

My argument for the duty to adopt is modeled after Singer’s general strategy.⁶⁴ If we accept that *shallow pond* generates a duty to aid, then we also have good reason to accept the moral obligation to aid children in need of adoption. The adoption analogy runs as follows. In both cases there are morally innocent victims, namely, the drowning child and orphans in institutional care. The victims in the two scenarios lack an essential basic good without which they are in an absolute state of harm: the drowning child faces death and orphaned children face a life beset with physical, emotional, and cognitive problems. The absence of a basic good generates the need for aid, and in particular, the need for a rescue from a dangerous environment. We can thus specify that both scenarios generate a duty to rescue. The corresponding benefits of each rescue are great: the preservation of life for the drowning child and a stable home and loving family for orphans. There are also readily identifiable potential rescuers in both cases: an adult capable of rescuing the drowning child and infertile couples capable of adopting a child.

Finally, the cost to the rescuer is minimal in both cases and does not compare to the potential harm to the victim if he or she is not aided. In Singer’s shallow pond example, the cost is muddied clothing and loss of one’s time. With the adoption duty, the cost is giving up what the first chapter showed to be a chimerical interest. While the vast majority of infertile prospective parents prefer a genetically related child, the most promising justifications for this preference did not withstand scrutiny. We lack evidence to suggest that the absence of a genetic connection to the child makes for an inferior

⁶⁴ Similarly, Christina Rulli models her argument for a broader duty to adopt after Peter Singer’s “Affluence, Famine, and Morality” and Peter Unger’s *Living High and Letting Die*.

parental experience; on the contrary, adoptive parents report high levels of satisfaction with parenthood.

Although I adopt the same general argumentative strategy as Singer, I believe the adoption duty is even closer to shallow pond and thus more likely to succeed where Singer's donation analogy is vulnerable to criticism. Few people deny the duty to rescue the drowning child, but many object to the supposedly analogous duty to donate money to those in need. Such objections identify the potential high cost to the rescuer that Singer's line of argument, when unconstrained, seems to endorse. In the next section I argue that there are constraints on the duty to adopt that make it less vulnerable to these objections.

3. The Donation / Adoption Difference

Many reject Singer's consequentialist approach to the duty to aid on the grounds that it is too demanding, and will point out that my argument suffers from the same problem. Brad Hooker concisely summarizes the standard demandingness objection as follows: act-utilitarianism (which grounds Singer's argument) is overly burdensome since it requires us to keep making sacrifices to help others until the losses to oneself are equal to the benefits to others of helping them. This degree of sacrifice runs counter to our intuitions about what morality requires of us; any plausible moral theory must cohere with moral convictions after careful reflection.⁶⁵ By act-utilitarianism, Hooker refers to the doctrine that an act is morally required if and only if it maximizes (actual or expected) utility, impartially calculated.⁶⁶

⁶⁵ Brad Hooker, "The Demandingness Objection," in *The problem of moral demandingness: new philosophical essays*, ed. Timothy Chappell (New York: Palgrave Macmillan), 148.

⁶⁶ *Ibid.*, 151.

Applied to my argument, a proponent of the demandingness objection would point out that the duty to aid would require that infertile couples adopt vast numbers of children. Just as many critics object that Singer's argument obligates the affluent to donate their money to the point of equilibrium between their losses and the victims' gains, the increase in utility to orphans when adopted would demand the adoption of as many children as possible.

Although this objection is a standard and forceful objection to act-utilitarianism, I do not believe it threatens my argument. First, note that an obligation to adopt many children would likely become self-defeating and therefore undesirable. Adoption is preferable to institutional care for the child because parental care provides the love, attention, and security that institutions cannot provide. Yet, the duty to adopt many children would impair the ability of parents to provide this unique, essential good. If the duty to aid adopted children is to place them in homes that are qualitatively different from institutional care, then one must consider what sort of home environment assures stability, attention, and care for the child.⁶⁷ An overly burdened parent may not be able to discharge the parental duties that a child needs. My point here is merely that even if one accepts act utilitarianism, there is nevertheless a limit on the number of children that prospective parents are obligated to adopt.

Above and beyond this point, however, I would assert that my position does not, in fact, rely on the endorsement of act-utilitarianism. Rather, I argue that the *pro tanto* duty to adopt is decisive when adhering to the duty does not require adopting parents to

⁶⁷ This remark is not meant to disparage large families. If parents desire to have a large family, then hopefully they feel equipped to adequately parent many children. If a prospective parent planned to use ARTs to have five kids, then I would argue that they have an obligation to adopt five kids.

forego their own non-trivial interests. The moral obligation applies to adults who have already made the choice to have a child and who are prepared to pursue ARTs to achieve this end. The latter requirement is of import since there are relevant differences between fertile and infertile's non-compliance with the duty to adopt – a distinction which will be developed more fully in the next chapter.⁶⁸ The former restriction to prospective parents is predicated on the view that the decision to become a parent is of a non-trivial nature. This point is generally uncontroversial; most accounts of reproductive rights begin from the premise that procreative decisions have important and far-reaching effects on one's life.⁶⁹ Given the centrality of the choice to become a parent to the individual's life, one's interest in self-determination over this choice is substantial. Obligating all adults to adopt would clearly require the sacrifice of a non-trivial interest in self-determination from many adults who do not wish to become parents. The significance of procreative choices thus constrains the duty to adopt to prospective parents.

It should also be noted that the obligation to adopt is silent on other choices traditionally protected under procreative freedom. The duty does not apply to decisions about when to have a child nor to the number of children to have; these decisions are, again, of a non-trivial nature. The obligation applies only to decisions about how to have a child—a choice that I have shown to be of minimal moral importance. I have argued that what is valuable about the parental experience is achieved through adoption, and additionally, that there is a duty to aid orphaned children. However, applying this duty to

⁶⁸ In chapter three, I argue that unlike fertile prospective parents, infertile adults who have elected to pursue ARTs are clearly willing and able to assume substantial costs in order to have a child. Adoption thus does not present additional costs to this group of parents. Consequently, their non-compliance with the duty to adopt is less defensible than that of the fertile, many of whom will not be prepared to shoulder the costs of adoption.

⁶⁹ Dan Brock, "The Moral Bases of a Right to Reproductive Freedom," in *Should Parents Be Licensed?* ed. Peg Tittle (New York: Prometheus Books, 2004), 224.

decisions about when and how many children to have would violate any defensible view of procreative liberty.

Finally, my interlocutor should consider that a wider application of the duty to adopt to all adults would threaten the effectiveness of the rescue. Just as a moral obligation to raise many children would impair prospective parents' ability to aid children by providing them with a stable and loving home, morally obligating non-prospective parents to adopt would also threaten the effectiveness of the rescue.⁷⁰ Given these considerations, it appears that there is good reason to limit the scope of the duty.

4. Objections

This section addresses what I believe are the four strongest criticisms of my argument. I consider the following objections in turn: (1) that the duty to adopt a child is too burdensome (this criticism is distinct from the demandingness objection); (2) that proximity to the victim matters morally; (3) that a problem of chronic deprivation rather than immediate emergency bears on the potential rescuer's duty to aid; (4) the anonymity of a victim weakens one's moral obligation to aid him or her.

4.1 The High Cost of Adoption

Some opponents may argue that the analogy between *shallow pond* and adoption does not hold because the cost of sacrificing the chance to have a genetically related child is too great. Recall, however, that the purpose of the first chapter was to demonstrate that

⁷⁰ One might also object that quality of parenting would be threatened if parents who wanted genetically related offspring were required to raise adopted children. My argument does not imply coercive measures; I am merely claiming that there is the moral obligation to adopt. For those unconvinced by my argument, adoption would not be a good option. After all, being raised by resentful parents would seem to undermine the curative nature of the adoption rescue.

the preference for genetic ties is not well founded. Not only do the most promising normative arguments fail to ground this interest, but the empirical evidence also suggests that we have good reason to believe that adoptive parents experience a high degree of satisfaction with their parental experience. These points should effectively establish that adoption does not impose a high cost on the rescuer and it would be a mistake to view it as such. Adoption presents an alternative and equally valuable route to a desired end, namely, parenthood. I will grant for the sake of argument, however, that some infertile prospective parents may insist on the value of having a genetically related child. My interlocutor will view the cost of foregoing the opportunity to have biological children by way of ARTs as high.

In response to this objection it is useful to consider that we often recognize a duty to aid even when the cost to the rescuer will be very high. Peter Unger's *Vintage Sedan* is meant to illustrate this point:

Driving your prized Mercedes Sedan along a country road, you come across a wounded man covered in blood. The injury is confined to his leg, so although there is no great danger of losing his life, if you do not rescue him he will likely lose his leg. However, rescuing the injured man will ruin the upholstery of your car, which will cost you \$5,000 to restore.⁷¹

Despite the high financial cost to the rescuer, most of us would agree that it would be wrong to drive away. Indeed, we could hypothetically raise the cost of the rescue much higher, perhaps the entire car is ruined in the rescue process, and most of us would still judge the action immoral if one were to decline help to the injured man. As Rulli states, such scenarios reveal the high cost threshold of the duty to aid.⁷² Even if the rescue imposes considerable financial or personal cost on the rescue (we can imagine that the

⁷¹ Peter Unger, *Living High and Letting Die* (New York: Oxford University Press, 1996), 25.

⁷² Rulli, "The Duty to Adopt," 96.

Sedan was a gift from a deceased friend, for example), it does not seem to undermine the duty to aid.

Those unwilling to relinquish their preference for ARTs should consider the high cost threshold that typically guides our moral judgments in such situations. In fact, some of the differences between the *Sedan* scenario and adoption suggest a far clearer moral duty in the latter case. In the best-case *Sedan* scenario, the cost to the rescuer is \$5,000, but in another plausible rescue scenario, the cost is a very expensive car that also carries substantial sentimental value. Once ruined, there will be no replacement for that particular car. By contrast, the moral obligation to adopt still provides prospective parents with a way of achieving their desire to become parents. Although it is a different route, they have not lost the opportunity to experience parenting and the *ex post* perspective suggests that they will find the adoptive parental experience highly satisfying.

Furthermore, Rulli points out that given that many amputees go on to live decent, and even happy lives, the loss of limb *could* be less of a harm to the victim than the severe psychological or cognitive problems that children growing up in institutional care face. The resulting cognitive impairment and emotional trauma can seriously impede a person's ability to live a happy life.⁷³ It seems, then, that we have good reason to believe that the cost to the agent is lower in the adoption case than in *Sedan*, and that the victim's need for rescue is at least equal in the adoption case.

I will acknowledge that high cost rescue scenarios are likely to elicit disagreement over the duty to aid. Such cases raise difficult questions as to the point at which the cost to the agent is too high; the threshold of acceptable costs is clearly open for debate.

⁷³ *Ibid.*, 75.

Although my response to the present objection is vulnerable to such difficulties, my interlocutor should note that the success of my larger claim does not depend on supporting this line of argument. Unger's high cost *Sedan* scenario is merely an alternative, albeit inferior, strategy to the low-cost rescue argument that I have advanced. I explored this strategy, for the sake of argument, to deal with interlocutors unwilling to concede the moral irrelevance of the genetic tie. However, I have already shown this view to be mistaken; the burden of proof lies with those defending the value of genetic relations to demonstrate their moral significance. My chief argumentative strategy for the moral obligation to adopt relies on the premise that the duty does *not* impose a high cost burden on the rescuer. This feature of my argument makes the analogy far less controversial – and closer to *shallow pond* – than the high-cost scenarios discussed above.

4.2 The Proximity Objection

Many critics point out that proximity is a morally relevant feature of the shallow pond analogy. This objection may highlight either physical distance or experiential impact.⁷⁴ First, while in *shallow pond* the drowning child is mere meters away, children in need of adoption are often not within close physical proximity. My interlocutor may hold that the physical distance between victim and rescuer weakens the duty to rescue. Similarly, in the shallow pond example the duty to aid is made readily apparent to the rescuer: having come across the child through direct perception, there is an experiential impact to the encounter that strengthens the duty. By contrast, in the adoption case the potential rescuer learns of the duty indirectly through agencies, reports, newspapers, etc. The lack of

⁷⁴ Unger, *Living High*, 33-36.

direct, experiential impact in the adoption case may therefore weaken the moral duty to adopt.

Although this family of objections may explain why many people view the duty to adopt as comparatively weaker, the features to which they appeal do not appear to be morally significant to the duty. To illustrate this point, Peter Unger constructs a scenario similar in relevant respects to *shallow pond* except for the fact that the potential rescuer is far away:

CB Radios: You hear on your car radio that there is a severely injured man ten miles away who will lose his leg without your help. Rescuing this man, however, will again mean that your car's \$5,000 upholstery will be ruined.⁷⁵

Unger believes that despite the physical distance and cost of the rescue, most people would judge it wrong to decline aid to the injured man. The same scenario also suggests that the experiential impact of the encounter is not morally significant. That you hear of the injured man's plight on a car radio rather than directly encountering him yourself does not alter the duty to aid. Even if you had been alerted of the injured man through Morse code, further decreasing the directness of the encounter, it would be wrong to ignore the duty to aid and to let the man lose his leg.⁷⁶ It seems that neither physical distance nor directness of experience alter the strength of the duty to aid.

4.3 Chronic Deprivation

Critics may also attempt to ground an objection to the duty to adopt children by appealing to the difference between emergencies and chronic horrors. *Shallow pond* presents an emergency situation: if the rescuer does not act immediately, the victim may die. The

⁷⁵ Ibid., 34.

⁷⁶ Ibid., 36.

situation of children in need of adoption, however, does not constitute the same immediate emergency. Although their life prospects may decrease as they remain in institutional care, they do not risk imminent death. The urgency of rescue is not readily evident.

However, a more accurate version of this objection would feature injury rather than death as the potential harm to victim in the standard duty to aid case. Children in institutional care are at risk of something roughly commensurate with physical injury, not death.⁷⁷ If we compare the injured man from Unger's *Sedan* with the orphaned child, it is difficult to understand how emergency situations generate a stronger duty to aid than chronic suffering. If we consider the duration of the victim's suffering, then it seems that we actually have a stronger obligation to aid an orphan who has languished in institutional care for years than the injured man.

While my interlocutor may respond that despite the regrettably long duration spent in an orphanage, the child's situation still does not require the *immediate* attention required by the victim in *Sedan*. Yet this assessment of the duty to aid underestimates the urgent needs of orphans. We have already seen that the long-term effects of institutional care are at least as bad as, and possibly worse than, the loss of a limb. Moreover, there are, presumably, identifiable points at which children begin to suffer irreversible effects of institutional care.⁷⁸ Awareness of this fact illustrates how the adoption scenario constitutes an emergency situation, similar to that of *Sedan*.

⁷⁷ Rulli, "The Duty to Adopt," 75.

⁷⁸ I do not believe this point undermines the curative nature of adoption discussed earlier. I have merely acknowledged that there is likely a point at which the positive effects of adoption cannot reverse the damage resulting from years spent in institutional care.

4.4 Anonymous Victims

Finally, critics may object that aiding orphaned children is relevantly different from aiding the drowning child since the former case lacks the latter's clear epistemic focus. Whereas in *shallow pond* the victim is readily identifiable to the rescuer, the prospective parent is typically unaware of any particular child in need of adoption. There are millions of potential victims that prospective parents may rescue. One might believe that the particularity of the victim in the shallow pond strengthens the duty to aid and the anonymity and large number of victims weakens the duty to aid orphaned children.

Yet, even if we grant the plausibility of this objection, we could address the problem of anonymous orphaned children by making their identities known to prospective parents. Rulli notes that many organizations do in fact send out photographs and biographies of orphaned children in an attempt to strike a chord with potential adopters by presenting them with information about particular orphans.⁷⁹

My critic may further respond that it is not simply the anonymity of the victim, but rather the sheer number of victims that weakens the duty to aid. If there are literally millions of children in need of adoption, how can one have a duty to any one of these children? However, in a standard duty to aid case such as shallow pond, the presence of additional victims does not appear to undermine the rescuer's duty. If there were two drowning children, or fifty, the rescuer's duty to aid would be just as strong. Although the situation would not generate a duty to rescue any particular child, this fact does not mitigate the obligation to save *someone*.⁸⁰ A scenario in which there are multiple victims

⁷⁹ Unger, *Living High*, 85.

⁸⁰ *Ibid.*, 86.

may raise other concerns, such as those addressed in the demandingness objection, but it does not seem to absolve the rescuer of the duty to aid the victim.

Conclusion

This chapter argued that infertile prospective parents have a moral obligation to aid orphaned children. I showed that adoption in particular was needed for a successful rescue since parental care constitutes a unique, essential good that orphaned children lack. Singer's *shallow pond* argument was used as a standard duty to aid case. I then argued that adoption generates an analogous duty to rescue that is actually more successful than Singer's donation analogy. While various objections against Singer's analogy attempt to ground a morally relevant distinction between the two scenarios, I showed that these objections do not succeed against my argument. Features such as physical distance, chronic suffering, and anonymity of the victim do not weaken the moral obligation to adopt.

Chapter 3: The Scope of the Claim

The preceding chapter argued that prospective parents have a moral obligation to adopt children. However, I have not yet defended the scope of my specific argument, which applies to the procreative choices of infertile prospective parents in particular. The main goal of this chapter is to provide a justification for my focus on this subset of prospective parents.

The first part of this chapter reviews the argument against the restriction of the duty to adopt to infertile prospective parents. Although I discuss one respect in which the use of reproductive technology constitutes a morally relevant difference from natural procreation, this difference cannot ultimately justify a restriction of the duty to adopt. The second section presents the central argument of this chapter. I argue that the costly factors involved in the use of ARTs justify my focus on the infertile. I show that, since the pursuit of assisted reproduction and adoption are equally burdensome paths to parenthood, the non-compliance of the infertile with the duty to adopt is less excusable than that of fertile parents, who, by procreating without assistance, would not incur these additional costs.

The final sections of the chapter respond to several broader outstanding criticisms of the position advanced in this project. In section three I address counterarguments that

appeal to reproductive freedom. The fourth section addresses the objection that pre-adoption maltreatment makes parenting adopted children a more difficult task than parenting a genetically related child. I conclude that these objections do not weaken the duty to adopt in lieu of pursuing ARTs.

1. A General Duty to Adopt

Minimal philosophical literature has focused on the moral obligation to adopt children. While adoption advocate Elizabeth Bartholet has criticized the extensive use of ARTs in a world where so many children need a home,⁸¹ few others have endorsed her position, though several philosophers have opposed it. For example, John A. Robertson objects that Bartholet never states why infertile couples alone have the obligation to adopt children in need of parents.⁸²

The most developed philosophical objection to this position comes from Eduardo Rivera-Lopez's "The Claim from Adoption Revisited." Rivera-Lopez argues that restricting the individual duty to adopt to the infertile is discriminatory. If one claims that destitute children live miserable lives and therefore helping them ought to take priority over creating new children, then it seems to follow that both fertile and infertile adults have an obligation to adopt instead of having natural children.⁸³ To identify the infertile as the unique bearers of the duty to adopt when we lack a morally relevant reason to ground the distinction renders the obligation discriminatory. This arbitrary restriction is akin to stating that every couple with blue eyes should adopt. While this statement is in

⁸¹ Elizabeth Bartholet, *Family Bonds* (New York: Houghton Mifflin Company, 1993), 35.

⁸² John Robertson, *Children of Choice* (Princeton: Princeton University Press, 1994) 277.

⁸³ Rivera-Lopez, "The Claim from Adoption Revisited," 321.

fact true since there is a *general* obligation for adults to adopt, it fails as a moral rule since having blue eyes is not morally relevant to the duty.⁸⁴

Rivera-Lopez anticipates the objection that the high cost of ARTs compared with cost-free procreation constitutes a morally relevant difference and provides an analogy to show why expense does not affect the strength of the duty:

Suppose that you and I live in neighboring towns. We both like to buy products with nice packaging, and therefore, we both produce a sizable amount of garbage (say, X kg). My town is more environment-friendly and has decided to impose a tax on people that produce more than $X-n$ kg of garbage. I pay the tax for producing X kg of garbage. You do not. Assume that there is a moral duty to contribute to the environment by not producing more than $X-n$ kg of garbage. The question is: Is my producing X kg of garbage morally worse (more wrongful) than yours? It seems obvious that the answer is No.^{85,86}

Additionally, Rivera-Lopez argues that although fertile couples face costs for compliance – since contraception is not free – the cost is quite low. This minimal expense is not enough to render unassisted procreation morally permissible. At most, it slightly diminishes the wrongness of their non-compliance.⁸⁷

Although the main point of the analogy still stands, one should note the deceptiveness of the example. Presumably, the tax imposed by the town is directed toward waste management, that is, toward the safe disposal of the garbage produced by townspeople. Paying such a tax seems to constitute at least a partial fulfillment of one's

⁸⁴ Ibid.

⁸⁵ Ibid., 321-322.

⁸⁶ Rivera-Lopez adds a footnote to his analogy: "One might think that the preference for having biological children over adopting is not as frivolous as the preference for nice packaging, and that, therefore, my example is not analogous. However, I have intentionally chosen an example of a frivolous nature. Note that my purpose is to relativize the Claim from Adoption. Any suggestion that the preference for biological children is deeper than a mere preference goes in favor of relativizing that claim. I have assumed that the preference is a mere (or frivolous) preference in order to start from the most inimical premises." See Rivera-Lopez "The Claim from Adoption Revisited," 321.

⁸⁷ Ibid., 322.

duty to the environment. However, a corresponding partial fulfillment of one's duty to adopt is absent in the use of ARTs. To draw a closer and thus more successful analogy, the cost of producing X kg of garbage would result from a mechanism unrelated to one's duty, such as having to pay more for goods in expensive packaging due to my supermarket chain's monopoly pricing.⁸⁸

Nevertheless, I agree with Rivera-Lopez that if there is a general duty to adopt, then the fact that some adults must pay a cost for non-compliance does not constitute a morally relevant difference. Since the obligation's force is derived from the circumstances of destitute children, the duty to adopt is equally strong for the fertile and infertile alike. However, while the duty may be equally strong, there may be a difference in how we judge the non-compliance of fertile and infertile prospective parents.

One such difference arises in the case of infertile prospective parents who, *contra* chapter one's arguments, continue to affirm the unique value of having a genetically related child yet attempt to do so *via* the use of donor gametes. In these instances, infertile adults who pursue this desire become vulnerable to Velleman's criticism of donor conception:

Yet, whereas the parent will be just as fully related to the child as any mother or father, the child will know only half of its biological parentage. Surely, we don't believe that parents are entitled to make themselves slightly better off in some fundamental dimension by impoverishing their children in the same dimension. Why, then, should they be entitled to enlarge their own circle of consanguinity by creating children whose circle will be broken in half?⁸⁹

Velleman argues that it is morally incoherent to act on a desire for a genetic relation to one's child when the satisfaction of the desire requires the child's own network of genetic

⁸⁸ This insight was brought to my attention by Kerah Gordon-Solmon

⁸⁹ Velleman, "Family History," 371.

relations will be diminished as a result. While in chapter one I challenged Velleman's argument for the unique benefit of biological relationships, the soundness of that argument does not matter here. The critical point is that infertile prospective parents *believe* that biological ties are important, and yet nevertheless knowingly proceed to create a child who may never know half of their biological lineage.⁹⁰

The problem with the actions of such parents resides in an asymmetry that occurs. Although a parent pursuing donor conception will have a genetically related child just as any other parent would, the child will likely only know one of their genetic parents. A contradiction thus arises when we see that such parents intentionally create a child who will miss out on a putatively important network of bonds. Even if the partial absence of biological relations does not actually harm a child born of donor conception, the actions of the infertile prospective parents seem contradictory and selfish in this respect.⁹¹

Nevertheless, despite showing that the actions of some infertile adults who act on their desire for genetically related children can be relevantly different from a similar action of their fertile counterparts (since the latter group does not deprive the resulting child of knowledge of half of its genetic heritage), this difference does not imply that only the infertile have a duty to adopt, or that their moral obligation is stronger. It merely

⁹⁰ Of course, as I mentioned in chapter one, gamete donation need not necessarily be anonymous.

⁹¹ My interlocutor should also note that appealing to the fact donor conception bestows the gift of life on the child – as well as partial knowledge of his or her genetic heritage – is highly problematic. As Velleman states, one cannot justify severing the child's biological ties to one parent by pointing out that in order to avoid doing so we would have to omit creating the child altogether. This justification assumes that a partial lack of biological ties is preferable to never having existed since it is the lesser of the two evils. However, this response is not an option; never having existed would not have been an evil for the child, because a non-existent person suffers no evils. See Velleman, "Family History," 372.

shows that in *some* instances, the non-compliance of the infertile is more morally wrong than the fertile's.

In the following section I identify other differences between the noncompliance of these two groups, which, despite not strengthening the duty of infertile prospective parents, may affect the way we judge their choice to pursue reproductive technology instead of adoption.

2. Why the Infertile?

In this section I provide justification for my focus on the infertile. Here I discuss IVF in particular since it is the most widely used ART and because I have already discussed the morality of donor conception. First, given that the financial and medical costs of ARTs are so high, and the success rates so low, the choice to elect ARTs is open to rational criticism. Although there is some variation among IVF statistics depending on the clinic and whether a donor egg is used, the success rates are consistently low, especially when the live birth rate rather than the clinical pregnancy rate is measured. On average, the live birth rate is around 22%, with the success rate declining significantly with age.⁹² Taking into account the low success rates, it is surprising that so many prospective parents elect the procedure. The cost of IVF also varies among countries but remains high: in Canada, the average cost for one fresh cycle of IVF is over \$8,500, while in the U.S. it is over \$12,000.⁹³ The cost of IVF *per live birth* in the U.S. is \$56,000.⁹⁴

⁹² De Mouzon et al., "Report on Assisted Reproductive Technology," 2310.

⁹³ Chambers et al., "The Economic Interest of Assisted Reproductive Technology: A Review of Selected Developed Countries," *Fertility and Sterility* 91, no. 6 (2009): 2288.

⁹⁴ Katz, Nachtigall, and Jonathon, "The Economic Impact of the Assisted Reproductive Technology," 30.

Justifying the use of ARTs becomes even more difficult in light of the medical risks that the various required hormones and procedures present. Inmaculada de Melo-Martin argues that most assessments of IVF underestimate the hazards that accompany the procedure, which can occur at all three stages: ovarian induction, oocyte retrieval, and embryo transfer and implantation. First, assessments of IVF tend to minimize evidence indicating that hormones taken to stimulate ovulation play a major role in the development of human cancers (hormone-related cancers account for more than 30% of all newly diagnosed female cancer in the U.S.).⁹⁵ These hormones can also cause ovarian hyperstimulation syndrome (OHSS), which can lead to renal impairment, liver dysfunction, and potentially death.⁹⁶ Second, the procedures used to retrieve eggs from the ovaries – laparoscopy and transvaginal oocyte retrieval – also pose risks such as punctures of internal organs, haemorrhages, ovarian trauma, and intrapelvic adhesion. Ironically, many of these complications can exacerbate or even cause infertility (the latter could occur if IVF was used to treat male-factor infertility).⁹⁷

Finally, transfer of the embryo can also pose significant risks to the prospective mother's health, including perforation of organs and ectopic pregnancies, which can again exacerbate or cause infertility and become life threatening. Multiple gestations are also far more common, occurring in about 25% of IVF pregnancies and increase the danger of miscarriage, caesarean sections, early labour, and placental dysfunction.⁹⁸ The

⁹⁵ De Melo-Martin, "Ethics and Uncertainty," 208.

⁹⁶ *Ibid.*, 209.

⁹⁷ *Ibid.*

⁹⁸ *Ibid.*, 210. While the above information pertains to IVF only, many of the health risks are also presents for IUI. Women often take hormones to induce ovulation and multiple pregnancies are common. The success rate per cycle, although dependent on various factors, is between 10-20%. The average cost of a successful IUI pregnancy resulting in a

presentation of these basic facts about ARTs should illustrate that prospective parents who elect to use reproductive technology are embarking on a long, costly, and often unsuccessful process.

Yet, it is quite obviously also true that adoption entails significant burdens: it is a long, time-consuming, and intrusive process, which is often extremely expensive. While adoption through a public agency can be inexpensive, the average price of an international adoption in Canada is about \$25,000.⁹⁹ Bartholet has written extensively on the invasive screening procedures for adoptive parents, which require endless paperwork and visits from social workers.¹⁰⁰ Noting these facts about adoption makes evident a similarity between the use of ARTs and adoption – the burdensome path to parenthood – that provides a justification for my focus on infertile prospective parents.

To understand this point, consider that, by contrast, becoming a parent through unassisted procreation is generally free from such costs. Comparing the options of infertile and the fertile prospective parents thus reveals a relevant asymmetry: while the infertile must endure the burdens of ARTs in order to have a biological child, the fertile have no such requirement.¹⁰¹ Prospective parents who are prepared to use ARTs have already committed themselves to undertaking a difficult and expensive process in order to have a child, while the fertile face a relatively unencumbered path to parenthood. As such, many fertile prospective parents may be unwilling or unable to finance or endure the obstacles of adoption, given that comparable costs were not initially included in their

live birth is \$5,108 U.S. See Duran et al., "Intrauterine Insemination: A Systematic Review on Determinants of Success," *Human Reproduction* 8, no.4 (2002): 376-380.

⁹⁹ Statistic taken from the Adoptive Families Association of BC. See: http://www.bcadoption.com/site_page.asp?pageid=300 - costs (accessed on August 6, 2012).

¹⁰⁰ Bartholet, *Family Bonds*, 34.

¹⁰¹ I am grateful to Rahul Kumar for bringing this point to my attention

considerations of whether or not to have a child. The non-compliance of infertile prospective parents with the duty to adopt, therefore, seems less excusable in this respect; their intentions to pursue ARTs demonstrates their ability and willingness to assume such burdens.

Here my interlocutor may point out that the burdens of adoption just discussed impact the strength of the duty to adopt, since the difficult process imposes a cost on the rescuer. But while it may be true that the costs of adoption constitute an argument against the fertile's duty to adopt, my specific claim deals only with infertile prospective parents. Given that both adoption and assisted reproduction present obstacles to prospective parents, the duty to adopt does not impose greater costs on the individual. If anything, it could actually reduce the cost to the prospective parent, since the medical risks to the parent are absent and because adoption through public agencies tends to be noticeably cheaper.

A final point on the expense of ARTs may also be relevant to how one judges infertile prospective parents' non-compliance with the duty to adopt. Some defenders of ARTs will argue that although ARTs are expensive, prospective parents alone pay for the cost, and, as such, should be allowed to use their resources as they see fit. For the sake of argument, we can suppose that these defenders of reproductive technology are unconvinced by the previous chapter's duty to aid argument.

This objection makes several inaccurate assumptions. First, it assumes that my argument implies that infertile prospective parents should be prohibited from using ARTs. My argument merely comments on the moral permissibility of the action; it is agnostic as to whether a prohibition or any other policy follows. It may be the case that

prohibiting the use of ARTs is undesirable for other reasons: some ARTs may serve therapeutic or scientific purposes; or perhaps a prohibition would foster an ART black market. In any event, a prohibition does not necessarily follow from my argument.

Second, the argument fails to acknowledge the externalized costs of ARTs, which are developed through public funding. Even in countries such as the U.S. where public money for developing ARTs could be limited, societal interdependencies and professional contracts have created and enhanced doctors' abilities to use these techniques.¹⁰² Public money also supports physicians through education since no student, including those in private institutions, pays the full costs of education. Furthermore, since many pregnancies resulting from assisted reproductive technology are high risk, often because of the high incidence of multiple births, high neonatal healthcare costs are externalized. It is true that some of these costs could be reduced with stricter regulation of embryo implantation, but the costs of research and development would persist.¹⁰³ Whilst a prohibition on ARTs may not be justifiable, it is nevertheless false to assume that only prospective parents using ARTs pay for the cost of their use – even where direct tax credits or government subsidies are not provided.

3. Reproductive Freedom

Following this discussion of externalized costs, it is worth briefly addressing a related class of objections that appeal to procreative liberty. One may argue that a robust notion of reproductive freedom, conceived of as a positive right to reproduction, could ground at least some moral claim on others to make ARTs available. For example, Dan Brock

¹⁰² Inmaculada de Melo-Martin, "On Cloning Human Beings," *Bioethics* 16, no. 3 (2002): 258.

¹⁰³ In addition, stricter regulation of embryo implantation might result in lower success rates of ARTs.

argues that since procreative decisions are of the utmost importance to an individual's life, self-determination regarding these decisions ought to be valued proportionally. Consequently, there is a strong moral case for accessible reproductive technology.¹⁰⁴ In a Rawlsian articulation of a similar point, Cohen and Chen argue that reproductive health is included within a more general right to health. According to this argument, the state has an obligation to ensure that individuals have access to an opportunity range that reasonable persons would choose for themselves, and since infertility reduces an individual's normal opportunity range, it gives rise to legitimate claims for assistance.¹⁰⁵ This line of argument not only attempts to justify the externalized costs of ARTs, but also makes the even bolder claim that there is an obligation to make reproductive technology accessible.

However, these objections again assume that the desire to parent will only be satisfied through procreation. Although prospective parents may have a justifiable interest in having a child, the above objection conflates three distinct components of parenthood: begetting, bearing, and rearing a child. Both articulations of the argument take the desire to procreate at face value, thereby failing to question whether all three components of parenthood are necessary for the realization of the desire to parent. As I argued in chapter one, the first two components, begetting and bearing a child, do not seem to be necessary conditions for the parental experience. If one's interest in begetting and bearing a child is indefensible, then society cannot be said to have a duty to satisfy these interests.

¹⁰⁴ Dan Brock, *The Moral Bases of a Right to Reproductive Freedom*, 226.

¹⁰⁵ Cohen and Chen, *Trading-Off Reproductive Technology and Adoption*, 502. Cohen and Chen draw on Norman Daniels argument that, as a matter of political justice, the state has an obligation to promote health and ensure a normal range of opportunity that reasonable people are likely to develop for themselves.

4. The “More Difficult Duties” Objection

Another potential objection to my position is that parenting an adopted child is a more difficult task than parenting one’s biological child. The pre-adoption history of many children includes abuse and neglect that may result in emotional, cognitive, and even physical problems, which might provide reason to think that adoptive parents face a more demanding challenge than their non-adopting counterparts. It would be unfair to task infertile adults with more challenging parental duties. While I have thus far argued that parenting genetically related and adopted children would not differ in relevant ways, this objection gives us reason to rethink that position.

One should consider, however, that the decision to become a parent is a life-long commitment that will likely require many unforeseeable sacrifices, regardless of the absence or presence of a genetic relation to the child. Given that many genetic parents find the parental experience more demanding or difficult than they had anticipated, these concerns are not unique to adoptive parents.

The research presented in chapter two on the curative nature of adoption should also be kept in mind. Evidence suggests that although children in institutional care lag behind their adopted and non-adopted counterparts in measures of physical growth, emotional attachment, and cognitive performance, upon adoption previously orphaned children demonstrate a remarkable and well-documented ability to catch up to other children. Even if a child experienced abuse and neglect before adoption, it should not be assumed that physical, emotional, or cognitive difficulties will follow post-adoption.

Finally, my interlocutor should note that much of the abuse and neglect these children suffer is preventable. Bartholet points out that acknowledging the potential

problems facing children in need of adoption constitutes a strong argument in favour of acting more quickly to remove such children from inadequate biologic and foster care situations to permanent adoptive homes. The emphasis that our current system puts on biological parenting creates a reluctance to remove children from damaging homes, putting children at risk for abusive treatment.¹⁰⁶ Given that much of the damage that these children suffer is preventable, we ought to facilitate the adoption process so that children are not subject to abusive treatment in the first place.

It is also worth noting that in many countries the externalities arising from the use of ARTs, e.g., high-risk pregnancies and other medical complications, use public funds that could be potentially rerouted to assist adoptive families. For instance, improved access to counselling resources for both parents and children could help mitigate problems that do arise as a result of pre-adoptive maltreatment.

In sum, no parent can predict whether his or her parental duties will be especially challenging or not. To the extent that adopted children are at a higher risk for emotional, cognitive, and physical problems, this state of affairs is largely a result of policy, and consequently correctable. Laws aiming to remove children from detrimental environments more quickly would help to reduce any differences between children in need of adoption and other children.

Conclusion

This chapter has attempted to provide justification for my argument's focus on infertile adults. Although I claim that infertile adults have a moral obligation to adopt rather than to pursue ARTs, it does not follow that fertile adults are relieved of this duty. Rather, I have focused on infertile adults because the use of reproductive technology presents

¹⁰⁶ Bartheolet, *Family Bonds*, 179

particular costs and risks that are absent in unassisted procreation. Unlike fertile parents, the infertile who elect to pursue ARTs are clearly willing and able to assume additional costs in order to become parents, and consequently there is a relevant difference between these two groups that justifies focusing on the latter.

Chapter 4: Conclusion

To conclude, this project has argued that infertile prospective parents have a moral obligation to adopt a child instead of pursuing ARTs. To support this claim I presented two central lines of argument. In the first chapter, I argued that the common preference for a biological child among prospective parents is not justifiable. The most promising strategies for grounding this interest do not withstand scrutiny; even the strongest reasons tend to rely on an implausible genetic determinism and fail to isolate the most important aspects of parenthood, which do not depend on a parent-child genetic relation. This argument supported the duty to adopt by showing that, since having a genetically related child is not critical to the parental experience, the cost of the duty to the adopting parent is minimal.

Chapter two developed the second central line of argument: infertile prospective parents have a moral obligation to adopt a child. Although chapter one established that the biological tie is neither a necessary nor sufficient condition for realizing the most important aspect of parenthood, the purpose of chapter two was to show that infertile prospective parents have decisive moral reason to adopt rather than to pursue ARTs. To make this argument, I drew an analogy between a standard duty to aid case – Singer’s

shallow pond – and adoption. I argued that morally relevant differences between adoption and donation make my argument more likely to succeed where Singer's is vulnerable to criticisms.

The goal of the third chapter was to justify limiting the scope of my claim to infertile prospective parents. I pointed out that it does not follow from my claim that fertile adults wishing to becoming parents are excluded from the duty to adopt; since the force of the duty derives from the destitute situation of children in need of homes, the moral obligation to adopt applies to all prospective parents. However, given that both the pursuit of ARTs and adoption impose costs on prospective parents, the non-compliance of the infertile with the adoption duty is less defensible. Their demonstrated willingness and ability to assume substantial costs in order to have a child constitutes a relevant difference from fertile prospective parents, which justifies my focus on the former.

On a final note, when considering the argument I have presented here, one should keep in mind the current landscape of reproductive technologies. As I noted in the introduction, as the success rates of reproductive technologies continue to improve, rates of adoption may further diminish. Additionally, an array of new reproductive technologies is on the horizon: human cloning, ectogenesis (artificial womb technology), and interspecies embryo transfer, among others. As reproductive science and technology continue to develop under the auspices of satisfying putative preferences for genetically related offspring, it becomes increasingly important to question the ends that these technologies are intended to satisfy. If the moral significance of having a biological child is highly suspect, and many existing children are in need of stable homes, the usefulness and morality of ARTs warrant further debate.

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